ANCHORAGE, ALASKA
AO No. 2020-83

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY TO
DECREASE THE COST OF RESIDENTIAL DEVELOPMENT AND SUPPORT
AFFORDABILITY OF HOUSING CONSTRUCTION BY EASING THE USE OF
MUNICIPAL RIGHTS OF WAY THROUGH AMENDMENTS TO ANCHORAGE
MUNICIPAL CODE TITLE 24.

WHEREAS, it is in the interest of the Municipality of Anchorage to facilitate
development that can provide cost effective homes and infrastructure to its residents; and

WHEREAS, home and infrastructure development can often impact or use Municipal rights of way; and

WHEREAS, protection of Municipal assets in the rights of way is important but can’t be our only priority in the use of rights of way;

WHEREAS, the Anchorage Assembly supports the efforts of individuals and entities to investigate improved methods of burying underground utilities that lessen the impact on existing underground facilities and reduce disruption to the community and land surface; and

WHEREAS, the recent 'Hunker Down' and move to working at home due to COVID-19 highlights the immediate need for improved internet service in some areas of Anchorage; and

WHEREAS, the new roll-out of 5G cellular network service and the many public complaints over damage to lawns from trenching to the microtowers suggests we need an alternate way to install underground cables; and

WHEREAS, micro-trenching is an improved method for installing fiber-optic cable to provide telecommunications services that reduces the impact on the existing underground utilities and land surface with minimal impact to the community and, by contrast to conventional earthwork trenching in easements that transit the yards and driveways of the Municipality’s residents, involves a shallower and narrower cut that can be made either in the joint between curb/gutter and asphalt pavement, within the roadway, or between the curb and sidewalk;

WHEREAS, typical homes need a driveway that will ultimately require work that overlaps the Municipal right of way. Where that work does not damage Municipal assets in the right of way, there should be no extra cost or permitting burden on the homebuilder and homeowner; now, therefore

THE ANCHORAGE ASSEMBLY ORDAINS:
Section 1. Anchorage Municipal Code section 24.20.030 is hereby amended to read as follows (the remainder of the section is not affected and therefore not set out):

24.20.030 - Permit, approval of plans required.

A. Permit required. Except as provided in this section, it is unlawful for anyone to receive a building or land use permit without first having applied for and obtained a permit required by this chapter. In addition to any other remedy available at law, fines for failure to have a permit under this subsection may be assessed according to the schedule provided in Title 14.

C. Exception for certain work. This subsection does not affect any other permitting requirements under the code. A permit required by this chapter is not required for work to construct residential driveways, landscaping, and mailboxes serving residential property that:
   1. does not require excavation within the road prism,
   2. does not conflict with existing infrastructure (e.g., does not require curb cuts), and
   3. is incidental to an open building or land use permit.

(GAAB 25.15.010; AO No. 2003-68, § 6, 9-30-03)

Section 2. Anchorage Municipal Code is hereby amended to add a new section 24.60.135 to read as follows:

24.60.135 Underground fiber optic cable installation.

A. In this section, micro-trenching means a technique for installing fiber optic cable to provide telecommunications services using a shallow and narrow cut that can be made in the joint between the existing curb/gutter, and the asphalt pavement material, between the curb and sidewalk, or within the roadway.

B. Micro-trenching in the roadway at a depth of 10 to 16 inches is the preferred method for underground installation of fiber optic cable in the municipality.

C. Fiber optic cable installed using micro-trenching need not comply with the provisions of section 24.60.150, however it shall be the responsibility of the fiber optic cable owner to relocate its cable as necessary to accommodate road maintenance or reconstruction, and when ordered under section 24.60.120.

Section 3. This ordinance shall be effective immediately upon passage and approval by the Assembly.
PASSED AND APPROVED by the Anchorage Assembly this ______ day of ______________, 2020.

______________________________  
Chair of the Assembly

ATTEST:

______________________________  
Municipal Clerk
From: Assembly Members Weddleton and Dunbar

Subject: AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY TO DECREASE THE COST OF RESIDENTIAL DEVELOPMENT AND SUPPORT AFFORDABILITY OF HOUSING CONSTRUCTION BY EASING THE USE OF MUNICIPAL RIGHTS OF WAY THROUGH AMENDMENTS TO ANCHORAGE MUNICIPAL CODE TITLE 24.

Microtrenching is a new way of installing fiber optic cables for better internet access. This should be encouraged.

In recent years, and especially in recent months, Anchorage has seen dramatic growth in telework, telehealth, distance education and home entertainment, resulting in significant demand for bandwidth. To meet this demand requires building out Anchorage’s fiber network. This ordinance seeks to help that effort by endorsing microtrenching as an accepted practice for fiber deployment.

Microtrenching differs from traditional trenching in that it is relatively shallow, typically 18 – 24 inches deep, and narrow, 1-2 inches wide. Further, installation is much cleaner and less impactful, and can usually be completed in a manner of hours rather than days. It is best employed on hard surfaces with stable subgrade, with flowable fill providing a stable, sealed cap to maintain the integrity of impacted roadways, gutters and parking lots. Ducting used in microtrenching provides multiple conduits so that one installation can support multiple fiber cables and therefore multiple service providers, thereby minimizing incursions.

This technology has been employed throughout the United States, including northern states like Minnesota, and has been approved by Fairbanks city & borough officials as an accepted practice. Given that there are reasonable concerns about potential road damage, already in code is a bond requirement to cover necessary repairs for two years beyond installation.

Sites in Anchorage most amenable to microtrenching are often residential areas where traditional trenching would disrupt driveways, lawns and gardens. Traditional trenching would also increase both the duration and frequency of contact between installation crews and residents, something the Assembly seeks to avoid for public health reasons.

Because some roads in Anchorage were poorly constructed or are badly deteriorated, close coordination between Street Maintenance and fiber installers is necessary to ensure microtrenching can be employed effectively, and that problematic areas be avoided. In adopting this ordinance, the Assembly respectfully encourages Municipal departments embrace this coordination.
Photos below show what the road looks like after microtrenching:

Road Prism and Driveways

Permitting requirements for installing driveways that do not impact the road prism are a burden on builders that brings slight benefit to the municipality.

Often a road ROW extends to the outside edge of a sidewalk and beyond. It is not uncommon for a driveway to extend into the ROW. This triggers legitimate interest by the MOA in protecting the ROW when driveways are built. The MOA does not generally maintain the portion of the driveway that is in the ROW.

The 'road prism' includes the asphalt and concrete we see and also the base it is built on. That base extends at an angle underground, out of sight, beyond the width of the asphalt. It is important to protect that base. Generally, installing a driveway including the base does not impact the road prism.
Current rules require a ROW permit in these cases. To obtain a ROW permit, a
contractor must have a bond on file with the MOA. Most builders do not have this bond as this work is typically done by the excavation subcontractor. Also, the contractor is required to provide two-day notice before work can begin causing problems with coordinating the multiple contractors involved such as water and sewer line installers, landscaping and paving.

After a subdivision is created and homes are being built there is a two-year warranty period. After that has ended and the subdivision agreement closed, a ROW permit is required to install a driveway for a new home. If the curb is rolled, a driveway requires no work in the road prism. It is an unreasonable burden to require a permit for simple adding a driveway.

We request your support for the ordinance.

Respectfully submitted: John Weddleton, Assembly Member
District 6, South Anchorage, Girdwood, and Turnagain Arm

Forrest Dunbar, Assembly Member
District 5, East Anchorage

Attachments: Handout AG.22, Right-of-Way Reviews/Permits, Development Services
Anchorage Municipal Code (AMC) Title 24.20.030 and 24.30.020 require anyone "using" the municipal Right-of-Way to obtain a Right-of-Way permit prior to the "use." This use includes driveway(s). Right-of-Way permits are required for driveways to existing (in-fill) lots and lots in new subdivisions. For the latter, an open subdivision meets this requirement.

Maintenance and repair of driveway surfacing occurring on private property, including staging of equipment, does not require a Right-of-Way Permit.

Pursuant to AMC 24.20.030, Right-of-Way Permits are required for all work in municipal rights of way. To comply with these requirements, a Building or Land Use Permit will not be issued until necessary Right-of-Way permits are issued.

**REVIEWS**
The following types of improvements (Partial Listing) require review by the Right-of-way Section to review for the impact on the right-of-way and road prism:

- Driveways
- Driveway Culverts
- Parking Lots
- Storm Drain Connects
- Sump Discharges
- Water & Sewer Connects within the Right-of-way
- Curb Cuts

**RIGHT-OF-WAY PERMITS**

All work within a public right-of-way requires a Right-of-Way Permit. Applications for Right-of-way Permits must be accompanied by four (4) sets of plans and a .pdf electronic copy and shall be submitted to the Right-of-way Permits Section for approval prior to the start of any work. The plans shall clearly state the scope of work and that all work will be performed in accordance with Municipality of Anchorage Standard Specifications (MASS).

**DRIVEWAYS**
Right-of-way permits for driveways are applicable to the site location of the driveway and where other work is being done in the right-of-way relevant to the driveway.

- All driveways on streets or roads require right-of-way permits. Plans will be reviewed and stamped by right-of-way plan review for each driveway.
- A right-of-way permit is required prior to any "use" in the right-of-way. Work done in the right-of-way without benefit of permit will be assessed fines and fees in accordance with Anchorage Municipal Code (AMC) Titles 14 and 24.
- Right-of-Way Permits will be obtained prior to the building permit being issued. No right-of-way permit fee will be collected until the permit is issued.
- Right-of-way permits may be issued in winter conditions for access to construction sites, however construction and inspection of the driveway must be completed when the right-of-way is open. All driveways will be built to applicable standards established by Anchorage Municipal Code Titles 21.07.090, 21.10.070D, 24.20, 24.30, 24.50.010, Design Criteria Manual (DCM), Municipality of Anchorage Standard Specifications.
(MASS), Municipality of Anchorage Traffic Department Driveway Standards and other applicable laws, codes, regulations, policies and standards.

- At least two working days before the work is commenced or resumed, the permittee shall request to activate the permit at MOAROWRequests@muni.org or call the ROW Contractor Line, 343-8206, with the following information (in accordance with AMC 24.30.150):
  - Provide permit number
  - Provide utility “One-Call” ticket number
  - Give notice of the time of commencement of the work

- A final Certificate of Occupancy (CO) for an associated building permit will not be issued until the final inspection and acceptance of the work in the right-of-way is completed. Where weather, other planned and permitted construction or other factors create excessive delay in completing work in the right-of-way, the Building Official may consider a performance bond, escrow or other measures to provide a CO for an associated building permit while work is still outstanding.

- Driveways shown on approved plans within an open Subdivision Agreement are considered part of the ROW permit for the subdivision and thus do not require separate permits. Driveway widths and other characteristics will be checked against the approved plans and the ROW condition documented during the Subdivision inspections for conformance with the Subdivision Agreement and applicable standards identified above. After a Notice of Completion has been issued to close the Subdivision Agreement, driveway ROW permits are required for new driveways.

ENCROACHMENT PERMITS

Any person desiring to construct an encroachment on a public right-of-way, or any other property dedicated to a public use, shall apply for a Right-of-Way Permit and Encroachment Permit. No construction may begin unless the permits have been approved and obtained. The following types of private improvements (Partial Listing) within the right-of-way require permits:

- Fences
- Landscaping Structures
- Yard Lighting
- Sidewalk Canopies
- Retaining Walls

Submit plans for review electronically at MOAROWRequests@muni.org or at the Right-of-Way Counter, located near the front entrance of the Permitting Center, 4700 Elmore Road.

Robert Doehl, Building Official
DATE: June, 2019
(Ref. 96-01; 00-03, 01-02; 04-03; 06-02, 03-08)