



Arapahoe County Public Works and Development
All Divisions
6924 South Lima Street
Centennial, Colorado 80112

ADMINISTRATIVE POLICY #21-317
UTILITY CLEARANCE POLICY AND PROCEDURE

ARAPAHOE COUNTY UTILITY CLEARANCE POLICY & PROCEDURE

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Section 1 – ABSTRACT

- 1.1 Arapahoe County Public Works and Development (PWD) projects occasionally encounter utility facilities both buried and above ground with many conditions that may result in the need to coordinate proposed construction improvements around or to relocate said utility facilities.
- 1.2 PWD projects may provide Utility Providers an opportunity to install new utility facilities, upgrade existing facilities, mitigate existing unsafe, conflicting, or hazardous conditions. The County does not assume any responsibility for identifying, notifying, designing, funding, or constructing any potential opportunity.

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Section 2 – POLICY

2.1 Policy Purpose

- 2.1.1 PWD hereby establishes the following Utility Clearance Policy and Procedure (the Policy) for coordinating utility conflicts for Capital Improvement Projects (CIP) and for maintenance, operations, or repair tasks (M/O/R) on County improvements.
- 2.1.2 This policy also applies to coordinating with the facility owners when necessary, for the upkeep or maintenance of non-county owned facilities.
- 2.1.3 This Policy shall apply to all wet and dry utility facilities owned, operated, or maintained by:
 - 1) a Utility Company,
 - 2) a Water or Sanitation District,
 - 3) other Utility Agency/Authority (Utility Providers), or
 - 4) Arapahoe County's own utility infrastructure (including traffic infrastructure, drainage systems, IT infrastructure, or other County-owned facilities that are in the public Right-of-Way).
- 2.1.4 This policy applies to any such facilities within the existing Right-of-Way, proposed Right-of-Way, or other property interests to be purchased, or upon any other County owned property.
- 2.1.5 Any such facilities within an existing recorded easement shall have conflict resolution requirements subject to language within the easement documentation. If no such language exists, the County reserves the right to default to procedures within this Policy.
- 2.1.6 The County reserves the right to change or amend this policy as needed from time to time.
- 2.1.7 For this policy, dry utilities cover the following: cable, electric, telephone, natural gas, television, fiber optics, and any other non-wet utility. Wet utilities include infrastructure that can convey oil, gas, water, stormwater, wastewater, or other liquids.

2.2 County Rights and Authorization

- 2.2.1 While certain Utility Providers may have the right to place facilities within County Right-of-Way, as authorized by Colorado State laws, or other County property within an approved utility easement, the County maintains and reserves all rights and authority under laws to make full use of the Right-of-Way and any County properties used for Right-of-Way ("collectively referred to herein as "the Right-of-Way") as may be reasonably necessary or convenient in the operations of the public streets, walks, drainage facilities or drainageways, or other public infrastructure under control of the County, their representatives, assigned agents, or partners.

- 2.2.2 the County retains all rights to operate, maintain, install, repair, improve, remove, update, reconfigure, or relocate the Right-of-Way or any of the County's facilities, amenities, or infrastructure within the Right-of-Way or adjacent property (to be acquired as Right-of-Way) as needed, or required, to provide for the primary purpose of the Right-of-Way.
- 2.3 The County further reserves the right to require a Utility Provider, upon reasonable time, as defined in this Policy, to relocate, at cost responsibility per this policy, any Facility as necessary to accommodate any County capital improvement, maintenance, repair, or other County project affecting the Right-of-Way. In the event that any of a Utility Provider's Facilities should impede the use and operation of the Right-of-Way or interfere with the performance of any County Infrastructure or project, the Utility Provider shall, upon reasonable notice, as defined by this policy and as is appropriate in event of exigent or emergency need that may affect public health or safety, upon a request by the County, relocate, alter, or remove the Facility so as not to interfere with the County's use of its property, performance of its project, or impede the use and operation of the Right-of-Way. In the event of any required removal under this policy, it is intended under this Policy that the County and Utility Provider work cooperatively, in good faith, and promptly to identify a new location for the Facility and shall further cooperate in good faith to facilitate transition to the new location without undue interruption in the provision of said utility.
- 2.4 Except in cases where one of the below is previously established, cost responsibility for facility relocations will follow the procedures and guidelines established in this policy. In the case where no specific cost stipulations exist, the County reserves the right to follow guidelines as defined by this Policy.
- a. A Specific Utility Easement with specific cost stipulations
 - b. A Use Agreement with specific cost stipulations
 - c. A Permit with specific cost stipulations.
- 2.5 The County reserves the right to review any/all plans, drawings, sketches, or utility owner policies for facility relocations for approval or rejection.
- 2.6 In instances when the County has any measure of cost responsibility, per this Policy, for facility relocation or adjustment efforts, the County reserves the right to pursue paths to resolution that:
- 2.6.1 Minimize the area of disturbance needed to complete the relocation.
 - 2.6.2 Minimize the extent of the relocation.
 - 2.6.3 Follow current acceptable practices within industry standards.
 - 2.6.4 Are deemed to be the most efficient and cost-effective solution for the County.

- 2.6.5 If County has a cost responsibility for relocation, the relocation shall not be used as a mechanism and/or strategy for maintaining the utility outside of the necessary primary utility relocation.
- 2.7 The County reserves the right not to fund any relocation costs otherwise payable under this Policy when the owning Utility Provider chooses to pursue alternate paths of facility relocation that do not conform to section 2.6 or the County determines that relocation of the facility is not reasonably required to accommodate performance of a County project. In such cases the Utility Provider will be responsible for 100% of the relocation costs. The Utility Provider shall indicate its intentions to use an alternate path not in conformance with 2.6 to the County in writing in conformance with section 6 of this policy.
- 2.8 Reimbursement for Relocation Costs. The cost responsibility for utility facility relocations are the responsibility of the owning Utility Provider.
- 2.9 Cost responsibility variations. Section 2.8 of this policy may be altered or superseded when funds from state, federal, or other sources require guidelines different than outlined in this policy.
- 2.10 Standards and Specifications variations. Section 2.6 of this policy may be altered or superseded when funding agreements with state, federal, or other agencies have guidelines different than outlined in this policy.
- 2.11 The County reserves the right to change or amend any provision of the Policy, including but not limited to section(s) regarding cost responsibility, from time to time, as needed.

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Section 3 – UTILITY CLEARANCE PROCEDURE

PWD staff have created Standard Operating Procedures (SOP) as a guide for progressing through various aspects of Utility Coordination on County projects. These SOPs describe aspects of future projects in the design phase, active construction projects, and Maintenance/Operations/Repair projects. Further, the SOPs speak to coordination steps when a noticed non-County utility facility is in need of repair, replacement, or upgrade. Refer to Arapahoe County's Utility Coordination website for the most current version of the County SOPs. These SOPs are part of the Arapahoe County PWD Operations Manual.

Communication and collaboration are key elements in successful relocation, as such, County staff, County-contractors and assigns, and Utility provider staff should be familiar with the latest version of the SOPs . The most current SOPs will be available on the Arapahoe County Public Works and Development website.

Section 4 – Arapahoe County Street Cut / Right-of-Way Use Permit

- 4.1 Arapahoe County PWD will require a Street Cut / Right-of-Way Use Permit issued in accordance with the Arapahoe County Infrastructure Design and Construction Standards for all utility work performed within County Right-of-Way or on County property.
- 4.2 No County Street Cut / Right-of-Way Use Permit will be required in the following scenarios:
 - 4.2.1 Work outside of County owned property or Right-of-Way,
 - 4.2.2 Work outside of any easement dedicated to the County,
 - 4.2.3 Within existing structures whose physical footprint is not changing,
 - 4.2.4 A permit will be needed if the work area is to be accessed through any County owned property, or easement dedicated to the County. Or if relocation work will impact County Right-of-Way.
 - 4.2.5 Other permits may be required in certain areas or for certain work. Such as GESC or other.
- 4.3 The permit fee will be waived for relocations required by County Capital Improvement Projects and Road and Bridge M/O/R efforts.
- 4.4 Issuance of this permit will depend on also receiving documentation showing the agreed upon time frame, duration, start date, and anticipated date of completion for the work.
- 4.5 A copy of the latest Street Cut / Right-of-Way Use Permit is available on the County website or through the Engineering Services Division.

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Section 5 – **UTILITY CLEARANCE DOCUMENTATION**

The documentation of utility coordination can become lengthy and extensive—for that reason PWD Staff have created Standard Operating Procedures (SOP) as a guide for progressing through various aspects of Utility Coordination on County projects. Refer to the Arapahoe County Utility Coordination website for the most current version of the County SOPs. These SOPs are part of the Arapahoe County PWD Operations Manual.

County Staff, County subcontractors and agents, and Utility provider staff should be familiar with the most current version of the SOPs . The latest policies and SOPs will be available on the Arapahoe County Public Works and Development website.

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Section 6 – Timeline Conformity

- 6.0 The County understands that Utility Provider’s maintenance staff, or their designees, are not always immediately available for matters of a non-emergency nature. However, when conflicts are identified, either during construction efforts or when planning future efforts, it is in the best interest of all parties to work jointly towards resolution before any such conflict turns into a costly delay and an emergency. As emergency work can be more dangerous, costly, and/or result in disruption of services for the utility customers, PWD encourages Utility Provides to categorize utility conflicts as a high priority and work to resolve said conflicts within a reasonable amount of time.
- 6.1 Reasonable amount of time shall be categorized into one of 3 types:
 - 6.1.1 Future Projects
 - 6.1.2 Urgent Work
 - 6.1.3 Emergency Work
- 6.2 Future Projects.
 - 6.2.1 This category shall be defined as noted in section 3.1 of this policy.
 - 6.2.2 Reasonable time for this category shall be determined for a project based on:
 - 6.2.2.a The amount of time needed to plan or design resolutions to any particular conflict so that the resolution meets industry standards and requirements, is constructible, and allows Utility Providers to continue to maintain said facilities. Plus,
 - 6.2.2.b The amount of time needed to execute construction efforts to complete resolution plans in a safe and efficient manner. And,
 - 6.2.2.c The time for design and construction does not delay County design efforts without justifiable reason.
- 6.3 Urgent Work.
 - 6.3.1 This category shall be defined as utility relocations discovered during efforts described in section 3.2 and 3.3 of this policy.
 - 6.3.2 Reasonable time for this category refers to the maximum time (in calendar days) that a Utility Provider has to start the relocation construction efforts.
 - 6.3.3 The County reserves the right to accelerate the Reasonable time for this category depending on project needs.

- 6.3.4 Reasonable time for Urgent Work shall be defined at 7 calendar days starting the day after the Utility Provider was notified. However, the County does reserve the right to decrease this reasonable time as needed.
- 6.3.5 Urgent Work may include, but is not limited to, the following:
 - 6.3.5.a A reduction of roadway performance as defined by the County.
 - 6.3.5.b A 20% or more reduction of construction production rate.
 - 6.3.5.c Missing a project/task completion date on the critical path.
 - 6.3.5.d A project specific need.
- 6.4 Emergency Work.
 - 6.4.1 This category shall be defined as any relocation or repair efforts requiring immediate attention due to a public health and safety, critical function, or an imminent danger concern.
 - 6.4.2 Reasonable time for this category refers to the maximum time that a Utility Provider has to start the relocation construction efforts.
 - 6.4.3 Reasonable time for this category shall be within 24 hours of notification to the Utility Provider.
- 6.5 Utility Providers shall not delay efforts to resolve conflicts beyond the reasonable time outlined in this Policy without a justifiable reason, such reasons may include:
 - 6.5.1 Inclement weather that creates an unsafe working condition.
 - 6.5.2 Events beyond Utility provider's control that prevent site access.
 - 6.5.3 Material shortage in the supply chain beyond Utility Provider's control (this would not be applicable to future design projects).
 - 6.5.4 Requests for delays, for other reasons not listed here, may be submitted, in writing, to the County by the Utility Provider. Such requests will be reviewed by the Director of Public Works and Development, and if determined to be justified, the Director will approve said delay request.
- 6.6 The County will notify Facility Owners in advance of its plans for Right-of-Way or easement construction projects, except that in emergency situations County may take such immediate actions as are as necessary to protect public health and safety and will notify the Utility Provider thereafter as soon as practical. Facility Owners shall cooperate and participate in design review, provide information on Facility locations, and conduct and/or participate in the installation, relocation, removal, or repair of the Facilities that are determined to conflict with the planned County construction project.

- 6.7 If, at any time, the Facilities interfere with the existing use or planned future use of public improvements, Utility Providers, within the reasonable amount of time as defined by this policy, and after receipt of written notice by the County of such interference, shall obtain the necessary specific work permit(s), and by its own forces or contractors, commence relocation, modification, removal, or repair of its Facilities. Cost responsibilities shall be in compliance with sections 2.3 and 2.7 of this policy.
- 6.8 Work on the Facilities shall be accomplished in such a manner so as not to unreasonably obstruct or hinder the use of Right-of-Way or other easements, or endanger persons or property, and shall not interfere with the County's present and future use of the Right-of-Way or easements. All work shall be done in compliance with the provisions of the respective specific work permit, applicable County approved standards and specifications for said work.
- 6.9 If, after notice as provided herein and after passage of the reasonable time for the work as identified above, the Utility Provider fails to respond within a timely manner to design, install, relocate, remove, or repair the conflicting facilities and this unduly hinders the County's progress on the County construction project, the County may, at its discretion, perform such work, or use a separate contractor, to address the conflicting facilities without liability to the County or contractor. Each Utility Provider wishing to use a specific / qualified contractor(s) shall provide the County with a list and contact information of such contractors. The County will provide written notice to the Utility Provider of its failure to perform, and the impending facility to be worked on prior to commencing work. The Utility Provider thereby assumes full responsibility for all costs and damages to the County which may result from its failure to so design, remove, relocate, or modify its facilities, including additional costs and damages to contractors of the County. The County will invoice the Utility Provider for all costs, direct and indirect, necessary to perform the work. If costs of such work are not promptly paid by the Utility Provider, the County may make claim against these costs and seek recovery under a permit bond posted by the Utility Provider. If such permit bond is not available, the County will enforce its right to make claim for full recovery of all costs. If Utility Provider performs work in the Right-of-Way under a "Letter of Responsibility", said letter will be immediately revoked and all future permits acquired by the Utility Provider would then need to be accompanied by separate permit bond. The Director may also elect to set off any reimbursement payment under Section 2.8 for relocation in the project or any future project against damages incurred by reason of the Utility Provider's delay to the project.
- 6.10 As outlined by the SOP described in section 5, County staff, County subcontractors and agents will follow the coordination and documentation procedure for communicating with Utility Providers. All requests for review, coordination, or execution, as needed

for project advancement shall be responded to within 10 working days of notice. In the event of no response from the Utility Provider, the County shall take such further action as is appropriate and necessary to ensure that the lack of response required from the Utility Provider does not delay the project advancement.

- 6.11 Nothing in this Section 6 or otherwise in this policy is intended to limit or otherwise restrict the County in any choice of remedies for damages caused by the Utility Provider's failure to conform to any reasonable time requirement established hereunder and County expressly reserves all remedies appropriate and available to the County under the law or the common of the State of Colorado.

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Section 7 – Definitions

- 7.1 Common Industry standards – those practices or methodologies for installation, modification, or repair; materials used; or typical design process deemed acceptable by groups of companies and individuals working in a specific industry.
- 7.2 County Property – County controlled, owned, or leased property, or interests, there in, acquired, dedicated, or reserved for the purposes and uses of County matters or operations.
- 7.3 Dry Utility – Any commodity transmission system that is not a wet utility.
- 7.4 Easement – An interest in real property that conveys a right to use a portion of an owner's property or a portion of an owner's rights in the property.
- 7.5 Facility – Any pipe, pole, wire, box, or other appurtenance used in the transmission or distribution of a utility.
- 7.6 Non-County Facilities – Any Facility that is part of a utility system that is not owned or maintained by the County.
- 7.7 Right-of-Way - County-controlled property, or interests therein, acquired, dedicated, or reserved for the construction, operation, and maintenance of the County roadway system. For purposes of this Policy, right-of-way includes property owned by the County in fee and used for road purposes.
- 7.8 Subsurface Utility Engineering – A branch of engineering practice that involves managing certain risks associated with utility mapping at appropriate quality levels, utility coordination, utility relocation design and coordination, utility condition assessment, communication of utility data to concerned parties, utility relocation cost estimates, implementation of utility accommodation policies, and utility design. Copied from: <http://www.dot.ga.gov/PartnerSmart/utilities/Documents/ASCE%2038-02.pdf>
- 7.9 Utility Adjustments – A modification of an existing facility.
- 7.10 Utility Provider – Any entity that is authorized by law, statute, or agreement to own, operate, or maintain any wet or dry utility within the public Right-of-Way.
- 7.11 Wet Utility – A transmission system that conveys oil, gas, potable water, storm water, sanitary sewage, or other liquids.

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