

ORDINANCE NO. 2017-03-016

AN ORDINANCE AMENDING URBANA CITY CODE CHAPTER
20 CONCERNING USE OF RIGHTS-OF-WAY

(Authority to Enter into and Execute Right-Of-Way Use Licenses)

WHEREAS, the City of Urbana ("City") is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs, including the power to regulate for the protection of the public health, safety, and welfare; and

WHEREAS, the City Council heretofore did enact Urbana City Code Chapter 20 to regulate the public right-of-way and other public places within the City for the protection of the public health, safety, and welfare; and

WHEREAS, after due and proper consideration, the City Council finds that amending Chapter 20, as provided herein, will protect the health, safety, and welfare of the public.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Urbana, Champaign County, Illinois, as follows:

Section 1. Urbana City Code Chapter 20, "Public Right-of-Way and Other Public Places", Section 20-600 shall be and is hereby amended as provided herein.

20-600. Consent to license agreements.

(a) The city council, in its discretion and consistent with applicable law, may authorize by ordinance, the mayor to execute license agreements on behalf of the city for use of public rights-of-way where such use will involve the placement or installation of any facility on the surface of or above the

ground in a public right-of-way.

(b) Notwithstanding anything to the contrary contained in subsection (a) of this section, the mayor, in the mayor's discretion and consistent with applicable law, shall have the authority, without city council consent, to enter into and execute license agreements for the use of public rights-of-way where such use is strictly confined to drains, pipeline, conduit, vaults, materials, fiber, cable, or other equipment which is or are located entirely below the surface of the right-of-way or rights-of-way sought to be used by the applicant.

(c) Terms of license agreement.

The following terms and conditions shall, at a minimum, be included in every license agreement which provides for the use of any public right-of-way.

(1) Location. The license shall specify the length and width of licensed property and shall include an accurate map of the exact location.

(2) Term. Unless otherwise noted, the initial term of the agreement shall be twenty (20) years. Upon expiration of this initial term or any renewal term, the agreement shall automatically renew for a subsequent term of five (5) years, unless, not less than ninety (90) days prior to expiration, either party gives written notice of its intent not to renew. The agreement may be terminated at any time upon the express written consent of both parties. Either party may terminate the agreement for cause by giving written notice to the other party at least forty-five (45) calendar days prior to the proposed termination. Such notice of termination shall specify the reason or reasons

for such termination and shall specifically state that such termination shall become effective thirty (30) calendar days after the date thereof in the event the reason or reasons for such notice of the termination are not fully and completely concurred.

(3) Plans and specifications. The plans and specifications shall be subject to the approval of the city engineer and shall comply with all ordinances and regulations of the city.

(4) Compensation. Compensation shall be paid per negotiated agreement.

(5) Transfer. The license granted pursuant to this article may not be transferred or assigned.

(6) Installation and maintenance. The license shall require the licensee to comply with all ordinances or regulations of the city. The licensee shall be required to restore any pavement disturbed in the course of construction as well as any non-pavement surface. Such restoration shall be to the satisfaction of the city engineer. The agreement shall require the licensee to pay to the city any costs occasioned to the city on account of the licensee's failure to restore.

(7) Removal. The license shall require the licensee to remove the equipment upon termination of the agreement at the licensee's expense.

(8) Relocation. The license shall require the licensee

to relocate the equipment at the licensee's expense at the request of the city.

(9) Indemnification. The license shall require the licensee to defend and indemnify the city and its employees and agents for all expenses related to the licensee's use of the city street or other city property.

(10) Insurance and security. The license shall require the licensee to maintain insurance in accordance with the requirements of sections 407 and 409 of this chapter.

(11) Notice and requirement to update owner information. The license shall provide for the method of notification of each party and shall include a requirement that the city be informed of changes in ownership.

Section 2. Those sections, paragraphs, and provisions of the Urbana City Code that are not expressly amended or repealed by this Ordinance are hereby re-enacted, and it is expressly declared to be the intention of this Ordinance not to repeal or amend any portions of the Urbana City Code other than those expressly set forth in Section 1 of this Ordinance. The invalidity of any section or provision of this Ordinance hereby passed and approved shall not invalidate other sections or provisions thereof.

Section 3. This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 4. The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance

shall be in full force and effect from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED BY THE CITY COUNCIL this 3rd day of April, 2017.

AYES: Ammons, Brown, Jakobsson, Madigan, Marlin, Roberts, Smyth

NAYS:

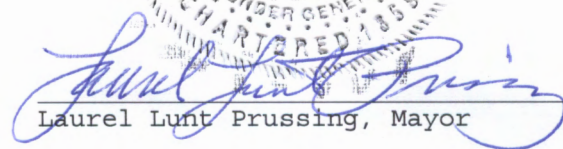
ABSENT:

ABSTAINED:



Phyllis D. Clark, City Clerk

APPROVED BY THE MAYOR this 6th day of April, 2017.



Laurel Lunt Prussing, Mayor



**CERTIFICATE OF PUBLICATION
IN PAMPHLET FORM**



I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois.

I certify that on the 3rd day of April, 2017, the City Council of the City of Urbana passed and approved Ordinance No. 2017-03-016, entitled:

AN ORDINANCE AMENDING URBANA CITY CODE CHAPTER 20 CONCERNING USE OF RIGHTS-OF-WAY (AUTHORITY TO ENTER INTO AND EXECUTE RIGHT-OF-WAY USE LICENSES)

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 2017-03-016 was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the 6th day of April, 2017, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

Dated at Urbana, Illinois, this 6th day of April, 2017.



Phyllis D. Clark

Phyllis D. Clark, City Clerk