

237.162 PUBLIC RIGHT-OF-WAY; DEFINITIONS.

Subdivision 1. **Generally.** The terms used in sections 237.162 and 237.163 have the meanings given to them in this section.

Subd. 2. **Local government unit.** "Local government unit" means a county, home rule charter or statutory city, or town.

Subd. 3. **Public right-of-way.** "Public right-of-way" means the area on, below, or above a public roadway, highway, street, cartway, bicycle lane, and public sidewalk in which the local government unit has an interest, including other dedicated rights-of-way for travel purposes and utility easements of local government units.

A public right-of-way does not include the airwaves above a public right-of-way with regard to cellular or other nonwire telecommunications or broadcast service.

Subd. 4. **Telecommunications right-of-way user.** "Telecommunications right-of-way user" means a person owning or controlling a facility in the public right-of-way, or seeking to own or control a facility in the public right-of-way, that is used or is intended to be used for transporting telecommunications or other voice or data information. A cable communication system defined and regulated under chapter 238, and telecommunications activities related to providing natural gas or electric energy services whether provided by a public utility as defined in section 216B.02, a municipality, a municipal gas or power agency organized under chapter 453 or 453A, or a cooperative electric association organized under chapter 308A, are not telecommunications right-of-way users for the purposes of this section and section 237.163.

Subd. 5. **Excavate.** "Excavate" means to dig into or in any way remove, physically disturb, or penetrate a part of a public right-of-way.

Subd. 6. **Obstruct.** "Obstruct" means to place a tangible object in a public right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

Subd. 7. **Right-of-way permit.** "Right-of-way permit" means a permit to perform work in a public right-of-way, whether to excavate or obstruct the right-of-way.

Subd. 8. **Manage the public right-of-way.** "Manage the public right-of-way" means the authority of a local government unit to do any or all of the following:

- (1) require registration;
- (2) require construction performance bonds and insurance coverage;
- (3) establish installation and construction standards;
- (4) establish and define location and relocation requirements for equipment and facilities;
- (5) establish coordination and timing requirements;
- (6) require telecommunications right-of-way users to submit, for right-of-way projects commenced after May 10, 1997, whether initiated by a local government unit or any telecommunications right-of-way user, project data reasonably necessary to allow the local government unit to develop a right-of-way mapping system, such as a geographical information mapping system;
- (7) require telecommunication right-of-way users to submit, upon request of a local government unit, existing data on the location of the user's facilities occupying the public right-of-way within the local government unit. The data may be submitted in the form maintained

by the user and in a reasonable time after receipt of the request based on the amount of data requested;

- (8) establish right-of-way permitting requirements for street excavation and obstruction;
- (9) establish removal requirements for abandoned equipment or facilities, if required in conjunction with other right-of-way repair, excavation, or construction; and
- (10) impose reasonable penalties for unreasonable delays in construction.

Subd. 9. **Management costs or rights-of-way management costs.** "Management costs" or "rights-of-way management costs" means the actual costs a local government unit incurs in managing its public rights-of-way, and includes such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user equipment during public right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the public right-of-way, the fees and cost of litigation relating to the interpretation of this section or section 237.163 or any ordinance enacted under those sections, or the local unit of government's fees and costs related to appeals taken pursuant to section 237.163, subdivision 5.

History: 1997 c 123 s 3