
Chapter 59 — Right-of-Way Management

Article I — Title and General Definitions

§ 59-101	Short Title.	59-4
§ 59-102	Definitions—In General.	59-4
§ 59-103	Aerial Facilities.	59-4
§ 59-104	Borough Work.	59-5
§ 59-105	Cable System.	59-5
§ 59-106	Emergency.	59-5
§ 59-106.1	Grandfathered Mailbox.	59-5
§ 59-106.2	Mailbox Permittee.	59-5
§ 59-107	Permittee.	59-5
§ 59-108	Person.	59-6
§ 59-109	Right-of Way.	59-6
§ 59-110	State-Authorized Use.	59-6
	(a) In General.	59-6
	(b) Principal Purposes.	59-6

Article I — Title and General Definitions

§ 59-101 Short Title.

This Chapter shall be known, and may be cited, as the “Borough of Alburtis Right-of-Way Management Ordinance”.

§ 59-102 Definitions—In General.

For purposes of this Chapter, the terms defined in the remaining Sections of this Article I shall have the meanings indicated therein, whether with or without initial capital letters, unless the context in which they are used clearly indicates a different meaning.

§ 59-103 Aerial Facilities.

The term “aerial facilities” shall mean poles, wires, cables, equipment, and other facilities located above the surface of the ground, including their underground supports and foundations. Such term does not include private driveways, newspaper vending machines, mailboxes, street banners, or canopies.

§ 59-104 Borough Work.

The term “Borough Work” shall mean all construction work performed by the Borough or any of its departments, either with its own personnel or under contract, including repair, alteration, replacement, or maintenance of facilities owned, operated, maintained, or controlled by the Borough or for which the Borough is responsible.

§ 59-105 Cable System.

The term “Cable System” shall have the same meaning as provided under § 69-104 (relating to Cable Television—Title and Definitions—Cable System).

§ 59-106 Emergency.

The term “emergency” shall mean a condition that —

(a) constitutes a clear and immediate danger to the health, welfare, or safety of the public; or

(b) has caused or is likely to cause facilities in the right-of-way to be unusable and result in loss of the services provided.

§ 59-106.1 Grandfathered Mailbox.

The term “Grandfathered Mailbox” shall mean a mailbox existing in a right-of-way in this Borough on May 29, 2024, which remains in the same location as on May 29, 2024, and remains of the same design, construction, and configuration as on May 29, 2024 (although it may have been maintained or repaired since that date). However, a mailbox shall cease to be a Grandfathered Mailbox on and after the compliance date of a Notice to Obtain Mailbox Permit issued under § 59-402(a).

§ 59-106.2 Mailbox Permittee.

The term “Mailbox Permittee” shall mean the recipient of a current, unrevoked Mailbox Permit issued pursuant to Article IV of this Chapter or his/her/its successor in interest.

§ 59-107 Permittee.

The term “Permittee” shall mean the recipient of a Right-of-Way Use Permit issued pursuant to this Chapter or a person authorized to operate a Cable System under Chapter 69, persons holding existing franchises, special ordinances, or other authorizations prior to the enactment of this Chapter, and persons treated as Permittees under the second sentence of § 59-201(b) (but only to the extent of matters not within the exclusive jurisdiction of the Pennsylvania Public Util-

ities Commission) or the second sentence of § 59-207(a) (but only to the extent of matters not within the exclusive jurisdiction of the Pennsylvania Public Utilities Commission). However, the term does not include any persons whose rights have expired or been terminated. A person is not a Permittee solely by virtue of being a Mailbox Permittee.

§ 59-108 Person.

The term “person” shall include corporations, companies, associations, firms, partnerships, limited liability companies, and other entities; municipalities, authorities, and other governmental or quasi-governmental entities established by law; and individuals.

§ 59-109 Right-of Way.

The term “right-of-way” means the surface of and space above and below any real property in the Borough in which the Borough has a regulatory interest, or interest as trustee for the public, as such interests now or hereafter exist, including, but not limited to, all streets, highways, roads, alleys, sidewalks, tunnels, viaducts, and bridges under the control of the Borough, but excluding lands owned by the Borough other than streets or other strips of land intended or used for vehicular or pedestrian traffic. The “right-of-way” includes cartway areas, sidewalk areas, and all unpaved portions of the legal right-of-way. The phrase “in the right-of-way” means “in, on, over, along, above, and/or under the right-of-way”.

§ 59-110 State-Authorized Use.

(a) **In General.** The term “State-Authorized Use” shall mean the use of any portion of any Borough street, highway, alley, or right-of-way area for one or more of the Principal Purposes set forth in subsection (b) and ancillary purposes reasonably necessary or appropriate for the accomplishment of the Principal Purposes, including the placement, maintenance and removal of aerial, surface and subsurface public utility facilities thereon or therein, by a public utility corporation pursuant to the rights granted under 15 PA. CONS. STAT. § 1511(e). A State-Authorized Use must comply with the applicable regulations of this Chapter that are not within the exclusive jurisdiction of the Pennsylvania Public Utility Commission.

(b) **Principal Purposes.** For purposes of this Section, the term “Principal Purposes” shall mean the following (within the meaning of 15 PA. CONS. STAT. § 1511(a))—

(1) the transportation of passengers or property or both as a common carrier by means of elevated street railway, ferry, inclined plane railway, railroad, street railway or underground street railway, trackless-trolley omnibus or by any combination of such means;

(2) the transportation of artificial or natural gas, electricity, petroleum or petroleum products or water or any combination of such substances for the public;

(3) the production, generation, manufacture, transmission, storage, distribution or furnishing of natural or artificial gas, electricity, steam, air conditioning or refrigerating service or any combination thereof to or for the public;

- (4) the diverting, developing, pumping, impounding, distributing or furnishing of water from either surface or subsurface sources to or for the public;
- (5) the collection, treatment or disposal of sewage for the public;
- (6) the conveyance or transmission of messages or communications by telephone or telegraph for the public;
- (7) the diverting, pumping or impounding of water for the development or furnishing of hydroelectric power to or for the public;
- (8) the transportation of oxygen or nitrogen, or both, by pipeline or conduit for the public.