

Vice Mayor's Special Committee on Right of Way Closures Committee Report

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The charge of this Special Committee was to investigate the following:

“It seems like almost everywhere you go (especially downtown), there are full and partial street closures. Are they all properly permitted? Before an entity is allowed to close a street, are plans established (and carried out) to deal with traffic back-up? If they are not permitted or allowed to be blocking streets, why is no one enforcing/stopping them from doing this?”

Metro Code regarding obstruction and excavation of public right of way resides in Title 13. Below are some relevant sections:

13.20.020 - Permission and notice required.

A. No person shall dig or cause to be dug any excavation nor cause any obstruction to be constructed or placed in, on, over or under any street, road, alley, sidewalk or other public way, nor shall any person close or occupy any portion of the public right-of-way by means of or in connection with any excavation or obstruction within the jurisdiction of the metropolitan government without having first applied for and obtained from the director a permit to do so.

13.20.030 - Permit.

B. In connection with the issuance of a permit under this chapter, the director shall have the authority to close temporarily or to authorize temporary closure of any street, road, alley, sidewalk, or any other public way or part thereof when, in the director's opinion, the closing is necessary. No public way shall be closed for any purpose without first obtaining a permit from the director.

C. In connection with the issuance of a permit under this chapter, the director may install, or may require installation and maintenance of, traffic-control devices. Such devices and their placement shall meet the requirements of the latest edition of the Manual for Uniform Traffic Control Devices (MUTCD). The director shall adopt rules and standards with regard to this requirement, particularly as to safe accommodation for cyclists and pedestrians, including

accessibility for disabled persons, and make compliance therewith a condition upon the issuance of a permit under this chapter. For permits with a duration exceeding twenty days, the permit applicant shall submit a temporary traffic control plan to the director.

The Permit Office exists to approve, permit, and inspect all activities in the right of way both temporary and permanent.

Number of Inspectors

Effective administration of public right of way requires appropriate resources. Annual volume of right of way obstruction and excavation permits has more than doubled since FY2012. In FY2012 there were three inspectors for all of Davidson County. One was added in FY2015 bringing the total to four. The attached **Exhibit A** details the number of permits, revenue from permits, number of inspectors, and Public Works budget request for inspectors for FY2012 through the present.

Given the steep increase in permit volumes, need for inspections, and corresponding revenue it is recommended that the FY2021 budget fully fund Public Works' request for 4 additional inspectors.

Because some construction activity occurs around the clock and on weekends it is recommended that inspectors be available during those times for routine inspections and for responding to complaints.

Ad-Hoc, Special, or Subcommittee of Public Works

Some of the Special Committee's recommendations require additional co-ordination between stakeholders, Metro departments, the Administration, and councilmembers. Current committee structure yields meetings which necessarily focus on routine administrative business. It is recommended that an Ad-Hoc, Special, or Subcommittee of the Council Public Works Committee be established to pursue these recommendations and others as the Vice Mayor and Public Works Chair see fit.

Fee Study

It is recommended that a Fee Study be undertaken to ensure that fees provide adequate revenue for effective permitting and inspection in the public right of way. It is also recommended that each degree of closure from sidewalk, to bike lane, to vehicular travel lane be assessed as a right of way closure rather than considering them as one request for right of way obstruction permit.

Use of Obstruction Permits for Contractor Parking

Obstruction permits should be utilized for work necessary to a project's completion, not for cheap and convenient contractor parking.

Concurrent, Adjacent Closures

Concurrent, adjacent sidewalk and street closures create barriers to pedestrian mobility and can lead to unsafe conditions. It is recommended that policy be adopted to prevent concurrent, adjacent ROW closures. Improvements to software used in the permitting office are needed to effectively track and manage closures.

Scaffolding

Scaffolding can minimize or eliminate right of way closures along construction sites. Compared with other cities few sites are required to do so in Nashville. In order to reduce the impact of construction projects on public right of way it is recommended that:

The conditions which require scaffolding be made clear,

An area of impact be established (inner loop, UZO, etc),

The requirements be applied universally to all who apply to work in the public right of way and a public-facing waiver process be established to allow for exemptions in cases of extraordinary need or hardship.

Standards for scaffolding construction be robust in order to protect workers and the public.

New Facilities Impact on Right of Way

Valet zones, loading, and delivery operations for new facilities are approved on issuance of building permits. Often these facilities negatively impact the public right of way. For example, an undersized, poorly located loading dock can lead to trucks routinely parking across the right of way when making deliveries. It is recommended that the building plan review process integrate feedback from Public Works and/or a Nashville Department of Transportation if such department is established.

Administration Priorities: Vision Zero, Nashville Department of Transportation

Effective right of way management aligns with Administration priorities. Following a year of record high pedestrian fatalities in Nashville, the Administration committed on January 18, 2020 to Vision Zero – an approach which aims to reduce pedestrian fatalities to zero. Effective right of way management will be a key component of increasing pedestrian safety and mobility.

Mayor Cooper and many councilmembers have endorsed the Nashville Community

Transportation Platform which calls for establishing a Nashville Department of Transportation. Effective right of way management will be critical to NDOT's success.

Report by Chair Parker.

