

City Hall, Room 450
801 Plum Street
Cincinnati, Ohio 45202-5704
Michael R. Moore
Director
Don Gindling
City Engineer

Policy: Department of Transportation & Engineering Policy for Revocation of Street Contractor License under CMC § 721-91.

Director *Michael R. Moore*

Date 7.13.2016

Pursuant to the management authority of the Director of the Department of Transportation and Engineering ("DOTE") over City streets under Article 5 of the Cincinnati Administrative Code, the Director hereby adopts the following administrative policy for implementing the street contractor license revocation process under Section 721-91 of the Cincinnati Municipal Code ("CMC").

License Requirement

In accordance with CMC § 721-83, no person, firm or corporation shall undertake to construct, lay or repair any part of a street without having previously secured a license as a street contractor. CMC § 721-85 provides that each application for a street contractor's license is reviewed by the City Manager. If the City Manager is satisfied that the applicant is qualified to properly perform street construction, such fact shall be certified to the City Treasurer. The City Treasurer issues a one-year (April 1 to March 31) street contractor license upon receipt of the City Manager certification and a bond in the sum of at least \$10,000.

Revocation Policy

Under CMC § 721-91, "Revocation of License," the City Manager is authorized to direct the City Treasurer to revoke a street contractor's license for failure "to comply with the rules and specifications governing any street construction or repair undertaken by the contractor." The guidance set forth herein is intended to provide street contractors with additional clarity concerning DOTE's rules and specifications for street contractors as well as guidance on the revocation process.

It is DOTE's policy to recommend that the City Manager revoke a street contractor's license if the contractor engages in one or more of the following:

1. failure to perform street contractor work in accordance with a valid permit, including, without limitation:
 - a. working without a required permit;
 - b. violating permit terms or conditions;
 - c. failure to follow a permit enforcement order given by a DOTE Inspector;
 - d. failure to fulfill construction warranty obligations

2. contractor performance demonstrates lack of qualifications to perform street contracting work including, without limitation:
 - a. failure to complete construction in good faith according to City standards set forth in the City's Street Opening Manual or a pattern of bad faith or careless workmanship;
 - b. failure to maintain the construction area in a safe and cleanly manner;
 - c. failure to maintain ordinary standards of professional conduct toward users of the public right-of-way, adjacent property owners, and City Inspectors, including, but not limited to, harassment or verbal abuse of such persons;
 - d. misrepresenting oneself as an agent of the City in communications to the public or solicitations for work;
 - e. the contractor or a principal employee has been subject to revocation of a street contractor license in any of the previous five years, in which case the director of DOTE has discretion to recommend for or against a request by a contractor to become a Licensed Street Contractor and apply for a license from the City Manager under CMC § 721-85.

If DOTE determines that grounds exist for the revocation of a license under CMC § 721-91 or recommends against granting a license under CMC § 721-85, it shall notify the street contractor by personal delivery or certified mail of its intent to revoke or deny the street contractor's license, including a written explanation of the grounds for revocation, a copy of this policy, and an order to stop all work (if applicable) except as expressly authorized by DOTE.

Upon receipt of notice of intent to revoke or notice of denial of license application, the contractor may object to the decision as follows:

1. ***Within 5 business days of contractor's receipt of notification***, contractor must notify DOTE in writing of its objection and provide a written statement explaining why revocation is not warranted under the circumstances. As part of its written objection, the contractor may request a hearing before the City Engineer to discuss the basis for the proposed revocation, pose questions to DOTE staff, and present evidence or testimony on the contractor's behalf, which meeting shall be scheduled to occur within 10 business days of contractor's request;
2. The written statements and testimony at the hearing will be reviewed by the City Engineer (or his or her designee) in consultation with the City Solicitor's Office. The City Engineer will promptly reject or grant the contractor appeal in writing with an explanation of the basis for the decision in relation to the above policy.
3. If City Engineer rejects the appeal (or if there is no objection from the contractor), DOTE will recommend to the City Manager that the contractor's license be revoked and request that the City Treasurer be notified of its determination to revoke the Street Contractors License.
4. License revocation will take effect upon completion of all work required to be done under the contractor's outstanding permits. DOTE will not issue a contractor new permits for street contractor work once DOTE communicates its notice of intent to revoke the street contractor's license until such time as the proposed revocation is reversed or the street contractor obtains a new license in accordance with this policy and the Municipal Code.

All contractor communications in connection with the above should be submitted to the City Engineer, City Hall, Room 450, 801 Plum Street, Cincinnati, OH 45202-1969.