

Joint Transportation, Highways and Military Affairs

State Maintained Right-of-Way

**Casper, WY
May 3, 2022**



State Maintained Right-of-Way

Current Permitted Use or Fixtures



- Broadband
- Utilities (telephone, irrigation, water/sewer, gas, and power lines)
- Sidewalks
- Pathways
- Lighting
- Artwork/Statues
- Landscaping
- Approaches (residences, subdivisions, businesses, etc.)
- Non-WYDOT signage
- Buildings
- Canopies
- Outdoor seating at restaurants
- Outdoor recreation designated trails

State Maintained Right-of-Way

Statutory Authority



W.S. 1-26-813 Right-of-way along public ways granted; permission necessary for new lines

- Allows for constructing, maintaining or operating a public utility or communications company in state right-of-way
- Must obtain permit from WYDOT
- Permitting process governed by Wyoming Administrative Rules and WYDOT operating policies
- Restricts communications poles in state managed right-of-way
- Allows cities, towns & counties authority to require a franchise

W.S. 31-5-1601 – Operation on highways (Outdoor Recreational Vehicles)

- May travel on public road right-of-way designated open by the state, local or federal agency with jurisdiction and designated as an ORV trail by the Department of State Parks
- “Public road right-of-way” means the entire right-of-way of a Wyoming street, road or highway (banks, ditches, roadway, etc.)
- Not allowed on interstates



WYDOT Operating Policy 19-3 Utility and Railroad Right-of-Way Encroachments (September 25, 2020); Utilities Accommodations Regulations

- A. Utilities: all public, private & cooperative owned utilities
- B. Gas Pipelines: only allows parallel low pressure distribution systems (unless extenuating circumstances)
- C. Telecommunications & Broadband:
 - First come/first serve basis
 - Allows parallel & data cable on interstate, primary & secondary rights-of-way
 - Shared Resource Agreement/Dig Once Policy to ensure minimal disruption
 - Requires access points at metropolitan & rural communities, each interchange and state facilities
- D. Railroads: requires specific agreement (not a utility)
- E. Transmission lines with condemnation authority: requires specific agreement if it serves public interest & does not interfere with highway purposes
- F. Small Cell Wireless Technology: may allow under a agreement as described in Operating Policy 19-9 Non-Utility Right-of-Way Encroachments



WYDOT Operating Policy 19-9 Non-Utility Right-of-Way Encroachments (October 14, 2020)

Permit may be conditionally issued if:

- Has a future purpose but is not currently used for transportation
- No adverse public safety impact
- These include the following, each with specific criteria:
 - A. Landscaping (see also Operating Policy 20-1)
 - B. Signs, awnings, canopies, on-premise advertising, & other intrusions
 - WYDOT may execute a citywide agreement
 - C. Substructures – pre-1983 foundations or basements
 - D. Access driveways (see also Rules & Regulations, General Section, Chapter 13, Access Facilities)
 - E. Sidewalk cafés & food service establishments
- WYDOT prohibits any commercial activity not listed in this policy
- WYDOT can terminate without notice or cause



23 CFR 645, Broadband Infrastructure Deployment (FHWA)

- Effective March 3, 2022
- Ensures States meet specific requirements to facilitate broadband infrastructure deployment in the ROW of Federal-aid highway projects
- Must appoint state broadband coordinator (Kevin Lebeda, WYDOT Right of Way Administrator)
- Must minimize repeated excavations
- This regulation does not *require* States to install or allow installation of broadband infrastructure in a highway ROW

Access Fees to ROW on Federal Lands

- The Federal Land Policy and Management Act and the Mineral Leasing Act allow some federal agencies to charge a fee to occupy, use or traverse public lands



Questions?