



**Where Georgia comes together.**

Department of Community Development

March 29, 2023

Re: Right-of-Way Permits

To Whom It May Concern,

The City of Perry has recently updated its' ordinance for construction permits which will now be required for all work performed within City right-of-way.

Enclosed is an application that must be completed in its entirety and returned to the Department of Community Development for processing. The ordinance also requires an indemnity bond or other acceptable security in an amount determined by the City. The City has determined that to be \$15.00 per linear foot. Once the application is reviewed and processed the required security will be calculated and provided to the City prior to commencement of work.

By implementing these changes it is the goal of the City to ensure the integrity of it's infrastructure.

The new procedures are effective immediately. Should you have any questions, please contact me at 478.988.2733 or [chad.mcmurrian@perry-ga.gov](mailto:chad.mcmurrian@perry-ga.gov)

Sincerely,

Chad McMurrian  
Engineering Services Manager

Enclosures



Where Georgia comes together.  
**Application for Right of Way Permit**

Application # \_\_\_\_\_

\*Indicates Required Field

	*Applicant	Project Contact
*Name		
*Title		
*Address		
*Phone		
*Email		

	Contractor Information	
*Name		*License No.
*Title		*Expiration Date
*Address		
*Phone		
*Email		

**General Provisions**

1. Provide location map, drawing(s) as it relates to utility installation and/or construction and description of work to be performed. Completed application and document requirements shall be submitted to the Community Development Department at [comm.development@perry-ga.gov](mailto:comm.development@perry-ga.gov). Questions regarding the application shall be directed to the Engineering Services Manager at 478.988.2733.
2. If utility work will be subcontracted license and contractor information must be listed above.
3. It is expressly stipulated that this permit is a license for permissive use only and the placing of facilities upon public property pursuant to this permit shall not operate to create or vest any property right in the holder.
4. Whenever necessary for the construction, repair, improvement, maintenance, safe and effective operation, alteration or relocation of all or any portion of the road, as determined by the City of Perry, any, or all of said facilities and appurtenances authorized hereunder shall be immediately removed from the right-of-way, or reset or relocated thereon, as required by the City of Perry, and at the sole expense of the permittee unless reimbursement is authorized by separate agreement. Should the permittee fail to remove or relocate its facilities, upon due notice from the City of Perry, permittee shall be liable for any extraordinary costs or damages incurred by City of Perry as a result thereof.
5. Applicant agrees to indemnify and hold harmless the City of Perry, all officers, all employees or agents of the City of Perry, or any political subdivision thereof, against any and all claims, damages, demands, actions, causes of action, cost and expenses of whatsoever nature, which may result from any injury to, or death of, any persons or from the loss of, or damage, property of any kind or nature, when such injury, death, loss or damage arises out of the construction, operation, maintenance, repair, removal or relocation of the facilities covered by this permit.
6. The City of Perry, its officers, agents or employees shall not be held responsible or liable for injury or damage that may occur to facilities covered by this permit, or to any connections thereto, by reason of highway maintenance and construction activities or road contractor or permittee operations. The City of

Perry's contractor shall not be held liable for any damage that may occur to utility facilities if the permittee has been notified of a construction conflict and given reasonable time to mark or relocate its facilities but has failed to do so.

7. If the City of Perry undertakes to improve this road it shall be the responsibility of the permittee to plan with the City of Perry and its contractor a schedule which will clearly set forth at which stage of operations the permittee will be required to perform any adjustment to its facilities necessary to accommodate the road improvements.
8. During the initial installation or construction of facilities authorized by this permit, or during any future repair, removal or relocation thereof or any miscellaneous operations, the permittee shall, at all times, maintain flagmen, signs, lights, flares, barricades, and other safety devices in accordance with the Department of Transportation's Manual on uniform traffic control devices and as may be necessary to properly protect traffic upon the road and to warn and safeguard the public against injury or damage.
9. It is expressly provided that with respect to any limited access road, the permittee shall not have or gain direct access, either ingress or egress, from the main traveled way of said road or its on or off ramps to any facilities authorized by the permit except upon specific approval by the City of Perry. If lane closures are necessary, contact Fire Marshal (72) hours in advance at [Darryl.kitchens@perry-ga.gov](mailto:Darryl.kitchens@perry-ga.gov) or 478.988.2759.
10. It is the applicant's responsibility to verify the limits of public right-of-way for location of the utilities facilities authorized hereby.
11. No inherent or retained right or privilege of any abutting property owner is affected by this permit nor is the City of Perry responsible for any claim which may develop between the permittee and any property owner concerning use of the right-of-way. Permittee is responsible for maintaining reasonable access to private driveways during installation of its facilities and for restoration of driveways to the owner's satisfaction.
12. Approval of this permit does not constitute approval of design or construction details for the proposed facilities. Applicant is responsible for compliance with all applicable governmental codes and regulations
13. Use of explosives within the roadbed or beneath the pavement is prohibited unless approved by separate permit.
14. Applicant shall be responsible for obtaining approvals for the proposed installation, which may be required by any local government on roads or streets under their jurisdiction or by any other agency.
15. Permittee shall give the City of Perry a minimum of 24 hours' notice prior to beginning any work under this permit.
16. The provisions of this permit are regulatory and not contractual. No interest or right of an applicant granted by this permit may be transferred to another except by written consent of the City of Perry.
17. Permittee shall give the City of Perry a minimum of 24 hours' notice prior to beginning any work under this permit. This permit shall be void unless work hereunder is begun twelve (12) months of the date of its approval

\*Signatures:

*Applicant	*Date
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## Sec. 23-70. Declaration of findings and purpose, scope, definitions.

- (a) *Intent and purpose.* The City of Perry (the "city") is vitally concerned with the use, construction within, and occupancy of all rights-of-way in the city as such rights-of-way are a valuable and limited resource which must be utilized to promote the public health, safety, welfare, and economic development of the city, and which also must be utilized to protect the public work infrastructure. Therefore, the city, under the authority of the laws and Constitution of the State of Georgia, including, but not limited to, Article 9, Section 2, paragraphs 2 and 3 of the Georgia Constitution, O.C.G.A. § 36-35-3 and O.C.G.A. § 32-4-92(10), has adopted this article for the purpose of regulating public and private entities which use the city rights-of-way.
- (b) *Scope.* The provisions of this article VI shall apply to all utilities and facilities occupying the rights-of-way as provided herein.
- (c) *Definitions.* For the purposes of this article VI, the following terms, phrases, words, and their derivations have the meanings set forth herein. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning. References hereafter to "sections" are, unless otherwise specified, references to sections in this article VI. Defined terms remain defined terms whether or not capitalized.

*City* means the City of Perry, Georgia.

*Codified ordinances* means the codified ordinances of the City of Perry, Georgia.

*Construct* means, but shall not be limited to, to dig, bore, tunnel, trench, excavate, obstruct, install or remove signs or facilities, other than landscaping or ornamental plantings, in, on, above, within, over, below, under, or through any part of the rights-of-way. Construct shall also include the act of opening and/or cutting into the surface of any paved or improved surface that is any part of the right-of-way.

*Construction* means, but shall not be limited to, the act or process of digging, boring, tunneling, trenching, excavating, obstructing, installing or removing signs or facilities, other than landscaping or ornamental plantings, in, on, above, within, over, below, under, or through any part of the rights-of-way. Construction shall also include the act of opening, boring and/or cutting into the surface of any part of the right-of-way.

*Director* means the director of community development of the City of Perry, Georgia, or his or her designee.

*Emergency* means a condition that poses a clear and immediate danger to life, health, or safety of a person, or of significant damage or loss of real or personal property.

*Facility or facilities* means any tangible thing, including, but not limited to, pipes, mains, conduits, cables, wire, poles, towers, traffic and other signals, and other equipment, appurtenances, appliances and future technology of any utility in, on, along, over, or under any part of the rights-of-way within the city.

*Facilities representative(s)* means the specifically identified agent(s)/employee(s) of a utility who are authorized to direct field activities of that utility and serve as official notice agent(s) for facilities-related information. Utility shall be required to make sure at least one of its facilities representatives are available at all times to receive notice of, and immediately direct response to, facilities-related emergencies or situations.

*FCC* means the Federal Communications Commission or any successor thereto.

*Permit* means an authorization which grants permission to conduct specific regulated activities on, in, over, under or within any public right-of-way, and which may be subject to conditions specified in a written agreement with the city or in a related provision of this Code of Ordinances.

*Right(s)-of-way* means the surface and space in, on, above, within, over, below, under or through any real property in which the city has an interest in law or equity, whether held in fee, or other estate or interest, or as a trustee for the public, including, but not limited to, any public street, boulevard, road, highway, freeway, lane,

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court, sidewalk, parkway, or any other place, area, or real property owned by or under the legal or equitable control of the city, now or hereafter, that consistent with the purposes for which it was dedicated, may be used for the purposes of constructing, operating, repairing or replacing facilities.

*Service(s)* means the offering of any service by a utility for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, or alternatively, the provision of any service by a utility between two (2) or more points for a proprietary purpose to a class of users other than the general public.

*Service agreement* means a valid license agreement, service agreement, franchise agreement, or operating agreement issued by the city or state pursuant to law and accepted by a utility or entered into by and between the city and a utility, which allows such utility to operate or provide service within the geographic limits of the city.

*Street or streets* means the surface of, as well as the spaces above and below, any and all the streets, alleys, avenues, roads, bridges, tunnels and public places of the city within the corporate limits of the city, as the same now exist or may be hereafter extended or altered, and any location thereon, thereover or thereunder, and any portion thereof;

*Transfer* means the disposal by the utility, directly or indirectly, by gift, assignment, sale, merger, consolidation, or otherwise, of more than fifty (50) percent at one time of the ownership or controlling interest in the facilities, or of more than fifty (50) percent cumulatively over the term of a written approval of registration of such interests to a corporation, partnership, limited partnership, trust, or association, or person or group of persons acting in concert.

*Unused facilities* means facilities located in the rights-of-way which have remained unused for twelve (12) months and for which the utility is unable to provide the city with a plan detailing the procedure by which the utility intends to begin actively using such facilities within the next twelve (12) months, or that it has a potential purchaser or user of the facilities who will be actively using the facilities within the next twelve (12) months, or that the availability of such facilities is required by the utility to adequately and efficiently operate its facilities.

*Utility or utilities* means all privately, publicly, or cooperatively owned systems for producing, transmitting, or distributing communication, data, information, telecommunication, cable television, video services, power, electricity, light, heat, gas, oil, crude products, water/sewer, steam, fire and police signals, traffic control devices, and street lighting systems, and housing or conduit for any of the foregoing, which directly or indirectly serve the public or any part thereof. The term "utility" may also be used to refer to the owner, operator, utility, service, contractor, subcontractor, or any agent thereof, of any above-described utility or utility facility.

(Ord. No. 2017-17, 10-17-17; Ord. No. 2022-52, §§ 1, 2, 12-20-22)

**Sec. 23-71. Utility registration.**

- (a) *Registration required.* Each utility who occupies, uses or has facilities in the rights-of-way at the time of passage of this article, including by lease, sublease or assignment, to operate facilities located in the rights-of-way, unless specifically exempted by state or federal law or this Code, shall file a registration statement with the office of the city manager within ninety (90) days of the effective date of this article.
- (b) *Registration procedure.* The registration information provided to the city shall be on a form approved by the city and shall include, but not be limited to:
  - (1) The name, legal status (i.e., partnership, corporation, etc.), street address, email address, and telephone and facsimile numbers of the utility filing the registration statement (the "registrant"). If the registrant is not the owner of the facility in the right-of-way, the registration shall include the name, street address, email address if applicable, and telephone and facsimile numbers of the owner;
  - (2) The name, street address, email address if applicable and telephone and facsimile numbers of one or more facilities representative(s). Current information regarding how to contact the facilities

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- representative(s) in an emergency shall be provided at the time of filing a registration and shall be updated as necessary to assure accurate contact information is available to the city at all times;
- (3) A copy, if requested, of the utility's certificate of authority (or other acceptable evidence of authority to operate) from the Georgia Public Service Commission and/or the FCC and any other similar approvals, permits, or agreements;
  - (4) A copy, if requested, of the service agreement, if applicable, or other legal instrument that authorizes the utility to use or occupy the right-of-way for the purpose described in the registration.
- (c) *Incomplete registration.* If a registration is incomplete, the director shall notify the registrant and shall provide a reasonable period of time in which to complete the registration. If a registration is complete, the director shall so notify the utility in writing.
  - (d) *Acceptance of the registration.* Acceptance of the registration shall not convey title in the rights-of-way. Acceptance of the registration is only the nonexclusive, limited right to occupy rights-of-way in the city for the limited purposes stated in the acceptance. Acceptance of the registration does not excuse a utility from obtaining permits required by city ordinances nor from obtaining appropriate access or pole attachment agreements before using the facilities of others, including the city. Acceptance of the registration does not excuse a utility from notifying the city of construction as required herein.
  - (e) *Facilities in place without registration.* Beginning one year after the effective date of this article VI, any facilities or part of a facility found in a right-of-way for which registration is required but has not been obtained unless specifically exempted by law, and for which no valid service agreement exists with the city, may be deemed to be a nuisance and an unauthorized use of the rights-of-way. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance; taking possession of the facilities, evicting the utility from the right-of-way; prosecuting the violator; and/or any other remedy provided by city ordinance or otherwise allowed in law or in equity.
- (Ord. No. 2017-17, 10-17-17)

### **Sec. 23-72. Construction permits.**

- (a) *Permit required.* It shall be unlawful for any utility to excavate or to construct, install, maintain, renew, remove or relocate facilities in, on, along, over or under the public roads of the city without a right-of-way construction permit from the department of community development in accordance with the terms of this article VI.
- (b) *Permit procedure.* Right-of-way (ROW) construction permits shall be obtained from the director (or such other person as the director may designate) upon application made on forms prescribed by the department of community development. The written application shall include the following:
  - (1) The name and address of the utility or other applicant;
  - (2) The nature, extent, and location of any work proposed to be done, along with satisfactory plans as attachments showing in detail the location of the proposed facility or operations as described in the permit application. The plans shall show the size or capacity of facilities to be installed; their relationship to street features such as right-of-way lines, pavement edge, structures, etc., horizontal and vertical clearance to critical elements of the roadway and any other information necessary to evaluate the impact on the street and its operation;
  - (3) The name and address of the person or firm who is to do such work;
  - (4) The name, street address, email address if applicable and telephone and facsimile numbers of one or more facilities representatives;

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- (5) The projected dates for the work to be started and finished;
  - (6) An indemnity bond or other acceptable security in an amount to be set by the city to pay any damages to any part of the city road system or other city property or to any city employee or member of the public caused by activity or work of the utility performed under authority of the permit issued;
  - (7) A copy, if requested, of the registrant's certificate of authority (or other acceptable evidence of authority to operate) from the Georgia Public Service Commission and/or the FCC and any other similar approvals, permits, or agreements; and
  - (8) A copy, if requested, of the service agreement, if applicable or other legal instrument that authorizes the utility to use or occupy the right-of-way for the purpose described in the application.
- (c) *Permit fees.* Fees shall be determined by the director, subject to the approval by resolution of the city council. A fee schedule shall be available at the offices of the director and the city clerk and open for public inspection.
- (d) *Issuance of permit.* If the director determines the applicant has satisfied the following requirements, the director may issue a permit:
- (1) Whether issuing of the approval will be consistent with this article VI; and
  - (2) Whether applicant has submitted a complete application and has secured all certificates and other authorizations required by law, if applicable, in order to construct facilities in the manner proposed by the applicant; and
  - (3) The impact on safety, visual quality of the streets, traffic flow, and other users of the right-of-way and the difficulty and length of time of the project, construction or maintenance.
- (e) *Emergency situations.*
- (1) Each utility shall, as soon as reasonably practicable, notify the director of any event regarding its facilities which it considers to be an emergency. The utility may proceed to take whatever actions are necessary in order to respond to the emergency. A utility who engages in an emergency excavation shall take all reasonable precautions to avoid or minimize damage to any existing facilities.
  - (2) In the event that the city becomes aware of an emergency regarding utility facilities, the city may attempt to contact the affected utility or facilities representative. The city may take whatever action it deems necessary in order to respond to the emergency, including cut or move any of the wires, cables, amplifiers, appliances, or other parts of the facilities. The city shall not incur any liability to the utility, for such emergency actions, and the cost of such shall be paid by each utility affected by the emergency.
- (f) *Effective period of permit.*
- (1) Each permit shall have a set commencement and expiration date based on information provided in the applicant's permit application.
  - (2) The permit shall remain in place until construction is completed or until its expiration date, whichever shall first occur, unless the utility is in default. The director may give written notice of default to a utility if it is determined that a utility has:
    - a. Violated any provision or requirement of the issuance or acceptance of a permit application or any law of the city, state, or federal government;
    - b. Attempted to evade any provision or requirement of this article VI;
    - c. Practiced any fraud or deceit upon the city; or
    - d. Made a material misrepresentation or omission of fact in its permit application.

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- (g) *Cancellation for cause.* If a utility fails to cure a default within twenty (20) business days after such notice is provided to the utility by the city, then such default shall be a material breach and the city may exercise any remedies or rights it has at law or in equity to terminate the permit. If the director decides there is cause or reason to terminate, the following procedure shall be followed:
- (1) City shall serve utility with a written notice of the reason or cause for proposed termination and shall allow a utility a minimum of fifteen (15) calendar days to cure its breach.
  - (2) If the utility fails to cure within fifteen (15) calendar days, the city may declare the permit terminated.
- (h) *Expiration of permit.* If work is not begun within six (6) months of the date of issuance, the permit will automatically expire.
- (Ord. No. 2017-17, 10-17-17; Ord. No. 2022-52, § 3, 12-20-22)

### **Sec. 23-73. Required minimum standards.**

- (a) Utility accommodation manual adopted. The 2009 Utility Accommodation Policy and Standards manual, including all references contained therein to codes, rules, regulations, schedules, forms and appendix items, except Appendix B (Permit Forms and supporting Documents), promulgated by the State of Georgia Department of Transportation, as may be amended from time to time, is hereby adopted by reference and incorporated in the article as if fully set forth herein, subject to the amendments and modification contained in this article VI. A copy of the manual shall be maintained at the offices of the director or his designee and open for public inspection. Any conflicts between the provisions of this article and the manual shall be resolved in favor of the manual. References to state personnel, agencies, and fees shall be interpreted, where required, as meaning the City of Perry municipal equivalents.
- (b) *Protection of traffic and roadway.* Unless specifically in the permit, no utility may occupy the city rights-of-way unless sufficient space is available so that the free flow and safety of traffic and other capacity considerations are not unduly impaired and the installation does not prevent the department of community development or public works from reasonably maintaining the streets, structures, traffic control devices and other appurtenant facilities, and further provided that maintenance and operations of the facilities do not jeopardize the traffic, street structure, other users of the right-of-way or the right-of-way itself.
- (c) *Grading.* If the grades or lines of any street within the city right-of-way are changed at any time by the city during the term of the permit and this changes involves an area in which the utility's facilities are located, then the utility shall, at its own cost and expense and upon the request of the city upon reasonable notice, protect or promptly alter or relocate the facilities, or any part thereof, so as to conform with such new grades or lines. In the event the utility refuses or neglects to so protect, alter, or relocate all or part of the facilities, the city shall have the right to break through, remove, alter, or relocate all or any part of the facilities without any liability to the utility and the utility shall pay to the city the costs incurred in connection with such breaking through, removal, alteration, or relocation.
- (d) *Installation of poles and other wire-holding structures and relocation.* Unless otherwise provided in a valid service agreement, no placement of any pole or wire-holding structure of the utility is to be considered a vested interest in the right-of-way, and such poles or structures are to be removed, relocated underground, or modified by the utility at its own expense whenever the city determines that the public convenience would be enhanced thereby. The facilities shall be so located and installed as to cause minimum interference with the rights and convenience of property owners.
- (e) *Blasting or excavating.* As provided in O.C.G.A. § 25-9-6 (the Georgia Underground Facility Protection Act) and other applicable state law currently in place or as amended, no utility shall commence, perform, or engage in blasting or in excavating with mechanized excavating facilities unless and until the utility planning the blasting or excavating has given forty-eight (48) hours' notice by submitting a locate request to the utility



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protection center, beginning the next business day after such notice is provided, excluding hours during days other than business days.

(Ord. No. 2017-17, 10-17-17; Ord. No. 2022-52, § 4, 12-20-22)

### **Sec. 23-74. Restoration of property.**

- (a) Each utility shall be responsible for the cost of repairing any facilities in the rights-of-way and adjoining property or other facilities which it or its facilities damage.
- (b) A utility shall be liable, at its own cost and expense, to replace, restore or repair, any street, facilities or property or structure thereon, thereunder, thereover or adjacent thereto that may become disturbed or damaged as a result of the construction or installation, operation, upgrade, repair or removal of facilities to a condition as good as or better than its condition before the work performed by the utility that caused such disturbance or damage. If the utility does not commence such replacement or repair after twenty (20) business days following written notice from the city, the city or the owner of the affected structure or property may make such replacement or repair and the utility shall pay the reasonable and actual cost of the same.

(Ord. No. 2017-17, 10-17-17)

### **Sec. 23-75. Inspection.**

- (a) The utility shall make the construction site available to the director and to all others as authorized by law for inspection at all reasonable times during the execution and upon completion of the construction.
- (b) When the construction under any permit is completed, the utility or other applicant shall notify the department of community development.
- (c) When the construction under any permit is completed, the utility shall notify the office of the city manager.

(Ord. No. 2017-17, 10-17-17; Ord. No. 2022-52, § 5, 12-20-22)

### **Sec. 23-76. Other approvals, permits and agreements.**

*Additional permits required.* The utility shall obtain all construction, building or other permits or approvals as according to city ordinance, state or federal law. In addition, a permittee shall comply with all requirements of laws, shall complete work in a way so as to not cause any unnecessary or unauthorized obstructions or sidewalks, streets, waterways or railways, and is responsible for all work done in the rights-of-way regardless of who performs the work. No rights-of-way obstruction or excavation may be performed when seasonally prohibited or when conditions are unreasonable for such work, except in the case of an emergency as provided in this article VI.

(Ord. No. 2017-17, 10-17-17)

### **Sec. 23-77. Penalties.**

Every utility or other applicant convicted of a violation of any provision of this article VI shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) per violation. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses and permits.

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(Ord. No. 2017-17, 10-17-17; Ord. No. 2022-52, § 6, 12-20-22)

**Sec. 23-78. Other provisions.**

- (a) *Severability.* If any section, subsection, sentence, clause, phrase, or portion of this article VI is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.
- (b) *Reservation of regulatory and police powers.* The city by issuing a written approval of registration under this article VI, does not surrender or to any extent, lose, waive, impair, or lessen the lawful powers and rights, which it has not or may be hereafter vested in the city under the Constitution and Laws of the United States, State of Georgia and the City Charter, and under the provisions of the city's codified ordinances to regulate the use of the rights-of-way. The utility by applying for and being issued a written permit, is deemed to acknowledge that all lawful powers and rights, regulatory power, or police power, or otherwise as are or the same may be from time to time vested in or reserved to the city, shall be in full force and effect and subject to the exercise thereof by the city at any time. A utility is deemed to acknowledge that its interests are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general laws enacted by the city pursuant to such powers. In particular, all utilities shall comply with city zoning and other land use requirements pertaining to the placement and specifications of facilities.
- (c) *Compliance.* No person shall be relieved of its obligation to comply with any of the provisions of this article VI by reason of any failure of the city to enforce compliance.
- (d) *Appeal of administrative decisions.* All appeals provided for by this article VI and any notification to the city required by this article VI shall be in writing and sent via certified mail to the director as specified in this article VI.
- (e) *Chapter headings.* Chapter headings are for convenience only and shall not be used to interpret any portion of this article VI.

(Ord. No. 2017-17, 10-17-17)

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF PERRY, GEORGIA TO AMEND ARTICLE VI – UTILITY ACCOMMODATION POLICY OF CHAPTER 23-STREETS AND SIDEWALKS; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.**

**THE COUNCIL OF THE CITY OF PERRY HEREBY ORDAINS** that the Perry Code is amended as follows:

**1.**

By amending subsection (a) of Section 23-70. – Declaration of findings and purpose, scope and definitions, to read as follows:

**Sec. 23-70. Declaration of findings and purpose, scope, definitions.**

- (a) *Intent and purpose.* The City of Perry (the "City") is vitally concerned with the use, construction within, and occupancy of all rights-of-way in the city as such rights-of-way are a valuable and limited resource which must be utilized to promote the public health, safety, welfare, and economic development of the city, and which also must be utilized to protect the public work infrastructure. Therefore, the city, under the authority of the laws and Constitution of the State of Georgia, including, but not limited to, Article 9, Section 2, paragraphs 2 and 3 of the Georgia Constitution, O.C.G.A. § 36-35-3 and O.C.G.A. § 32-4-92(10), has adopted this article for the purpose of regulating public and private entities which use the city rights-of-way.

**2.**

By amending the definition of "Director" in subsection (c) of Section 23-70. – Declaration of findings and purpose, scope and definitions, to read as follows:

- (c) *Definitions.* For the purposes of this article VI, the following terms, phrases, words, and their derivations have the meanings set forth herein. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning. References hereafter to "sections" are, unless otherwise specified, references to sections in this article VI. Defined terms remain defined terms whether or not capitalized.

*Director* means the Director of Community Development of the City of Perry, Georgia, or his or her designee.

**3.**

By amending subsections (a) *Permit required* and (b) *Permit procedure* of Section 23-72. – Construction permits to read as follows:

**Sec. 23-72. Construction permits.**

- (a) *Permit required.* It shall be unlawful for any utility to excavate or to construct, install, maintain, renew, remove or relocate facilities in, on, along, over or under the public roads of the city without a right-of-way construction permit from the Department of Community Development in accordance with the terms of this article VI.
- (b) *Permit procedure.* Right-of-way (ROW) construction permits shall be obtained from the director (or such other person as the director may designate) upon application made on forms prescribed by the Department of Community Development. The written application shall include the following:
- (1) The name and address of the utility or other applicant;
  - (2) The nature, extent, and location of any work proposed to be done, along with satisfactory plans as attachments showing in detail the location of the proposed facility or operations as described in the permit application. The plans shall show the size or capacity of facilities to be installed; their relationship to street features such as right-of-way lines, pavement edge, structures, etc., horizontal and vertical clearance to critical elements of the roadway and any other information necessary to evaluate the impact on the street and its operation;

- (3) The name and address of the person or firm who is to do such work;
- (4) The name, street address, email address if applicable and telephone and facsimile numbers of one (1) or more facilities representatives;
- (5) The projected dates for the work to be started and finished;
- (6) An indemnity bond or other acceptable security in an amount to be set by the city to pay any damages to any part of the city road system or other city property or to any city employee or member of the public caused by activity or work of the utility performed under authority of the permit issued;
- (7) A copy, if requested, of the registrant's certificate of authority (or other acceptable evidence of authority to operate) from the Georgia Public Service Commission and/or the FCC and any other similar approvals, permits, or agreements; and
- (8) A copy, if requested, of the service agreement, if applicable or other legal instrument that authorizes the utility to use or occupy the right-of-way for the purpose described in the application.

4.

By amending subsections (b) *Protection of traffic and roadway* and (e) *Blasting or excavating* of Section 23-73. – **Required minimum standards** to read as follows:

**Sec. 23-73. Required minimum standards.**

- (b) *Protection of traffic and roadway.* Unless specifically in the permit, no utility may occupy the city rights-of-way unless sufficient space is available so that the free flow and safety of traffic and other capacity considerations are not unduly impaired and the installation does not prevent the Department of Community Development or Public Works from reasonably maintaining the streets, structures, traffic control devices and other appurtenant facilities, and further provided that maintenance and operations of the facilities do not jeopardize the traffic, street structure, other users of the right-of-way or the right-of-way itself.
- (e) *Blasting or excavating.* As provided in O.C.G.A. § 25-9-6 (the Georgia Underground Facility Protection Act) and other applicable state law currently in place or as amended, no utility shall commence, perform, or engage in blasting or in excavating with mechanized excavating facilities unless and until the utility planning the blasting or excavating has given forty-eight (48) hours' notice by submitting a locate request to the utility protection center, beginning the next business day after such notice is provided, excluding hours during days other than business days.

5.

By amending subsection (e) of Section 23-75. – **Inspection** to read as follows:

**Sec. 23-75. Inspection.**

- (b) When the construction under any permit is completed, the utility or other applicant shall notify the Department of Community Development.

6.

By amending Section 23-77. – **Penalties** to read as follows:

**Sec. 23-77. Penalties.**

Every utility or other applicant convicted of a violation of any provision of this article VI shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) per violation. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses and permits


SO ENACTED this 20th day of December, 2022.



1<sup>st</sup> Reading: December 6, 2022

2<sup>nd</sup> Reading: December 20, 2022

CITY OF PERRY, GEORGIA

By:   
Randall Walker, Mayor

Attest:   
Annie Warren, City Clerk