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Regular Meeting – Perry City Council
Houston County Courthouse Jury Meeting Room
201 Perry Parkway
Tuesday, May 5, 2020
6:00 p.m.

*This meeting is available to the public via teleconference and Facebook live streaming pursuant to O.C.G.A. § 50-14-1(g).

AGENDA

1. **Call to Order:** Mayor Randall Walker, Presiding Officer.
2. **Roll.**
3. **Invocation and Pledge of Allegiance to the Flag:** Mayor Randall Walker
4. **Recognition(s) /Presentation(s):**
 - 4a. Recognize Ms. A. Warren, Professional Municipal Clerks Week – Mayor Walker.
5. **Review of Minutes:** Mayor Randall Walker
 - 5a. Council’s Consideration – Minutes of the April 21, 2020 council meeting.
6. **Old Business:**
 - 6a. **Ordinance(s) for Second Reading(s) and Adoption:**
 1. **Second Reading** of Wireless Facilities and Antennas Act Ordinance – Ms. B. Newby.
7. **Any Other Old Business:**
 - 7a. Mayor Randall Walker
 - 7b. Council Members
 - 7c. City Attorney Brooke Newby
 - 7d. City Manager Lee Gilmour
 - 7e. Assistant City Manager Robert Smith
8. **New Business:** Mayor Randall Walker
 - 8a. Project Sleep: City of Perry Hotel incentives request – Ms. A. Hardin.

- 8b. Adjustment to fee billing process – Mr. L. Gilmour.
- 8c. Designation of a handicap parking space – Mr. L. Gilmour.
- 9. Council Members Items:
- 10. Department Heads/Staff Items.
- 11. General Public Items:
- 12. Mayor Items:
- 13. Adjourn.

In accordance with the Americans with Disabilities Act, accommodations are available for those who are hearing impaired and/or in need of a wheelchair. The Perry City Council Agenda and supporting material for each item is available on-line through the City's website at www.perry-ga.gov.

MINUTES
REGULAR MEETING OF THE PERRY CITY COUNCIL
April 21, 2020
6:00 P.M.

1. **Call to Order:** Mayor Randall Walker, Presiding Officer, called to order the regular meeting of the Perry City Council held April 21, 2020 at 6:00 p.m.

2. **Roll.**

Elected Officials Present: Mayor Randall Walker, Mayor Pro Tempore Willie King, Council Members Darryl Albritton, Phyllis Bynum-Grace, Riley Hunt, Robert Jones, and Joy Peterson

Elected Officials Absent: None

City Staff: City Manager Lee Gilmour, Assistant City Manager Robert Smith, City Attorney Brooke Newby, and Recording Clerk Regan Scott

Departmental Staffing: Tabitha Clark – Communications Manager, Ashley Hardin – Director of Economic Development, Sedrick Swan – Director of Leisure Services, and Bryan Wood – Director of Community Development

Guest(s): John Hulbert, Ashley Hulbert – Ocmulgee Developments, LLC., and Gordon Grimm – 112 Windermere Cir.

Media: Lauren Harris – Houston Home Journal

3. **Invocation and Pledge of Allegiance to the Flag:**

Mayor Pro Tempore King rendered the invocation and Council Member Albritton led the pledge of allegiance to the flag.

4. **Recognition(s) /Presentation(s):**

4a. **Proclamation recognizing Professional Municipal Clerks Week:** Mayor Randall Walker read a proclamation announcing the 51st Annual Professional Municipal Clerks Week, to be celebrated May 3, 2020 – May 9, 2020

5. **Review of Minutes:** Mayor Randall Walker

5a. Council's Consideration – Minutes of the April 7, 2020 council meeting.

Council Member Bynum-Grace motioned to accept the minutes as submitted, Mayor Pro Tempore King seconded the motion, and it carried unanimously.

6. **Old Business:** Mayor Randall Walker

6a. Mayor Randall Walker - None

6b. Council Members - None

6c. City Attorney Brooke Newby - None

- 6d. City Manager Lee Gilmour - None
- 6e. Assistant City Manager Robert Smith - None

7. New Business: Mayor Randall Walker

7a. Presentation of E-Gaming Sports Leagues. Mr. Swan proposed an e-gaming program for Leisure Services to offer video game league opportunities to Perry residents. Mayor Pro Tempore King motioned to approve the program with the stipulation that Leisure Services have the ability to control gaming content offered to users, Council Member Bynum-Grace seconded the motion, and it carried 5 to 1 with Council Member Hunt opposing.

7b. Business Guide for the City of Perry: Ms. Hardin presented the electronic version of the Business Guide for the City of Perry and reviewed content to be distributed to potential business owners. Council thanked Ms. Hardin for her efforts and praised the work. The guide will be available in print and PDF format.

7c. Ordinance(s) for First Reading(s) and Introduction:

- 1. **First Reading** of Wireless Facilities and Antennas Act Ordinance – Ms. B. Newby. **(No action required by Council.)**

7d. Resolution(s) for Consideration and Adoption:

- 1. Adopted Resolution 2020-24 amending Perry Fee schedule. Mr. Gilmour reviewed the proposed amendments, including allowance for auto traffic signs, a 65-gallon recycling bin, and an adjustment for 2nd notice of damage to meters. Mayor Pro Tempore King motioned to adopt the resolution as submitted, Council Member Albritton seconded the motion and it carried unanimously. *(Resolution No. 2020-24 has been entered into the City's official book of record.)*

7e. Approval of an Intergovernmental Agreement between the City of Perry and Houston County Land Bank. Ms. Newby reviewed the agreement, noting that it would allow the City to remediate the blighted property located at 1118 Jewell Council Member Albritton motioned to approve the agreement, Mayor Pro Tempore King seconded the motion, and it carried unanimously.

7f. Approval of sidewalk encroachment at 809 Carroll Street. Mr. Hulbert reviewed a proposed handicap accessible ramp to the front entrance of the building at 809 Carroll Street. Administration provided Council with options for ensuring ADA compliance, including the issuance of a Temporary Certificate of Occupancy to allow the developer and tenants to create an alternative access solution. Council Member Jones motioned to accept this option, Mayor Pro Tempore King seconded the motion, and it carried unanimously.

7g. Consider amending the city services billing process. Mr. Gilmour recommended tabling this item matter pending further research. Mayor Pro Tempore King

motioned to table the item, Council Member Albritton seconded the motion, and it carried unanimously.

- 7h. Approval to go to bid for Houston Lake Road sidewalk project. Mr. Gilmour presented the estimated construction costs for Houston Lake Road Sidewalk additions. Mayor Pro Tempore King motioned to approve the project, Council Member Jones seconded the motion and it carried unanimously.
- 7i. Council approval to proceed with funding request to Perry Public Facilities Authority. Mr. Gilmour advised that the request for funding would cover the acquisition of property and improvements to the Perry Branch sewer main. Council Member Bynum-Grace motioned to proceed with the funding request, Mayor Pro Tempore King seconded the motion, and it carried unanimously.

8. Other Business / Supplemental Agenda: Mayor Randall Walker

8a. COVID-19 Credits – Mr. L. Gilmour.

Mr. Gilmour reviewed the proposed commercial and residential account credits in response to significant impact of the COVID-19 virus. Council Member Hunt motioned to approve the issuance of credits, Council Member Jones seconded the motion, and it carried unanimously.

9. Council Member Items:

Mayor Pro Tempore King and Council Member Albritton had no reports.

Council Member Jones noted concerns he had related to elevation and grade in the development of apartments on Highway 41.

Council Member Peterson also noted concerns relative to elevation and grade in apartment development on Highway 41.

Council Member Bynum-Grace expressed concerns relative to children playing on inoperative splash pad equipment in Legacy Park.

10. Department Heads/Staff Items: None

11. General Public Items:

Mr. Gordon Grimm shared concerns relative to stormwater issues possibly related to construction near Cheshire subdivision, as well as concerns relative to elevation and grade of the apartment development project on Highway 41.

Ms. Pamela Smith inquired via Facebook Live about City requirements for salon operators with respect to COVID-19 virus concerns. Mayor Walker recommended that all business owners follow guidelines outlined by Governor Kemp's Executive Order.

12. Mayor Items:

Mayor Walker reminded all about the Shelter in Place order issued by Governor Kemp and emphasized the importance of using personal protective equipment, washing hands frequently, and maintaining social distance.

13. Executive session entered at 7:28 p.m. On a motion by Mayor Pro Tempore King, seconded by Council Member Albritton, and carried unanimously, Council went into executive session for the purpose of real estate.
14. Executive Session adjourned at 7:40 p.m.: Council regular meeting reconvened. Council adjourned the executive session held April 21, 2020 and reconvened into the regular council meeting.
15. Adopted Resolution No. 2020-25 stating purpose of executive session held on April 21, 2020 was real estate acquisition. On a motion by Council Member Jones, seconded by Mayor Pro Tempore King, and carried unanimously, Council voted to purchase the Houston County General Government Building from the Houston County Board of Commissioners for a purchase price of \$1,600,000.00. The interest rate will be 2.250% for a five-year period per a set payment schedule. (*Resolution No. 2020-25 has been entered into the City's official book of record.*)
16. Council Member Bynum-Grace requested the Mayor encourage citizens to complete the 2020 United States Census form.
17. Adjourn: There being no further business to come before Council in the reconvened council meeting held April 21, 2020, Council Member Albritton motioned to adjourn the meeting at 7:50 p.m., Council Member Jones seconded the motion, and it carried unanimously.

**CITY OF PERRY, GEORGIA
WIRELESS FACILITIES AND ANTENNAS ACT**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF PERRY, GEORGIA, CHAPTER 23, STREET AND SIDEWALKS; ENACTING A NEW ARTICLE VII, WIRELESS FACILITIES AND ANTENNAS ACT; ENACTING REASONABLE REGULATIONS AND OBJECTIVE STANDARDS FOR THE PERMITTING OF SMALL ANTENNA WITHIN THE PUBLIC RIGHTS OF WAY OF THE CITY WHILE ENSURING THE USE OF PUBLIC RIGHTS OF WAY IS CONSISTENT WITH THE DESIGN, APPEARANCE AND OTHER FEATURES OF NEARBY LAND USES, PROTECTS THE INTEGRITY OF HISTORIC, CULTURAL AND SCENIC RESOURCES AND DOES NOT HARM RESIDENTS' QUALITY OF LIFE; TO PROVIDE AN EFFECTIVE DATE; TO PROVIDE FOR SEVERABILITY; TO REPEAL ALL CODE PROVISIONS, ORDINANCES, OR PARTS THEREOF, IN CONFLICT HERewith; AND FOR OTHER PURPOSES

WHEREAS, the Council of the City of Perry, Georgia, as provided for by the laws of the State of Georgia and as authorized by City Charter, Article 1, constitute the legislative department of the City's government; and

WHEREAS, the Mayor and Council, in accordance with the City Charter, have full power and authority over all matters related to the security, health, and well-being of the citizens of Perry;

NOW, THEREFORE, THE COUNCIL OF THE CITY OF PERRY HEREBY ORDAINS that the Code of the City of Perry, Georgia is amended at Chapter 23, STREET AND SIDEWALKS by adding a new Article VII. WIRELESS FACILITIES AND ANTENNAS ACT, to comply with Act 53 (SB 66, General Session, codified as O.C.G.A. Title 36, Chapter 66C), as follows:

ARTICLE VII. – WIRELESS FACILITIES AND ANTENNAS ACT

Sec. 23-79. Purpose.

O.C.G.A. § 32-4-92(a)(10) authorizes the City of Perry, Georgia (the "City") to establish reasonable regulations for the installation, construction, maintenance, renewal, removal, and relocation of pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, and other equipment, facilities, or appliances in, on, along, over, or under the public roads of the City. Further, 47 U.S.C. § 253(c) provides that the City has authority to manage its public rights of way. Finally, the Georgia Streamlining Wireless Facilities and Antennas Act., O.C.G.A. Title 36, Chapter 66C (hereafter the "SWFAA"), addresses the placement of small wireless facilities in the public rights of way of the City.

Sec. 23-80. Compliance.

The City finds it is in the best interest of the City and its residents and businesses to establish requirements, specifications reasonable conditions regarding placement of small wireless

facilities, support structures and poles in the public rights of way. These requirements, specifications and conditions are adopted in order to protect the public health, safety and welfare of the residents and businesses of the City and to reasonably manage and protect the public rights of way and its uses in the City.

Sec. 23-81. Objective.

The objective of this Article is to (i) implement the SWFAA and (ii) ensure use of the public rights of way is consistent with the design, appearance and other features of nearby land uses, protects the integrity of historic, cultural and scenic resources and does not harm residents' quality of life.

Sec. 23-82. Definitions.

As used in this Article, the following terms have the following meanings:

(a) "Antenna" means: (i) communications equipment that transmits, receives, or transmits and receives electromagnetic radio frequency signals used in the provision of wireless services or other wireless communications; or (ii) Communications equipment similar to equipment described in part (i) used for the transmission, reception, or transmission and reception of surface waves. Such term shall not include television broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.

(b) "Applicable Codes" means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization to the extent such codes have been adopted by the State of Georgia or the City or are otherwise applicable in the City.

(c) "Applicant" means any person that submits an application.

(d) "Application" means a written request submitted by an applicant to the City for a permit to: (i) collocate a small wireless facility in a right of way; or (ii) install, modify, or replace a pole or decorative pole in a right of way on which a small wireless facility is or will be located.

(e) "Authority Pole" means a pole owned, managed, or operated by or on behalf of the City. Such term shall not include poles, support structures, electric transmission structures, or equipment of any type owned by an electric supplier.

(f) "Collocate" or "Collocation" means to install, mount, modify, or replace a small wireless facility on or adjacent to a pole, decorative pole, or support structure.

(g) "Communications Facility" means the set of equipment and network components, including wires and cables and associated equipment and network components, used by a communications service provider to provide communications services.

(h) “Communications Service Provider” means a provider of communications services.

(i) “Communications Services” means cable service as defined in 47 U.S.C. § 522(6); telecommunications service as defined in 47 U.S.C. § 153(53); information service as defined in 47 U.S.C. Section 153(24), as each such term existed on January 1, 2019; or wireless services.

(j) “Consolidated Application” means an application for the collocation of multiple small wireless facilities on existing poles or support structures or for the installation, modification, or replacement of multiple poles and the collocation of associated small wireless facilities.

(k) “Decorative Pole” means an authority pole that is specially designed and placed for aesthetic purposes.

(l) “Electric Supplier” means any electric light and power company subject to regulation by the Georgia Public Service Commission, any electric membership corporation furnishing retail service in this state, and any municipality which furnishes such service within this state.

(m) “Eligible Facilities Request” means an eligible facilities request as set forth in 47 C.F.R. § 1.40001(b)(3), as it existed on January 1, 2019.

(n) “FCC” means the Federal Communications Commission of the United States.

(o) “Fee” means a one-time, nonrecurring charge based on time and expense.

(p) “Historic District” means: (i) any district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the secretary of the interior of the United States in accordance with Section VI.D.1.a.i-v of the Nationwide Programmatic Agreement codified by 47 C.F.R. Part 1; (ii) any area designated as a historic district under Article 2 of Chapter 10 of Title 44, the Georgia Historic Preservation Act; or (iii) any area designated as a historic district or property by law prior to April 26, 2019.

(q) “Law” means and includes any and all federal, state, or local laws, statutes, common laws, codes, rules, regulations, orders, or ordinances.

(r) “Micro Wireless Facility” means a small wireless facility not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height that has an exterior antenna, if any, no longer than 11 inches.

(s) “Permit” means a written authorization, in electronic or hard copy format, required to be issued by the City to initiate, continue, or complete the collocation of a small wireless facility or the installation, modification, or replacement of a pole or decorative pole upon which a small wireless facility is collocated.

(t) **“Person”** means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including an authority.

(u) **“Pole”** means a vertical pole such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal, or other material that is lawfully located or to be located within a right of way, including without limitation a replacement pole and an authority pole. Such term shall not include a support structure, decorative pole, or electric transmission structure.

(v) **“Rate”** means a recurring charge.

(w) **“Reconditioning Work”** means the activities associated with substantially painting, reconditioning, improving, or repairing authority poles.

(x) **“Replace,” “Replacement” or “Replacing”** means to replace a pole or decorative pole with a new pole or a new decorative pole, similar in design, size, and scale to the existing pole or decorative pole consistent with 47 C.F.R. § 1.40001(b)(7) as it existed on January 1, 2019, in order to address limitations of, or change requirements applicable to, the existing pole to structurally support the collocation of a small wireless facility.

(y) **“Replacement Work”** means the activities associated with replacing an authority pole.

(z) **“Right of Way”** means, generally, property or any interest therein, whether or not in the form of a strip, which is acquired for or devoted to a public road; provided, however, that such term shall apply only to property or an interest therein that is under the ownership or control of the City and shall not include property or any interest therein acquired for or devoted to an interstate highway or the public rights, structures, sidewalks, facilities, and appurtenances of buildings for public equipment and personnel used for or engaged in administration, construction, or maintenance of public roads or research pertaining thereto or scenic easements and easements of light, air, view and access.

(aa) **“Small Wireless Facility”** means radio transceivers; surface wave couplers; antennas; coaxial, fiber optic, or other cabling; power supply; backup batteries; and comparable and associated equipment, regardless of technological configuration, at a fixed location or fixed locations that enable communication or surface wave communication between user equipment and a communications network and that meet both of the following qualifications: (i) each wireless provider's antenna could fit within an enclosure of no more than six cubic feet in volume; and (ii) all other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume, measured based upon the exterior dimensions of height by width by depth of any enclosure that may be used. The following types of associated ancillary equipment are not included in the calculation of the volume of all other wireless equipment associated with any such facility: electric meters; concealment elements; telecommunications demarcation boxes; grounding equipment; power transfer switches; cut-off switches; and vertical cable runs for connection of power and other services. Such term shall not include a pole, decorative

pole, or support structure on, under, or within which the equipment is located or collocated or to which the equipment is attached and shall not include any wireline backhaul facilities or coaxial, fiber optic, or other cabling that is between small wireless facilities, poles, decorative poles, or support structures or that is not otherwise immediately adjacent to or directly associated with a particular antenna.

(bb) “State” means the State of Georgia.

(cc) “Support Structure” means a building, billboard, water tank, or any other structure to which a small wireless facility is or may be attached. Such term shall not include a decorative pole, electric transmission structure, or pole.

(dd) “Wireless Infrastructure Provider” means any person, including a person authorized to provide telecommunications services in this state, that builds, installs, or operates small wireless facilities, poles, decorative poles, or support structures on which small wireless facilities are or are intended to be used for collocation but that is not a wireless services provider.

(ee) “Wireless Provider” means a wireless infrastructure provider or a wireless services provider.

(ff) “Wireless Services” means any services provided to the public using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile.

(gg) “Wireless Services Provider” means a person that provides wireless services.

(hh) “Wireline Backhaul Facility” means an aboveground or underground wireline facility used to transport communications data from a telecommunications demarcation box associated with small wireless facility to a network.

Sec. 23-83. Definitions Amended by Federal or State Law.

In the event that any federal or state law containing definitions used in this Ordinance is amended, the definition in the referenced section, as amended, shall control.

Sec. 23-84. Permit Required.

A permit is required to collocate a small wireless facility¹ in the public right of way or to install, modify, or replace a pole or a decorative pole in the public right of way. A permit is not required to perform the activities described in O.C.G.A. § 36-66C-6(e) or (f).

¹ **NOTE** Under SWFAA, collocation can be on or adjacent to: (i) a pole or decorative pole or (ii) a support structure. By definition, poles and decorative poles are in the right of way. Support structures may be located outside of the right of way. Permitting of support structures is not part of this process. See O.C.G.A. § 36-66C-6(l).

Sec. 23-85. Permit Application.

Any person seeking to collocate a small wireless facility in the public right of way or to install, modify, or replace a pole or a decorative pole in the public right of way shall submit an application to the Director of Community Development for a permit. Applications are available from the Department of Community Development. The application template is included as Exhibit A to this Ordinance. Any material change to information contained in an application shall be submitted in writing to the Director of Community Development within 30 days after the events necessitating the change. A pre-application conference between an applicant and the Director of the Department of Community Development is encouraged, but not mandated. To the extent an applicant voluntarily engages in a pre-application review, the applicable time clock will begin when a completed application is filed, presumably after the pre-application review has concluded.

Sec. 23-86. Application Fees.

Each application for a permit shall include the maximum application fees permitted under O.C.G.A. § 36-66C-5(a)(1), (a)(2) and (a)(3).² Such maximum application fees shall automatically increase on January 1 of each year beginning January 1, 2021, as provided under O.C.G.A. § 36-66C-5(b).

Sec. 23-87. Application Review.

The Department of Community Development shall review applications for permits according to the timelines and using the procedures identified in O.C.G.A. §§ 36-66C-7 and 36-66C-13.

Sec. 23-88. Approval of Applications.

Applications for permits shall be approved except as follows:

- (a) In order to receive a permit to install a pole or replace a decorative pole, the applicant must demonstrate that after diligent investigation that it cannot meet the service objectives of the permit by collocating on an existing pole or support structure on which:
 - (1) the applicant has the right to collocate subject to reasonable terms and conditions; and
 - (2) such collocation would not impose technical limitations or significant additional costs.

The applicant shall certify that it has made such a determination in good faith, based on the assessment of a licensed engineer, and shall provide a written summary of the basis for such determination.

² Note, if FCC Order regarding fees is overturned or modified, this should be revisited. SWFAA provides that if the FCC Order is modified or terminated, then fees are capped at what is "fair and reasonable."

- (b) The Department of Community Development may deny an application for a permit upon any of the conditions identified in O.C.G.A. § 36-66C-7(j).
- (c) For applications for new poles in the public right of way in areas zoned for residential use, the Department of Community Development may propose an alternate location in the public right of way within 100 feet of the location set forth in the application, and the wireless provider shall use the Department of Community Development's proposed alternate location unless the location imposes technical limits or significant additional costs. The wireless provider shall certify that it has made such a determination in good faith, based on the assessment of a licensed engineer, and it shall provide a written summary of the basis for such determination.

Sec. 23-89. Occupation and Installation.

A permit issued under this Article shall authorize such applicant to occupy the public rights of way to:

- (1) collocate a small wireless facility on or adjacent to a pole or a support structure that does not exceed the limitations set forth in O.C.G.A. § 36-66C-7(h)(3) or on or adjacent to a decorative pole in compliance with O.C.G.A. § 36-66C-12; and
- (2) install, modify, or replace a pole or decorative pole for collocation of a small wireless facility that does not exceed the limitations set forth in O.C.G.A. § 36-66C-7(h)(1) and (h)(2).

Sec. 23-90. Annual Payments.

Upon the issuance of a permit under this Ordinance, and on each anniversary of such issuance, every person issued a permit shall submit to the City the maximum annual payments permitted under O.C.G.A. § 36-66C-5(a)(4) and (a)(5); provided, however, that if such person removes its small wireless facilities from the public rights of way pursuant to O.C.G.A. § 36-66C-5(e), then such person shall be responsible for the pro rata portion of the annual payment based on the number of days of occupation since the last annual payment. Upon making such pro rata payment and removal of the small wireless facilities, the person's annual payment obligations under this section shall cease as of the date of the actual removal.³ The maximum annual payments shall automatically increase on January 1 of each year beginning January 1, 2021, as provided under O.C.G.A. § 36-66C-5(b).

Sec. 23-91. Fees.

Any person issued a permit shall pay the fees identified in O.C.G.A. § 36-66C-5(a)(6) and (a)(7), as applicable.

³ Note, if FCC Order regarding fees is overturned or modified, SWFAA provides fees are capped at what is "fair and reasonable." This provision may need to be revised if the FCC Order is overturned.

Sec. 23-92. Revocation of Permit.

The City may revoke a permit issued pursuant to this Article if the wireless provider or its equipment placed in the public right of way under that permit subsequently is not in compliance with any provision of this Ordinance or the Georgia Streamlining Wireless Facilities and Antennas Act. Upon revocation, the City may proceed according to Section 23-93.

Sec. 23-93. Unpermitted Occupation.

If a wireless provider occupies the public rights of way without obtaining a permit required by this Article or without complying with the SWFAA, then the City may, at the sole discretion of the City, restore the right of way, to the extent practicable in the reasonable judgment of the City, to its condition prior to the unpermitted collocation or installation and to charge the responsible wireless provider the reasonable, documented cost of the City in doing so, plus a penalty not to exceed \$1,000.00. The City may suspend the ability of the wireless provider to receive any new permits from the City under this Article until the wireless provider has paid the amount assessed for such restoration costs and the penalty assessed, if any; provided, however, that the City may not suspend such ability of any applicant that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.

Sec. 23-94. Applications Publicly Available.

All accepted applications for permits shall be publically available subject to the limitations identified in O.C.G.A. § 36-66C-6(c).

Sec. 23-95. Consolidated Application.

An applicant may file a consolidated application related to multiple small wireless facilities, poles or decorative poles so long as such consolidated application meets the requirements of O.C.G.A. § 36-66C-13.

Sec. 23-96. Completion.

Activities authorized under a permit shall be completed within the timelines provided in O.C.G.A. § 36-66C-7(k)(2).

Sec. 23-97. Activities Authorized.

Issuance of a permit authorizes the applicant to:

- (1) undertake the collocation, installation, modification or replacement approved by the permit and
- (2) operate and maintain the small wireless facilities and any associated pole covered by the permit for a period of ten (10) years.

Sec. 23-98. Permit Renewal.

Permits shall be renewed following the expiration of the term identified in Section 23-97(2) upon the terms and conditions identified in O.C.G.A. § 36-66C-7(k)(2)(B).

Sec. 23-99. Make-ready Work.

If an application for a permit seeks to collocate small wireless facilities on authority poles in the public rights of way, then the City shall, within 60-days of receipt of the completed application:

- (1) provide a good faith estimate for any make-ready work necessary to enable the authority pole to support the proposed facility; or
- (2) notify the wireless provider that the wireless provider will be required to perform the make-ready work. Any make-ready work performed by the City shall be completed pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(n).

Sec. 23-100. Removal.

A person may remove its small wireless facilities from the public rights of according to the procedures of O.C.G.A. § 36-66C-5(e).

Sec. 23-101. Restoration of Right of Way.

In the event of a removal under Section 23-100, the right of way shall be, to the extent practicable in the reasonable judgment of the City, restored to its condition prior to the removal. If a person fails to return the right of way, to the extent practicable in the reasonable judgment of the City, to its condition prior to the removal within 90 days of the removal, the City may, at the sole discretion of the City, restore the right of way to such condition and charge the person the City's reasonable, documented cost of removal and restoration, plus a penalty not to exceed \$500.00. The City may suspend the ability of the person to receive any new permits under this Article until the person has paid the amount assessed for such restoration costs and the penalty assessed, if any; provided, however, that the City will not suspend such ability of any person that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.

Sec. 23-102. Relocation.

If, in the reasonable exercise of police powers, the City determines:

- (1) a pole or support structure unreasonably interferes with the widening, repair, reconstruction, or relocation of a public road or highway, or
- (2) relocation of poles, support structures, or small wireless facilities is required as a result of a public project, the wireless provider shall relocate such poles, support structures, or small

wireless facilities pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(l).

If the wireless provider fails to relocate a pole, support structure or small wireless facility or fails to provide a written good faith estimate of the time needed to relocate the pole, support structure or small wireless within the time period prescribed in O.C.G.A. § 36-66C-7(l), the City make take the actions authorized by O.C.G.A. § 36-66C-7(o), in addition to any other powers under applicable law.

Sec. 23-103. Reconditioning and Replacement of Authority Poles.

The City shall recondition and replace authority poles consistent with the provisions of O.C.G.A. § 36-66C-7(m). Wireless providers shall accommodate and cooperate with reconditioning and replacement consistent with the provisions of O.C.G.A. § 36-66C-7(m).

Sec. 23-104. Abandonment.

A wireless provider must notify the City of its decision to abandon any small wireless facility, support structure or pole pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(p)(1). The wireless provider shall perform all acts and duties identified in O.C.G.A. § 36-66C-7(p) regarding abandonment. The City may take all actions and exercise all powers authorized under O.C.G.A. § 36-66C-7(p) upon abandonment, in addition to any other powers under applicable law.

Section 23-105. Facilities Standards – Permitted Uses.

Small wireless facilities and new, modified, or replacement poles to be used for collocation of small wireless facilities may be placed in the public right of way as a permitted use: (i) upon a receipt of a permit under this Article; (ii) subject to applicable codes; and (iii) so long as such small wireless facilities and new, modified, or replacement poles to be used for collocation of small wireless facilities comply with the appropriate provisions of O.C.G.A. § 36-66C-7(h).

- (a) Installation of new facilities in, on, along, over, or under the public rights of way or modification of existing facilities in, on, along, over or under the public rights of way shall, in all cases:
 - (1) Minimize risks to public safety;
 - (2) Ensure that placement of facilities on existing structures is within the tolerances of those structures;
 - (3) Ensure that installations and modifications are subject to periodic review to minimize the intrusion on the right of way;
 - (4) Ensure that the City bears no risk or liability as a result of such installation or modification; and

- (5) Ensure that use of the public rights of way does not inconvenience the public, interfere with the primary uses of public rights of way, or hinder the ability of the City or other government entities to improve, modify, relocate, abandon, or vacate the right of way or any portion thereof, or cause the improvement, modification, relocation, vacation, or abandonment of facilities in the right of way.
- (b) New, modified, or replacement poles installed in the right of way in a historic district and in an area zoned primarily for residential use shall not exceed 50 feet above ground level.
- (c) Each new, modified, or replacement pole installed in the right of way that is not in a historic district or in an area zoned primarily for residential use shall not exceed the greater of:
 - (1) Fifty feet above ground level; or
 - (2) Ten feet greater in height above ground level than the tallest existing pole in the same public right of way in place as of January 1, 2019, and located within 500 feet of the new proposed pole.
- (d) New small wireless facilities in the public right of way and collocated on an existing pole or support structure shall not exceed more than ten feet above the existing pole or support structure.
- (e) New small wireless facilities in the public right of way collocated on a new or replacement pole under subsections (c) or (d) above may not extend above the top of such poles.

Sec. 23-106. Facilities Compatibility.

Facilities must be compatible in size, mass, and color to similar facilities in the same zoning area, with a goal of minimizing the physical and visual impact on the area. In historic and residential areas, facilities shall be architecturally integrated with the area and shall not interfere with prominent vistas or significant public view corridors.

Sec. 23-107. Facilities Size and Color.

New base stations, as defined in 47 C.F.R. § 1.6100(b)(1), support structures, towers, as defined in 47 C.F.R. § 1.6100(b)(9), and poles must be no more than five (5) inches in diameter with a surface that is powder-coated and black in color, unless another color would blend better with the surrounding area.

Sec. 23-108. Camouflaging.

Notwithstanding Section 23-106 and Section 23-107, equipment of communications service providers, electric service providers and wireless providers must be designed using camouflaging techniques that make it as unobtrusive as possible if:

- (a) It is not possible or desirable to match the design and color of equipment of communications service providers, electric service providers and wireless providers with the similar structures in the immediate area; or

(b) Existing structures in the area are out of character with a streetscape plan or other aesthetic plan that has been adopted by the City.

Sec. 23-109. Visual and Architectural Integration.

Equipment of communications service providers, electric service providers and wireless providers in the historically or architecturally significant portions of the City shall be visually and architecturally integrated with surrounding area and shall not interfere with prominent vistas or significant public view corridors.

Sec. 23-110. Obstruction of Travel Prohibited.

Equipment of communications service providers, electric service providers and wireless providers must not obstruct, impede, or hinder vehicular, pedestrian, or bicycle travel or public safety within the public rights of way, except for authorized temporary lane or sidewalk closures.

Sec. 23-111. Alignment.

Equipment of communications service providers, electric service providers and wireless providers must be located in alignment with existing trees, facilities, poles, decorative poles, towers, as defined in 47 C.F.R. § 1.6100(b)(9), other equipment and streetlights.

Sec. 23-112. Frontage Location Prohibited by Historic Building.

Equipment of communications service providers, electric service providers and wireless providers must not be located along the frontage of any building deemed to be of historic significance on a federal, state, or local level.

Sec. 23-113. Decorative Poles.

A decorative pole should only be located where an existing pole can be removed and replaced, or at a new location where the City has identified that a streetlight is necessary.

Sec. 23-114. Concealment of Poles.

Unless it is determined that another design is less intrusive, or placement is required under applicable law, small wireless facilities shall be concealed as follows:

(a) Antennas located at the top of poles and support structures shall be incorporated into the pole or support structure, or placed within shrouds of a size such that the antenna appears to be part of the pole or support structure;

(b) Antennas placed elsewhere on a pole or support structure shall be integrated into the pole or support structure, or be designed and placed to minimize visual impacts.

(c) Radio units or equipment cabinets holding radio units and mounted on a pole shall be placed as high as possible, located to avoid interfering with, or creating any hazard to, any other use of the public rights of way, and located on one side of the pole. Unless the radio units or equipment cabinets can be concealed by appropriate traffic signage, radio units or equipment cabinets mounted below the communications space on poles shall be designed so that the largest dimension is vertical, and the width is such that the radio units or equipment cabinets are minimally visible from the opposite side of the pole on which they are placed.

(d) Wiring and cabling shall be neat and concealed within or flush to the pole or support structure, ensuring concealment of these components to the greatest extent possible.

Sec. 23-115. Collocation within a Historic District.

Notwithstanding any provision of this Ordinance to the contrary, an applicant may collocate a small wireless facility within a historic district, and may place or replace a pole within a historic district, only upon satisfaction of the following:

- (1) issuance of a permit under this Article; and
- (2) compliance with applicable codes.

Sec. 23-116. Collocation or Replacement of a Decorative Pole.

Notwithstanding any provision of this Ordinance to the contrary, an applicant may collocate a small wireless facility on a decorative pole, or may replace a decorative pole with a new decorative pole, in the event the existing decorative pole will not structurally support the attachment, only upon satisfaction of the following:

- (1) issuance of a permit under this Article; and
- (2) compliance with applicable codes.

Sec. 23-117. Identifying Signage.

Every facility placed in the public rights of way shall at all times display signage that accurately identifies the facility owner and provides the facility owner's unique site number, and also provides a local or toll-free telephone number to contact the facility owner's operations center.

BE IT FURTHER ORDAINED that all ordinances and Code sections, or parts thereof, in conflict with the foregoing are expressly repealed; and that should any provision of this ordinance be rendered invalid by any court of law, the remaining provisions shall continue in force and effect until amended or repealed by action of the municipal governing authority.

SO ENACTED this ____ day of May, 2020.

CITY OF PERRY, GEORGIA

By: _____
Randall Walker, Mayor

Attest: _____
Annie Warren, City Clerk

1st Reading: April 21, 2020

2nd Reading: May 5, 2020

EXHIBIT A

Application for a Permit to Collocate Small Wireless Facilities in the Public Right of Way



Where Georgia comes together.

Application for a Permit to Allow Collocation of Small Wireless Facilities in the Public Right of Way, Including Installation, Modification or Replacement of a Pole or Decorative Pole for Such Facilities

Community Development (478) 988-2720

Applicant/Consultant Information

*Indicates Required Field

| | Applicant | Consultant |
|----------|-----------------|-----------------|
| *Name | | |
| *Address | | |
| *Phone | | |
| *Email | | |
| | 24 Hour Contact | 24 Hour Contact |
| *Name | | |
| *Title | | |
| *Phone | | |
| *Email | | |

General Description of Request

| | | |
|--------------------------|------------------------|------------------------|
| *Work Location in ROW: | | |
| *Describe Scope of Work: | | |
| *Number of Steel Poles: | *Number of Wood Poles: | *Total Linear Footage: |
| *Project Start Date: | | *Project End Date: |

Instructions

1. Submit completed application form along with the required documents on page 2 of this application on the Customer Service Portal at www.perry-ga.gov/community-development/
2. Fees will be invoiced.

Applicant Certification

| | |
|--|-----------------------|
| Applicant agrees to indemnify and hold harmless the City of Perry and all officers, employees or agents of the City of Perry consistent with the provisions of O.C.G.A. § 36-66C-15. | |
| *Date of Application: | |
| *By Signature | *By Witness Signature |
| *Printed Name/Title | *Title/Position |

Documents Required to be Submitted with Application

1. Detailed Construction Drawings
2. Structural Report (Required for Collocation Only)
3. Visual Depictions or Representations (Required for Above-Ground, If Not Included in Construction Drawings)
4. Location Map of Facilities Relative to the Boundaries of the Rights of Way
5. Certification that Application Complies with subsection (k) of O.C.G.A. § 36-66C-6(k) (Required for Installation of Poles or Replacement of Decorative Pole Only)

Applicant has determined after diligent investigation that it cannot meet the service objectives of the permit by collocating on an existing pole or support structure on which:

- A. The wireless provider has the right to collocate subject to reasonable terms and conditions; and
- B. Such collocation would not impose technical limitations or significant additional costs. The wireless provider shall certify that it has made such a determination in good faith, based on the assessment of a licensed engineer, and shall provide a written summary of the basis for such determination.

6. Certification Regarding Permission to Collocate (Required for Collocation on a Pole or Support Structure Owned by a Third Party other than an Authority Pole or Decorative Pole)

Applicant permission from _____, the owner of the pole / support structure upon which Applicant's small wireless facility will be collocated.

7. Certification of Non-Wireless Services Provider (Required if the Applicant is not a Wireless Services Provider)

_____, a wireless services provider, has requested in writing that Applicant collocate the small wireless facilities or install, modify, or replace the pole or decorative pole at the requested location.

Additional Information

Section 23-84 of the Code of the City of Perry requires any person seeking to collocate a small wireless facility in the public right of way or to install, modify, or replace a pole or a decorative pole in the public right of way to submit an application to the Department of Community Development for a permit. This application is required to receive a permit. Any material change to information contained in an application shall be submitted in writing to the Department of Community Development within 30 days after the event necessitating the change.

This application **shall not** be used for:

- Approval to place facilities outside of the public rights of way.
- New, modified, or replacement poles installed in the right of way in a historic district or an area zoned primarily for residential that exceed 50 feet above ground level.
- New, modified, or replacement poles installed in the right of way outside of a historic district or an area zoned primarily for residential that exceed the greater of: (i) 50 feet above ground level and (ii) 10 feet greater in height above ground level than the tallest existing pole in the same public right of way in place as of January 1, 2019, and located within 500 feet of the new proposed pole.
- New small wireless facilities in the public right of way and collocated on an existing pole or support structure that exceed more than ten feet above the existing pole or support structure.
- New small wireless facilities in the public right of way collocated on a new or replacement that extend above the top of such poles.
- Installation, modification or replacement of a support structure.
- Any modification, maintenance, repair, or replacement that is not set forth in subsections (e) and (f) of O.C.G.A. § 36-66C-6 or that is not eligible for administrative review under O.C.G.A. § 36-66C-7.

For Office Use (receipt code)

| Date received | Fees paid | Date deemed complete |
|---|-----------|----------------------|
| <ol style="list-style-type: none"> 1. The fee for collocation of each small wireless facility on an existing pole is \$100.00 per small wireless facility; 2. The fee for each replacement pole with an associated small wireless facility is \$250.00 per pole; 3. The fee for each new pole with an associated small wireless facility is \$1,000.00 per pole. | | |



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OFFICE OF THE CITY MANAGER

MEMORANDUM

TO: Mayor / Council
FROM: Lee Gilmour, City Manager
DATE: April 27, 2020
REFERENCE: Adjustment to fee billing process

After several years of billing for certain City services there is an area that needs to be addressed. There are facilities and parcels that are not being invoiced for the stormwater and fire protection fees because there is no active or installed meter at the site.

The Administration requests the Council authorize, subject to legal approval, the invoicing of the property owner that has a qualifying structure and/or impervious surface on the parcel with no utility services account. This would not apply to vacant parcels with no improvements.

The process would be that after sixty (60) days of no payment the property owner would be invoiced for a year's fees costs. If the property owner does not pay a lien with the fees plus administrative costs would be filed. Collection of the lien would follow the usual process. If a meter becomes active the owner's bill would be adjusted or the owner refunded the difference.

cc: B. Newby, City Attorney