

ORDINANCE NO. 22, 2016 SERIES

**AN ORDINANCE AMENDING SECTIONS 91.15, 91.16 AND 91.99
OF THE CITY OF FRANKFORT CODE OF ORDINANCES RELATING TO CHAPTER 91, STREETS AND
SIDEWALKS**

WHEREAS, a number of individuals and entities have performed construction projects in City right-of-way and these construction projects have caused the City to incur costs in installing new City owned facilities or maintaining City owned facilities in City right-of-way.

WHEREAS, a number of individuals and entities have utilized City right-of-way for purposes other than pedestrian and vehicular traffic.

WHEREAS, the City recognizes the need to permit certain temporary uses of the City right-of-way.

WHEREAS, the City wishes to regulate the installation by third parties of facilities within City right-of-way in order to more efficiently use the City right-of-way and to avoid unnecessary cost to the City of Frankfort.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF FRANKFORT, KENTUCKY, that Sections 91.15, 91.16 and 91.99 of the City of Frankfort Code of Ordinances which relate to City streets and rights-of-way are hereby amended:

91.15 PERMIT FOR WORK WITHIN THE RIGHT-OF-WAY

Except during an emergency, individuals or entities shall not disturb, modify, engage in construction activities or change the primary or regulated use of, the roads, streets, rights-of-way, easements or property belonging to or maintained by the City without first applying for and receiving a permit to engage in such activities from the City of Frankfort Public Works Department, which permit shall be signed by the Director of Public Works or its designee.

The applicant or permittee shall have the right to appeal the decision of the Director of Public Works to deny or revoke a permit application. The appeal must be made to the City Manager within ten working days from issuance of notice of denial or revocation. An appeal does not stay the denial or revocation of the permit. A hearing shall be held by the City Manager or his or her designee within a reasonable time. The City Manager shall thereafter notify the permittee or applicant of his or her determination in writing.

The Director of Public Works shall promulgate and publish a Right-of-Way Standard that specifies rules, regulations, guidelines and procedures related to the permitting of any work, construction, installation, maintenance, closure, temporary use, disturbance, modification or change of the primary usage within the roads, streets or rights-of-way belonging to or maintained by the City. The Right-of-Way Standard referenced in this document is the City of Frankfort Right-of-Way Standard, 2016 Edition, a copy of which shall be provided to the City Clerk.

At the time of application the necessary permit fee must be paid as follows:

Permit Type	Fee
Street Cut ó Service Line	\$50
Street Cut ó Minor	\$100
Street Cut ó Major	\$300
Street/Sidewalk Closure	\$20
Driveway	\$20
Sidewalk	\$20
Storage Pod	\$20
Dumpster	\$20
Tree Trimming/Landscape	\$20
Temporary Parking	\$20
General	\$20
Annual	\$1,500

91.16 RESTORATION OF EXCAVATED STREET

On any project that damages city owned or maintained pavement the permittee will follow the established standards in repairing the damage and the City will coordinate, perform or have performed the final pavement repairs. Permit applicants that may damage or excavate pavement shall pay a fee to the city that will be equal to the pavement repair estimate plus 10%. The Director of Public Works or their designee shall prepare the estimate which will be based upon the proposed scope of work, category of road and either the City's competitively bid pavement repair contract or prevailing rates for such work. Exceptions to this rule must be approved by the Director of Public Works as outlined in the Right-of-Way Standard.

The City will require bonding of all excavation, trenching, boring or other construction work performed on or under the pavement surface as detailed in the Right-of-Way Standard. The City reserves the right to require bonding on other work that damages or has the potential to damage City property. The lack of bonding or an expired bond does not release the permittee or contractor from any liability related to work in the right-of-way or on City owned or maintained property. The Permittee will be the responsible party for all bonding, not the Permittee's subcontractor.

91.99 PENALTY

(A) Whoever violates any provision of this chapter for which no specific penalty is prescribed shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than \$500.

(B) Any person, firm or corporation violating any provisions of §§ 91.65 through 91.72 shall be fined not less than \$10 nor more than \$100. Each day during which any violation continues shall be considered a separate offense.

(C) Should any individual fail to comply with the requirements of § 91.15 or § 91.16 of the City of Frankfort Code of Ordinances or the City of Frankfort Right-of-Way Standard, the City may take any or all of the following actions;

1. Require payment of double the applicable Permit fee.
2. Suspend or revoke existing Permits or prohibit future Permits.
3. Impose a fine of \$100 per day for each day of non-compliance.
4. Call the bond applicable to the project.
5. Remove the facilities or correct the actions and obtain reimbursement for the costs incurred, including but not limited to attorney's fees and court costs
6. Pursue all other legal remedies available to the City.

This Ordinance shall take effect on January 1, 2017.

First Reading on the 24 day of October, 2016.

Final Adoption on the 28 day of November, 2016.

S/William I. May, Jr.
T/Mayor

Attest:

S/Chermie Maxwell
T/City Clerk

Summary: This Ordinance amends Section 91.15, 91.16 and 91.99 to regulate the installation by third parties of facilities within City right-of-way in order to more efficiently use the City right-of-way and to avoid unnecessary cost to the City of Frankfort. Individuals and entities are required to obtain a permit from the City in order to perform this work in the City right-of-way, are required to make repairs in accordance with City standards and provide a bond in order to ensure that the repairs are made. Additionally, the Ordinance provides penalties applicable to individuals or entities that fail to comply with the Ordinance. This Ordinance shall take effect on January 1, 2017.

S/Robert C. Moore
T/City Solicitor

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