



CITY of POOLER  
— GEORGIA —

STATE OF GEORGIA       }  
                                     }  
COUNTY OF CHATHAM   }

**ORDINANCE O2025-06.C**

Right-of-Way Regulations

**AN ORDINANCE TO AMEND THE CITY OF POOLER CODE OF ORDINANCES CHAPTER 74- STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES, ARTICLE II- STREET EXCAVATIONS, BORING, TRENCHING AND UTILITY INSTALLATIONS TO ESTABLISH REQUIREMENTS FOR THE USE OF PUBLIC AND PRIVATE UTILITIES WITHIN THE RIGHTS-OF-WAY TO COMPLY WITH THE GEORGIA STATE CODE AND STATE MODEL RIGHT-OF-WAY ORDINANCE; TO REPEAL ALL ORDINANCES IN CONFLICT HERewith; TO PROVIDE FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES**

**NOW THEREFORE, BE IT ORDAINED** by the Mayor and Council of the City of Pooler that the Code of Ordinances of the City of Pooler, Georgia are hereby amended as follows:

**I**

That CHAPTER 74 – STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES, Article II. Street Excavations, Boring, Trenching and Utility Installations be amended by deleting the strikethrough language and adding the underlined text as follows:

***ARTICLE II. Right-of-Way Requirements - Street Excavations, Boring, Trenching and Utility Installations***

***Sec. 74-36. ~~Construction plans and specifications~~ Purpose, Definitions, Authority and Scope.***

- (a) Purpose. This ordinance prescribes the minimum requirements for the accommodation of public and private utilities within the City’s Rights-of-Way.
- (b) Definitions. The following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

1. **Broadband Services.** A wired or wireless terrestrial service that consists of the capability to transmit at a rate of not less than 25 megabits per second in the downstream direction and at least 3 megabits per second in the upstream direction to end users and in combination with such service provides access to the internet or computer processing, information storage, or protocol conversion.

2. **City.** The City of Pooler, Georgia.

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3. *Construct.* 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.

4. *Construction.* 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.

5. *Emergency.* 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.

6. *Facility (Facilities).* Any tangible thing, including but not limited to pipes, mains, conduits, cables, wires, 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.

7. *Facilities Representative.* 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 (1) of its facilities representatives is available at all times to receive notice of, and immediately direct response to, facilities' related emergencies or situations.

8. *FCC.* The Federal Communications Commission or any successor thereto.

9. *Permit.* An authorization which grants permission to conduct specific regulated activities on, in, over, under or within any 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 Ordinance.

10. *Right(s)-of-Way.* 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, alley, 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. The term rights-of-way shall not include buildings, parks, bridges, rivers, tunnels, viaducts, conduits or other public property or easements that have not been dedicated to compatible uses, except to the extent the use or occupation of such property is specifically granted in a permit or by law. The term rights-of-way shall not include private easements or public property, except as set forth in this definition or to the extent the use or occupation of public property is specifically granted in a written approval of registration.

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11. Service(s). The offering of any service by a utility for a fee or rate 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 or more points for a proprietary purpose to a class of users other than the general public.

12. Service Agreement. 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.

13. Street(s). The surface of, as well as the spaces above and below, any and all the streets, alleys, avenues, roads, bridges, and tunnels of the City within the geographic 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.

14. Utility or Utilities. All privately, publicly, or cooperatively owned systems for producing, transmitting, or distributing communication, broadband services, 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 or subcontractor, or any agent thereof, of any above-described utility or utility facility. The term "Utility" shall also mean small wireless facilities located in a public right-of-way as further defined in Chapter 80- Telecommunications".

- (c) Authority. Pursuant to O.C.G.A. §32-4-92(a)(10) the City may grant permits and 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 of any utility in, on, along, over, or under any part of its municipal street system and of a county road system lying within its municipal limits. Further, 47 U.S.C. § 253(c) provides that the City has authority to manage its public rights-of-way.
- (d) Scope. The provisions of this ordinance shall apply to all utilities and facilities occupying the rights-of-way as provided herein.

**Sec. 74-376. Construction permits required plans and specifications.**

- (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 streets of the City without an excavation/encroachment permit in accordance with the terms of this section. No person shall remove, dig, excavate, bore under, trench, plow or destroy any portion of any sidewalk, public way, right-of-way and/or road, for any purpose other than for emergency utility repairs or laying water mains, storm drains or sanitary sewer under the supervision and control of the city, without first obtaining an excavation/encroachment permit from the city. Prior-

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- ~~to beginning construction, the aldermanic board and/or public works department shall approve the design plans and specifications for such construction.~~
- (b) Gas, electric, telephone, cable, etc., distribution construction plans for a subdivision development shall be approved by the city prior to recording the subdivision plat.
- (c) Small Wireless Facilities in the public right-of-way shall be permitted and approved pursuant to the procedures herein and as set forth in Chapter 80-Telecommunications.
- (d) Permit Procedure. Excavation/encroachment permits shall be obtained from the City. The written application shall include the following:
1. The name and physical address of the utility;
  2. The nature, extent, and location of any work proposed to be done, along with a site plan 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 physical address of the person or firm who is to do such work;
  4. The name, street address, email address, and telephone number of one or more facilities representative(s).
  5. The projected dates for the work to be started and finished;
  6. An indemnity bond or other acceptable security in an amount determined by the design engineer for costs associated with damages incurred to any part of the City street 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 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 of the franchise agreement or other legal instrument that authorizes the utility to use or occupy the right-of-way for the purpose described in the application.
  9. Permits shall be applied for not less than 72 hours, not including weekends and/or holidays, before any excavation is scheduled to begin.
- (e) Permit Fees. Fees shall be paid to the City in accordance with the Schedule of Fees.
- (f) Issuance of Permit. Once the applicant has satisfied the standards in this chapter and the following requirements, the City may issue a permit:
1. Whether issuing of the approval will be consistent with this Chapter; 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
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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.

(g) Emergency Situations.

1. Each utility shall, as soon as reasonably practicable, notify the City 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 to repair shall be paid by each utility affected by the emergency.

(h) 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 unless the utility is in default. The City may give written notice of default to a utility if it is determined that the utility has:

(i) Violated any provision or requirement of the issuance or acceptance of a permit application or any law of the City, state, or federal government;

(ii) Attempted to evade any provision or requirement of this Chapter;

(iii) Practiced any fraud or deceit upon the City; or

(iv) Made a material misrepresentation or omission of fact in its permit application.

(i) Cancellation for Cause. If a utility fails to cure a default within 20 calendar 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 City decides there is cause or reason to terminate, the following procedure shall be followed:

1. City shall serve a utility with a written notice of the reason or cause for proposed termination and shall allow a utility a minimum of 15 calendar days to cure its breach.

2. If the utility fails to cure within 15 calendar days, the City may declare the permit terminated.

(j) Expiration of Permit. If work has not commenced within 6 months of the date of issuance, the permit will automatically expire.

(k) Insurance and Bonding Requirements.

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1. Any applicant seeking to obtain a right-of-way permit shall provide proof of insurance or self-insurance to the City. Such insurance shall cover all work done by such applicant upon, under, along, and over the public roads and highways and rights of way located within the City and shall be maintained during all periods such work is being done.

2. If deemed necessary, the City may require any applicant seeking to obtain a right-of-way permit to provide a surety bond before issuance of the permit. Such bond shall cover all work done by such applicant upon, under, along, and over the public roads and highways and rights-of-way located within the City and shall be maintained during all periods such work is being done.

3. In situations where the City requires the applicant to provide a surety bond, the person shall deposit with the City a surety bond in an amount determined by the design engineer to be sufficient to ensure satisfactory completion of the work from a surety company authorized to do business in Georgia and fulfillment of the warranty provided for herein and in a form approved by the City Attorney. Said bond shall guarantee completion to the satisfaction of the city of all excavation and street restoration work required by this chapter and by the conditions of the permit within the time limits set on the permit. Said bond shall further guarantee that all excavation and street restoration work shall be free from settling and defects in workmanship or materials for a period of two years after the date said work is completed and accepted by the City. The bond shall be conditioned to protect and save harmless the City and the City Council from all claims and damages for cleaning or repairing any damage by the person and will be used to reimburse the City for any cost incurred to clean or repair city roads or rights-of-way, to re-ditch or repair existing ditch structure or for other damage caused as a result of the actions of the applicant after the issuance of the right-of-way permit.

4. In instances where the City has required a surety bond under this section, the applicant may opt to secure their right-of-way permit by providing an irrevocable bank letter of credit attesting to solvency to the City in the amount determined sufficient by the City.

5. Such bond or irrevocable letter of credit shall protect the City against any damage caused by such applicant or firm, tendering the surety bond or letter of credit, or any agent, employee or contractor or said applicant or firm and will be used to reimburse the City for any cost incurred to clean or repair city roads or rights-of-way, to re-ditch or repair existing ditch structure or for other damage caused as a result of the actions of the applicant after the issuance of the right-of-way permit. The person responsible for operations under the right-of-way permit will be given notice of the damage and allowed 72 hours to restore the road and right-of-way to a safe and operable condition as determined by the City. All repairs, material used and final releasing condition shall be approved and accepted by the City.

7. The bond or letter of credit may be released by the City upon notification of completion by the applicant or firm obtaining the permit and only upon final inspection of the sites and all affected rights-of-way and city roads.

8. A surety bond shall be issued by a surety acceptable to the City, and shall contain the following endorsement:

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"This bond may not be canceled or allowed to lapse until thirty 30 days after receipt by the City, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew."

9. The City may require verification of continuing coverage as needed.

**Sec. 74-38. Required Minimum Standards.**

(a) Utility Accommodation Policy and Standards Manual. The Georgia Department of Transportation ("GDOT") 2016 Utility Accommodation Policy and Standards Manual, including all references contained therein to codes, rules, regulations, schedules, forms and appendix items, promulgated by GDOT, as may be amended from time to time is hereby adopted by reference and incorporated in this Chapter as if fully set forth herein, subject to the amendments and modification contained in this Chapter. A copy of the manual shall be maintained at the City and open for public inspection. Any conflicts between the provisions of this Chapter 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 municipal equivalents.

(b) Protection of Traffic and Roadway. Unless specifically in the permit, no utility may occupy the 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 City 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 or otherwise cause issues related to life, health, or safety of a person, or of significant damage or loss of real or personal property.

(c) Grading. If the grades or lines of any street within the right-of-way are changed at any time by the City during the term of the permit and this change 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 Wireholding Structures and Relocation. Unless otherwise provided in a valid service agreement, no placement of any pole or wireholding 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) Notice of Intent to Excavate or Demolish. 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 a 48 hour notice by submitting a locate request to the City, beginning the next working day after such notice is provided, excluding hours during days other than working days. This requirement is in addition to the

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requirement to call 811 at least 3 business days before any digging project, regardless of its size or depth.

**Sec. 74-~~397~~. Utility installation.**

~~(a) Utility installation in a public right of way shall require approval (a permit) by the aldermanic board and/or the public works department of the city.~~

~~(a)(b)~~ Utilities shall be placed in the utility easements when easements are provided.

~~(b)(c)~~ All rights-of-way, except rights-of-way specifically identified as private, shall become the exclusive property of the city at the time a final subdivision plat and deed is recorded. Utilities may be placed within a city right-of-way only when utility easements are not provided, and only after approval is given by the city.

~~(d) An excavation permit is required when working, excavating, etc., in a city right-of-way and/or utility easement.~~

(c) Installation of new facilities in, on, along, over, or under the rights-of-way or modification of existing facilities in, on, along, over, or under the rights-of-way shall:

1. Minimize risks to public safety;

2. Ensure that placement of facilities on existing structures is within the tolerance 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 the installations or modifications; and

5. Ensure that use of the rights-of-way does not inconvenience the public, interfere with the primary uses of the 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 to cause the improvement, modification, relocation, vacation, or abandonment of facilities in the right-of-way.

(d) No facilities shall be placed in, on, along, over, or under the public rights-of-way unless: there are immediate plans to use the proposed facility or there is a contract with another party that has immediate plans to use the proposed facility.

(e) Every facility placed in the 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.

**Sec. 74-~~4038~~. Utility relocation.**

All costs of relocating a utility shall be at the expense of the utility company. An unapproved installed utility in the city's right-of-way and/or utility easement that the city requires to be relocated shall be completely removed or relocated within 60 days. The 60-day period shall begin when the person installing an unapproved utility has been notified. If the unapproved utility has not been moved and/or relocated within the 60-day period, the city will impose a fine of \$100.00 per day, until the utility is relocated and/or removed and as-builts are submitted to the city. The 60-day period may be extended by an additional 30



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days by requesting the extension, in writing, to the office of the city manager and/or public works department. Extension shall be granted only for circumstances beyond the control of the utility owners, such as material delays, weather, etc.

**Sec. 74-39. Excavations, etc., permit.**

- ~~(a) No person shall remove, dig, excavate, bore under, trench, plow or destroy any portion of any sidewalk, public way, right of way and/or road, for any purpose other than for emergency utility repairs or laying water mains, storm drains or sanitary sewer under the supervision and control of the city, without first obtaining a permit from the city.~~
- ~~(b) Permits shall be applied for not less than 72 hours, not including weekends and/or holidays, before any excavation is scheduled to begin. The cost of obtaining a permit shall be as set forth in the schedule of fees and charges.~~
- ~~(c) Permits can be obtained from the public works department and/or the city designee.~~

**Sec. 74-41. 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 20 calendar 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.

**Sec. 74-42. Inspection.**

(a) The utility shall make the construction site available to the City and to all others as authorized by law for inspection at all reasonable times during the execution and upon completion of the construction.

(b) At any time, including the time of inspection, the City may order the immediate cessation of any work which poses a serious threat to the health, safety, or welfare of the public, violates any law, or which violates the terms and conditions of the permit and/or this Chapter or issue an order to correct work which does not conform to the permit and/or applicable standards, conditions or codes.

(c) When the construction under any permit is completed, the utility shall notify the City.

**Sec. 74-43. Other Approvals, Permits and Agreements.**

(a) 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 applicable laws, shall complete work in a way as to not cause any unnecessary or unauthorized obstructions of sidewalks, streets, waterways or railways.

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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 outlined in this Chapter.

**Sec. 74-44. Penalties.**

(a) Every utility convicted of a violation of any provision of this Chapter 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, including without limitation, abatement of nuisances, injunctive relief, and revocation of licenses or permits. This shall include the right to stop work which is in violation of this Chapter, or other applicable provisions of the City's Code and state law.

(b) A utility constructing within the rights-of-way without permission or a permit is considered criminal trespassing. This covers not only buildings but also land, vehicles, and watercraft. Generally, unauthorized entry is considered criminal trespass, punishable in accordance with applicable law.

**Sec. 74-45. Aesthetic Standards.**

(a) The City finds it is in the best interest of the City and its residents and businesses to establish aesthetic requirements and other specifications and reasonable conditions regarding placement of facilities in the 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 rights-of-way and its uses in the City. All standards in this section are based upon the written determinations of the City so long as such determinations are in compliance with federal and state laws, rules, and regulations.

(b) The objective of this section is to ensure use of the rights-of-way:

- (i) is consistent with the design, appearance and other features of nearby land uses;
- (ii) protects the integrity of historic, cultural and scenic resources; and
- (iii) does not harm residents' quality of life.

(c) This section applies to all requests to locate facilities in the rights-of-way and ongoing use of the rights-of-way for such facilities.

(d) Placement or modification of facilities in the right-of-way shall comply with this section and in the case of small wireless facilities, with Chapter 80- Telecommunications, as applicable, at the time the permit for installation or modification is approved and as amended from time to time. Permittees are required to comply with City code and applicable law and regulations.

(e) Facilities Standards.

1. 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.
2. Facilities in the residential/historical/architecturally significant areas shall be visually and architecturally integrated with the residential/ historical/architecturally

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significant areas and shall not interfere with prominent vistas or significant public view corridors.

3. Facilities must be located in alignment with existing trees and/or facilities.

4. Facilities must maintain the integrity and character of the neighborhoods and corridors in which the facilities are located.

5. Facilities must be designed using camouflaging techniques that make them as unobtrusive as possible if:

i. It is not possible or desirable to match the design and color of facilities with the similar facilities in the same zoning area; or

ii. Existing facilities in the area are out of character with a streetscape plan or other aesthetic plan that has been adopted by the City.

6. Facilities shall incorporate specific concealment elements to minimize visual impacts.

(f) Undergrounding. Facilities shall be installed underground whenever possible so long as placement underground will not materially impact the provision of service. Any individual requesting to locate facilities above ground has the burden to demonstrate by clear and convincing evidence that undergrounding will effectively prohibit the provision of the service in question.

#### **Sec. 74-46. Fiber Installations Fee and Broadband Service Compensation.**

(a) Permits for fiber installations. In accordance with O.C.G.A. § 46-5-1(b)(19)(B) there will be a fee for any new permit issued for fiber installations per the City's Schedule of Fees.

(b) Compensation for Broadband Services. In accordance with O.C.G.A. § 46-5-1(b)(19)(A), any telephone companies that provide broadband services to any location within the City, payment per linear foot annually per the City's Schedule of Fees shall be considered due compensation, and for telephone companies that do not provide any broadband services to any location within the City, payment per linear foot annually per the City's Schedule of Fees shall be considered the payment of due compensation.

#### **Sec. 74-47. Other Provisions.**

(a) **Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance 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 Permit under this Ordinance, does not surrender or to any extent lose, waive, impair, or lessen the lawful powers and rights, which it has now or may be hereafter vested in the City under the Constitution and Laws of the United States, State of Georgia, or the City Charter, or under the provisions of the any 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

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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. 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 Ordinance by reason of any failure of City to enforce compliance.

(d) **Appeal of Administrative Decisions.**

- i.** An applicant or citizen with legal standing aggrieved by a decision may file an appeal with the City's Zoning Administrator within five days of the decision. The appeal shall be specific to the portion of the decision that is being appealed.
- ii.** An appeal of a decision of the city manager or his or her designee shall first go to the planning and zoning commission for a recommendation to provide to city council. The city council shall have the authority to review the application in its entirety.
- iii.** An appeal of a decision of the city council shall be according to Georgia State Law.
- iv.** Notification. An application that requires review by the city council after recommendation by the planning and zoning commission shall have public notice to include:
  - (1)** Mailed notification. A notification of the date and time of the city council meeting shall be mailed to all property owners within a 300-foot radius of the proposed subject property at least 15 days but no more than 45 days prior to the meeting.
- v.** (2) Posting of property. A sign provided by the city shall be posted on the property to announce the date and time of the city council meeting at least 15 days but no more than 45 days before the meeting. The sign shall be posted to face the most traveled right-of-way.

(e) **Ordinance Headings.** Section headings are for convenience only and shall not be used to interpret any portion of this Ordinance.

**Secs. 74-480—74-70. Reserved.**

## **II**

All ordinances or parts of ordinances in conflict with the ordinance are hereby repealed.

## **III**



If any section, clause, or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, the said holding shall in no way affect the validity of the remaining portions of this ordinance.

**IV**

This ordinance shall be effective immediately upon its adoption by the Mayor and City Council of Pooler, Georgia.

FIRST READING: 16 day of June, 2018  
SECOND READING: 7 day of July, 2018  
ADOPTED: 7 day of July, 2018

CITY OF POOLER, GEORGIA

Karen L. Williams  
Karen L. Williams, Mayor

ATTEST:

Kiley Fusco  
Kiley Fusco, Clerk of Council

