

AN ORDINANCE PROVIDING FOR THE APPLICATION FOR AND INSURANCE OF PERMITS FOR THE USE OF PUBLIC STREETS, HIGHWAYS, SIDEWALKS, PARKS OR OTHER PUBLIC PROPERTY WITHIN THE CITY OF PORT ST. JOE, FOR THE PURPOSE OF RUNNING UTILITIES OR OTHER USES OTHER THAN THOSE USES ENJOYED BY THE GENERAL PUBLIC; PROVIDING FOR REQUIREMENTS FOR THOSE ALREADY HAVING PERMISSION TO USE SAID PROPERTY: PROVIDING FOR THE METHODS OF CUTTING AND REPAIRING OF STREETS, HIGHWAYS OR OTHER PUBLIC PROPERTY: PROVIDING FOR PENALTIES FOR VIOLATION OF SAID ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF PORT ST. JOE,

FLORIDA:

1. Application: Any person or firm desiring to use public streets, highways, sidewalks, parks or other public property for the purpose of running utilities or any other use other than those uses enjoyed by the general public shall make application in writing on a form to be furnished by City and be in substantially following form:

APPLICATION FOR UTILITY PERMIT

PORT ST. JOE, FLORIDA

\_\_\_\_\_, of \_\_\_\_\_  
(Applicant) (Address)

\_\_\_\_\_, hereby makes application to the City Commission of Port St. Joe for a permit to construct and maintain a \_\_\_\_\_ on that portion of the following road \_\_\_\_\_ between \_\_\_\_\_ and \_\_\_\_\_ in Port St. Joe, Florida, and Port St. Joe, Florida, and submits herewith plans and blueprints which are attached hereto and made a part hereof which set out the proposed construction and maintenance.

In the event that said permit shall be granted, the applicant agrees to accept the terms thereof within twenty (20) days from the granting of said permits, and to commence actual construction in good faith within sixty (60) days from the date of said permits, and construction to be completed in \_\_\_\_\_ days. Applicant is aware of the rules and regulations as are now in force or reasonable rules hereafter promulgated. Applicant agrees that in consideration of this application such information as may be required by the City Commissioners of Port St. Joe or the Department of Transportation will be promptly furnished.

Applicant declares that, prior to the filing of this application, due notice was given to all pole and wires users and other utilities on said section covered by the permit \_\_\_\_\_ and attaches hereto copies of its letters addressed to said users, notifying them that this application would, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, be duly presented to the City Commissioners of Port St. Joe.

\_\_\_\_\_  
Applicant

2. Issuance of permits: If the city or its designee ascertain that no streets, highways, sidewalks or other public property will be cut or damaged and that the issuance of said permits will have no adverse effect upon the health or welfare of the city or its citizens; then the permit shall be granted in substantially the following form:

UTILITY PERMIT

PORT ST. JOE, FLORIDA

The application of \_\_\_\_\_ for a utility permit to construct and maintain a \_\_\_\_\_ on that portion of the following road: \_\_\_\_\_, from \_\_\_\_\_ to \_\_\_\_\_, has been considered by the City Commissioners and is hereby granted, subject to the following terms and conditions:

1. Applicant declares that prior to filing this application he has ascertained the location of all existing utilities, both aerial and underground. A letter of notification was mailed on \_\_\_\_\_ to the following utilities/municipalities.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. It is expressly stipulated that this permit is a license for permissive use only and that the placing of facilities upon public property pursuant to this permit shall not operate to create or vest any property right in said holder.

3. Whenever necessary for the construction, repair, improvement, maintenance, safe and effectient operation, alteration or relocation of all or any portion of said highway, sidewalk or other facilities, as determined by the city, any or all of said poles, wires, pipes, cables or other facilities and appurtenances authorized hereunder, shall be removed from said highway, sidewalk or other facilities, for reset or relocation thereon as required by the city and at the expense of the permittee unless reimbursement is authorized.

4. All work shall be performed under the supervision of a designee of the city and all materials and equipment shall be subject to inspection.

5. All city property shall be restored to its original condition as far as practical according to the sketch attached hereto.

6. The permittee shall commence actual construction in good faith within sixty (60) days from the date of said permit approval and shall be completed within \_\_\_\_\_ days; city will be notified at least twenty-four (24) hours prior to commencement of construction.

7. The construction and maintenance of such utility shall not interfere with the property and rights of a prior permittee.

8. Special conditions and instructions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. It is understood and agreed that the rights and privileges herein set out are granted only to the extent of the city's right, title and interest in the land to be entered upon and used by the holder, and the holder will, at all times, assume all risk of and indemnify, defend and save harmless the city from and against any and all loss, damage, cost or expense arising in any manner on account of the exercise or attempted exercises by said holder of the aforesaid rights and privileges. During construction, all safety regulations of the city shall be observe and the holder must take such measures, including placing and display of safety devices, as may be necessary in order to safely conduct the public through the project area.

10. In the case of noncompliance with the city requirements this permit is void and the facility will have to be brought into compliance or removed from the right of way at no cost to the city.

Date: \_\_\_\_\_ CITY OF PORT ST. JOE

Attest: \_\_\_\_\_ Clerk By: \_\_\_\_\_ Mayor

ACCEPTANCE

\_\_\_\_\_, of \_\_\_\_\_  
(Permittee) (Address)

\_\_\_\_\_, hereby accepts the foregoing permit and agrees to comply with the terms and conditions therein as well as all rules and regulations now in force, or such reasonable rules and regulations as may hereinafter be enacted, pertaining to such permits.

\_\_\_\_\_  
Permittee

3. Requirements for those already having permission to use said property: Any person or firm previously granted permission through franchise or otherwise, to use public property within the City shall file a sketch or set of plans showing the scope of the project and shall agree to follow the General and Special Conditions set for them in this ordinance.

The City Auditor and Clerk is empowered to issue permission to such persons or firms upon satisfactory proof that the proposed project will not substantially alter the safety requirements of this ordinance and to obtain in writing a covenant that the person or firm will be bound by the General and Special Conditions contained herein.

GENERAL CONDITIONS

All permittees agree upon the acceptance of a permit to comply with the following general conditions, the violation of any of which will, after due notice, cause the revocation of said permit.

GENERAL CONDITIONS:

1. All facilities shall be erected, constructed, installed and/or operated and maintained on public rights-of-way under the jurisdiction of the City, by permittee only as provided in the application, permit and all other applicable rules and regulations.

2. Only one line of poles, wires, pipes, or cables shall be erected, constructed, installed and/or maintained, and the same shall be at least \_\_\_\_\_ feet from the center line of said highway.

3. All poles, wires, pipes, cables or other facilities and appurtenances authorized hereunder, shall be erected and maintained at all times so as not to interfere with the

use of said highway for travel. All wires along or across the roadway shall be erected and maintained with a minimum vertical clearance at least as great as that prescribed in the Safety Rules for the Installation and Maintenance of Electric Supply and Communication Lines, National Bureau of Standards Handbook 81, I. S. Department of Commerce, which approved by the American Standards Association on June 8, 1960, and adopted by the State Road Department on January 17, 1963. Guy wires or any other wires shall not cross roadway except where no other feasible location is available.

4. The work or constructing, removing and relocating any and all poles, wires, pipes, cables or other facilities and appurtenances authorized hereunder, shall be done at the expense of the permittee and without interference with traffic upon or along said highway, and to the entire satisfaction and under the supervision of the City, and none of such work shall be undertaken or carried on without ten (10) days' written notice having been first given to the City.

5. Any and all damage or injury, done or caused said highway or any portion thereof in the construction, operations, maintenance or repair of said facility shall be immediately repaired and reconstructed under the supervision and to the satisfaction of the City; and in the event the holder shall fail, neglect, or refuse to repair and reconstruct said damage or injury to said highway immediately, the same may be done by the City and the expense and cost thereof shall immediately be repaid by the permittee to the City.

6. No trees or shrubbery on or directly adjacent to the right-of-way covered by this permit shall be cut or trimmed by holder, without first securing the permission of the City, and such permission, when secured, shall be exercised under the supervision of the City. The holder shall clear the right-of-way of all debris resulting from the exercise of this permit.

7. (a) Any permit issued is not exclusive and the City reserves the right to grant permits to other persons or companies to use the highway or any part thereof covered by such permit for the same purpose as herein authorized or for any other purpose authorized by law.

(b) If the highway or any portion thereof upon which such permit operates, is occupied and used by the same kind and character of utility, or a similar utility or facility, under a permit heretofore grant by the City of the State, which prior permit contains a common user clause, such permit shall be deemed to grant and authorize only the use of said highway or portion thereof in conjunction with the holder of said permit and under the terms of said common user clause.

(c) Whenever there shall hereafter be granted a permit to use and occupy with the same or a similar utility all or any portion of the highway herein authorized to be used, and occupied, the holder of a prior permit the joint use and occupation of its poles and structures placed upon said highway, or portion thereof, under such prior permit by the holder of the subsequent permit, upon such terms and regulations, rentals or compensation as shall be just and equitable. If the holders of said permits are unable to agree upon the terms and regulations, rentals or compensation for such common user, the same shall be submitted to three arbitrators for decision, one of said arbitrators to be named by each of the holders of the permit, and the third arbitrator to be selected by the other two; and the decision of said arbitrators shall be binding and conclusive on the holders of the permit.

(d) Telephone and telegraph utilities shall be deemed similar utilities within the meaning of that term as used in this paragraph.

8. Whenever necessary for the construction, repair, improvement, alteration or relocation of all, or any portion of said highway as determined by the City, any or all of said poles, wires, pipes, cables or other facilities and appurtenances authorized hereunder, shall be immediately removed from said highway, or reset or relocated thereon as required by the City and at the expense of the permittee.

9. Upon the failure, neglect or refusal of the permittee to immediately do and perform any change, removal, resetting or relocating of any poles, pipes, wires, cables or other facilities, or any repairs or reconstruction of said highway herein required of the holder, the City may undertake and perform such requirement and the cost and expense thereof shall be immediately repaid to the City by the permittee.

10. Any breach of any of the conditions and requirements herein made, or failure on the part of the permittee to proceed with due diligence and in good faith, after its acceptance, with construction work hereunder, shall subject its permit to cancellation after a hearing before the City Commission of the City of Port St. Joe, of which said hearing the permittee shall be given at least ten (10) days' written notice, if at that time the holder is a resident and doing business in the State of Florida, otherwise by publishing a notice of said hearing once a week for two consecutive weeks in a newspaper of general circulation in the City of Port St. Joe, Florida, the last publication to be at least ten days before the date fixed for said hearing.

11. It is understood and agreed that the rights and privileges herein set out are granted only to the extent of the City's right, title and interest in the land to be entered upon and used by the holder, and the holder will, at all times, assume all risk of and indemnify and save harmless the City from and against any any all loss, damage, cost or expense arising in any manner on account of the exercise or attempted exercise by said permittee of the aforesaid rights and privileges.

12. The permittee shall save and keep the City harmless from any and all damages, claims or injuries that may occur by reason of the construction, maintenance and operation of said facility.

#### SPECIAL CONDITIONS

All permittees agree upon the acceptance of a permit to comply with the following special conditions, the violation of any of which will, after due notice, cause the revocation of said permit.

1. CUTTING OF PAVEMENT: Where open ditch construction is permitted, the pavement, curbing, etc. shall be removed to near lines of sufficient width to allow proper installation of the pipe work. Asphaltic concrete to have mechanically sawed joints. Sections of concrete curb removed shall be replaced in accordance with SRD requirements and specifications.

2. TRAFFIC MAINTENANCE: Minimum traffic requirements in the work area shall be one-way traffic from sun-up to sun-down and two-way traffic from sun-down to sun-up. Two flagmen shall be required during periods of one-way traffic. Singal lights and warning signs shall be installed and maintained as required for adequate safety.

3. BACKFILL: All backfill shall be placed in 8" layers maximum and each layer shall be thoroughly compacted with mechanical tampers.

4. BASE COURSE: The base course shall be of the same quality as the original course and shall be compacted with mechanical tampers. The base shall be sealed in accordance with the applicable sections of Section 200 plus, State Road Department Standard Specifications, 1966.

5. SURFACING: The wearing surface shall be replaced in accordance with the applicable sections of Section 310, State Road Department Standard Specifications, 1966, where the original surface has received bituminous surface treatment, or of Section 320, State Road Department Standard Specifications, 1966, where the original surface is of asphaltic concrete. Surfacing shall be applied immediately upon construction of the base course, except that a temporary wearing surface of cold-mix asphalt may be applied to completion of the permanent surface.

6. GRADING: All work areas within the State Road Department right-of-way that have been disturbed by the work shall be fine-graded to the original lines and elevations.

7. SEEDING AND FERTILIZATING: All areas within the City right-of-way that require regrading shall be mulched, seeded and fertilized in accordance with the applicable sections of Section 570, State Road Department Standard Specifications, 1966. Rights-of-way that were sodded under original construction project shall be resodded if disturbed.

8. TRENCH SHEETING AND SHORING: Where open cuts cross existing pavements or are parallel to and close to the existing pavement, curb and gutter or appurtenances, sheeting and shoring of excavation may be required. This requirement is to be at the discretion of the City and may vary with local conditions such as existing water tables, soil types, etc.

4. Penalty: Any permittee found guilty of violation of or failure to comply with terms of this ordinance shall be deemed to be guilty of a second degree misdemeanor which shall be punishable by a fine of not more than \$500 or confinement not exceeding 60 days. Each day that a permittee remains in violation of any provision of this ordinance shall constitute a separate violation.

5. Effective Date: This ordinance shall take effect as provided by law.

This ordinance was INTRODUCED at the regular meeting of the City Commission on October 21, 1980, and will be finally introduced at the next regular meeting of the City Commission on November 18, 1980.

CITY COMMISSION OF THE CITY  
OF PORT ST. JOE, FLORIDA

/s/ Frank Pate  
Mayor-Commissioner

ATTEST:

/s/ Alden Farris  
City Clerk and Auditor