Chapter 16

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

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ARTICLE I. IN GENERAL.

Section 16.1 Street Superintendent.

The office of street superintendent is hereby created. He shall have supervision of working the streets. He shall be an ex officio police officer of the city. He shall have care of and be responsible for all tools, material and other property used in keeping up the streets and bridges. He shall keep an account of all labor worked by him and shall be under the immediate supervision of the city clerk, and shall perform all other duties imposed upon him by the council. He is required to make a full monthly report to the council.

Section 16.2 Streets, Alleys and Ditches Declared Public Property.

All existing streets, alleys and ditches claimed and worked by the city are declared to be the property of the city and are public.

Sections 16.3 - 16.5 Reserved.

ARTICLE II. STREET NUMBERS.

Section 16.6 Display of Street Numbers Required.

a. Every house, mobile home, apartment, business, or other building having a street number assigned to it under the system of numbering in the city shall display such number in a readily visible manner and in compliance with the requirements of this article. Mobile home parks and apartment complexes shall also be required to have each individual pad, lot number, or apartment displayed in a readily visible manner and in compliance with the requirements of this article. Said lot, pad, or apartment numbers shall be in sequence unless directional signs are provided for numbers not in sequence.

b. All new buildings and structures must be assigned a number address by Early-Calhoun 911 Department prior to or simultaneous with granting building permit, septic tank permit, or electrical permit.

Section 16.7 Method of Display.

a. *Residences.* Residential numbers shall be on an approved sign and post directly in front of the residence by the street or by the drive leading to the residence and be readily visible from the street by persons traveling along the street in each direction. Alternate locations may be acceptable for mobile home parks and apartment complexes if approved by the building official.

b. *Businesses or other buildings.* Numbers of businesses and other buildings shall be located on or above the door of the main entrance to the building provided the street number to the building would be readily visible from the street by persons traveling along the street in each direction. If the business or other building to be numbered is more than 50 feet from the curb, pavement edge, or edge of the travel way of the street in front of the property then the street number shall not be displayed on the building by the street or by the drive leading to the building and be readily visible from the street by persons traveling along the street in each direction.

Section 16.8 Size, Condition of Numbers.

Residential numbers shall be of a durable type and shall not be less than three inches and must be reflective. Business numbers shall be of a durable type and shall be a minimum of six inches in height and must be reflective. All such signs shall be of a color contrasting to the background so as to be clearly visible. Street numbers and signs to which they are affixed shall be maintained at all times in good condition.

Section 16.9 Duty of Owner, Violations.

The city will supply the numbers for all structures one time, thereafter the obligation of complying with the provisions of this section shall be upon the owner of the property. The property

owner shall have 30 days from the effective date of this article to comply with the provisions of same. If the provisions of this article shall be found to have been violated, notice shall be given to the owner of the property, or his agent, specifying the manner in which this article is being violated and giving the owner 30 days to bring the property into compliance. Each day a violation of this article continues after the expiration date of said 30-day period shall constitute a separate offense and shall be punishable as provided by this article.

Section 16.10 Responsibility for Enforcement.

The responsibility for making the inspection provided for in this article, and for the enforcement of the provisions hereof, shall rest upon the building official and the agents and employees of such department are hereby authorized to notify Early County Sheriff's Department to make cases and issue summonses for violations. However, all law enforcement agencies providing services in the city are authorized to write warnings to the property owner in violation of this article. Any such warnings issued shall be forwarded to the building official for appropriate action.

Section 16.11 Penalties.

Violators determined to be in violation of this article shall be subject to a fine of not less than $25.00 per violation and any other penalties, which may be imposed by law by the municipal court judge of the city.

Sections 16.12 - 16.15 Reserved.

ARTICLE III. PARADES

Section 16.16 Parades.

a. *Registration and permit.* Any person who wishes to organize, form, or conduct a parade as defined herein shall be required to register such parade with the Chief of Police at least 24 hours in advance of the event and to obtain a permit therefor.

b. *Definition.* For the purpose of this section, "parade" shall mean any march, ceremony, demonstration, exhibition, or procession of any kind upon any public street of the city.

c. *Application.* Application for a permit to conduct a parade, attached hereto as "Attachment A," shall be made to the Chief of Police in writing, shall be signed by the person responsible for the conduct of the parade, and shall contain the following information:

1. The date and time proposed for the parade;

2. The route of the proposed parade;

3. The number of vehicles, if any, and number of persons whose participation is anticipated in the proposed parade;

4. The name and address of the person or organization sponsoring or promoting the proposed parade; and

5. The name, address, and telephone number of the person making the application for a parade permit.

d. *Review of application.* The Chief of Police shall forward the application to the mayor who shall review the information set forth in the application; shall ascertain the extent of vehicular and pedestrian traffic to be anticipated at the time and place of and on the route of the proposed parade; shall determine the availability of police forces to escort the proposed parade and to direct traffic in conjunction with the proposed parade; and shall determine the light of these circumstances whether or not the proposed parade will unreasonably burden or interfere with the normal use of the streets or sidewalks of the city by the general public.

e. *Disposition.* In the event the mayor determines, in view of the circumstances set out in subsection (d), that the proposed parade will not unreasonable burden or interfere with the normal use of the streets or sidewalks of the city by the general public, the mayor shall grant the parade permit. In the event the mayor determines, in view of the circumstances set out in subsection (d), that the proposed parade will unreasonably burden or interfere with the normal use of the streets or sidewalks of the city by the general public, the mayor shall deny the request for a parade permit. The mayor shall note on the application the reasons for the denial of the permit and shall indicate such

changes in the time, place, and manner of the parade which would allow it to proceed without unreasonably burdening and interfering with the normal use of the streets or sidewalks of the city by the general public, the mayor shall deny the request for a parade permit. The mayor shall note on the application the reasons for the denial of the permit and shall indicate such changes in the time, place, and manner of the parade which would allow it to proceed without unreasonably burdening and interfering with the normal use of the streets or sidewalks of the city by the general public. In the event the changes in the time, place, and manner of the proposed parade are acceptable to the applicant, the permit shall be issued. The mayor shall cause the applicant to be notified of the disposition of the application as soon as possible.

f. *Judicial review.* In the event judicial review of the denial of an application for a parade permit is sought, the city waives trial by jury and waives all applicable time limits so that the matter may be presented to the judge of any court having jurisdiction for immediate decision.

g. *Exemption.* The provisions of this section shall not apply to any parade which is conducted under the supervision of a practicing mortician in conjunction with any funeral, nor shall it apply to any parade sponsored in whole or in part by the city.

Sections 16.17 - 16.20 Reserved.

ARTICLE IV. UTILITY ACCOMMODATION POLICY.

Division 1. Declaration of Findings and Purpose, Scope, Definitions.

Section 16.21 Intent and Purpose.

The City of Blakely, Georgia (the "City") is vitally concerned with the use, Construction within, and occupancy of all Rights of Way in the City as such Rights of Way are a valuable and limited resource which must be utilized to promote the public health, safety, welfare, economic development of the City and to protect public work infrastructure. Therefore, the City, under the authority of the Laws and Constitution of the State of Georgia, including but not limited to Article 9, Section 1, paragraph 1 of the Georgia Constitution, O.C.G.A. 36-34-2 and 32-4-92 has adopted this ordinance for the purpose of regulating public and private entities which use the City Rights of Way.

Section 16.22 Scope.

The provisions of this Chapter shall apply to all Utilities and Facilities occupying the Rights of Way as provided herein.

Section 16.23 Definitions.

For the purpose of this Chapter, the following terms, phrases, words, and their derivations have the meanings set forth herein. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning. Defined terms remain defined terms whether or not capitalized.

City means the City of Blakely, Georgia.

City Council means the legislative governing body of the City.

Codified Ordinances means the Codified Ordinances of the City of Blakely, Georgia.

Construct means, but shall not be limited to, dig, bore, tunnel, trench, excavate, obstruct, install wires, install conduit, install pipes, install transmission lines, install poles, install signs, or install Facilities, other than landscaping or ornamental plantings, in, on, above, within, over, below, under, or through any part of the Rights of Way. Construct shall also include the act of opening and/or cutting into the surface of any paved or improved surface that is any part of the Right of Way.

Construction means, but shall not be limited to, the act or process of digging, boring, tunneling, trenching, excavation, obstruction, installing wires, installing conduit, installing pipes, installing transmission lines, installing poles, installing signs, or installing Facilities, other than landscaping or ornamental plantings, in, on, above, within, over, below, under, or through any part

of the Rights of Way. Construction shall also include the act of opening, boring and/or cutting into the surface of any part of the Right of Way.

Director means the City Clerk of the City of Blakely, Georgia, or his or her designee.

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

Excavation means any work in the surface or subsurface of the public right-of-way, including, but not limited to opening the public right-of-way; installing, servicing, repairing or modifying and Facility in or under the surface or subsurface of the public right-of-way, and restoring the surface and subsurface of the public right-of-way.

Facility or Facilities means any tangible thing, including but not limited to a Utility's poles, wires, optical fibers, cables, electrical conductors, Conduits, Ducts, Innerducts, pipes, subways, manholes, fixtures, appliances, appurtenances and future technology authorized in a permit or written Service Agreement.

Facilities Representative(s) means the specifically identified agent(s)/employees(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.

FCC means the Federal Communications Commission or any successor thereto.

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

Right(s) of Way means the surface and space in, on, above, within, over, below, under or through any real property in which the City has an interest in law or equity, whether held in fee, or other estate or interest, or as a trustee for the public, including, but not limited to any public street, boulevard, road, highway, freeway, lane, 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 of Constructing, operating, repairing or replacing Facilities. Rights of Way shall not include buildings, parks, bridges, river, tunnel, viaduct, conduit 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. Rights of Way shall not include private easements or public property, except to the extent the use or occupation of public property is specifically granted in a written approval of Registration.

Service Agreement means a valid license agreement, Service Agreement, franchise agreement, or operating agreement issued by the City or state pursuant to law and accepted by a Utility, which allows such Utility to operate or provide service within the geographic limits of the City.

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

Transfer means the disposal by the utility, directly or indirectly, by gift, assignment, sale, merger, consolidation, or otherwise, of more than fifty percent (50%) at one time of the ownership or controlling interest in the Facilities, or more than fifty percent (590%) cumulatively over the term of a written approval of Registration of such interests.

Underground Facilities means all lines, cables, conduits, pipes, posts, tanks, vaults, wires and any other Facilities which are located wholly or partially underneath Rights of Way.

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

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

Working Day means any Monday, Tuesday, Wednesday, Thursday, or Friday excluding legal holidays observed by the City.

Division 2. Rights of Way Registration.

Section 16.24 Administration.

The City Clerk or his/her designee shall be the City official responsible for the administration of this Chapter except as otherwise provided herein.

Section 16.25 Rights of Way Occupancy Registration.

a. Each Utility who occupies, uses or has Facilities in the Rights of Way at the time of passage of this Ordinance, including by lease, sublease or assignment, to operate Facilities located in the Rights of Way, unless specifically exempted by state, federal law or this Code, shall file a Registration Statement with the Department within ninety (90) days of the effective date of this Ordinance.

b. Following the effective date of this Ordinance, each Utility who seeks to have Facilities located in any Rights of Way under this control of City, unless specifically exempted by state, federal law or this Code, shall file a notification of Construction with the Department.

Section 16.26 Registration Procedure.

The Registration information provided to the City shall be on a form approved by the City and include, but not be limited to:

a. The name, legal status (i.e. partnership, corporation, etc.) street address, email address if applicable, and telephone and facsimile numbers of the Utility filing the Permit Registration Statement (the "Registrant"). If the Registrant is not the owner of the facility to be installed, maintained or repaired in the Right of Way, the Registration shall include the name, street address, email address if applicable, and telephone can facsimile numbers of the owner.

b. The name, street address, email address if applicable and telephone and facsimile numbers of one (1) or more Facilities Representative(s). Current information regarding how to contact the Facilities Representative(s) is an emergency shall be provided at the time of filing a registration and shall be updated as necessary to assure accurate contact information is available to the City at all times.

c. A copy, if requested, of the utility's certificate of authority (or other acceptable evidence of authority to operate) from the Georgia Public Service Commission and/or the FCC and any other similar approvals, permits, or agreements.

d. A copy, if requested, of the Service Agreement, if applicable or other legal instrument that authorized the utility to use or occupy the Right of Way for the purpose described in the Registration.

Section 16.27 Issuance of Written Acceptance of Registration.

a. If a Registration is incomplete, the City Clerk shall notify the Registrant and shall provide a reasonable period of time in which to complete the registration. If a Registration is complete, the City Clerk shall so notify the Utility in writing.

b. Acceptance of the Registration shall not convey the title in the Rights of Way. Acceptance of the Registration is only the nonexclusive, limited right to occupy Rights of Way in the City for the limited purposes stated in the Acceptance. Acceptance of the Registration does not excuse a Utility from obtaining the Permits required by City ordinances nor from obtaining appropriate access or pole attachment agreements before using the Facilities of others, including the City. Acceptance of the Registration does not excuse a Utility from notifying the City of Construction as required herein.

Division 3. Notification to City of Construction.

Section 16.28 Notification Required.

Written notification to the City Clerk from the utility is required prior to any of the following activities.

a. Before any Utility does any work to Construct, install, maintain, remove or relocate facilities on, along, over or under the Right of way in the City; or

b. Construction adjacent to the Rights of Way in the City that require tree trimming within the Rights of Way.

Section 16.29 Notification Procedure.

The written notification shall be submitted on a form provided by the City Clerk and shall specifically include:

a. The name and address of the utility;

b. The nature, extent and location of any work proposed to be done along with satisfactory plans as attachments showing in detail the location of the proposed Facility or operations as describe 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;

c. The name and address of the person or firm who is to do such work;

d. The name, street address, email address if applicable and telephone and facsimile numbers of one (1) or more Facilities Representative(s);

e. The projected dates for the work to be started and finished; and

f. An indemnity bond or other acceptable security in an amount to be set by the City to

pay any damages to any part of the City road system or to any member of the public caused by work of the utility performed under authority of the permit issued.

Section 16.30 Locate Requests Required.

As provided in O.C.G.A. § 25-9-6 (the Georgia Utility Facility Protection Act) and other applicable state law currently in place or as amended. No Utility shall commence, perform, or engage in blasting or in excavating with mechanized excavating Facilities unless and until the utility planning the blasting or excavating has given 48 hours' notice by submitting a locate request to the utility Protection Center, beginning the next business day after such notice is provided, excluding hours during days other than business days.

Division 4. Conditions of Street Occupancy.

Section 16.31 Failure to Comply.

Failure to comply with the terms and conditions set forth in this Article may result in revocation of Registration and removal of Facilities from the Rights of Way.

a. The 1988 Utility Accommodation Policy and Standards manual, including all references contained therein to codes, rules, regulations, schedules, forms and appendix items, except Appendix B (Permit Forms and supporting Document), promulgated by the State of Georgia Department of Transportation, as may be amended from time to time is hereby adopted by reference and incorporated in the article as if fully set forth herein, subject to the amendments and modification contained in this Chapter. A copy of the manual shall be maintained at the offices of the City Clerk or his designee and open for public inspection. Any conflicts between the provisions of this ordinance and the manual shall be resolved in favor of the manual. References to State personnel, agencies, and fees shall be interpreted, where required, as meaning the City of Blakely municipal equivalents.

b. Protection of Traffic and Roadway. In conformance with City policy, no Utility may occupy the City Rights of Way unless sufficient space is available so that the free flow and safety of traffic and other capacity considerations are not unduly impaired and the installation does not prevent the department from reasonably maintaining the streets, structures, traffic control devices and other appurtenant Facilities, and further provided that maintenance and operations of the Facilities do not jeopardize the traffic, street structure, other users of the right of way, or the right of way itself.

c. Grading. If the grades or lines of any street within the City Right of Way are changed at any time 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 even 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 bested 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.

Division 5. Restoration of Property.

Section 16.32 Liability of Utility for Damages.

A utility shall be liable, at its own cost and expense, to replace or repair, any Street, Facilities or property or structure thereon, thereunder or 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 that caused such disturbance or damage. If Utility does not commence such replacement or repair after twenty (20) Working 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.

Division 6. Discontinuance of Operations, Abandoned and Unused Facilities.

Section 16.33 Discontinuance of Operations.

a. A Utility who has discontinued or is discontinuing operation of any Facilities in the City shall:

1. Provide information satisfactory to the City that the Utility's obligations for its Facilities in the Rights of Way under this Chapter and any other provision I the Codified Ordinances or other laws have been lawfully assumed by another Utility; or

2. Submit a written proposal to re-use its Facilities; or

3. Submit a written proposal for abandonment of Facilities. Said proposal must be approved by the City Clerk; or

4. Remove its entire Facilities within a reasonable amount of time and in a manner acceptable to the City; or

5. Submit to the City, in good faith and within a reasonable amount of time, a proposal for transferring ownership of its Facilities to the City. If a Utility proceeds under this clause, the City may, at its option do one or more of the following:

   (a) Purchase the Facilities;
   (b) Accept donation of some or all Facilities, or
   (c) Require the Utility to post a bond in an amount sufficient to reimburse the City for its reasonably anticipated costs to be incurred in removing the Facilities.

b. Facilities of a Utility who fails to comply with the above provision shall be deemed to be abandoned. Abandoned Facilities are deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to abating the nuisance; taking possession of the Facilities, evicting the Utility from the Right of Way; prosecuting the violator; and/or any other remedy provided by City ordinance or otherwise at law or in equity.

Division 7. Termination of Registration.

Section 16.34 Termination of Registration.

The Registration Statement shall remain in place for one (1) year and renew each subsequent year automatically unless the Utility is in default. The City Clerk shall give written notice of default to a Utility if it is determined that a Utility has:

a. Violated any provision or requirement of the issuance or acceptance of a registration Application or any law of the City, state, or federal government;

b. Attempted to evade any provision or requirement of this Chapter;

c. Practiced any fraud or deceit upon City; or

d. Made a material misrepresentation of fact in its Application for Registration.

Section 16.35 Failure to Cure a Default within Time Established.

If a Utility fails to cure a default within twenty (20) working Days after such notice is provided to the Utility by the City, then such default shall be a material breach and City may exercise any remedies or rights it has at law or in equity to terminate the Approval of Registration. If the City Clerk decides there is cause or reason to terminate, the following procedure shall be followed:

a. 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 fifteen (15) calendar days to cure its breach.

b. If the utility fails to cure within fifteen (15) calendar days, the City may declare the Registration terminated.

Division 8. Penalties.

Section 16.36 Penalties.

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 such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Division 9. Other Provisions.

Section 16.37 Severability.

If any section, subsection, sentence, clause, phrase, or portion of this Chapter 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.

Section 16.38 Reservation of Regulatory and Police Powers.

The City by issuing a written approval of Registration under this Chapter, does not surrender or to any extent lose, waive, impair, or lessen the lawful powers and rights, which it has now or which may be hereafter vested in the City under the Constitution and Laws of the United States, State of Georgia, and under the provisions of the City's Codified Ordinances to regulate the use of the Rights of Way. The Utility by applying for and being issued a written approval of registration, is deemed to acknowledge that all lawful powers and rights, regulatory power, or police power, or otherwise as are or the same may be from time to time vested in or reserved to the City, shall be in full force and effect and subject to the exercise thereof by the City at any time. A Utility is deemed to acknowledge that its rights 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 zoning and other land use requirements pertaining to the placement and specifications of Facilities.

Section 16.39 Compliance.

No Utility shall be relieved of its obligation to comply with any of the provisions of this

Chapter by reason of any failure of City to enforce prompt compliance.

Section 16.40 Appeals.

All appeals provided for by this Chapter and any notification to the City required by this Chapter shall be in writing and sent via certified mail to the Director of Public Service as specified in this Chapter.

Sections 16.41 - 16.50 Reserved.