

ORDINANCE NO. _____ - 2017

AN ORDINANCE AMENDING CHAPTER 17C OF THE CODE OF ORDINANCES OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT TO REFLECT A REVISED RIGHT-OF-WAY PERMIT RENEWAL FEE STRUCTURE FOR UTILITIES AND THEIR CONTRACTORS, AND TO IMPOSE ADDITIONAL FEES FOR THE COMMENCEMENT OF NON-EMERGENCY WORK WITHIN THE PUBLIC RIGHTS-OF-WAY WITHOUT THE PROPER PERMIT(S) BY AMENDING SUBSECTION 17C-7(B)(4) TO PROVIDE THAT THE FAILURE TO COMPLETE ALL RESTORATION WORK DUE UNDER A SURFACE CUT PERMIT IN A TIMELY MANNER WILL RESULT IN ADDITIONAL FEE(S) PAYABLE TO THE GOVERNMENT AT THE TIME OF PERMIT RENEWAL, AMENDING SUBSECTION 17C-9(A) TO PROVIDE THAT ANY PERSON WHO INSTALLS, OPERATES, CONSTRUCTS, OR MAINTAINS FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY WITHOUT FIRST REGISTERING SUCH FACILITIES OR OBTAINING THE NECESSARY PERMITS, CERTIFICATES, LETTERS, OR OTHER DOCUMENTATION WILL BE SUBJECT TO AN ADDITIONAL FEE PAYABLE TO THE GOVERNMENT, AND AMENDING SUBSECTIONS 17C-22(C) AND (D) TO CONFORM WITH THESE CHANGES.

WHEREAS, the intent of Chapter 17C of the Code of Ordinances of the Lexington-Fayette Urban County Government ("Public Right-of-Way (ROW) Ordinance") is to encourage and establish policies and regulations that promote the conservation of the ROW; and

WHEREAS, it is also the intent of 17C to provide for the payment of fair and reasonable fees to the government to ensure that this Chapter is properly administered and enforced; and

WHEREAS, it is also the intent of 17C to minimize street cuts, damages to persons or property, and hardship to the general public; and

WHEREAS, the lack of utility coordination regarding street cuts has resulted in increased stress and damage to streets, substantial disruption to the citizens of Lexington-Fayette County, and has impaired the public's safe and convenient use and enjoyment of the ROW; and

WHEREAS, the Urban County Engineer, or his designee, is the principal government official responsible for the administration and enforcement of this Chapter, and may adopt procedures consistent with this Chapter that are necessary for its administration or enforcement; and

WHEREAS, Chapter 17C should be amended to reflect a revised right-of-way permit renewal structure for utilities and their contractors, to impose additional fees for commencement of work within the public rights-of-way without

the proper permit(s), and to impose additional fees for the failure to restore the condition of the public rights-of-way within a reasonable time.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the above recitals are incorporated herein as if fully stated.

Section 2 – That Subsection 17C-7(b)(4) of the Code of Ordinances be and hereby is amended to read as follows:

Any right-of-way or public property that is disturbed or damaged during the construction, excavation, installation, operation, maintenance or repair of a facility shall be repaired within twenty-one (21) calendar days of the completion of those activities which caused the disturbance or damage by the party that disturbed or damaged the rights-of-way or public property. This time may be extended by the urban county engineer or his representative upon demonstration of reasonable cause by the subject party. A party's failure to take reasonable steps to complete all restoration work due under a surface cut permit within the time period stated above will result in the cost of the permit fee required pursuant to Subsection 17C-22(d) being re-assessed as an additional fee each time there is a failure to meet the time limit. Any additional fee(s) shall be assessed at the time of inspection or re-inspection and payable to the Director upon permit renewal pursuant to Subsection 17C-22(e) in addition to the amount of the original fee(s) provided for in Subsections 17C-22(c) and 17C-22(d) of this Chapter.

Section 3 – That Subsection 17C-9(a) of the Code of Ordinances be and hereby is amended to read as follows:

(a) *Requirement to register and pay fees.* Unless otherwise excepted by this chapter, it shall be unlawful for any party to install, operate, construct or maintain any facilities within the rights-of-way unless such facilities are registered with the government by filing the registration statement required herein and all applicable registration, annual general permit and franchise fees are paid to the government. Any person who installs, operates, constructs, or maintains any facilities within the rights-of-way before registering such facilities or obtaining the necessary permits, certificates, letters, or other documentation required pursuant to this Chapter shall not only be required to pay the initial installation permit fee or surface cut permit fee required pursuant to Subsection 17C-22, but shall also be subject to a re-assessment of the installation permit fee or surface cut permit fee upon discovery that such work has commenced.

Section 4 – That subsection 17C-22(c) of the Code of Ordinances be and hereby is amended to read as follows:

(c) *Installation Permit.* Unless otherwise prohibited by law, every party obtaining an installation permit shall pay a fee of one hundred dollars (\$100.00) for each installation permit. Any immediately adjoining real property owner cited to replace, repair, restore, or otherwise maintain any sidewalk, curb, apron, or utility strip for which that real property owner is legally responsible shall be exempt from paying and fees for obtaining an installation permit for these

activities. This fee shall be re-assessed in the event that at any work commences without approval as provided in Subsection 17C-9(a).

Section 5 – That subsection 17C-22(d) of the Code of Ordinances be and hereby is amended to read as follows:

(d) Surface Cut Permit. Unless otherwise prohibited by law, every party obtaining a surface cut permit shall pay a fee of two hundred fifty dollars (\$250.00) for each surface cut permit. This fee shall be re-assessed each time a party fails to comply with Subsection 17C-7(b)(4), or in the event that any work commences without approval as provided in Subsection 17C-9(a).

Section 6 – If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unlawful by a court 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 hereof.

Section 7 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL
PUBLISHED:

0919-17_ACB_rt:X:\Cases\ENGINEER\17-LE0001\LEG\00582696.DOCX`