

AN ORDINANCE OF THE CITY OF OCOEE, FLORIDA RELATING TO RIGHT-OF-WAY UTILIZATION PERMITS; REPEALING ARTICLE I OF CHAPTER 153 OF THE CODE OF ORDINANCES OF THE CITY OF OCOEE; ADOPTING A NEW ARTICLE I OF CHAPTER 153 OF THE CODE OF ORDINANCES OF THE CITY OF OCOEE; PROVIDING FOR PURPOSE AND INTENT, APPLICABILITY, EXEMPTIONS, PROHIBITIONS, APPLICATION PROCEDURES, COMPLIANCE REQUIREMENTS, APPROVING AUTHORITY, APPEALS, TIME LIMIT, RESTORATION AND UTILITIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Ocoee has determined that excavation, construction, installation and maintenance of improvements in public streets, rights-of-way and easements causes safety and health risks to the citizens of the City of Ocoee; and

WHEREAS, the City Commission of the City of Ocoee desires to adopt comprehensive standards and procedures for permitting the use of public streets, rights-of-way and easements within the City of Ocoee.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF OCOEE, FLORIDA, AS FOLLOWS:

SECTION 1. Authority. The City Commission of the City of Ocoee has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida and Chapter 166, Florida Statutes.

SECTION 2. Repeal of Article I of Chapter 153. Article I of Chapter 153 of the Code of Ordinances of the City of Ocoee, Florida, is hereby repealed in its entirety.

SECTION 3. Adoption of a New Article I of Chapter 153. Article I of Chapter 153 of the Code of Ordinances of the City of Ocoee, Florida, is hereby adopted and reads as follows:

ARTICLE I

RIGHT-OF-WAY UTILIZATION PERMITTING

§153-1 Purpose and intent. The purpose of this Article is to provide standards and procedures for permitting the use of public streets, rights-of-way and easements in order to achieve the following:

- (a) Preserve the function of each public road, street, highway, right-of-way and easement.
- (b) Provide for smooth, logical traffic-flow patterns.
- (c) Reduce traffic conflicts and confusion.
- (d) Allow for the application of safe geometric-design principles.
- (e) Provide for bicycle and pedestrian safety.
- (f) Provide for future modification and expansion.
- (g) Provide for environmental compatibility.
- (h) Provide for adequate utility service.

§153-2 Applicability. City right-of-way utilization permits are required for the use of public streets, rights-of-way and easements which are owned by or otherwise under the jurisdiction of the City for the excavation, construction, installation, or maintenance of any public or private utility, roadway, street or any other facility, structure, driveway, culvert, drainage system, pavement, easement or object in such streets, rights-of-way and easements of the City, including all such work performed pursuant to any utility franchise agreements or other related agreements granted by the City from time to time. A permit from the State of Florida Department of Transportation is required for the excavation, construction, installation or maintenance of improvements in the access way to any State highway or as otherwise required by the State of Florida Department of Transportation with respect to roads under its jurisdiction. A permit from Orange County, Florida is required for the excavation, construction, installation or maintenance of improvements in or on any streets, rights-of-way, and easements

which are owned by or otherwise under the jurisdiction of Orange County.

§153-3 Exemptions. No permit shall be required for the following:

- (a) Construction of water, sewer, power, telephone or gas utilities in subdivisions in accordance with engineering plans provided by the City where such construction will be completed prior to acceptance of road right-of-way or easement by the City.
- (b) Repairs of previously permitted utilities in the public streets, rights-of-way or easements; provided, however, such repairs do not require maintenance of vehicular or pedestrian traffic, cutting of any pavement, including curbs and driveways, or excavation requiring restoration involving seeding, mulching and/or sodding.

§153-4 Prohibitions.

- (a) Construction of masonry or other substantial structures within City streets, rights-of-way or easements is prohibited unless approved by the City Commission.
- (b) No private sign shall be permitted in City right-of-way.

§153-5 Application procedures. Applications for a right-of-way utilization permit, accompanied by the appropriate fee, as established by Resolution, shall be submitted to the City Engineer. The application shall be on a form approved and designated by the City Engineer and in accordance with the procedure established by the City Engineer. The City Engineer, or his designee, shall, upon request for a right-of-way utilization permit application, provide to the applicant a copy of the current right-of-way utilization application and procedures. Applications for access to State rights-of-way shall be submitted to the appropriate office of the State Department of Transportation, and applications for access to Orange County rights-of-way shall be submitted to the appropriate office of Orange County, Florida. All right-of-way utilization permits shall meet the specifications and guidelines set forth in the Code.

§153-5.1 Compliance requirements.

(a) **Submittals.** The following information shall be provided by applicants to the City for all right-of-way utilization permits under this Article: the name, local address and phone number of applicant, the date, the precise description of the work proposed, including three (3) copies of drawings of the intended construction, the location of the work, any special conditions, a maintenance of traffic plan, the expected starting and completion dates and any other submittals and information as may be required by the City Engineer to reasonably exercise the authority granted hereunder.

(b) **Insurance.** The right-of-way utilization permit shall not be effective for any purpose whatsoever until applicant, or his designated representative, delivers to the City Engineer an acceptable certificate of liability insurance evidencing bodily injury and property damage coverage equal to or in excess of the following limits: ONE HUNDRED THOUSAND and NO/100 DOLLARS (\$100,000.00) per person; THREE HUNDRED THOUSAND and NO/100 DOLLARS (\$300,000.00) per occurrence; and FIFTY THOUSAND and NO/100 DOLLARS (\$50,000.00) property damage. The certificate of insurance shall name the City as an additional insured, shall be effective for all periods of work covered by the right-of-way utilization permit, and shall be in a form and issued by an insurance company acceptable to the City.

§153-5.2 Approving authority. The City Engineer shall have the authority to approve or deny applications for right-of-way utilization permits.

§153-5.3 Appeals. Any party claiming to be aggrieved by a decision of the City Engineer may appeal to the City Commission by filing a notice of appeal with the City Engineer within thirty (30) days of the date of the decision by the City Engineer.

§153-5.4 Time limit. The right-of-way utilization permit shall be considered valid for sixty (60) days beginning on the date

of issuance. If work does not commence by the sixtieth (60th) day, the permit shall be considered void and reapplication will be necessary. Work must be completed by the completion date indicated on the application. Work not completed by the completion date will be subject to stop work order, re-application, additional fee or other remedy as may be required by the City Engineer.

§153-5.5 Restoration. No person shall use public streets, rights-of-way, or easements which are owned by or otherwise under the jurisdiction of the City for any purpose for which a right-of-way utilization permit is required by this Article without first obtaining a right-of-way utilization permit therefor. In the event a City street, right-of-way or easement is used and/or construction takes place without a right-of-way utilization permit, upon written notice from the City Engineer, the person shall promptly remove any constructed facility, restore the area to its original condition and cease any nonpermitted use.

§153-5.6 Utilities. Notwithstanding any other provisions of this Code, the City reserves the right to require as a condition for the issuance of a right-of-way utilization permit that utility lines of all kinds to be constructed and installed beneath the surface of the ground; provided that no bulk electric power supply lines, including, but not limited to, transmission lines and primary distribution feeder lines, shall be required to be placed underground unless directed by the City Commission.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any 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 portion hereto.

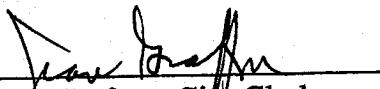
SECTION 5. Codification. It is the intention of the City Commission of the City that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City; and that sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "chapter", "section", "article", or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether

such inclusion in the code is accomplished, sections of this Ordinance may be renumbered or relettered and the correction of typographical errors which do not affect the intent may be authorized by the City Manager, without need of public hearing, by filing a corrected or recodified copy of same with the City Clerk.

SECTION 6. Effective Date. This Ordinance shall become effective immediately upon passage and adoption.

PASSED AND ADOPTED this 20th day of SEPTEMBER 1994.

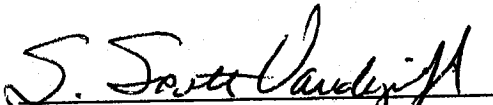
ATTEST:


Jean Grafton, City Clerk

(SEAL)

APPROVED:

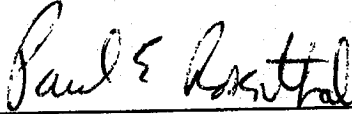
CITY OF OCOEE, FLORIDA


S. Scott Vandergrift, Mayor

ADVERTISED September 4, 1994
READ FIRST TIME August 16, 1994
READ SECOND TIME AND ADOPTED
SEPTEMBER 20, 1994,
UNDER AGENDA ITEM NO. V A.

FOR USE AND RELIANCE ONLY BY
THE CITY OF OCOEE, FLORIDA
APPROVED AS TO FORM AND LEGALITY
this 20th day of September, 1994.

FOLEY & LARDNER

By: 
City Attorney

**A RESOLUTION OF THE CITY OF OCOEE, FLORIDA,
ESTABLISHING RIGHT-OF-WAY UTILIZATION PERMIT
FEES; PROVIDING FOR SEVERABILITY; PROVIDING AN
EFFECTIVE DATE.**

WHEREAS, it is the policy of the City Commission of the City of Ocoee that whenever possible, the costs of permitting shall be incurred by the developer, and not by the taxpayers in general; and

WHEREAS, the City Commission of the City of Ocoee believes the most practical method of defraying the costs of issuance of a permit and performance of the necessary inspections by the City is through a system of fees directly associated with actual and/or historical staff, legal and engineering expenses; and,

WHEREAS, the right-of-way utilization permit fees as set forth below are an accurate method of assessing the costs of issuance of a right-of-way utilization permit and inspections related thereto to ensure payment thereof; and

WHEREAS, Section 153-5 of Article I of Chapter 153 of the Ocoee Code of Ordinances requires the City Commission of the City of Ocoee to adopt by resolution a schedule of fees for the administration of Article I of Chapter 153.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION
OF THE CITY OF OCOEE, FLORIDA, AS FOLLOWS:**

SECTION 1. The City Commission of the City of Ocoee has the authority to adopt this Resolution pursuant to Section 153-5 of Article I of Chapter 153 of the Ocoee Code of Ordinances, Article VIII of the Constitution of the State of Florida and Chapter 166, Florida Statutes.

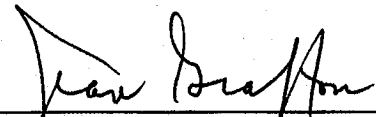
SECTION 2. Right-of-Way Utilization Permit. The City Commission of the City of Ocoee hereby adopts and approves the SCHEDULE OF RIGHT-OF-WAY UTILIZATION PERMIT FEES set forth in Exhibit "A" attached hereto and by this reference made a part hereof.

SECTION 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this Resolution is for any reason held invalid or unconstitutional by any 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 portion hereto.

SECTION 4. Effective Date. This Resolution shall become effective immediately upon passage and adoption.

PASSED AND ADOPTED this 20th day of September, 1994.

ATTEST:




Jean Grafton, City Clerk

(SEAL)

APPROVED:

CITY OF OCOEE, FLORIDA

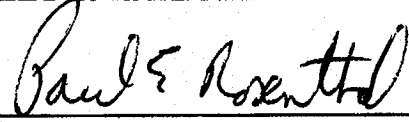


S. Scott Vandergrift, Mayor

APPROVED BY THE CITY OF OCOEE
COMMISSION AT A MEETING
HELD ON September 20, 1994
UNDER AGENDA ITEM NO. VI A

FOR USE AND RELIANCE ONLY BY
THE CITY OF OCOEE, FLORIDA
APPROVED AS TO FORM AND LEGALITY
this 20 day of September, 1994.

FOLEY & LARDNER

By: 

City Attorney

EXHIBIT "A"

TO RESOLUTION NO. 94-_____

**SCHEDULE OF RIGHT-OF-WAY
UTILIZATION PERMIT FEES**

- A. Inspection of utilization of right-of-way:
1. Longitudinal cuts:
 - a. basic fee \$100.00 plus \$5.00 per 100 feet or fraction thereof
 2. Transverse cuts:
 - a. Open cut - paved areas (each cut):
 - cut greater than 50 square feet \$300.00
 - cut 50 square feet or less \$100.00
 - b. Open cut - unpaved areas (each cut) \$100.00
 - c. Bore and jack (each operation) \$200.00
 3. Overhead Utilities:
 - a. Installation of poles (other than repair or maintenance) \$75.00 plus \$2.00 per pole
- B. Inspection of Curb Cuts (driveway):
1. Residential driveway \$50.00
 2. Commercial - first driveway (Fee is waived if site inspection fee is applicable. No fees for curb cut in State of Florida or Orange County right-of-way jurisdiction) \$400.00 per driveway
- C. Construction of roads and other subdivision improvements on public rights-of-way dedicated to the public on recorded plats, the development of which is not governed by current subdivision regulations 2.00% of the total construction cost of ALL committed improvements for which no other permits apply
- D. Miscellaneous inspections for construction on public property 2.00% of the total construction cost for any other construction over, through or upon public property not covered by any other fees

Minimum fee	\$110.00	
E. Landscape Permit for residential street	\$10.00	per 100 feet
F. Reinspections		
1. Any reinspection on same item	\$150.00	

Fees imposed in this Schedule are waived when then permit holder is required to relocate improvements within the right-of-way due to construction or reconstruction of any road by the City and such relocation takes place in conjunction with said construction. Similarly, fees will be waived whenever utilities are placed in the right-of-way during and in conjunction with the construction or reconstruction of any road by the City. All references herein to "right-of-way" refers to the streets, rights-of-way and easements for which a right-of-way utilization permit is required by Article I and Chapter 153 of the Ocoee City Code.