

STATE OF GEORGIA
HENRY COUNTY GEORGIA
CITY OF STOCKBRIDGE

ORDINANCE NO. OR19-496

AN ORDINANCE TO AMEND CHAPTER 5.04 OF THE STOCKBRIDGE MUNICIPAL CODE; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the governing authority of the City of Stockbridge is the Mayor and Council thereof;

WHEREAS, the governing authority of the City of Stockbridge, Georgia desires to adopt a revised ordinance pertaining to streets and sidewalks; and,

WHEREAS, the health, safety, and welfare of the citizens of Stockbridge, Georgia, will be positively impacted by the adoption of this Ordinance.

NOW THEREFORE, THE COUNCIL OF THE CITY OF STOCKBRIDGE HEREBY ORDAINS:

Section 1. That Chapter 5.04 of the Stockbridge Municipal Code is hereby deleted in its entirety and replaced with the provisions attached hereto as Exhibit A.

Section 2. The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 3. (a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this

Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 4. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section 5. Penalties in effect for violations of the City of Stockbridge at the time of the effective date of this Ordinance shall be and are hereby made applicable to this Ordinance and shall remain in full force and effect.

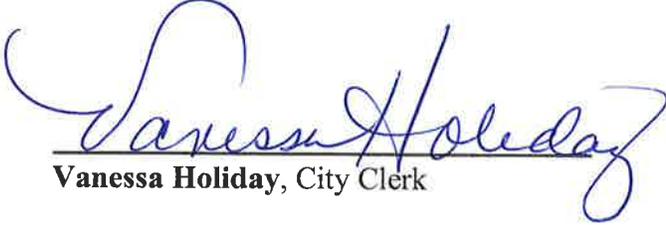
Section 6. The effective date of this Ordinance shall be the date of its enactment.

ORDAINED this 29th day of October, 2019.

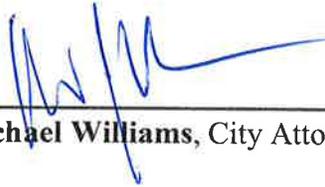
CITY OF STOCKBRIDGE, GEORGIA


Anthony S. Ford, Mayor

ATTEST:


Vanessa Holiday, City Clerk

APPROVED AS TO FORM:


Michael Williams, City Attorney

Date Presented to Mayor: 11-1-2019

Date Received from Mayor: 11-1-2019

EXHIBIT “A”

CHAPTER 5.04 – STREETS AND SIDEWALKS

Article I. – General Provisions

5.04.010 - Fire, heat or pouring injurious substances prohibited on paved streets.

It is unlawful to place any fire or other harmful hot material upon any paved street, or to empty or pour upon the same any gasoline or other substance likely to injure the same.

5.04.020 - Dragging or sliding objects on pavement.

It is unlawful for any person to drag or slide any object upon any of the paved streets of the city.

5.04.030 – Street repairs.

The Department of Public Works shall maintain and repair the streets and sidewalks of the City of Stockbridge as may be needed.

5.04.040 – Sidewalks.

- A. It shall be unlawful for any person to make or cause to be made any improvements in or upon any public street, public alley, public sidewalk or other public place in the city, either by grading, paving, paving foundation, curbing or guttering or otherwise, without the consent of the city through its governing body, upon and after written application by and on the part of such person.
- B. It is unlawful for any person to encroach upon sidewalks with fences or other structures, without special permission from the mayor and council.

5.04.050 - Gates and doors—Swinging across sidewalks prohibited.

It is unlawful for any person to permit any gate or door to be so mounted, or hung, as to swing or slide over, on or across any portion of a sidewalk or street when opened.

5.04.060 - Damages to public roads—Contractor's responsibility.

- A. Prior to an occupancy permit being issued by the building inspector of Stockbridge, the building inspector shall submit a letter of certification to the city manager stating that no damage has been done to the public roads of the city that lie adjacent to the property upon which the construction has occurred due to such construction activity.
- B. If construction activity has resulted in damage to the public roads of the city that are adjacent to the property upon which construction work has occurred, the party seeking the permit shall first pay the actual cost of all damages to the public roads to the city prior to obtaining the permit.
- C. Any contractor whose activity has resulted in damage to streets adjacent to the construction site, who fails or refuses to pay for same, may be prosecuted in the recorder's court of the city.

5.04.070 - Only licensed contractors to construct sidewalks, lower curbs and the like.

Only approved licensed contractors shall be permitted to construct sidewalks or lower curbs and construct driveways, including any and all concrete slabs to be used for automotive parking or servicing, or driveways across sidewalks in the city.

5.04.080 – Damaging sidewalks or curbs.

It shall be unlawful for any person to break, deface or destroy the curbing of any street, or to construct any entrance into property on any of the paved streets, unless the person shall have first obtained a permit in writing to do so from the city.

5.04.090 Skating on sidewalks and streets.

No person shall ride a bicycle or propel roller skates, skateboards or other similar devices on sidewalks which are properly designated for pedestrians only. The public works director, after approval of the mayor and council, is authorized to erect or have erected signs on any sidewalk or roadway prohibiting the riding of bicycles or propelling of roller skates, skateboards or other similar devices. When such signs are in place, no person shall disobey the signs.

5.04.100 - Construction of downspouts which shed water on sidewalks prohibited.

No person shall be permitted to erect any drain, gutter, downspout, valley, flat or sloping roof of any character that will in any manner drain or shed water on any sidewalk of the city.

5.04.110 - Obstructions in streets and sidewalks.

- A. No person shall be allowed or permitted to obstruct any sidewalk or street in the city by putting any box, table, steps, merchandise or any other similar thing thereon or to use the streets and sidewalks for the display of goods, wares or merchandise of any kind unless otherwise provided in the code or as provided in subparagraph D of this code section.
- B. No person shall put any lumber, wood, boxes, bricks or other substances in any street, alley or sidewalk without a permit from the city and the permit shall be issued only if the obstruction is reasonably unavoidable and interference with the use of the street, alley or sidewalk is as limited as is reasonably possible.
- C. Any person who shall cause any obstruction to be placed in any street, alley or sidewalk of the city as permitted in subsection B of this section, shall display at the obstruction, every night the obstruction may so remain, a sufficient danger signal to warn the traveling public of the obstruction and to enable them to avoid injury from the same.
- D. Provisions of federal and state law such as, but not limited to, Americans with Disabilities Act, shall be adhered to and incorporated by reference and any obstruction causing a violation of the ADA shall be immediately removed and not allowed.

5.04.120 – Obstruction of view at entrances to streets.

- A. It shall be unlawful for any land owner, or the tenant of any land owner, to erect any fence or other device that obstructs the clear view of any adjacent land owner from entering or exiting any street in the city.

- B. It shall be unlawful for any land owner, or the tenant of any land owner, to grow or maintain any hedges, shrubbery, tress, etc. that obstructs the clear view of the entrance or exit of any adjacent land owner from entering or exiting any street in the city.

5.04.130 – Property maintenance along city streets.

Property shall be maintained to side and rear property lines and to the curb or edge of pavement. The owner and/or the tenant must also cut between the curb and sidewalk and ten (10) feet from the curb or termination of the edge of the roadway.

5.04.140 - Banners strung across streets.

The city shall not allow any banners to be strung across the streets within the corporate limits.

5.04.150 - Construction of driveways from private property; permit required; exception; procedure.

- A. No person shall construct, establish, open, grade or in any manner, form or use a driveway or other opening from private property into any street, highway or thoroughfare in the city other than driveways to personal residences without first obtaining a permit from the city.
- B. Before the city may issue a permit for a driveway opening into any public street the applicant shall submit a plan thereof to the city. The plan shall show the width of the proposed driveway and the street into which it leads, with all approaches and dimensions thereof. The proposed opening or driveway shall be approved or disapproved by the city pursuant to standards in the city zoning ordinance.
- C. The public works department is directed to close any driveway or other opening constructed, established, opened, graded or used in violation of this section.

5.04.160 - Destroying, injuring or removing shrubbery, trees, flowers or plants.

No person shall destroy, injure or remove any shrubbery, trees, flowers or plants upon the right of way of any street, alley or sidewalk of the city or other city property except city employees or designated citizens performing planting, replanting and maintenance work. Nothing in this section shall be construed to prohibit private property owners from maintaining or beautifying public rights of way immediately adjacent and contiguous to their property unless there exists a designated city park or planned landscape area provided by the city in which case the city or the group or individual shall be responsible for maintenance, as approved by the city.

Article II – Franchises

5.04.170 - Franchises subject to city ordinance provision.

The exercise of the rights, privileges and powers set forth and granted by any franchise shall be subject to all ordinances regulating and controlling the use of streets, avenues, lanes, sidewalks, highways, alleys and other public grounds and places of the city.

5.04.180 - Use of streets by franchise holders—Requirements and restrictions.

Any person having a franchise or permit to use the streets or other public grounds shall not, at any time, by placing materials or making excavations, obstruct any more of the street or grounds than shall be reasonably necessary for the proper carrying on of its work, and shall always as soon as practicable, remove all obstructions from the streets or grounds and place the same in as good condition as they were prior to such work; and in the construction or extension of its work, such person shall follow the established grades of the streets and grounds, which grades will be furnished by the city when requested to do so.

5.04.190 - Material and workmanship regulations—Compliance required.

Any franchise holder, its successors, lessees or assigns, shall, in maintaining and constructing its plants and distribution systems, use only first-class material and workmanship, of their respective kinds, and shall submit, and be subject to, all reasonable police laws, rules and regulations of the city relating to the construction, operation and maintenance of such structures.

5.04.200 - Suit for damages—Reimbursement of city by holder.

Should any final judgment be recovered, after trial upon its merits, in any suit against the city, on account of any injury done to person or damage done to any property, which may have been caused by any alleged defective construction or conditions, or negligent operation by a franchise holder of the structures or appliances, so used in connection with the franchise, or any portion thereof, the city shall be reimbursed on account thereof in the amount of said judgment by said holder, its successors, lessees or assigns, provided the city shall have previously given the holder, its successors, lessees or assigns prompt notice of the claim when made, and of the suit when instituted, and shall have immediately forwarded to it, its successors, lessees or assigns, correct copies of every summons, petition or other process served upon the city. The holder, its successors, lessees and assigns shall have the right, and at its own expense, and without waiving any of its rights, and without such action being construed as an admission of fault or liability, to settle or defend, or participate in the defense of such claims, cases or causes of action.

Article III. Excavations

5.04-210 – Permit required.

- A. No person shall make any excavation, opening or dig any ditch, trench, tunnel or hole in, along, across or under any street, sidewalk or other city property for the purpose of laying or placing therein any pipe, wires, poles or for any other purposes, unless a completed permit application form and plans have been submitted and approved by the city provided, however, that a permit shall not be required where the work is performed under the direction of the public works department, but in the event the work requires a sidewalk or street to be wholly or partially obstructed, the person shall notify the city at least seventy two hours (72) before obstructing the sidewalk or street unless prevented by sudden emergency.
- B. Utility accommodations in rights-of-way.
1. *Adopted.* The current edition of the 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 Documents), promulgated by the State of Georgia Department of Transportation, as may be amended from time to time, is adopted by reference and incorporated in this section as if fully set forth herein, subject to all amendments and modifications contained in this article. A copy of the manual shall be maintained at the offices of the public works director or his designee and the city clerk and open for public inspection.
 2. *Administration.* The public works director shall have the authority to administer the Georgia Department of Transportation's utility accommodation policy and standards, as amended from time to time by the state or city, on city roads in incorporated Stockbridge and in accordance with any procedures the City of Stockbridge Public Works Department may establish thereunder.
 - a. *Fees.* The mayor and council shall be authorized to charge fees in accordance with the Georgia Department of Transportation's utility accommodations policy and standards and any other applicable laws that exist now or may be enacted in the future. Fees shall be determined by the public works director and subject to the approval of and publicly disclosed by the mayor and council. Any fee schedule shall be posted at the offices of the public works director or his designee and the city clerk and open for public inspection.
 - b. *Exemptions to permit and fee requirements.*
 1. New installation of utilities associated with right-of-way in new subdivisions where the maintenance bonds have not been released by the city.
 2. Relocations required due to road improvement projects under the direction of the public works department.
 3. Emergency repairs of damaged utilities. Utility company must notify the city/public works department in writing of nature of emergency and repair measure(s) within seven (7) days of incident.

5.04-220 – Application for a permit.

All persons desiring a permit in order to make an opening in any street or sidewalk, as set forth in this chapter, shall make written application therefor, which application shall show the location of the proposed opening, the purpose therefor and the approximate number of square yards of surface to be cut.

5.04.-230 - Terms and conditions for private use of public right-of-way for the purpose of attaching or burying telecommunication cables, facilities or equipment related to telecommunications.

- A. Any private person, firm or corporation (except those which have proper certification from the Georgia Public Service Commission) which desire to cross the public right-of-way of the City of Stockbridge, may do so only by complying with this code section.
- B. Any such private person, firm or corporation shall apply for a permit through the public works director of the city on a form prescribed by the city, and all information contained therein shall be supplied to the public works director.
- C. The following conditions shall apply to any permit granted by the city:
 - 1. In the event the permit is granted in an area where all utilities are underground or where the mayor and council or city manager has designated all future utilities are to be underground, the permit so granted shall likewise be for underground service.
 - 2. In the event the service requested is in an overhead utility section that thereafter becomes underground, said service shall also be moved underground within thirty (30) days or a reasonable time following notification, at the expense of the applicant.
 - 3. As a condition of the acceptance of the authority of the mayor and council to grant this permit, applicant agrees that the city shall not have any liability to the applicant or any third party for any acts of the city and applicant covenants not to sue the city for any damage whatsoever.
 - 4. The applicant hereby agrees that the location, depth, width and all physical location of the service shall be in accordance with the plans approved by the public works director, including the distance from other service providers or other public utilities. In addition, applicant agrees to restore all pavement to city specifications, restore shrubbery, natural areas and all surrounding areas to their previous existing condition.
 - 5. Applicant agrees that any service installed shall not violate O.C.G.A. § 36-30-10.
 - 6. Applicant shall pay a reasonable fee which shall be set by the mayor and council.
 - 7. As a general rule, no service will be authorized on public right-of-way unless same shall run perpendicular to the public right-of-way and not parallel with the public right-of-way.
- C. No private person, firm or corporation shall encroach upon the right-of-way of the city without first having applied for a permit and obtaining approval from the public works director.

5.04.-240 – City indemnified.

Any person obtaining a permit as provided for in this chapter shall agree, as a condition of the issuance of the permit, to indemnify and hold harmless the city against any claims or expenses, including attorneys' fees, for bodily injury or property damage for accidents or occurrences arising out of the person's operations and the permit shall so provide.

5.04.-250 – Street and sidewalk repair after excavation.

When any part of any street, sidewalk, alley or other property of the city shall be torn or dug up for any purpose, the person making the excavation or opening shall have the duty of refilling the excavation or opening so as to restore it to essentially the same condition that existed prior to the excavation or opening and the refilling shall be done in accordance with the standards and specifications of the city's standards and specifications manual.

5.04.-260 – Leaving excavation unprotected prohibited.

It is unlawful for any person, firm or corporation who obtains a permit under this chapter to do any excavation of any kind which may create or cause a dangerous condition in or near any street, alley, sidewalk or public place of the city without placing and maintaining proper guard rails and signal lights or other warnings at, in or around the same, sufficient to warn the public of the excavation or work, and to protect all persons using reasonable care from injuries.

5.04.-270 – Excavation; supervision and control.

All paving repairs of excavations and work in streets, sidewalks, alleys or public ways of the city shall be under the general supervision and control of the public works director or a designee, whose duty it shall be to inspect from time to time the progress thereof. Upon completion, a final inspection shall be made by the public works director or a designee thereof to insure that the street, sidewalk or public way is restored to a condition as good in all respects as before the excavation or work was made or done, and that all debris, materials, tools and equipment are removed.

5.04.-280 – Underground utilities.

Requirements for the underground placement of utilities on City of Stockbridge's right-of-way and utility service(s) on private property within the corporate limits.

- A. All utility and telecommunication companies installing, relocating or replacing (with the exception of general maintenance, repairs or emergency replacement due to an accident or act of God) utilities on public right-of-way shall place all facilities underground unless approved pursuant to paragraphs E or F.
- B. All utility and telecommunication companies installing utility facilities in new residential, commercial, or industrial subdivision developments within the corporate limits shall place all facilities underground.
- C. All utility companies installing or furnishing new utility service connections to new buildings (structures), or other new facilities on private property shall place all utility facilities underground to the nearest existing power pole on the public right-of-way from the point of service. All utility companies installing or furnishing upgraded utility service connections to existing buildings (structures) or existing facilities on private property may place all utility facilities overhead to the nearest existing power pole on the public right-of-way from the point of service. However, when the existing building (structure) or existing facility is served by

underground utility connections, any new or upgraded utility service connections must be installed underground. When a new or upgraded service is required to accommodate a renovation of an existing building (structure) or existing facility, and when the renovation cost exceeds fifty (50%) percent of the assessed value on file with the Henry County Tax Assessor of the existing structure, all utility facilities must be placed underground to the nearest power pole on the public right-of-way from the point of service. Existing residential structures being remodeled or rehabilitated for continued residential occupancy are exempt from the underground utility ordinance provisions.

- D. All utility companies installing, replacing, or upgrading utility facilities on public right-of-way within the corporate limits shall submit location of lines to the public works department and obtain approval from the public works director prior to commencing installation of the utility facilities. All utility companies installing, replacing or upgrading utility facilities on public rights-of-way within the corporate limits shall place such facilities underground at each company's sole expense. All utility companies relocating existing utility facilities to accommodate a roadway improvement project shall relocate such facilities at each company's sole expense in accordance with the project requirements established by the mayor and council.
- E. All appeals or variances to the requirement of placing utilities underground shall be made to the public works department in writing for presentation to and consideration by the mayor and council.
- F. The provisions of this section may be waived by the city in the event of an emergency.

5.04.-290 - Construction in public right-of-way shall comply with Americans With Disabilities Act.

No person, entity or contractor shall construct, establish, open, grade, alter or change in any manner, form or use any property located within the public right-of-way, owned or maintained by any governmental agency, within the City of Stockbridge without complying with the Americans With Disabilities Act, as currently or hereafter amended. Any such work which does not comply with said Act shall be redone at the owner's expense, irrespective of whether such work has been approved by the city. All plans submitted to the city for review shall contain a certificate that said plans and requested permit fully comply with the Americans With Disabilities Act, as amended. The city will rely upon such certificate in issuing any permits or approving any plans.

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The exercise of the rights, privileges and powers set forth and granted by any franchise shall be subject to all ordinances regulating and controlling the use of streets, avenues, lanes, sidewalks, highways, alleys and other public grounds and places of the city.

5.04.180 - Use of streets by franchise holders—Requirements and restrictions.

Any person having a franchise or permit to use the streets or other public grounds shall not, at any time, by placing materials or making excavations, obstruct any more of the street or grounds than shall be reasonably necessary for the proper carrying on of its work, and shall always as soon as practicable, remove all obstructions from the streets or grounds and place the same in as good condition as they were prior to such work; and in the construction or extension of its work, such person shall follow the established grades of the streets and grounds, which grades will be furnished by the city when requested to do so.

5.04.190 - Material and workmanship regulations—Compliance required.

Any franchise holder, its successors, lessees or assigns, shall, in maintaining and constructing its plants and distribution systems, use only first-class material and workmanship, of their respective kinds, and shall submit, and be subject to, all reasonable police laws, rules and regulations of the city relating to the construction, operation and maintenance of such structures.

5.04.200 - Suit for damages—Reimbursement of city by holder.

Should any final judgment be recovered, after trial upon its merits, in any suit against the city, on account of any injury done to person or damage done to any property, which may have been caused by any alleged defective construction or conditions, or negligent operation by a franchise holder of the structures or appliances, so used in connection with the franchise, or any portion thereof, the city shall be reimbursed on account thereof in the amount of said judgment by said holder, its successors, lessees or assigns, provided the city shall have previously given the holder, its successors, lessees or assigns prompt notice of the claim when made, and of the suit when instituted, and shall have immediately forwarded to it, its successors, lessees or assigns, correct copies of every summons, petition or other process served upon the city. The holder, its successors, lessees and assigns shall have the right, and at its own expense, and without waiving any of its rights, and without such action being construed as an admission of fault or liability, to settle or defend, or participate in the defense of such claims, cases or causes of action.

Article III. Excavations

5.04-210 – Permit required.

- A. No person shall make any excavation, opening or dig any ditch, trench, tunnel or hole in, along, across or under any street, sidewalk or other city property for the purpose of laying or placing therein any pipe, wires, poles or for any other purposes, unless a completed permit application form and plans have been submitted and approved by the city provided, however, that a permit shall not be required where the work is performed under the direction of the public works department, but in the event the work requires a sidewalk or street to be wholly or partially obstructed, the person shall notify the city at least seventy two hours (72) before obstructing the sidewalk or street unless prevented by sudden emergency.
- B. Utility accommodations in rights-of-way.
1. *Adopted.* The current edition of the 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 Documents), promulgated by the State of Georgia Department of Transportation, as may be amended from time to time, is adopted by reference and incorporated in this section as if fully set forth herein, subject to all amendments and modifications contained in this article. A copy of the manual shall be maintained at the offices of the public works director or his designee and the city clerk and open for public inspection.
 2. *Administration.* The public works director shall have the authority to administer the Georgia Department of Transportation's utility accommodation policy and standards, as amended from time to time by the state or city, on city roads in incorporated

Stockbridge and in accordance with any procedures the City of Stockbridge Public Works Department may establish thereunder.

- a. *Fees.* The mayor and council shall be authorized to charge fees in accordance with the Georgia Department of Transportation's utility accommodations policy and standards and any other applicable laws that exist now or may be enacted in the future. Fees shall be determined by the public works director and subject to the approval of and publicly disclosed by the mayor and council. Any fee schedule shall be posted at the offices of the public works director or his designee and the city clerk and open for public inspection.
- b. *Exemptions to permit and fee requirements.*
 1. New installation of utilities associated with right-of-way in new subdivisions where the maintenance bonds have not been released by the city.
 2. Relocations required due to road improvement projects under the direction of the public works department.
 3. Emergency repairs of damaged utilities. Utility company must notify the city/public works department in writing of nature of emergency and repair measure(s) within seven (7) days of incident.

5.04-220 – Application for a permit.

All persons desiring a permit in order to make an opening in any street or sidewalk, as set forth in this chapter, shall make written application therefor, which application shall show the location of the proposed opening, the purpose therefor and the approximate number of square yards of surface to be cut.

5.04.-230 - Terms and conditions for private use of public right-of-way for the purpose of attaching or burying telecommunication cables, facilities or equipment related to telecommunications.

- A. Any private person, firm or corporation (except those which have proper certification from the Georgia Public Service Commission) which desire to cross the public right-of-way of the City of Stockbridge, may do so only by complying with this code section.
- B. Any such private person, firm or corporation shall apply for a permit through the public works director of the city on a form prescribed by the city, and all information contained therein shall be supplied to the public works director.
- C. The following conditions shall apply to any permit granted by the city:
 1. In the event the permit is granted in an area where all utilities are underground or where the mayor and council or city manager has designated all future utilities are to be underground, the permit so granted shall likewise be for underground service.
 2. In the event the service requested is in an overhead utility section that thereafter becomes underground, said service shall also be moved underground within thirty (30) days or a reasonable time following notification, at the expense of the applicant.

3. As a condition of the acceptance of the authority of the mayor and council to grant this permit, applicant agrees that the city shall not have any liability to the applicant or any third party for any acts of the city and applicant covenants not to sue the city for any damage whatsoever.
 4. The applicant hereby agrees that the location, depth, width and all physical location of the service shall be in accordance with the plans approved by the public works director, including the distance from other service providers or other public utilities. In addition, applicant agrees to restore all pavement to city specifications, restore shrubbery, natural areas and all surrounding areas to their previous existing condition.
 5. Applicant agrees that any service installed shall not violate O.C.G.A. § 36-30-10.
 6. Applicant shall pay a reasonable fee which shall be set by the mayor and council.
 7. As a general rule, no service will be authorized on public right-of-way unless same shall run perpendicular to the public right-of-way and not parallel with the public right-of-way.
- C. No private person, firm or corporation shall encroach upon the right-of-way of the city without first having applied for a permit and obtaining approval from the public works director.

5.04.-240 – City indemnified.

Any person obtaining a permit as provided for in this chapter shall agree, as a condition of the issuance of the permit, to indemnify and hold harmless the city against any claims or expenses, including attorneys' fees, for bodily injury or property damage for accidents or occurrences arising out of the person's operations and the permit shall so provide.

5.04.-250 – Street and sidewalk repair after excavation.

When any part of any street, sidewalk, alley or other property of the city shall be torn or dug up for any purpose, the person making the excavation or opening shall have the duty of refilling the excavation or opening so as to restore it to essentially the same condition that existed prior to the excavation or opening and the refilling shall be done in accordance with the standards and specifications of the city's standards and specifications manual.

5.04.-260 – Leaving excavation unprotected prohibited.

It is unlawful for any person, firm or corporation who obtains a permit under this chapter to do any excavation of any kind which may create or cause a dangerous condition in or near any street, alley, sidewalk or public place of the city without placing and maintaining proper guard rails and signal lights or other warnings at, in or around the same, sufficient to warn the public of the excavation or work, and to protect all persons using reasonable care from injuries.

5.04.-270 – Excavation; supervision and control.

All paving repairs of excavations and work in streets, sidewalks, alleys or public ways of the city shall be under the general supervision and control of the public works director or a designee, whose duty it shall be to inspect from time to time the progress thereof. Upon completion, a final inspection shall be made by the public works director or a designee thereof to insure that the street, sidewalk or public way is

restored to a condition as good in all respects as before the excavation or work was made or done, and that all debris, materials, tools and equipment are removed.

5.04.-280 – Underground utilities.

Requirements for the underground placement of utilities on City of Stockbridge's right-of-way and utility service(s) on private property within the corporate limits.

- A. All utility and telecommunication companies installing, relocating or replacing (with the exception of general maintenance, repairs or emergency replacement due to an accident or act of God) utilities on public right-of-way shall place all facilities underground unless approved pursuant to paragraphs E or F.
- B. All utility and telecommunication companies installing utility facilities in new residential, commercial, or industrial subdivision developments within the corporate limits shall place all facilities underground.
- C. All utility companies installing or furnishing new utility service connections to new buildings (structures), or other new facilities on private property shall place all utility facilities underground to the nearest existing power pole on the public right-of-way from the point of service. All utility companies installing or furnishing upgraded utility service connections to existing buildings (structures) or existing facilities on private property may place all utility facilities overhead to the nearest existing power pole on the public right-of-way from the point of service. However, when the existing building (structure) or existing facility is served by underground utility connections, any new or upgraded utility service connections must be installed underground. When a new or upgraded service is required to accommodate a renovation of an existing building (structure) or existing facility, and when the renovation cost exceeds fifty (50%) percent of the assessed value on file with the Henry County Tax Assessor of the existing structure, all utility facilities must be placed underground to the nearest power pole on the public right-of-way from the point of service. Existing residential structures being remodeled or rehabilitated for continued residential occupancy are exempt from the underground utility ordinance provisions.
- D. All utility companies installing, replacing, or upgrading utility facilities on public right-of-way within the corporate limits shall submit location of lines to the public works department and obtain approval from the public works director prior to commencing installation of the utility facilities. All utility companies installing, replacing or upgrading utility facilities on public rights-of-way within the corporate limits shall place such facilities underground at each company's sole expense. All utility companies relocating existing utility facilities to accommodate a roadway improvement project shall relocate such facilities at each company's sole expense in accordance with the project requirements established by the mayor and council.
- E. All appeals or variances to the requirement of placing utilities underground shall be made to the public works department in writing for presentation to and consideration by the mayor and council.
- F. The provisions of this section may be waived by the city in the event of an emergency.

5.04.-290 - Construction in public right-of-way shall comply with Americans With Disabilities Act.

No person, entity or contractor shall construct, establish, open, grade, alter or change in any manner, form or use any property located within the public right-of-way, owned or maintained by any governmental agency, within the City of Stockbridge without complying with the Americans With Disabilities Act, as currently or hereafter amended. Any such work which does not comply with said Act shall be redone at the owner's expense, irrespective of whether such work has been approved by the city. All plans submitted to the city for review shall contain a certificate that said plans and requested permit fully comply with the Americans With Disabilities Act, as amended. The city will rely upon such certificate in issuing any permits or approving any plans.