

THE DICKSON COUNTY
RIGHT OF WAY
ACCESS POLICY

The Official Dickson County Right of Way Access Policy

Section 1. Applicability. These regulations pertain to all utilities, whether public or private. Utilities encompass a wide range of underground and overhead systems used for various purposes, including communications, electricity, gas, petroleum, hazardous liquids, water, steam, sewerage, and related facilities and appliances. The regulations apply to all individuals, entities, and organizations performing work on any public road or road right-of-way maintained by the County of Dickson, Tennessee (collectively referred to herein as "County ROW"). This includes but is not limited to individuals, utility districts, authorities, governmental entities, and companies. These individuals and entities are also referred to as the "Applicant." Unless exceptions are explicitly provided elsewhere, these regulations cover the installation, maintenance, and removal of utilities within the County ROW.

Section 2. Removal or Relocation of Applicant's Utilities in County Right of Way. From time to time, the CAO may elect, or be required, to make certain repairs, improvements, expansions, or modifications to County ROW (collectively "ROW Modifications") that may impact utilities placed within County ROW. If the CAO determines that ROW Modifications are necessary or appropriate, the CAO may direct utilities or improvements within the County ROW to be removed or relocated by the Applicant within thirty (30) days. Any permit issued by the Highway Department allowing utilities or other improvements to be placed or constructed within County ROW includes, as a condition to the issuance of such permit, an acknowledgment and agreement by the Applicant that: (a) the Applicant will remove or relocate utilities or other improvements placed or constructed by the Applicant in the County ROW promptly upon receipt of a written request to do so by the CAO, and (b) if the utilities or improvements are not timely removed or relocated by the Applicant as directed by the CAO (i) the Highway Department may remove or relocate the utilities or improvements, and (ii) the Applicant shall reimburse the Highway Department for any costs incurred by the County in removing or relocating the utilities or improvements. Any work performed to remove or relocate utilities or improvements shall be done in a workmanlike manner and shall comply with all applicable laws, rules, regulations, and directives of the CAO. In receiving a permit to perform work with the County ROW, Applicants are not granted any right, title, or claim to any County ROW, and any permissions granted by the issuance of a permit are nonexclusive.

Section 3. Permit and Application Requirements, Conditions, and Compliance. Individuals or entities seeking to perform work on any County ROW must apply to the Dickson County Highway Department (the "Highway Department") in a form and substance designated by the Highway Department, which shall include, at a minimum, the following information:

1. Nature and purpose of the work;
2. Dates and locations of the work;

3. Estimated dates for commencing and completing the work; and
4. Contact information for the person supervising the work for the performing party.

For more complex projects, construction plans may be required to be submitted along with, and as a part of, the permit application. The Chief Administrative Officer of the Highway Department (the “CAO”) has the authority to establish special conditions in issuing any permit, with the goal being to protect County property, roads, and rights-of-way and to ensure public safety. Compliance with any special conditions established by the CAO is required, and any failure to do so may result in a termination of the permit by the CAO, after which the CAO may require the Applicant to remove utilities installed and repair any damage or disturbance to the County ROW. In addition to any special conditions established by the CAO as to any permit, all Applicants must adhere to all other relevant laws, rules, regulations, permits, resolutions, and ordinances. Dickson County does not accept responsibility for damage to utilities or improvements that are not installed or maintained per the provisions and conditions of the permit issued to the Applicant and these regulations.

Section 4. Fees. Applicants are required to submit a permit fee of \$100.00 with each application. This fee is intended to defray the administrative and personnel costs incurred by the County in administering and enforcing these regulations. Aside from the non-refundable permit fee, certain projects require additional engineering oversight and inspection. The Applicant will be responsible for reimbursing the County for actual expenses incurred by the County for engineering services for specific projects. The CAO shall notify the Applicant in advance of the necessity of outside engineering requirements before issuance of the Official Notification for Easement Access Letter issued by the County Mayor’s Office.

Section 5. Technical Specifications. All activities related to utility installations, maintenance, and removals in the County ROW must adhere to any technical specifications established or followed by the Highway Department in constructing and maintaining the County ROW. Any subsequent technical specifications adopted by the County legislative body or the Highway Department must also be followed by Applicants in performing work or maintaining utilities within County ROW.

Section 6. Licensing. According to the laws and regulations of the State of Tennessee, individuals or entities engaged in performing construction work must possess certain licenses when the value or cost of the contracted work equals or exceeds certain amounts. The CAO may require proof of licensure by Applicants as a condition to the issuance of any permit. Each Applicant is responsible for ensuring compliance with all laws, rules, and regulations related to licensure when performing work in County ROW under a permit issued by the Highway Department.

Section 7. Liability Insurance. As a condition of the issuance of a permit for work within the County ROW, non-governmental Applicants shall provide proof of commercial general liability insurance (occurrence coverage) for not less than One Million Dollars (\$1,000,000.00) per

occurrence and Two Million Dollars (\$2,000,000.00) aggregate, with a company licensed to do business in Tennessee and reasonably acceptable to the Highway Department, naming Dickson County as an additional insured, providing contractual liability coverage, and containing an undertaking by the insurer to provide written notice to the Highway Department at least thirty (30) days before any amendment, lapse, expiration, or cancellation of such policy. The Applicant shall furnish the Highway Department certificates of insurance evidencing the required commercial general liability insurance coverage before commencing any work under a permit issued by the Highway Department for work within the County ROW.

Section 8. Permit Issuance, Time of Validity, and Notification Procedures. In non-emergency situations, the CAO has the authority to refuse or delay the approval of a permit request if granting the permit would significantly disrupt the Highway Department's work or cause substantial inconvenience to the public. However, it is essential to note that the CAO's approval should not be unreasonably withheld. Any permit issued by the Highway Department shall be deemed to have lapsed or terminated if the work specified in the application does not commence or end within the number of days specified on the Official Notification for Easement Access Letter. A permit may be denied, suspended, or revoked by the CAO if it is determined that the issuance or continuance of the permit will violate applicable laws, rules, regulations, resolutions, or ordinances or damage to the County ROW. Any denial, suspension, or revocation of a permit by the CAO shall be reported by the CAO to the County Mayor and County Attorney. Failure to obtain a permit, abandoning a project, performing work inconsistent with the plans submitted with the application, or obtaining a permit under emergency circumstances when no emergency existed may also serve as grounds for denying future permit requests. Individuals or entities are exempt from the standard application and permitting requirements outlined in these regulations in emergencies. An "emergency" is defined as a situation with imminent danger to life, health, or property, and there is a substantial likelihood that loss of life, health, or property will occur before the standard permitting procedures can be fully followed. In emergency situations, individuals or entities must promptly notify the CAO in writing or by telephone within two (2) hours of determining that work is necessary within County ROW due to an emergency. If the notification is made by telephone, the agent making the call must record specific details, including the date and time of the call, the nature and purpose of the work, the work's location, estimated start and end times, and the contact information of the company or party performing the work. These details will be documented on a standard permit request form and submitted to the CAO before the next business day.

Section 9. Obligations, Inspections, and Procedures for Repairing and Maintaining County Right of Way. Applicants conducting work in the County ROW are responsible for replacing or repairing any part of the County ROW that may be disturbed or damaged due to their work. This includes the repair of pavement, shoulders, bridges, culverts, and other components of the County ROW. Notification to the CAO by the Applicant is required before backfilling or bedding any utility. Work concealed or covered in violation of regulations or directives from the CAO must be uncovered by the Applicant for County inspection upon

request, and any necessary rework must be completed at the Applicant's expense at no cost to the County. The CAO may conduct inspections both before work begins and after its completion. In cases of extensive construction or work within the County ROW, the CAO may mandate inspection by an engineering firm approved by the County, with the costs to be borne by the Applicant. Applicants are also responsible for reimbursing the County for expenses such as testing, inspections, attorneys' fees, professional fees, and other costs resulting from substandard work within 90 days of receiving an invoice from the Highway Department. If the CAO determines that the County ROW has been damaged and not properly repaired, it will assess the necessary work to restore it to its original condition and notify the Applicant of these deficiencies in writing. The CAO may choose to take action to repair the damage or allow the Applicant to undertake the repairs itself. If the CAO opts for the Applicant to make the repairs, these repairs must be completed to the CAO's satisfaction within 30 days of receiving the Notice of Deficiency. If repairs are not completed satisfactorily within 30 days, the CAO will initiate further action to repair the damage at the Applicant's cost.

Section 10. Responsibilities of Person Performing Work in the County Right of Way. Applicants conducting work within the County ROW are responsible for any damages that result from their negligence. This includes damages related to road conditions, personal injuries, property damage, or any other harm caused by their actions. It applies to the Applicant and anyone acting on the Applicant's behalf during the work. Applicants must provide proper signage, flaggers, barricades, flashing lights, or other methods to warn the public about hazards such as open trenches, obstructions, or other impediments to travel. The signage must conform to the most current edition of the Manual on Uniform Traffic Control Devices. Applicants must ensure that all traveled ways are clear of obstructions and equipment unrelated to the project or operation. Applicants responsible for above-ground utilities, including location signage, must ensure adequate weed and brush control within a ten-foot radius of these utilities. This control is necessary to maintain clear visibility of the utilities. Dickson County does not assume any responsibility for damage to utilities that are improperly located, signed, or maintained for visibility. This means that the responsibility for the proper placement and maintenance of these utilities' rests with the Applicant, and any associated damage or issues are the Applicant's responsibility to address. The inspection or control exercised by the CAO does not absolve the Applicant of its duty or responsibility to the general public. It also does not relieve the Applicant of any liability for loss, damage, or injury to persons or adjacent properties. In addition to complying with the regulations set forth herein, Applicants shall comply with all applicable subdivision and stormwater regulations.

Section 11. Methods of Conflict Resolution and Compliance with Additional Tennessee Code Statutes. Applicants shall be responsible for any conflicts with other utilities or appurtenances on the County ROW, notify the respective owner(s) of any conflicts, and secure the owner's permission for any alterations. The County may seek an injunction against any party violating these regulations. The CAO may issue a stop work order if work is being performed violating these regulations. Any person violating these regulations may also be

subject to a fine of up to five hundred dollars (\$500) per violation, according to Tennessee Code Annotated §5-1-121. A "violation" is defined as each day a person is in non-compliance with these regulations. In the event of extraordinary circumstances, the CAO may modify the provisions of these regulations to address the same. The burden of proving extraordinary circumstances rests with the individual seeking relief and shall be determined by the CAO. Monetary hardship shall not constitute extraordinary circumstances. Any such approval of a variance from these regulations and any modified conditions or specifications issued by the CAO shall be in writing. By applying for a permit allowing for open trenching, and as a condition to the issuance of a permit, the applicant is certifying to the CAO that the applicant is, and will be, in compliance with the Competitive Cable and Video Services Act, Tennessee Code Annotated §7-59-310 (the "Cable Act") to include the applicant providing at least fifteen (15) days' notice, or any greater notice required by the Cable Act, before the initiation of any work in the County ROW to all providers of cable or video services within the County. The notice shall include the particular dates the trenches will be available for cable or video service providers to install conduit, pedestals or vaults, and laterals. This requirement shall be limited to new construction or property development in which utilities will be laid in the County ROW.

Section 13. Effective Date. This Policy shall be effective as of March 25, 2024. Acknowledgement of receipt of a copy of these regulations shall be part of the permit request.

**Permit Application to Work
within the County Right-Of-Way**

DICKSON COUNTY HIGHWAY DEPARTMENT
Mr. Jackie Hodges, County Highway Superintendent (CAO)

* Applicant shall remit a permit fee in the amount of \$100.00 along with the permit request. *

1. Date and Time of Permit Request: _____

2. *Applicant:*

Name: _____

Address: _____

Email: _____

Phone: _____

3. *Applicant seeks permission to install, maintain, and/or remove the following described utilities within the County right-of-way:*

4. *At the Following Described Location:*

GPS Location:

Log Miles (beginning/ending):

5. *Type of work to be performed:*

6. *Expected starting date:* _____

7. *Expected completion date:* _____

8. *Contractor, Subcontractor, or Party to Perform Work:*

Name: _____

Address: _____

Email: _____

Phone Number: _____

9. Is this an emergency? _____ If yes, why?

10. IF EMERGENCY TELEPHONE CALL MADE:

A) Date and Time of Emergency Call: _____

B) Name of Agent of the applicant who made Call: _____

***IF AN EMERGENCY CALL IS MADE, THE REGULATIONS GOVERNING THE USE OF THE COUNTY RIGHT-OF-WAY STILL REQUIRE THAT CERTAIN INFORMATION BE PROVIDED TO THE CHIEF ADMINISTRATIVE OFFICER USING THE PERMIT REQUEST FORM BY THE NEXT BUSINESS DAY.**

Please select one of the following options:

_____ Option #1: Applicant is to deliver collateral in the form of a _____ (ex. surety bond, letter of credit, cashier's check, etc.) to the Chief Administrative Officer of the Highway Department to guarantee that applicant's work within the right-of-way is done per the construction plan, applicable regulations, and any special conditions specified herein. The collateral is to be in the amount of \$_____. The Chief Administrative Officer will inform the applicant in writing of any other requirements or conditions related to the collateral.

OR

_____ Option #2: Applicant is not required to post collateral.

The Department of Commerce and Insurance of the State of Tennessee (the "Department") requires that all persons contracting to perform construction work within the state be qualified and licensed by the department if the work is equal to or above \$25,000.

- a. Has the applicant supplied the Chief Administrative Officer with proof of a valid contractor's license? ___ Yes ___ No ___ N.A.
- b. As a condition of obtaining a permit, applicants must provide proof of liability insurance with a minimum policy in the amount of \$_____.
- c. Has the applicant supplied sufficient proof of required liability insurance? ___ Yes ___ No

According to the Competitive Cable and Video Services Act, Tennessee Code Annotated Section 7-59-310, as a condition of the issuance of a permit allowing for open trenching, the applicant shall provide at least fifteen (15) days' notice before the initiation of any work in the County right-of-way to

all providers of cable or video services within the County. The notice shall include the dates on which the trenches will be available for cable or video service providers to install conduits, pedestals or vaults, and laterals. This requirement is limited to new construction or property development in which utilities will be laid in the County right-of-way.

- a. Has the applicant provided the required notice? ___ Yes ___ No ___ N.A.

**If yes, the applicant shall provide a copy of the notice sent to providers.*

Applicant, in applying for this permit, agrees to the following:

- 1. Applicant agrees to perform all work per the attached construction plans, the Dickson County Right of Way Access Policy, and any special conditions set forth herein.

Special Conditions:

In the case of extraordinary circumstances, whereby the Chief Administrative Officer modifies any provisions of the regulations to address such circumstances, any such approval of a variance from these regulations and any modified conditions or specifications issued by the Chief Administrative Officer shall be in writing and incorporated as part of this permit request.

- 2. Applicant, before commencing any work and if required to do so by the CAO, shall submit to the Chief Administrative Officer of the County Highway Department detailed construction plans showing the location, type, and scope of all work to be done so that the Chief Administrative Officer may review and approve the proposed work. No work other than that specifically described in the construction plans and approved by the Chief Administrative Officer is authorized.
- 3. Applicant shall be responsible for road damages, personal injury, property damages, or any other damages caused by any negligence on its part, including but not limited to the improper placing of or failure to display construction signs, danger signs, and other required signage and will bear any expense proximately caused by its operation on the right-of-way. This applies whether the applicant or someone acting on the applicant's behalf performs the work.
- 4. The applicant shall pay the salary and expenses of any inspector(s) that the Chief Administrative Officer may see fit to place upon the work site while such inspector(s) are assigned to the work site. Before incurring any expenses expected to be charged to the applicant, the Chief Administrative Officer shall advise the applicant in writing.

5. Applicant shall replace or repair any portion of the pavement, shoulders, bridges, culverts, or any other part of the County right-of-way that may be disturbed or damaged due to its work performed in the right-of-way. Replacement and repairs shall be made per the Dickson County Right of Way Access Policy and any additional instructions issued by the Chief Administrative Officer. If the replacement or repairs made by the applicant are not satisfactory to the Chief Administrative Officer, such deficiencies shall be remedied per the Dickson County Right of Way Access Policy.
6. If work is abandoned for any time past the permit's expiration, the Chief Administrative Officer shall be authorized to execute the settlement of the collateral in his sole discretion. The proceeds from such execution shall be used to finish the project and to pay all other reasonable costs associated with the project. Any leftover proceeds will be returned to the applicant.
7. If, at any future time, it should become necessary in the maintenance, construction, or reconstruction of said highway to have the applicant's utilities removed so that said highway might be properly maintained, constructed, or reconstructed or in the event said utilities should, at any time, interfere with the use of said highway, the applicant agrees upon being requested to do so by the Chief Administrative Officer to remove said utilities as promptly as the magnitude of the work to be accomplished will permit, at its own expense and without cost to the County Highway Department, unless any requested removal should be contrary to any law of the State of Tennessee..
8. Applicant shall be responsible for any conflicts with other utilities or appurtenances on the County highway right-of-way, notify the respective owner(s) of any conflicts, and secure the owner's permission for any alterations.
9. Applicant agrees to indemnify and hold harmless the County as well as its employees, officers and agents from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the applicant, its employees, its contractors, or any person acting for or on its or their behalf in the performance of the work related to this permit. Applicant further agrees it shall be liable for the reasonable cost of attorneys for the County Highway Department if such services are necessitated to enforce the terms of this permit or otherwise enforce the applicant's obligations to the County Highway Department. In the event of any such suit or claim, the applicant shall give the County Highway Department immediate notice and provide all assistance required by the County Highway Department in the County Highway Department's defense. The County Highway Department shall give the applicant written notice of any such claim or suit, and the applicant shall have full right and obligation to conduct the applicant's defense thereof. Nothing contained herein shall be deemed to accord to the applicant, through its attorney(s), the right to represent the County Highway Department in any legal matter.

10. The Dickson County Highway Department does not grant the applicant any right, title, or claim on any highway right-of-way, and granting this permission to go upon the right-of-way does not, in any way, assume the maintenance of the applicant's facility.

11. The permit shall become void if work is not commenced within thirty (30) days from the date of the permit request.

The requesting party (applicant), by the undersigned agent, agrees to comply with the Dickson County regulations, a copy of which I have received, in carrying out the work proposed above.

Signature of Agent and Date

*** FOR OFFICE USE ONLY ***

If Approved:

Permit Number Assigned: _____

Associated Conditions of Approval:

If Rejected: *Reason for Rejection:*

Signature & Date of Dickson County Permit Issuer: _____