

**AN ORDINANCE AMENDING AND RE-ORDAINING SECTIONS 32-59 (APPLICATION FOR PERMIT; APPLICANT'S BOND) AND 32-61 (SCHEDULE OF FEES AND CHARGES) OF ARTICLE II (RIGHT-OF-WAY PERMIT) OF CHAPTER 32 (STREETS, SIDEWALKS AND LOCAL IMPROVEMENTS) OF THE CODE OF THE CITY OF PORTSMOUTH, VIRGINIA FOR THE PURPOSE OF REVISING THE BONDING AND RIGHT-OF-WAY PERMITTING STRUCTURE FOR UTILITY PROVIDERS.**

**BE IT ORDAINED** by the Council of the City of Portsmouth, Virginia:

1. That Section 32-59 of Article II of Chapter 32 of the Code of the City of Portsmouth, Virginia (2006) be amended and reordained by modifying subsections (b) and (c) as shown below. Except as expressly shown below, Section 32-59 is not otherwise modified.

**Sec. 32-59. – Application for permit; applicant's bond.**

...

- (b) Any ~~corporation~~ entity which is subject to the jurisdiction of the state corporation commission and which furnishes utility services within the city, or any entity which has entered into a franchise agreement with the city for use of the right-of-way, shall be required to obtain a permit by making application therefor to the city engineer on a form prescribed by him, which form shall state:
  - (1) The type, amount and dimensions of the work to be performed;
  - (2) The place where such work is to be performed;
  - (3) The purpose of such work;
  - (4) The time at which the work was commenced and the time in which the work is to be completed;
  - (5) That such ~~corporation~~ entity agrees to indemnify, save and hold the city free and harmless from liability accruing or growing out of the work performed and to defend the city against any claim occasioned by the work performed; and
  - (6) Such other information as is required by the city engineer.
- (c) The applicant shall sign the application and accompany the same with a bond in a form and of a type approved by the city attorney in the penal amount provided below payable to the city and conditioned upon the applicant's compliance with this article and the conditions and agreements of ~~his~~ their application and ~~conditioned further securing the applicant's obligation~~ to save harmless the city from any loss or damage by reason of any injury to any person or property occasioned by the negligence of the applicant, ~~his~~ their servants, agents, employees, subcontractors or any independent contractors hired by ~~him~~ them or occasioned by the failure of the same to comply with this article or the conditions

and agreements of the application. The bond shall contain a further provision that, upon demand by the city, the applicant shall be required to defend, pay the cost of defense, and furnish attorney for the defense of, any claim made against the city which may be based upon any injury to any person or property occasioned by the negligence of the applicant, ~~his~~ their servants, agents, employees, subcontractors or any independent contractors hired by applicant or occasioned by the failure of the same to comply with this article or the conditions and agreements of the application. The amount of the bond shall be \$5,000.00 or the stated value of the work, whichever is greater; except that ~~a corporation~~ an entity covered by the provisions of subsection (b) of this section shall annually on or before the first working day in January post a bond in the amount of ~~\$100,000.00~~ \$250,000.00 which shall cover any work performed by or on behalf of the ~~contractor~~ entity during the year. The city engineer may reduce the bond if he determines that the potential impact on the right-of-way is minimal.

2. That Section 32-61 of Article II of Chapter 32 of the Code of the City of Portsmouth, Virginia (2006) be amended and reordained by adding a new subsection (g) as shown below. Except as expressly shown below, Section 32-61 is not otherwise modified.

**Sec. 32-61. - Schedule of fees and charges.**

...

(g) Franchise utilities. For permits issued under this article for land disturbance work in the right-of-way to an entity which is subject to the jurisdiction of the state corporation commission and which furnishes utility services in the city, or to an entity which has entered into a franchise agreement with the city for use of the right-of-way, the permit fee (inclusive of all inspection, reinspection, lane closure, or other charges imposed by any other provision of this section) shall be an amount equal to 1% of the total cost of construction as provided in the project engineer's cost estimate.

3. That this ordinance shall take effect on the date of adoption.

**ADOPTED** by the Council of the City of Portsmouth, Virginia, at a meeting held on December 12, 2023.

Teste:

City Clerk