

ORDINANCE NO. 2017-0926-1

AN ORDINANCE APPROVING THE BUDGET FOR FISCAL YEAR BEGINNING OCTOBER 1, 2017 AND ENDING SEPTEMBER 30, 2018, AND MAKING APPROPRIATIONS FOR EACH DEPARTMENT, PROJECT, ACCOUNT, AND DEBT AND DECLARING AN EMERGENCY.

WHEREAS, the City Manager of the City of Littlefield, Texas submitted a budget proposal and explanatory budget message to the city council in compliance with the City Charter; and

WHEREAS, said budget proposal set forth estimated revenues and expenditures and made the detailed classification as required by the Charter of the City of Littlefield, Texas; and

WHEREAS, after full and final consideration, a majority of the members of the city council being present and voting, are of the opinion that the budget should be approved and adopted:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LITTLEFIELD, TEXAS

SECTION ONE:

That the budget for the fiscal year beginning October 1, 2017 and ending September 30, 2018, as filed and submitted by the City Manager is hereby approved.

SECTION TWO:

That there is hereby appropriated from the funds indicated in such budget and for such purposes respectively, the total amount of the estimated costs of the projects, operations, activities, purchases, and other expenditures proposed for each department as contained in the filed budget proposal heretofore submitted by the City Manager and approved by this council, a true and correct copy of which is attached hereto incorporated herein, and made a part hereof for all intents and purposes.

SECTION THREE:

That there is hereby appropriated from the funds indicated in such budget and for such purposes respectively, the total amount of the estimated costs of the debt payments as contained in the filed budget proposal heretofore submitted by the City Manager and approved by this council, a true and correct copy of which is attached hereto incorporated herein, and made a part hereof for all intents and purposes.

PASSED, APPROVED, AND ADOPTED this the 26th day of September, 2017.

APPROVED:



Eric Turpen, Mayor

ATTEST:



City Secretary

ORDINANCE NO. 2017-0926-2

AN ORDINANCE LEVYING TAXES FOR THE USE AND SUPPORT OF THE MUNICIPAL GOVERNMENT, THE MAINTENANCE AND OPERATIONS, DEBT OF THE CITY OF LITTLEFIELD, TEXAS AND PROVIDING FOR THE INTEREST AND SINKING FUND FOR THE FISCAL YEAR 2017-2018; APPROPRIATING SAID LEVY FOR THE SPECIFIC PURPOSE, PROVIDING FOR THE TIME AND MANNER OF PAYING THE AD VALOREM TAXES LEVIED, PROVIDING FOR PUBLICATION BY CAPTION ONLY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Assessor-Collector of taxes has duly compiled and theretofore delivered to the Board of Review, the tax assessment rolls and lists for the city for the year 2017 and said board thereupon examined, corrected, and approved such rolls and lists in the manner, and following the procedure required by the City Charter; and

WHEREAS, the city council has duly approved said rolls and adopted same as the assessment rolls to be used for collection of taxes for year 2017; and

WHEREAS, such assessment of rolls lists a total tax base value for the City of Littlefield of \$160,614,964; and

WHEREAS, the city council finds that tax for the year 2017, hereinafter levied for current maintenance and operations expenses of the city and the general improvement of the city and its property must be levied to provide the revenue requirements of the budget for the ensuing year; and

WHEREAS, the city council further finds that the taxes for the year 2017, hereinafter levied therefore, are necessary to pay interest and to provide the required sinking fund on outstanding bonds of the city issued for municipal purposes;

WHEREAS, the city council further finds that the taxes for the year 2017, hereinafter levied therefore, are necessary to pay debt of outstanding bonds of the city issued for municipal purposes;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LITTLEFIELD, TEXAS:

SECTION ONE

There is hereby assessed and levied, and there shall be collected as provided by law, an ad valorem tax for the year 2017 on all property situated within the city limits of Littlefield, on January 1, 2017 and the rate to be exempted by the Constitution of the State of Texas or other laws applicable to the City of Littlefield, Texas.

SECTION TWO

The taxes herein are assessed and levied according to the City Charter and shall become due on the 1st day of October, 2017, and may be paid up to and including the 31st day of January, 2018, without penalty; but if not so paid, such taxes will become delinquent on the 1st day of February, 2018, and the following penalty shall be payable therein, to wit: if paid during the month of February, six percent (6%) of the past year delinquent taxes; during March, seven percent (7%) of the past year delinquent taxes; during April, eight percent (8%) of the past year delinquent taxes; during May, nine percent (9%) of the past year delinquent taxes; during June, ten percent (10%) of the past year delinquent taxes; and after the 1st day of July, 2018, twelve percent (12%) of the past year delinquent taxes. Such unpaid taxes shall bear interest at the rate of one percent each month until the rate of twelve percent (12%) is reached. Thereafter, such unpaid taxes shall bear interest at the rate of twelve percent (12%) per annum. Also collected, starting July 1, are attorney fees of 20% of the total tax levy, penalty, and interest.

SECTION THREE

The taxes, penalty, and interest, if any, shall constitute a first and prior lien against the property upon which the tax is assessed.

SECTION FOUR

All the rights and powers available to cities and towns as provided in the Constitution of the State of Texas and all the statutes for enforcement and collection of taxes, penalty, and interest shall be available to said city and its officers to enforce collection thereof.

SECTION FIVE

That the tax so levied shall be apportioned to the following uses:

A. For the purpose of paying the interest and providing a sinking fund for the payment of debt of all outstanding general obligation bonds:

Total Bond Debt Requirement \$0.0866

B. To pay the general expenses of the city government as provided by the budget for this fiscal year ending September 30, 2017:

General operating expenses \$0.6710
Total Tax Levy \$0.7576

PASSED, APPROVED, AND ADOPTED on this the 26th day of September, 2017.

APPROVED:



Eric Turpen, MAYOR

ATTEST:



City Secretary

ORDINANCE NO. 2017-0926-3

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LITTLEFIELD, TEXAS: REZONING LOTS 18-19 OF BLOCK 41, COLLEGE HEIGHTS ADDITION IN THE VICINITY OF EAST 18TH STREET AND ALASKA AVE, LITTLEFIELD TEXAS, FROM AGRICULTURAL TO AGRICULTURAL WITH SPECIAL USE DISTRICT OVERLAID TO ALLOW A MANUFACTURED HOME; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE

WHEREAS, pursuant to Ordinance No. 2017-0926-3 with attached Exhibit A “zoning ordinance,” now codified in Chapter 14 of the Littlefield Municipal Code of Ordinances, and specifically pursuant to Article 9, 10, and Section 16.02.12, applicable state law, and required public notice, and a hearing held on September 26, 2017, the Planning and Zoning Commission recommends to the City Council that a certain tract described below be rezoned as stated below to allow for the placement of a manufactured home; and,

WHEREAS, upon proper legal notice the City Council has now considered the final recommendation and report of the Planning and Zoning Commission and has conducted a public hearing on such proposed zoning change, all as required by law;

WHEREAS the City Council now finds, pursuant to §16.02.12.c that this requested special use (i.e., placement of a manufactured home upon LOTS 18-19 OF BLOCK 41, COLLEGE HEIGHTS ADDITION zoned Agricultural District) satisfies the following criteria: minimal adverse impact upon adjacent properties; does not unduly conflict with the underlying zoning and purpose of Agricultural zoning; the requested change is compatible with existing and anticipated uses of surrounding land; will have nominal impact on traffic in the vicinity; has no adverse impact on the environment; and, manufactured homes help to meet a community need for affordable housing;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LITTLEFIELD, TEXAS:

SECTION 1. The zoning map of the City of Littlefield adopted by Chapter 14, Article 2 of the Littlefield Municipal Code of Ordinances and on file in the City Hall offices is hereby amended to reflect the following zoning use change at and upon the described location:

LEGAL DESCRIPTION

COLLEGE HEIGHTS ADDITION, BLOCK 41, LOT 11-20, ACRES 2.

in Littlefield, Lamb County, Texas, plus one-half of all bounding streets, alleys, and public ways, is rezoned from Agricultural District to Agricultural District with Special Use District overlaid to allow the placement of one manufactured home on such tract, in accordance with all other applicable development standards, regulations, codes, permits, and approvals provided by law and City policies.

SECTION 2. Pursuant to §16.02.12 d, if the manufactured home is not duly and properly installed upon the tract (with operable utilities) within 12 months from the date this ordinance is adopted, then the Special Use approved herein shall expire and be null and void.

SECTION 3. That other than approving the placement and use of a manufactured home as a residence, all other regulations and permitted uses and exceptions for Agricultural District remain in effect as provided in the zoning ordinance.

SECTION 4. That owner of the above described property agrees to Plat (Re-plat) and Dedicate Right-of-Ways as determined by the City.

SECTION 5. In the event this premises becomes unsightly or constitute a nuisance, as defined by the City of Littlefield Code of ordinances, the property owner will be notified. If owner or occupant fails to bring the property into compliance within 10 days, this ordinance will become null and void.

SECTION 6. Severability. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it being the intent of the City Council of the City of Littlefield, Texas in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

SECTION 7. Repealer. All ordinances, parts of ordinances resolutions and parts of resolutions in conflict with this ordinance are hereby repealed to the extent of conflict with this ordinance.

SECTION 8. Special Use Stipulations. "In the event Special Use stipulations are not met, the Special Use Ordinance becomes void and the zoning reverts back to its original zoning

classification that existed at the time of the request. The Special Use designation will become void with the sale of the property.” Section 9.045 8.

SECTION 9. Effective Date. This ordinance shall be effective upon adoption.

INTRODUCED AND PASSED by the City Council of the City of Littlefield, Texas, on this the 26 day of September, 2017.



Eric Turpen, Mayor

ATTEST:



City Secretary

Ordinance NO. 2017-0926-4

AN ORDINANCE PROHIBITING DRILLING AND MINING OR THE REOPENING OF ANY ABANDONED WELL OR MINE IN ANY PUBLIC PARK LOCATED WITHIN THE CITY LIMITS OF LITTLEFIELD TEXAS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LITTLEFIELD, TEXAS THAT:

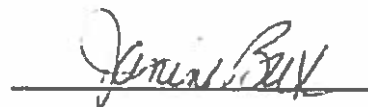
1. All forms of drilling and mining are permanently prohibited within, on, or beneath any public park, street, alley or other public right-of-way located within the City Limits of Littlefield, Texas.
2. No previously drilled and abandoned well or mine may be reopened in any public park located within the City limits of Littlefield, Texas.
3. The prohibition on mining and drilling does not prohibit: (a) the use of shallow horizontal boring or open ditching for utility work performed in the public right-of-way in compliance with the City's Right-of-Way Management Ordinance; or (b) typical construction, reconstruction, maintenance, repair or improvements to any public building or facility in a park, such as but not limited to, picnic pads, restrooms, light poles, gazebos, or swimming pools.
4. The City Council hereby finds and declares that the adoption, passage, and implementation of this ordinance shall be effective as of first reading.

PASSED AND APPROVED this 26th day of September 2017.

THE CITY COUNCIL OF LITTLEFIELD, TEXAS



Eric Turpen
Mayor



Janine Butler
City Secretary

ORDINANCE NO. 2017-0926-5

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LITTLEFIELD, TEXAS: AMENDING THE LITTLEFIELD CODE OF ORDINANCES, CHAPTER 3, ARTICLE 3.06, BY ADDING A NEW DIVISION 4, REGULATING USERS OF AND MANAGING THE PUBLIC RIGHTS-OF-WAY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING PENALTY; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

WHEREAS, The City Council of Littlefield finds that it is imperative to the best interests of promoting the public health, safety, welfare, and good order that all persons and companies working within or using the public right(s)-of-way within the City must do so in an orderly and prescribed manner, so as to avoid damage to public infrastructure and other private infrastructure in the public right-of-way;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LITTLEFIELD, TEXAS, THAT:

SECTION 1. The Code of Ordinances of the City of Littlefield, Chapter 3, Article 3.06 is hereby amended to reserve sections in Division 3, and to add a new Division 4, to read as follows.

Sec. 3.06.080-3.06.100. Reserved.

Division 4. Management of Public Right(s)-of-Way

Sec. 3.06.101. Statement of purpose; scope and construction of this ordinance.

(a) Purpose. Public and private uses of Public Right(s)-of-Way for location of Facilities employed in the provision of public services should, in the interests of the general welfare, be accommodated; however, the City must insure that the primary purpose of the Right(s)-of-Way, passage of pedestrian and vehicular traffic, is maintained to the greatest extent possible. In addition, the value of other public and private installations, roadways, City utility system, Facilities and properties should be protected, competing uses must be reconciled, and the public safety preserved. The use of the Public Right(s)-of-Way corridors by private users is secondary to these public objectives and to the movement of traffic. This article is intended to strike a balance between the public need for efficient, safe transportation routes and the use of Public Right(s)-of-Way for location of public and private Facilities. The article thus has several objectives:

(1) To insure that the public safety is maintained and that public inconvenience is minimized.

(2) To protect the City's infrastructure investment by establishing repair standards for the pavement, Facilities, and property in the Public Right(s)-of-Way, when work is accomplished.

(3) To facilitate work within the Public Right(s)-of-Way through the standardization of regulations.

(4) To maintain an efficient permit process.

(5) To conserve and fairly apportion the limited physical capacity of the Public Right(s)-of-Way held in public trust by the City.

(6) To establish a public policy for enabling the City to discharge its public trust consistent with the rapidly evolving federal and state regulatory policies, industry competition, and technological development.

(7) To promote cooperation among the Service Providers and the City in the occupation of the Public Right(s)-of-Way, and work therein, in order to eliminate duplication that is wasteful, unnecessary or unsightly, lower the Service Providers' and the City's costs of providing services to the public, and preserve the physical integrity of the Streets, Alleys, Easements and highways by minimizing Pavement Cuts.

(8) To assure that the City can continue to fairly and responsibly protect the public health, safety, and welfare.

(b) Scope. This article does not grant any rights to use or occupy the City's Right(s)-of-Way but is intended to impose reasonable regulations on the use of the Public Right(s)-of-Way by persons authorized by License and Hold Harmless Agreements, franchises and/or by law to place and maintain equipment and Facilities within the Public Right(s)-of-Way.

(c) Construction. In the event of a conflict between this ordinance and either chapter 284 of the Texas Local Government Code or the Design Manual adopted by the City in accordance with that statute, then those other documents shall prevail as to an entity, facility, or right regulated by chapter 284.

Sec. 3.06.102. Definitions.

For the purposes of this article the following terms, phrases, words and their derivatives shall have the meaning ascribed to them in the section.

Backfill. The placement of new dirt, select fill, or other material in an Excavation, or the return of Excavated dirt, select fill or other material to an Excavation.

Backhaul Data Provider. A generic term used in this ordinance to be inclusive of every type of business, provider, service, and facility that is contemplated or regulated by

chapter 284 of the Texas Local Government Code, as amended. A Backhaul Data Provider is a *Service Provider*.

City. The City of Littlefield, its officers, employees and departments.

Public Works Director. The Public Works Director or his/her designee(s).

Closure. A complete or partial closing of one (1) or more lanes of traffic for any period of time.

Common User. Service Provider(s) who uses Conduits or Ducts in Public Right(s)-of-Way in common with other Service Provider(s).

Construction. Any of the following activities performed by any person within a Public Right(s)-of-Way:

(1) Installation, reconstruction, laying, placement, repair, upgrade, maintenance or relocation of Facilities or other improvements except Service Lines, whether temporary or permanent;

(2) Modification or alteration to any surface, subsurface or aerial space within the Public Right(s)-of-Way;

(3) Performance, restoration, or repair of Pavement Cuts or Excavations; or

(4) Other similar construction work.

Contractor. A person hired or retained to do Construction for a Service Provider.

Duct or Conduit. A single enclosed raceway for cables, fiber optics, wires or other similar facilities.

Emergency. Any event which may threaten public health or safety, including, but not limited to, damaged or leaking water or gas piping systems, damaged, plugged, or leaking sanitary sewers or storm sewers, damaged electrical and telecommunications Facilities, unsafe overhead pole structures or any other condition that requires immediate repair or replacement of facilities to restore service to a customer.

Emergency Activity. Circumstances requiring immediate Construction or operations to:

(1) Prevent imminent damage or injury to the health or safety of any person or to the Public Right(s)-of-Way;

(2) Restore service; or

(3) Prevent the loss of service.

Excavate or Excavation. To dig into or in any way remove or penetrate any part of a Right(s)-of-Way.

Facilities. Any and all of the wires, cables, fibers, Duct spaces, manholes, poles, nodes, Conduits, pipes, connections, underground and overhead passageways and other equipment, structures, plants, and appurtenances and all associated physical equipment placed in, on, or under the Public Right(s)-of-Way of the City. Facilities specifically exclude Service Lines, landscaping materials, irrigation systems, and materials used by the United States Postal Service or any other governmental entity.

Pavement Cut. An excavation in a sidewalk, curb, gutter, street, alley or other improved surface in the Public Right(s)-of-Way.

Person. An individual, corporation, company, association, partnership, firm, limited liability company, joint venture, joint stock company or association, and other such entity who owns, installs, maintains, or controls Facilities or Service Lines.

Public Right(s)-of-Way. The surface of, and the space above and below a public street, road, highway, freeway, land, path, public way or place, Alley, court, boulevard, parkway, drive, sidewalk, curb, gutter or other easement now or hereafter held by or under the control of the City to which the City holds any property rights in regard to the use for utilities. The term does not include the airwaves above Public Right(s)-of-Way with regard to wireless telecommunications. The term is synonymous with "street", "road", "public way", "Right-of-Way," and public utility easement.

Service Line. Line connecting the Service Provider's utility or meter to the customer's point of utilization or consumption.

Service Provider. Any person using the Public Right(s)-of-Way including, but not limited to, any wholesale or retail electric utility, gas utility, telecommunications company, cable company, water utility, storm water utility, or wastewater utility, Backhaul Data Provider, wireless data or voice tower or node installer, regardless of whether or not the Service Provider is publicly or privately owned or required to operate within the City pursuant to a franchise. The term "Service Provider" includes persons performing installation or maintenance of Service Lines, poles of all types, nodes of all types, and other facilities of chapter 284, Texas Local Government Code that are not owned by a Service Provider.

Thoroughfare. A Public Right(s)-of-Way that is a public traffic arterial or collector street, including all streets in the Central Business District.

Sec. 30.06.103. Public right(s)-of-way construction.

No person shall commence or continue with the Construction of Facilities within the Public Right(s)-of-Way in the City except as provided by the ordinances of the City and the directives of the Public Works Department. All Construction activity in Public Right(s)-of-Way will be in accordance with this article.

Sec. 30.06.104. Registration.

In order to protect the public health, safety and welfare, all Service Providers must register with the City. Registration will be issued in the name of the person who owns the Facilities.

Registration must be renewed every five (5) years. For utilities with a current franchise or license, the franchise or license will be evidence of renewal. If a registration is not renewed and subject to sixty (60) day notification to the owner, the City shall refuse to grant further Construction permits until the registration is renewed. When any information provided for the registration changes, the Service Provider will inform the City of the change no more than thirty (30) days after the date the change is made. Registration shall include:

- (1) The proper name of the Service Provider and any other assumed name;
- (2) The name, address and telephone number of people who will be contact person(s) for the Service Provider;
- (3) The name(s) and telephone number(s) of a contact(s) who shall be available twenty-four (24) hours a day;
- (4) Proof of insurance and surety bond;
 - a. A Service Provider must provide acceptable proof of insurance in accordance with the requirements set forth in the City's Registration form. The City will accept certificates of self-insurance issued by the State of Texas, or letters written by applicant in those instances where the State does not issue such certificates, which provide the same coverage as required herein so long as the Service Provider demonstrates that it has adequate financial resources to be a self-insure entity.
 - b. A Service Provider shall provide an annual surety bond which will be valid each year for which Construction will occur and for one (1) full year after completion of the Construction. The bond must be from a surety company authorized to do business in the State of Texas and in an amount sufficient to cover the cost to restore the Right(s)-of-Way for the work anticipated to be done in the event the Service Provider leaves the job site in the Right(s)-of-Way unfinished, incomplete or unsafe, as determined by the Public Works Director. This requirement may be waived upon providing Public Works Director with acceptable evidence of financial assets or reserves sufficient to cover the amount of the bond.
 - c. A Service Provider shall submit the required proof of insurance and surety bond at the time it registers with the City and maintain such throughout the term of period of the registration.
 - d. All proof of insurance and the surety bond will be filed with the Public Works Director.

Sec. 30.06.105. Construction permit.

(a) No Service Provider or any other person shall perform any Construction in the Public Right(s)-of-Way without first obtaining a Construction permit, except as provided herein. The permit will be issued in the name of the person who owns or will own the Facilities to

be constructed. The permit application must be completed and signed by the owner of the Facilities to be constructed.

(1) Emergency repairs related to existing Facilities may be undertaken without first obtaining a permit in accordance with section 30.06.115 below.

(2) The phrase "Construction" does not include the following:

a. Installation and maintenance of a Service Line;

b. The vertical installation, maintenance; repair or replacement by a registered Service Provider of wooden poles not exceeding fifteen (15) inches in diameter, sixty (60) feet in length and which are not buried more than eight (8) feet deep into the Public Right-of-Way and which are located within twenty-eight (28) inches of the border of the Public Right-of-Way line;

c. Repair and maintenance of existing Facilities unless such repair or maintenance requires a Pavement Cut, the closure of a traffic lane for a period greater than six (6) hours, Excavation or boring;

(3) Notwithstanding the exceptions provided in subsection (2) just above, Service Provider or other person working in the Public Right(s)-of-Way shall comply with all applicable requirements of subsections 30.06.107(a), (b), (e) and (f) and sections .109, .110, .111, .112, .119, and .121.

(b) The permit shall state to whom it is issued, location of work for installation, repair, maintenance, relocation and/or upgrading of Facilities, estimated dates and times work is to take place and any other conditions set out by the Public Works Director.

(c) The Service Provider applying for a permit will provide the Public Works Director with documentation in the format specified by the Public Works Department describing:

(1) The proposed location and route of all Facilities to be constructed or installed and the design plan for Public Right(s)-of-Way Construction.

(2) Plans which will be on a scale acceptable to the Public Works Department.

(3) Detail of the location of all Right-of-Way and utility easements which applicant plans to use.

(4) Detail of all known Facilities in approximate relationship to applicant's proposed route.

(5) Detail of what applicant proposes to install, such as Conduits, Ducts, pipe and Duct size, number of interducts, valves, pull boxes, etc.

(6) Detail of plans to remove and replace asphalt, brick or concrete in Streets, Alleys, easements and sidewalks in the Public Rights-of-Way. Plans will include City standard construction details.

(7) Drawings of any bores, trenches, handholes, manholes, switch gear, transformers, pedestals, etc. including depth located in Public Right(s)-of-Way.

(8) Handholes and/or manholes typical of the type of manholes and/or handholes applicant plans to use or access.

(9) Complete legend for drawings submitted by applicant, or a legend standard may be filed with Public Works Director for reference.

(10) The Construction methods to be employed for the protection of existing Structures, fixtures, and Facilities within or adjacent to the Public Right(s)-of-Way, and the dates and times work will occur, all (methods, dates, times, etc.) are subject to approval of the Public Works Director.

(11) A written schedule identifying the planned work and, anticipated phasing if applicable.

(12) If required by law, two (2) sets of plans prepared by a licensed Professional Engineer must be submitted with permit application.

(d) All Construction in the Public Right(s)-of-Way shall be in accordance with the Construction permit. The Public Works Director shall have access to the work and to such further information as the Public Works Director may reasonably require to ensure compliance with the permit.

(e) Prior to commencement of any work under the permit Service Provider shall provide the Public Works Director with the name, address and phone number of the Contractor(s) and Subcontractor(s) who will perform the actual construction together with the name and phone number of an individual with the Contractor(s) and Subcontractor(s) who will be available at all times during Construction.

(f) A copy of the Construction permit and approved engineering plans shall be maintained at the construction site and made available for inspection by the Public Works Director at all times when Construction work is occurring.

(g) All Construction work authorized by permit must be completed in the time specified in the Construction permit. If the work cannot be completed in the specified time periods, an extension from the Public Works Director may be requested. If the request for an extension is made prior to the expiration of the permit, work under the permit may continue while the request for an extension is pending.

(h) A copy of any permit or approval issued by federal or state authorities for work in federal or state Right-of-Way located in the City, must be provided if the work will extend into the Public Right(s)-of-Way.

(i) An application for a permit must be submitted before the commencement of the proposed work as follows. These required time periods may be waived by the Public Works Director:

(1) Five (5) business days for projects requiring no permanent Structure(s) and less than one thousand (1,000) linear feet of Facilities; and

(2) Ten (10) business days for all other projects.

(j) Applications for permits will be approved or disapproved by the Public Works Director before the date indicated for commencement of work.

(k) The Public Works Department or the applicant can request a pre-Construction meeting with the Construction Contractor.

Sec. 30.06.106. Service line permit.

(a) It shall be unlawful for any person except Service Provider's registered under section 30.06.104 to Excavate and/or make Pavement Cuts in any Public Right(s)-of-Way for the purpose of Service Line installation or maintenance without first:

(1) Making application for a Service Line permit from the City Street Department agreeing to the repair and restoration of the Public Right(s)-of-Way in accordance with the prescribed City specifications and securing from the City Street Department a written permit therefor;

(2) Providing a plan for the Service Line excavation and restoration of said Public Right(s)-of-Way; and

(3) Posting a performance surety bond or cash-equivalent security in an amount representing the estimated cost of restoring the Public Right(s)-of-Way surface to prescribed City specifications and providing evidence of insurance as required by the permit application.

(b) The City Street Department, upon investigation of the location, purpose, extent and time of the disturbance of the surface of the Public Right(s)-of-Way may grant or, for an expressed reason, refuse permission for the Service Line permit. The applicant must be notified by the City Street Department whether the permit is granted or refused within one (1) business day after the application has been made.

(c) All Excavations and/or Pavement Cuts in Public Right(s)-of-Way shall be maintained and repaired in accordance with section 30.06.112 hereof.

(d) The person doing the Excavation and/or Pavement Cuts shall be fully responsible for safeguarding persons and property from damages or injury.

(e) If applicable, Persons doing Excavation and/or Pavement Cuts shall minimize disruptions to access to adjacent property by coordinating their schedule with other Persons in the vicinity working in the Public Right(s)-of-Way. When coordination conflicts occur, the City Street Department shall coordinate the work to reduce access problems.

Sec. 30.06.107. General public right(s)-of-way use and construction.

(a) Minimal Interference. Work in the Public Right(s)-of-Way shall be done in a manner that causes the least interference with the rights and reasonable convenience of adjacent property users, owners, and residents. Service Provider's Facilities shall be constructed or maintained in such a manner as not to interfere with sewers, water pipes, or any other property of the City, or with any other pipes, wires, Conduits, pedestals, Structures, or other Facilities that have been constructed in the Public Right(s)-of-Way by, or under, the City's authority. The Service Provider's Facilities shall be located, erected, and maintained so as not to endanger or interfere with the lives of persons, obstruct the free use of the Public Right(s)-of-Way or other public property, and shall not interfere with the travel and use of public places by the public during the Construction, repair, or removal thereof except as authorized by this article or the Public Works Director. This subsection shall not be construed to require relocation of any Facility that was completed or under Construction on the effective date of this article, provided nothing in this subsection reduces or restricts the City's right to require a Service Provider to relocate Facilities as required by other law.

(b) Locations and Notifications:

(1) A permit does not relieve a Service Provider of the responsibility to coordinate with other utilities and to protect existing Facilities. A Service Provider working in the Public Right(s)-of-Way is responsible for obtaining line locates from all affected utilities or others with Facilities in the Public Right(s)-of-Way prior to any Excavation.

(2) The Service Provider will be responsible for verifying the location, both horizontal and vertical, of all Facilities. When required by the Public Works Director, the Service Provider shall verify location by potholing, hand digging or another method approved by the Public Works Director prior to any Excavation or boring.

(3) In verifying location of Facilities in the Public Right(s)-of-Way in preparation for Construction under a permit, Service Provider shall provide to Public Works Director a copy of any written information obtained regarding its or any other Facilities in the Public Right(s)-of-Way related to a particular permit. The Service Provider shall not be responsible for the accuracy of any information provided.

(4) Before beginning Excavation in any Public Right(s)-of-Way, a Service Provider shall contact the Texas Underground Facility Notification Corporation to the extent required by V.T.C.A., Utilities Code Ch. 251, make inquiries of all ditch companies, utility companies, districts, local governments, and all other Service Providers that might have Facilities in the area of work to determine possible conflicts.

(5) The Service Provider shall support and protect all pipes, Conduits, Ducts, poles, wires, Structures, pavement, other apparatus and equipment and property improvements and landscaping which may be affected by the work from damage during Construction or settlement of trenches subsequent to Construction.

(c) Underground Construction versus Use of Poles.

(1) In areas where all Facilities are installed underground at the time of Service Provider's Construction, all Service Provider's Facilities shall also be placed underground at no expense to the City, unless otherwise approved by the Public Works Director. Related equipment, such as pedestals, must be placed in accordance with the City's applicable code requirements and rules, including all visibility easement requirements. In areas where existing Facilities are aerial, the Service Provider may install aerial Facilities.

(2) For above-ground Facilities, the Service Provider shall utilize existing poles wherever reasonable.

(3) Should the City desire to place its own Facilities in trenches or bores opened by the Service Provider, the Service Provider shall cooperate with the City in any Construction by the Service Provider to the extent practicable and feasible, provided that the City has first notified the Service Provider in some manner that it is interested in sharing the trenches or bores in the area in which the Service Provider's Construction is occurring, and provided City agrees to pay the incremental increase in cost of the trenching and boring. The City shall be responsible for maintaining its respective Facilities buried in the Service Provider's trenches and bores under this paragraph. Service Provider(s) shall have reciprocal rights in City trenches or bores except trenches and bores for water and sewer lines and when prohibited by applicable ordinances or codes. The City may install or affix and maintain its own Facilities for City purposes in or upon any and all of Service Provider's Ducts, Conduits, or equipment in the Public Right(s)-of-Way and other public property, at a charge to be negotiated between the parties (but in no event greater than the best price charged by Service Provider to any other user), to the extent space therein or thereon is reasonably available.

(d) Common Users.

(1) The Public Right(s)-of-Way have a finite capacity for containing Facilities, yet municipalities are increasingly not allowed to exclude a new Service Provider from the market. Accordingly, there is a paramount public interest in maximizing the use of the capacity of the use of existing Public Right(s)-of-Way. Whenever it is possible and reasonably practicable to jointly trench or share bores or cuts, the Service Provider shall work with other, licensees, Service Providers, Contractors and franchisees so as to reduce as much as possible the number of Public Right(s)-of-Way cuts within the City. Whenever the City determines it is impractical to permit Construction of an underground Conduit system by any other entity which may at the time have authority to construct or maintain Conduits or Ducts in the Public Right(s)-of-Way, but excluding entities providing services in competition with Service Provider and unless otherwise prohibited by federal or state law regulations, the City may require Service Provider to afford to such entity the right to use Service Provider's surplus Ducts or Conduits in common with Service Provider, pursuant to the terms and conditions of an agreement for use of surplus Ducts or Conduits entered into by Service Provider and the other entity. When the Service

Provider and entity are unable to agree on the terms and conditions for use, the City may require them to default to the following: share a rental rate equal to the portion of the costs based on the space to be encumbered at a rate of capital installation costs plus ten (10) percent amortized over a period of ten (10) years. Nothing herein shall require Service Provider to enter into an agreement with such entity if, in Service Provider's reasonable determination, such an agreement could compromise the integrity of the Service Provider's Facilities.

(2) Service Provider shall give a Common User (with a copy to the Public Works Director) a minimum of one hundred twenty (120) calendar days notice of its need to occupy a Conduit and shall propose that the Common User take the first feasible action as follows:

- a. Pay revised Conduit rent designed to recover the cost of retrofitting the Conduits or Ducts with space-saving technology sufficient to meet Service Provider's space needs;
- b. Pay revised Conduit rent based on the cost of new Conduits or Ducts constructed to meet Service Provider's space need;
- c. Vacate the needed Ducts or Conduits; or
- d. Construct and maintain sufficient new Conduits or Ducts to meet Service Provider's space needs.

(3) When two (2) or more Common Users occupy a section of Conduit, the last user to occupy the Conduit shall be the first to vacate or construct new Conduit unless otherwise agreed to by Common Users. When Conduit rent is revised because of retrofitting, space-saving technology or Construction of new Conduit, all Common Users shall bear the increased cost.

(4) All Facilities shall meet all applicable local, state, and federal clearance and other safety requirements, be adequately grounded and anchored, and meet the provisions of contracts executed between Service Provider and the other Common User. Service Provider or Contractor may, at its option, correct any attachment deficiencies and charge the Common User for its costs. Each Common User shall pay for any fines, fees, damages or other costs the Common User's attachments incurs.

(e) Excavation Safety. On Construction projects in which Excavation exceeds a depth of four (4) feet, the Service Provider must have detailed plans and specifications for Excavation safety systems. The term Excavation includes trenches, structural or any Construction that has earthen Excavation subject to collapse. The Excavation safety plan shall be designed in conformance with state law and Occupational Safety and Health Administration (OSHA) standards and regulations.

(f) Erosion Control. The Service Provider shall be responsible for providing stormwater management and erosion control that complies with City, state and federal guidelines.

Sec. 30.06.108. Joint planning and construction; coordination of excavations.

(a) Excavations in Public Right(s)-of-Way disrupt and interfere with the public use of the City Streets and Alleys and damage the pavement and landscaping. The purpose of this section is to reduce this disruption, interference and damage by promoting better coordination among Service Providers making Excavations in Public Right(s)-of-Way and between these Service Providers and Contractors and the City. Better coordination will assist in minimizing the number of Excavations being made wherever feasible and will ensure the Excavations in Public Right(s)-of-Way are, to the maximum extent possible, performed before, rather than after, the reconstruction of the Streets and Alleys by the City.

(b) Utility Coordination Meeting.

(1) The City may hold a utility coordination meeting a minimum of once per year. The purpose of the meeting is for the City to inform Service Providers of proposed and current capital improvement projects in the City and also for the Service Providers to inform each other and the City of current and future projects. Each Service Provider shall make reasonable efforts to attend and participate in the meetings of the City, in which the Service Provider will be made aware of Public Right(s)-of-Way issues that may impact its Facilities.

(2) Except in an Emergency the City will notify the Service Providers at least four (4) months before Construction will start on a major City project. Preliminary engineering plans will be available for inspection to the Service Providers at least two (2) months before the project is to start Construction. Final engineering plans will be made available to the Service Providers at least one (1) month before the project is to start Construction.

(c) Excavation Plan. In addition to participating in the Utility Coordination Meetings, every Service Provider owning, maintaining or installing Facilities in Public Right(s)-of-Way shall meet annually with the Public Works Director, at the Public Works Director's request, to discuss Service Provider's planned or reasonably anticipated Excavations to occur in the calendar year of the meeting and for the next two (2) calendar years. Between the annual meetings to discuss planned Excavation work, Service Provider shall inform the Public Works Director of any substantial changes in the planned Excavation work discussed at the annual meeting.

Sec. 30.06.109. Minimizing the impacts of work in the public right(s)-of-way.

(a) Each Service Provider and Contractor shall conduct work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. In the performance of the work, the Service Provider and Contractor shall take appropriate measures to reduce noise, dust, and unsightly debris. No work shall be done on Saturday, Sunday and between the hours of 6:00 p.m. and 7:00 a.m. Monday through Friday, except with the written permission of the Public Works Director, or in case of an Emergency.

(b) Each Service Provider and Contractor shall maintain the work site so that:

(1) Solid waste and construction materials are contained on the Construction site.

(2) Solid waste is removed from a Construction site daily so that it does not become a health, fire, or safety hazard.

(3) Solid waste receptacles and storage or construction trailers shall not be placed in any Public Right(s)-of-Way without specific approval of the Public Works Director.

(c) Each Service Provider and Contractor shall protect trees, landscape, and landscape features. All protective measures shall be provided at the expense of the Service Provider or Contractor.

(d) Backhoe equipment outriggers shall be fitted with pads to avoid damage whenever outriggers are placed on any paved surface. Tracked vehicles are not permitted on paved surfaces unless effective precautions are taken to protect the surface. Service Provider and Contractor shall be responsible for any damage caused to the pavement by the operation of such equipment and shall repair such surfaces. Failure to do so will result in the use of the Service Provider's performance guarantee pursuant to section 30.06.120 hereof by the City to repair any damage, and, possibly mandating, the requirement of additional guarantee(s).

(e) Each Service Provider and Contractor shall protect from injury any Public Right(s)-of-Way and adjoining property by taking all necessary measures. Service Provider or Contractor shall, at its own expense, shore up and protect all buildings, walls, fences, or other property likely to be damaged during the work and shall be responsible for all damage to public or private property resulting from failure to properly protect and carry out work in the Public Right(s)-of-Way.

(f) As the work progresses, all Public Right(s)-of-Way and private property shall be thoroughly cleaned of all rubbish, excess dirt, rock, and other debris. All clean-up operations shall be done at the expense of the Service Provider or Contractor. Service Provider or Contractor shall restore any disturbed area to its original condition.

(g) Each Service Provider and Contractor shall make provisions for employee and Construction vehicle parking so that neighborhood parking adjacent to a work site is not adversely impacted.

(h) Each Service Provider and Contractor shall maintain a public walkway approved by the Public Works Director around a Construction site that blocks a public sidewalk or path.

Sec. 30.06.110. Facility locations.

(a) All Facilities in new developments shall be located in accordance with the Development Policy Manual unless an alternative location has been approved by the Public Works Director. Such utility locations are hereby adopted as standard locations for utilities in new developments. The intent of these items is that they serve as a standard

for Service Providers whose routine business requires the installation, repair, or relocation of utilities.

(b) Facilities to be installed in previously developed Streets and Alleys should be located the same as in new developments when possible. If the location shown cannot be used by the Service Provider, another Service Provider's location can be used, provided the substitution is approved by the other Service Provider. If no agreement can be made, the decision of the Public Works Director will be final. Other locations must be approved by the Public Works Director. Facilities may be located at less depth than shown provided they receive prior written approval from the Public Works Director and a concrete cap is constructed over the installation.

(c) Guy wires, anchors, and other above-ground Facilities shall not be less than seven (7) feet in height over a sidewalk area and shall be located not less than two (2) feet from the back of Street curbs or edge of Street paving. If an encroachment can be located adjacent to the Public Right(s)-of-Way line and is in another Service Provider's location, written approval from the other Service Provider is required. If no agreement can be made, the decision of the Public Works Director will be final. If an encroachment is less than seven (7) feet in height over a sidewalk area, the sidewalk must be widened at Service Provider's or Contractor's expense to provide the necessary clearance as approved by the Public Works Director.

(d) Temporary Facilities may be located in nonstandard locations as authorized by the Public Works Director.

(e) Any encroachment of a Facility within the sidewalk or path area of a Public Right(s)-of-Way must comply with all requirements of the Americans with Disabilities Act at the expense of Service Provider.

Sec. 30.06.111. Traffic control.

(a) Except as otherwise provided herein, no Person, Service Provider or Contractor may partially or completely close or obstruct a Public Street or Alley without notifying the Public Works Director at the time an application for either a Construction or Service Line Permit is made unless an emergency exists.

(b) It shall be the responsibility of the Person, Service Provider or Contractor to notify the Public Works Director of the closure or obstruction of a Street or Alley. The Public Works Director shall notify the Police Department, Fire Department, Transit Department, Solid Waste Department and ambulance services, as appropriate, of the closure or obstruction.

(c) All traffic control barricading and methods shall comply with the most recent version of the Manual on Uniform Traffic Control devices or any successive publication thereto. No Person, Service Provider or Contractor shall block access to and from private property, block vehicles, block access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing Structures, or any other vital equipment unless the Person, Service Provider or Contractor provides the Public Works Director with written

verification of written notice delivered to the owner or occupant of the facility, equipment, or property at least forty-eight (48) hours in advance, except in case of an emergency.

(d) When necessary for public safety the Service Provider or Contractor shall employ flag persons whose duties shall be to control traffic around or through the Construction site.

(e) The Person, Service Provider or Contractor shall not prevent the flow of traffic on thoroughfares and Alleys during the hours of 7:00 a.m. to 9:00 a.m. or 4:00 p.m. to 6:00 p.m., Monday through Friday unless approved by the Public Works Director.

Sec. 30.06.112. Requirements for excavations and pavement cuts.

(a) Permanent repairs of pavement cuts in Right(s)-of-Way will be completed by the Person, Service Provider or Contractor in accordance with City Standard Specifications for Utility Construction in City Right-of-Way and Easements. Failure to do so will result in the use of the Person's or Service Provider's performance surety bond or cash equivalent security and, possibly mandating, the requirement of additional surety bond(s) and/or the denial of future permits.

(b) The Person, Service Provider or Contractor shall be responsible for maintaining all Excavations and Pavement Cuts in such a manner as to avoid a hazard to vehicular and pedestrian traffic until permanently repaired.

(1) Person, Service Provider or Contractor will be required to maintain the interim repairs until final repairs are completed.

(2) When further repairs are deemed necessary by the Public Works Director to correct a hazardous situation the Person, Service Provider or Contractor responsible for the Excavations and/or Pavement Cuts shall be notified immediately. If the Person, Service Provider or Contractor does not make the repair or provide an acceptable schedule within eight (8) hours of being notified, the repairs can be performed by the City and billed to the Person, Service Provider or Contractor.

(c) All damage caused directly or indirectly to the Street surface or subsurface outside the Pavement Cut area shall be regarded as a part of the Pavement Cut. These areas, as established by the Public Works Director, will be included in the total area repaired.

(d) The Person, Service Provider or Contractor shall notify the Public Works Department immediately of any damage to other Facilities as well as the owner of the affected Facility.

(e) The Public Works Department, in conjunction with the City Street Department, shall regulate the cutting and restoration of Street, Sidewalk, and Alley pavements in the City. These requirements shall apply equally to any Person, Service Provider or Contractor who makes cuts and repairs Pavement Cuts in the City.

(f) When a Service Provider or Contractor is installing more than five hundred (500) continuous linear feet of underground Facilities, the Service Provider or Contractor shall notify in writing all individual occupants along the route. This notification shall give

information about the project, including, but not limited to, the proposed location of the Facilities, the time length for Construction, and a twenty-four-hour contact person to report any problems. The Service Provide or Contractor shall ensure a prompt response to any occupant inquiries and concerns.

Sec. 30.06.113. Construction and restoration standards for newly constructed or overlaid streets and alleys.

(a) No Service Provider or Contractor shall allow an open trench Excavation or potholing of Facilities in the pavement of any Public Right(s)-of-Way for a period of three (3) years from the completion of new Street construction or overlay of Streets except in compliance with the provision of this section.

(b) Any application for a Construction Permit to Excavate in Public Right(s)-of-Way subject to the requirements of this section shall contain the following information:

(1) A detailed and dimensional engineering plan that identifies and accurately represents the Public Right(s)-of-Way and property that will be impacted by the proposed Excavation, as well as adjacent Streets, and the method of Construction.

(2) The Street or Alley width including curb and gutter over the total length of each City block that will be impacted by the proposed Construction.

(3) The location, width, length, and depth of the proposed Excavation.

(4) The total area of existing Street or Alley pavement, and/or improved surfaces in each individual City block that will be impacted by the proposed Excavation.

(5) A written statement addressing the criteria for approval set forth in subsection (c) below.

(c) No Construction permit for Excavation in the Public Right(s)-of-Way of newly constructed or overlaid Streets or Alleys shall be approved unless the Public Works Director finds that all of the following have been met:

(1) Boring or jacking without disturbing the pavement is not practical due to physical characteristics of the Street or Alley or other Facilities.

(2) Alternative Facilities alignments that do not involve excavating the Street or Alley are found to be impracticable.

(3) The proposed Construction cannot reasonably be delayed until after the three-year deferment period has lapsed.

(d) The Streets or Alleys shall be restored and repaired in accordance with design and construction standards provided by the Public Works Director or as established and adopted by the City.

Sec. 30.06.114. Abandonment of facilities.

Any Service Provider that intends to abandon its use of any Facilities within the Public Right(s)-of-Way shall notify the Public Works Director in writing of the intent to abandon Facilities. Such notice shall describe the Facilities to be abandoned, a date of abandonment (which date shall not be less than thirty (30) days from the date such notice is submitted to the Public Works Director), and the method of removal of the Facilities and for restoration of the Public Right(s)-of-Way.

Sec. 30.06.115. Emergency procedures.

Any Service Provider maintaining Facilities in the Public Right(s)-of-Way may proceed with emergency repairs upon existing Facilities without a Permit when circumstances demand that the work be done, but they must apply to the City for a Permit on or before the third working day after such work has commenced. All work will require immediate telephone notification to the City Police, Engineering, and Fire Departments. Emergency maintenance operations shall be limited to circumstances involving the preservation of life, property, or the restoration of customer service. Any Service Provider or Contractor commencing operations under this Section shall submit detailed engineering plans and Construction methods no later than ten (10) business days after initiating the emergency maintenance operation. In case of emergency Service Line excavations, such as leakage or loss of service, the City ~~Street Department~~ shall be notified by the Person doing the excavation within twenty-four (24) hours after the Service Line excavation has been commenced.

Public Works Director

Sec. 30.06.116. Record plans.

(a) If installations do not follow the plans originally submitted under section 30.06.105 above, the Service Provider will provide the Public Works Director with updated Construction drawings within ninety (90) days of completion of Facilities in the Public Right(s)-of-Way. Users who have Facilities in the right-of-way on the date of passage of this article who have not provided record plans shall provide one (1) quarter of the information concerning Facilities in Right-of-Way within one (1) year after the passage of the ordinance and an additional one (1) quarter each six (6) months thereafter. The plans shall be provided to the City with as much detail and accuracy as available to the Service Provider. The detail and accuracy must concern issues such as location, size of Facilities, materials used, and any other health, safety and welfare concerns. The detail will not include matters such as capacity of lines, customers, or competitively sensitive details. If information submitted includes information designated as trade secrets or as confidential, the information may not be disclosed by the City without the consent of the Public Service Provider unless it is compelled to disclose the information by the Texas Attorney General pursuant to the Texas Public Information Act or by a court order.

(b) This requirement, or portions of this requirement, may be waived by the Public Works Director for good cause.

Sec. 30.06.117. Conformance with public improvements.

Whenever by reasons of widening or improvements to Public Right(s)-of-Way, water or sewer line projects, or other public works projects, (e.g. install or improve storm drains), it shall be deemed necessary by the City to remove, alter, change, adapt, or conform the underground or overhead Facilities of a Public Right(s)-of-Way user to another part of the Public Right(s)-of-Way, such alterations shall be made by the owner of the Facilities at its expense (unless provided otherwise by state law) within the time limits set by the Public Works Director working in conjunction with the owner of the Facilities, or if no time can be agreed upon, within ninety (90) calendar days from the day the notice was sent to make the alterations, unless a different schedule has been approved by the Public Works Department. Facilities not moved after ninety (90) calendar days or within the approved schedule, as same be extended from time to time, shall be moved by City at owner's expense.

Sec. 30.06.118. Improperly installed facilities.

(a) Any Person doing work in the Public Right(s)-of-Way shall properly install, repair, upgrade and maintain Facilities.

(b) Facilities shall be considered to be improperly installed, repaired, upgraded or maintained if:

(1) The installation, repairs, upgrade or maintenance endangers people or property;

(2) At the time of installation the Facilities did not meet applicable City, state or federal codes;

(3) The Facilities are not capable of being located using standard practices;

(4) The Facilities are not located in the proper place at the time of Construction in accordance with the permit and engineering plans approved by the Public Works Director.

(c) Facilities determined by the Public Works Director to have been improperly installed, repaired, upgraded or maintained shall be properly installed, repaired, upgraded or maintained immediately upon receipt of notice from the Public Works Director.

Sec. 30.06.119. Restoration of property.

(a) Users of the Public Right(s)-of-Way shall restore property affected by Construction of Facilities to a condition that is equal to or better than the condition of the property prior to the performance of work.

(b) Restoration must be to the reasonable satisfaction of the Public Works Director. The restoration shall include, but not be limited to:

(1) Replacing all ground cover and other landscaping with the type of ground cover and other landscaping damaged during work, or better, either by planting, sodding, or seeding, as directed by the Public Works Director;

(2) Installation of all manholes and handholes, as required;

(3) All bore pits, potholes, trenches or any other holes shall be filled in, covered, or barricaded daily, unless other safety requirements are approved by the Public Works Director;

(4) Compaction and leveling of all trenches and excavations;

(5) Restoration of site to City specifications;

(6) Restoration of all sprinkler systems, retaining walls, planters, sidewalks and other improvements.

(c) All locate flags shall be removed during the cleanup process by the Service Provider or Contractor at the completion of the work.

(d) Restoration must be made in a timely manner as specified by approved Public Works Department schedules and to the satisfaction of the Public Works Director. If restoration is not satisfactory or performed in a timely manner all work in progress, except that related to the problem, including all work previously permitted but not completed may be halted and a hold may be placed on any permits not approved until all restoration is complete.

Sec. 30.06.120. Performance surety bond.

(a) Service Provider's Performance Surety Bond provided in accordance with section 4(a)4b shall serve as security for the performance of work necessary to repair the Public Right(s)-of-Way if the Service Provider or Contractor fails to make the necessary repairs or to complete the work under the Permit.

(b) The Service Provider's Performance Surety Bond guarantees complete performance of the work in a manner acceptable to the City and guarantees all work done for a period of one (1) year after the date of written acceptance. Service Provider shall respond upon demand and make all necessary repairs during the one-year-period as a result of:

(1) Defects in workmanship.

(2) Settling of fills or Excavations.

(3) Any unauthorized deviations from the approved permits and engineering plans.

(4) Failure to clean up during and after performance of the work.

(5) Restoration of improvements including, but not limited to landscaping, irrigation, ground cover, and other improvements.

(c) The one-year-period shall run from the date of the City's acceptance of the work which shall be the date of the letter of acceptance issued by the City to the Service Provider and/or Contractor. If repairs are required during the one-year guarantee period, those repairs need only be guaranteed until the end of the initial one-year-period. It is not necessary that the guarantee period be extended for repairs after acceptance except as provided.

(d) At any time prior to completion of the one-year guarantee period, the City may notify the Service Provider or Contractor of any needed repairs. Such repairs shall be completed within twenty-four (24) hours if the defects are determined by the City to be an imminent danger to the public health, safety, and welfare. All other repairs shall be completed within ten (10) business days after notice.

Sec. 30.06.121. Indemnification.

(a) Each Service Provider and Contractor placing Facilities in the Public Right(s)-of-Way shall agree to promptly defend, indemnify, and hold the City harmless from and against all damages, costs, losses, or expenses for the repair, replacement or restoration of property, equipment, materials, Structures, and Facilities that are damaged, destroyed, or found to be defective as a result of the Service Provider's or Contractor's acts or omission, from and against any and all claims, demands, suits, causes of action, and judgments for (a) damage to or loss of the property of any Service Provider or Person and/or (b) death, bodily injury, illness, disease, loss of services, or loss of income or wages to any person, arising out of, incident to, concerning, or resulting from the negligent or willful act of omissions of the Service Provider or Contractor, its agents, employees, and/or subcontractors, in the performance of activities pursuant to this chapter.

(b) This indemnity provision shall not apply to any liability resulting from the negligence or willful misconduct of the City, its officers, employees, agents, contractor, or subcontractors.

(c) The provision of this indemnity is solely for the benefit of the City and is not intended to create or grant any rights, contractual or otherwise, to any other Person or entity.

(d) A Service Provider that is regulated as defined in V.T.C.A., Local Government Code, Ch. 283 or Ch. 284 shall provide the indemnity provided in those statutes, as amended.

Sec. 30.06.122. Denial, suspension, revocation, or extension of permit.

(a) Denial of a Permit. A permit (Construction and Service Line) may be denied for any one (1) of the following reasons:

(1) Not having proper insurance for the required amounts.

(2) Consistently failing to perform in accordance with the requirements of this article.

(3) Requesting to cut a City-maintained Street that can be crossed by jacking, boring or tunneling.

(4) Proposing barricading, channelizing, signing, warning or other traffic control procedures or equipment that does not comply with the requirements of the Manual on Uniform Traffic Control Devices.

(5) The activity or the manner in which it is to be performed will violate a City ordinance or a state or federal law.

(6) Failure to furnish all of the information required under this article or, except for good cause shown, to file the registration or Construction or Service Line permit applications within the time prescribed.

(7) Misrepresenting or falsifying any information in the registration or Construction or Service Line permit applications.

(8) Failing to provide a surety bond or other acceptable security or comply with the Performance Guarantee.

(9) Owing outstanding debts to the City.

(10) Lack of available space in the Public Right(s)-of-Way.

(11) Proposed activity will substantially interfere with vehicular or pedestrian traffic and no procedures have been implemented to minimize the interference.

(b) Suspension of a Permit. The Public Works Director may suspend any or all permits granted to allow work in the Public Right(s)-of-Way for the following reasons subject to the procedural guidelines noted in section 30.06.113 and any agreement that applies to the Service Provider using the Public Right(s)-of-Way, as well as any limitations imposed by federal or state law:

(1) Failing to comply with an order of the Public Works Director;

(2) The recognition that a permit was issued in error;

(3) Failing to comply with restrictions or requirements placed on the permit by the Public Works Director; or

(4) Any safety violation which create peril to the public; or

(5) Violating any provision of this article.

(c) The Public Works Director may reinstate a previously suspended permit when the conditions that caused such permit to be suspended are remedied to the satisfaction of the Public Works Director.

(d) Revocation of a Permit. If no work has begun on a permitted project within thirty (30) calendar days of issuance of the permit, the permit shall be null and void, and a new permit shall be required.

(e) Extension of a Permit. The Public Works Director may grant an extension of a permit for a period not to exceed sixty (60) days if requested by the permit holder. Such a request must be made before the permit expires. If no call for the cancellation of a permit or for an inspection is received within sixty (60) days of a permit being issued, a Public Works Department project representative will be sent to the location to determine the status of the permitted work.

Sec. 30.06.123. Appeal from denial, suspension, or revocation of permit.

(a) A Person may, within ten (10) business days from the date of notification of the decision of the Public Works Director, appeal a decision to deny, suspend or revoke a permit to a panel consisting of two or more departmental directors appointed by the city manager to hear the appeal. The appeal must be in writing and shall specifically state the basis for the challenge to the decision of the Public Works Director. Should the decision of the Public Works Director be appealed, the Public Works Director shall transmit to the panel all the papers constituting the record by which the original permit was denied, suspended or revoked.

(b) The panel will meet with the Person within ten (10) business days of reviewing the written appeal. The panel will consider all information provided in making its decision. All decisions of the panel will be made within five (5) business days of the meeting.

(c) Any Person who is dissatisfied with the findings of the panel may within ten (10) business days from the date of notification of the ruling file a written appeal with the City Secretary that the decision of the panel be heard and considered by the City Council. The City Secretary shall schedule a time for a hearing before the City Council and shall notify the Person and any one indicating an interest in the hearing.

(d) A hearing by the City Council shall be held within thirty (30) business days of receipt of the written appeal. Decisions of the City Council shall be final.

Sec. 30.06.124. Public Works Director's authority; enforcement; offenses.

(a) The Public Works Director is authorized to administer and enforce the provisions of this article and to promulgate regulations to aid in its administration and enforcement that are not in conflict with other provisions of this Code, or state or federal law.

(b) The Public Works Director is authorized to enter upon a Construction site for which a permit is granted or, where necessary, private property adjacent to the Construction site, for purposes of inspection to determine compliance with the provisions of the permit and this article.

Sec. 30.06.125. Offenses.

(a) A Person commits an offense if the Person:

- (1) Performs, authorizes, directs, or supervises work in the Public Right(s)-of-Way without a valid permit;
- (2) Violates any other provision of this article;
- (3) Fails to comply with restrictions or requirements of the permit; or
- (4) Fails to comply with an order or regulation of the Public Works Director.

(b) A Person commits an offense if, in connection with the performance of work in the Public Right(s)-of-Way, the Person:

- (1) Damages the Public Right(s)-of-Way beyond what is incidental or necessary to the performance of the work;
- (2) Damages Public or private Facilities or improvements within or adjacent to the Public Right(s)-of-Way; or
- (3) Fails to clear debris associated with the work from a Public Right(s)-of-Way during work or after work is completed.

(c) It is a defense to prosecution under subsection (b)(2) if the Person complied with all of the requirements hereof and state and federal law and caused the damage because:

- (1) The Facility in question was not shown or indicated in a plan document, plan or record, record Construction plan, field survey, or on-site staking or marking, and
- (2) Could not otherwise have been discovered in the Public Right(s)-of-Way through the use of due diligence.

(d) A Person commits an offense if, while performing an activity along or within a Public Right(s)-of-Way (whether or not a Construction or other permit is required for the activity), the Person:

- (1) Damages the Public Right(s)-of-Way, or public or private Facilities or improvements within or adjacent to the Public Right(s)-of-Way, or
- (2) Fails to clear debris associated with the activity from a Public Right(s)-of-Way.

(e) A culpable mental state is not required to prove an offense hereunder. A Person who violates a provision of this article is guilty of a separate offense for each day or portion of a day during which the violation is committed, continued, authorized, directed or permitted. An offense under this article is punishable by a fine of not less than five hundred dollars (\$500.00) and not to exceed two thousand dollars (\$2,000.00)

(f) The provision hereof may be enforced by civil court action in accordance with state or federal law. This section is in addition to any other remedies, civil or criminal, the City has for a violation of provisions of this article.

(g) Prior to initiation of civil enforcement litigation, the Service Provider or any other Person who has committed a violation under this section shall be given the opportunity to correct the violation within the time frame specified by the Public Works Director. This subsection shall not be construed to prohibit the Public Works Director or the City from taking enforcement action as to past or present violations, notwithstanding their correction.

SECTION 2. The City Manager or designee and the codifier of the Littlefield municipal ordinances are authorized to change the numbering of sections and similar non-substantive changes necessary to codify this ordinance when and if such is desired.

SECTION 3. Severability. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it being the intent of the City Council of the City of LITTLEFIELD, Texas in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

SECTION 4. Repealer. All ordinances, parts of ordinances resolutions and parts of resolutions in conflict with this ordinance are hereby repealed to the extent of conflict with this ordinance.

SECTION 5. Penalty. A violation of this ordinance is an offense punishable in accordance with provisions of the adopted ordinance and this Code of Ordinances.

SECTION 6. Publishing and Effective Date. This penal ordinance shall be published and become effective according to law.

INTRODUCED AND PASSED by the City Council of the City of Littlefield, Texas, on this the 26 day of September, 2017.



Eric Turpen, Mayor

ATTEST:

A handwritten signature in cursive script, appearing to read "Janine Butler", is written over a solid horizontal line.

Janine Butler, City Secretary

ORDINANCE NO. 2017-0926-6

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LITTLEFIELD, TEXAS: ADOPTING A DESIGN MANUAL FOR INSTALLATION OF WIRELESS NODES AND SIMILAR FACILITIES IN THE PUBLIC RIGHT-OF-WAY AND ON CITY INFRASTRUCTURE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR CONTINUATION OF PRIOR LAW; PROVIDING PENALTY; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

WHEREAS, in 2017, the Texas Legislature enacted chapter 284 of the Texas Local Government Code (hereafter chapter 284) mandating that cities allow wireless service providers to use the public right-of-way and municipally-owned infrastructure for the installation of nodes and other wireless facilities described in chapter 284, and prescribing certain other terms, conditions, restrictions, fees, and duties as to cities and service providers; and,

WHEREAS, pursuant to chapter 284, the City Council now desires to adopt the Design Manual attached to this ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LITTLEFIELD, TEXAS:

SECTION 1. That the Design Manual attached to this ordinance is hereby adopted as an official regulation of the City of Littlefield.

SECTION 2. That the \$250 per day civil penalty specified in the Design Manual is specifically mentioned here and expressly adopted.

SECTION 3. Severability. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it being the intent of the City Council of the City of Littlefield, Texas in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

SECTION 4. Repealer. All ordinances, parts of ordinances resolutions and parts of resolutions in conflict with this ordinance are hereby repealed to the extent of conflict with this ordinance.

SECTION 5. Continuation. That nothing in this ordinance (or any code or manual adopted herein) shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause of action acquired or existing, under any act or ordinance repealed by this ordinance and such prior law is continued in effect for purposes of such pending matter.

SECTION 6. Penalty. A violation of this ordinance is an offense punishable in accordance with the Littlefield Code of Ordinances.

SECTION 7. Publishing and Effective Date. This ordinance shall be published and become effective according to law.

INTRODUCED AND PASSED by the City Council of the City of Littlefield, Texas, on this the 26 day of September, 2017



Eric Turpen, Mayor

ATTEST:


Janine Butler, City Secretary