

ORDINANCE NO. 2106

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS AMENDING THE CODE OF ORDINANCES BY REVISING SECTION 2-136 TO ADD THE APPLICATION FEES AND PUBLIC RIGHT-OF-WAY RATES SET FORTH IN STATE LAW FOR USE OF THE PUBLIC RIGHT-OF-WAY BY WIRELESS NETWORK PROVIDERS; REVISING CHAPTER 5, ARTICLE III. REGARDING USE OF THE PUBLIC RIGHT-OF-WAY; ADDING CHAPTER 5, ARTICLE IIIA. ADOPTING A DESIGN MANUAL FOR THE INSTALLATION OF NETWORK NODES AND NODE SUPPORT POLES; AND ADDING ARTICLE IIIB. REGARDING DESIGN DISTRICTS AND HISTORIC DISTRICTS.

WHEREAS, the City's public rights-of-way are vital to the everyday life of the City's citizens, businesses and visitors; and

WHEREAS, the City is charged with conserving the limited available space in the public right-of-way for the many competing uses of the space; and

WHEREAS, orderly use and management of the public rights-of-way are essential to economic development; and

WHEREAS, the City recognizes that the State of Texas has delegated to the City the fiduciary duty, as a trustee, to manage the public rights-of-way for the health, safety, and welfare of the public; and

WHEREAS, pursuant to its police power, the City is adopting this ordinance and a design manual in order to meet the City's fiduciary duty to the citizens of the City; and

WHEREAS, planned development zoning districts are designed to encourage creative, innovative, and aesthetically desirable design and placement of buildings and open spaces; and

WHEREAS, the City Council has adopted a Streetscape Policy for the beautification, lighting, landscaping and maintenance of the City's public rights-of-way pursuant to Resolution No. 17-20; and

WHEREAS, the appearance of the City's streetscapes has become a signature element for Sugar Land residents, businesses, and visitors; and

WHEREAS, the signature streets have become the City's trademark and make it easy to distinguish the neighborhoods located within the City; and

WHEREAS, the signature streets include a number of streets with regularly-spaced lines of trees along the parkway or in the median and are subject to heightened aesthetic requirements; and

WHEREAS, the regulations established in this ordinance are necessary to assist in the management of facilities placed in or over the public rights-of-way, to minimize congestion, inconvenience, visual impact and other adverse effects that may occur during installation of, or construction in, the public rights-of-way, to effectively manage costs to the citizens resulting from the placement of facilities within the public rights-of-way, to preserve the physical integrity of the streets and highways; to control the orderly flow of vehicles, and to protect the safety, security, appearance and condition of the public rights-of-way; and

WHEREAS, this ordinance is necessary to protect the health, safety and welfare of the City and its citizens, businesses, visitors, and travelers; NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY COUNCIL
OF THE CITY OF SUGAR LAND, TEXAS:**

Section 1. That the City Council adopts the findings and recitals set forth in the preamble of this Ordinance, which are found to be true and correct.

Section 2. That Chapter 2, Section 2-136 (5) (p) is amended to read as follows:

(p) ROW fees.

1. A permit fee is required to be paid for any work done in city-owned rights-of-way. The ROW permit fee does not apply to the city's existing utility franchisees or to entities exempt by law from payment of a right-of-way work permit fee (including their contractors)
.....\$76.50 each

2. Application fee for network providers per application (As established by Chapter 284, Tex. Local Gov't Code):

Up to five network nodes.....\$500

Each additional network node
(up to total of 30 network nodes per application).....\$250

Each pole.....\$1,000

Resubmission of denied or incomplete application.....Actual cost

3. Public right-of-way rates for network providers (per Chapter 284, Tex. Local Gov't Code):
 - (i) Public right-of-way rate.....Annual rate of \$250 multiplied by number of network provider's network nodes in public right-of-way
(Will be pro-rated for the months remaining in the calendar year after the later date of the permits issued by city)
 - (ii) Annual adjustment to public-right-of-way rate.....
One-half the annual change to the Consumer Price Index for All Urban Consumers for Texas, as published by the federal Bureau of Labor Statistics in February of the preceding year
(Annual adjustment will not be applied for calendar year 2018.) The annual adjustment thereafter will apply to the first payment due to the city on the *later of* (i) January 1st; or (ii) after 60 days following written notice to the network provider of the increase and new annual rate.
 - (iii) Network provider's installation of its own transport facilities.....In addition to the public right-of-way rate, the sum of \$28 multiplied by number of network provider's network nodes in the public right-of-way for which transport facilities provide backhaul until time payment exceeds monthly aggregate per node compensation
4. Collocation on service poles by network provider (per Chapter 284, Tex. Local Gov't Code)..... \$20 per year per service pole
(Will be pro-rated for the months remaining in the calendar year after the later date of the permits issued for the network node at the location)
5. Connection of network node to network using the public right-of-way to obtain transport service from a person paying municipal fees to occupy public right-of-way equivalent to at least \$28 per node per month.....No additional cost

Section 3. That Chapter 5, Article III of the Code of Ordinance is amended to read as follows:

ARTICLE III. USE OF PUBLIC RIGHT-OF-WAY

DIVISION 1. IN GENERAL

Sec. 5-21. Title; application.

- (a) This article may be known and cited as the Right-of-Way Management Ordinance for the City of Sugar Land.
- (b) The provisions of this article apply to all persons using the city's public rights-of-way and all work performed, and facilities installed within public rights-of-way.

Sec. 5-22. Definitions.

The following definitions apply in this article:

Abandon and its derivatives means the facilities installed in the public right-of-way that have been left in an unused or non-functioning condition for more than 120 consecutive calendar days, unless, after notice to the provider, the provider establishes to the city's reasonable satisfaction that the applicable facilities, or portion thereof, are still in active use.

City means the City of Sugar Land, Texas.

City manager means the city manager of the city or his designee.

Director means the director of public works or any other person designated by the city manager to administer this article.

Facilities means poles, conduits, pipelines, lines, cables, wires, manholes, handholes, cuts, plant, conduits, mains, vaults, equipment, structure, or facility of any kind whatsoever.

Highway right-of-way means the right-of-way adjacent to a state, federal, or toll road authority highway or freeway.

Private easement means an easement or other real property right that is only for the benefit of the grantor and grantee and their successors and assigns.

Public right-of-way means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which

the city has an interest. The term does not include (i) a private easement, or (ii) the airwaves above the public right-of-way with regard to wireless telecommunications.

Sidewalk means that portion of a public right-of-way improved and designated for and ordinarily used for pedestrian travel or pedestrian and bicycle travel.

Street means only the paved portion of the right-of-way used for vehicular travel, being the area between the face of curb to the opposite face of curb, or the area between the two parallel edges of the paved roadway for vehicular travel where there is no curb. A street is measured as the average width at the midpoint between intersections. A "street" is generally part of, but smaller in width than, the width of the entire public right-of-way, while a public right-of-way may include sidewalks, walkways, bicycle lanes, off street pathways for pedestrian and/or bicycle use, and utility easements, but a "street" does not. A "street" does not include the curb, a bicycle lane, the sidewalk, a walkway, or an off street pathway for pedestrian and/or bicycle use.

User means a person, organization or entity that owns, places, installs, maintains, or uses facilities within the public right-of-way or street, depending on the context.

Sec. 5-23. Authorization for use of public right-of-way.

(a) The city's authorization or an agreement shall be required to use the public right-of-way, except when clearly preempted by state law. If any state law authorizing use of the public right-of-way is struck down, pre-empted, declared to be invalid or void, in whole or in part, the user relying upon such law for authorization shall seek separate authorization from the city or shall cease using the public right-of-way.

(b) After issuance of any permit, the user of the public right-of-way shall be and remain a mere licensee. Neither this ordinance, nor any permit granted under this ordinance, shall constitute an assignment of any of the city's rights to the public right-of-way.

(c) This ordinance does not in any way limit the city's right to locate, operate, maintain or remove city equipment or property in the manner that the city deems appropriate.

(d) When an agreement is required to use the public right-of-way, a permit for the construction work may not be issued until the agreement is obtained.

(e) The city's authorization to a person, entity or organization does not allow use of third party facilities in the public right-of-way.

(f) The city's authorization to use its public right-of-way does not extend to the use of any other city property or facilities.

Sec. 5-24. Insurance and liability.

(a) *Insurance.* Prior to construction or installation of facilities within the public right-of-way, an applicant must provide, and the user must maintain, acceptable proof of insurance against claims for injuries to persons or damages to property arising from or in connection with the performance of the work, comprehensive general liability and property damage insurance with minimum limits of \$500,000.00 for the injury or the death of any one person, \$1,000,000.00 for each occurrence, and \$100,000.00 for each occurrence of damage to or destruction of property. Coverage must be on an "occurrence" basis. Each policy must include a cancellation provision in which the insurance company is required to notify the city in writing not fewer than thirty (30) days before canceling, failing to renew or reducing the policy limits.

(b) *Liability.* A person owning facilities in the public right-of-way is responsible and liable for acts or omissions of its employees, temporary employees, officers, directors, consultants, agents, affiliates, subsidiaries, contractors, and subcontractors in connection with installation of facilities in the public right-of-way as if such acts or omissions were the acts or omissions of the person owning the facilities in the public right-of-way.

Sec. 5-25. - Relocation and removal of facilities.

(a) Within 90 days following written notice from the city, as allowed by state and federal law, including the common law, any person owning facilities located in the public right-of-way, must, as directed by the city, and at the person's sole cost, temporarily or permanently remove, relocate, change or alter the position of any of their facilities that are in the public right-of-way whenever the city determines that the removal, relocation, change or alteration is necessary:

- (1) For the construction, repair, maintenance, installation, completion, relocation, replacement, or widening of any city improvement, facilities, or equipment, in or upon the public right-of-way; or
- (2) The facilities have become obsolete.

As allowed by state and federal law, including the common law, a person owning facilities located in the public right-of-way must remove its facilities that have been abandoned regardless of whether it receives notice from the city. If the city sends notice that the removal must be completed immediately to protect the public safety, the removal must be completed immediately.

Otherwise, if written notice is sent by the city, the removal must be completed within 90 days of receipt of the written notice.

The relocation or removal of facilities must comply with state and federal law and this article.

(b) If a person does not remove or relocate its facilities as required by (a) of this section, the city may remove the facilities at the person's sole cost and expense, without further notice to the person and within 30 days following receipt of an invoice from the city, the person shall reimburse the city for its reasonable expenses incurred in the removal or relocation of the facilities.

(c) If the director determines that there is imminent danger to the public health, safety and welfare, the director may immediately disconnect, remove or relocate a person's facilities in the public right-of-way at the person's sole cost. The person shall reimburse the city for its reasonable expenses incurred in the removal or relocation of the facilities within 30 days following receipt of an invoice from the city.

(d) If a person owning a facility in the public right-of-way removes or relocates the facility at its discretion, the person shall notify the city in writing not less than ten business days prior to the removal or relocation. A relocation must be performed at the person's sole cost and expense. The person shall obtain all permits required for the removal or relocation of the person's facilities prior to the removal or relocation.

(e) A person owning facilities in the public right-of-way must restore and repair damage to the public right-of-way caused by the relocation or removal of its facilities within ten days of the removal or relocation at the person's sole cost and expense. The public right-of-way must be restored to substantially the same condition as it was immediately before the removal or relocation, including restoration or replacement of damaged trees, shrubs, or other vegetation. Such repair, restoration and replacement shall be subject to the sole reasonable approval of the director.

(f) The city will not issue any refunds for amounts paid by a person for a permit or application for facilities that are removed or relocated.

Sec. 5-26. Violations.

(a) It is unlawful for any person to knowingly construct, place, maintain, or operate any line, wire, pipe, conduit, equipment, pole, or structure in a public right-of-way or other public property for the purpose of providing water, wastewater, electrical, natural gas, or other service for which use of the public right-of-way is not authorized by state law, to any person, without first receiving the consent of the city council. The city council may, as a condition

of its giving its consent, require the person requesting such use to enter into a written agreement with the city containing the conditions under which the use of the public right-of-way will be permitted.

(b) Except in cases of emergency, it is unlawful for any person to knowingly dig up, break, cut, excavate, drill or tunnel in or on any public right-of-way without first obtaining a right-of-way work permit from the city.

(c) It is unlawful for any person to knowingly install or place any facilities in a public right-of-way or make use of the public right-of-way for any purpose not authorized by state law.

(d) It is unlawful for any person to knowingly violate a provision of this article.

(e) It is unlawful for any person doing work under a permit to violate a provision of the permit.

(f) It is unlawful for any person to continue work under a permit after receiving a stop work order or receiving notice that a stop work order has been issued or to resume the work or activity until the director withdraws the stop work order.

(g) Each unauthorized use of the public right-of-way or other public property is a separate offense. And each day a violation continues is a separate offense. Any person, firm, or corporation violating any of the provisions or terms of this section shall, upon conviction thereof, be fined a sum not exceeding five hundred dollars (\$500.00) for each offense. A culpable mental state is not required to prove an offense under this ordinance.

Sec. 5-27-5-28. Reserved.

DIVISION 2. INSTALLATION AND CONSTRUCTION IN RIGHT-OF-WAY

Sec. 5-29. Right-of-way work permit required and exceptions.

(a) *Right-of-way work permit.* A right-of-way work permit must be obtained from the city before installing facilities in or upon the public right-of-way or performing any work in the public right-of-way that requires digging up, breaking up, cutting, excavating, drilling, or tunneling in or upon any public right-of-way. If emergency work in the public right-of-way that would require a permit is necessary and the city permit office is closed, the person doing the work must apply for a right-of-work permit the next business day after the emergency work.

(b) *Other permits.* In addition to the right-of-way work permit, a person proposing to use the city's public right-of-way must obtain all other permits required by applicable city ordinances.

(c) *Exceptions to permit requirement.* The permit requirements of this section do not apply to:

- (1) The repair, replacement, or maintenance of an existing telephone line, natural gas line, electric line, cable television or telecommunications line, irrigation line, or other existing pipe, cable, or facility lawfully located in the public right-of-way, if the repair, replacement, or maintenance does not require the digging up, breaking up, cutting, excavation, drilling or tunneling under or the removal, modification, or excavation of a public street, sidewalk, water or sewer line, or other city-owned improvement, except as may otherwise be provided in state law.;
- (2) Maintenance or replacement activities exempt by law from obtaining a permit;
- (3) The repair, replacement, or maintenance of existing trees, shrubs, flowers, grass, vegetation, berms, decorative landscaping, or watering systems that are lawfully located in the public-right-way, if the repair, replacement, or maintenance does not require the digging up, breaking up, cutting, excavation, drilling or tunneling under, or the removal, modification, or excavation, of a public street, sidewalk, water or sewer line, or other city-owned improvement.
- (4) The repair, replacement, or maintenance of signs, or other ornamental features or materials denoting the entrance to a neighborhood or subdivision that are lawfully located in a public right-of-way, if the repair, replacement, or maintenance does not require the digging up, breaking up, cutting, excavation, drilling or tunneling under, or the removal, modification, or excavation of, a public street, sidewalk, water or sewer line, or other city-owned improvement;
- (5) Any work performed for the city under a contract with the city;
- (6) Any work required to install a sign on a public right-of-way if the applicant has received a sign permit from the city and has complied with the requirements of this article; or
- (7) The placement or maintenance of trees, shrubs, irrigation systems, or other landscaping materials or equipment placed in the right-of-way of a residential lot at the direction of the owner or person in control of the lot.

Sec. 5-30. Application and issuance of permits.

- (a) A completed application for a permit must be submitted to the city on a city form that includes information necessary to administer this article, to protect the public and public right-of-way, and to ensure compliance with state law, this article, and other applicable ordinances, accompanied by the applicable fees.
- (b) The application must include the name, address, telephone number, and e-mail address of the owner of the facilities and the person performing the work.
- (c) The application must include the following attachments and information in the format specified by the director:
 - (1) A map, survey or plan clearly identifying the GPS coordinates of the location of the facilities and the work area;
 - (2) A current certificate of insurance that complies with this article;
 - (3) A traffic control plan per the MUTCD for any proposed traffic routing or proposed lane closures;
 - (4) A Stormwater Pollution Prevention Plan and trench safety plan, if applicable.
 - (5) Three sets of sealed engineering and construction plans and drawings with plan and profiles of the public right-of-way, identifying all existing utility conflicts.
 - (6) Three sets of scaled dimensioned drawings of proposed attachments to poles, as well as other proposed equipment associated with the permit application, indicating the spacing from existing curb, public right-of-way line, driveways, sidewalks, light poles, off street pathways, and any other poles or appurtenances, together with an existing aerial and street view of the proposed location.
 - (7) For installation of any proposed pole, a sectional detail showing the depth of anchor, scaled dimension drawings of the proposed pole, as well as any other proposed equipment associated with the proposed installation, indicating spacing from existing curb, public right-of-way line, driveways, sidewalks, light poles, off street pathways and any other poles or appurtenances;
 - (8) Construction and installation methods to be employed for protection of existing structures, fixtures, and facilities within or adjacent to the public

right-of-way and the dates and times the work will occur, all of which are subject to approval of the director;

- (9) For any proposed work that involves installation of facilities that will use radio frequencies, evidence in a form acceptable to the director, showing that the proposed installation will be compatible with the city's systems and will not cause interference with the city's public safety radio system, traffic signal light system, or other city communications systems or components;
 - (10) A copy of the certificate issued by the PUC for telecommunications, cable service providers, and video service providers;
 - (11) Proof of compliance with private deed restrictions or other private restrictions where applicable;
 - (12) If the project lies within a highway right-of-way, evidence of a permit from the state or federal, or toll road authority;
 - (13) If the project lies within property owned by a railroad company, evidence of written authorization from the railroad company; and
 - (14) An original certificate of insurance with the (i) policy number, (ii) name of insurance company, (iii) name and address of the agent or authorized representative of the insurance company, (iv) name, address, and telephone number of the insured, (v) policy expiration date, and (vi) specific coverage amounts.
- (d) The permit will be issued in the name of the owner of the facilities and, also will contain the name, address, telephone number, and e-mail address of the person performing the work, the location of the work, and any other information designated by the director. The permit may also contain special conditions the director determines are necessary to ensure compliance with this article, applicable ordinances or to protect the public and public right-of-way, to the extent not inconsistent with state law.
- (e) The permit holder must keep the permit posted at a visible place at the work site and make it available for inspection upon the request of any city employee.
- (f) A permit issued under this article is valid for the time period specified by the director, based on the estimated time to complete the work. Upon the written request of the permit holder, the director may grant additional time to complete the work under the permit. If the person receiving the permit fails to act upon the permit within 180 days of issuance, the permit shall be invalid and the person will be required to obtain another permit.

(g) Persons working within the public rights-of-way are responsible for verifying the horizontal and vertical location of all facilities.

(h) On or before September 1st of each year, or within 30 days of a change in the contact information, an owner of facilities in the public right-of-way must update its contact information, to include the name, address, telephone number and e-mail address of the person to whom the city may provide notices. If the owner of facilities fails to provide the updated contact information, any notices that are sent shall be considered valid if sent to the name and address of the owner on file with the city.

Sec. 5-31. Stop work orders; denial or revocation of permit; appeals.

(a) If a person violates a provision of this article, or applicable codes and ordinances, the director may issue a written stop work order to the violator directing any work or activity authorized to be done under a permit to cease until the violation is corrected. Upon receiving a stop work order, the permit holder must immediately cause all work authorized under the permit to stop, but may take steps necessary to secure the site.

(b) The director may revoke a permit for a violation of this article. To revoke a permit, the director must send or deliver written notice of a violation to the permit holder ordering the violation to be corrected within a specified time. If the permit holder fails to correct the violation as directed, the director may revoke the permit by giving notice to the permit holder in writing.

(c) Any person may appeal the denial or revocation of a permit, the interpretation or application of a requirement of this article, the issuance of a stop work order or notice of violation, or other requirement or action imposed under this article by the director. The appeal must be submitted in writing to the city manager or the city manager's designee within 30 days of the action being appealed. The city manager or designee will promptly review the facts and issue a written determination.

(d) The revocation, denial and appeal provisions in this section govern over any other conflicting provision in this code.

Sec. 5-32. Additional requirements.

The following provisions apply to any person performing any construction, installation or other work in the public right-of-way, whether under a permit issued under this article or otherwise:

(a) *Specifications.* All excavations, alterations, backfill, repairs, and other work must be made in conformance with any written specifications or requirements adopted by the city. The director may allow modifications of a specification if

unusual circumstances are present, the modifications will comply with the spirit and intent of the specification, and the modification will not adversely affect the public safety or welfare. All work must be performed in a good and workmanlike manner and in accordance with all applicable federal, state, and local laws, and rules and regulations.

(b) *Boring and encasing.* If the director determines it is impractical to excavate within a street, all pipelines, conduits, or other crossings must be bored, tunneled, or drilled under the paved section, and, if required by the director, the crossings must be encased in a manner approved by the director.

(c) *Damage to city streets.* Any type of ditching equipment used on city streets must be equipped with street pads. All damage done to public right-of-way and other public property during the work must be repaired by the permit holder to city specifications. If the permit holder fails to make the repairs, the director may make the repairs and charge the cost to the permit holder.

(d) *Correction of defects.* If a permit holder fails to properly restore the surface of the public right-of-way or other public property, abandons the work, or fails to correct a hazardous condition after notice to do so, the director may take any action necessary to restore the right-of-way, complete the work, or correct the hazardous condition at the permit holder's expense.

(e) *Bonds.* For good cause, and if necessary to protect the health, safety, and welfare of the public, the director may require as a condition to the issuance of a right-of-way work permit or before work begins under the permit, that the applicant or permit holder post a bond to insure the repair of streets or the completion of the proposed work or to insure compliance with any other requirement of this article.

(f) *Debris on public rights-of-way.* During the work, the public right-of-way must be kept clean of excessive rubbish, earth, mud, rock, and other debris, to the satisfaction of the director.

(g) *Traffic safety.* All work in a public right-of-way or adjacent to a street must be done with barricades, traffic cones, lights, flares, signs, flagmen, and other traffic control devices as specified in the latest edition of the MUTCD of the Texas Department of Transportation. Where the director believes it necessary to avoid traffic congestion or for public safety, he may require work be done only at certain hours during the day or night. Any excavation in the public right-of-way that is a potential danger to the public must be secured against entry in the manner specified by the director.

(h) *Inspection.* The director and applicable code enforcement officers may inspect the work to determine whether the facilities are being or have been constructed in compliance with this article, applicable codes, other applicable

ordinances, and state law. The owner of the facilities must correct work that is not in compliance with the foregoing requirements.

(i) *As-built maps and records.* The owner of facilities in the public right-of-way must submit to the city accurate maps and appropriate records its facilities, as constructed in the public right-of-way, within 10 days of completion of the installation. Upon request, such maps and records shall include the use of Auto CAD/GIS digital format. Additional maps will be provided to the city upon request.

(j) *Ownership.* A person's facilities in the public right-of-way shall not be considered to be affixed to or part of the public right-of-way. All such facilities will be and remain the property of the owner and may be removed by the owner at any time, provided that the owner obtains the necessary permits.

(k) *Tree Maintenance.* The owner of facilities in the public right-of-way must obtain written permission from the director before trimming trees hanging over the city's facilities to prevent branches from contacting its facilities. When directed by the director, the owner of the facilities shall trim the trees under the supervision and direction of the city's inspector. The city will not be liable for any damages, injuries, or claims arising from the owner's actions under this subsection.

(l) *Graffiti Abatement.* As soon as practicable but not later than fourteen calendar days from receipt of written notice from the city, the owner of facilities in the public right-of-way shall remove all graffiti on its facilities located in the public right-of-way.

(m) *Drug Policy.* It is the policy of the city to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale or use of illegal drugs or alcohol by user's employees, contractors, subcontractors, or vendors while on city premises is prohibited.

Secs. 5-33-5-34. Reserved.

Section 4. That Chapter 5 is amended by adding Article IIIA. to read as follows:

ARTICLE IIIA. DESIGN MANUAL FOR THE INSTALLATION OF NETWORK NODES AND NODE SUPPORT POLES

Sec. 5-35. Design Manual.

(a) The City Council adopts the Design Manual for the Installation of Network Nodes and Node Support Poles Pursuant to Chapter 284, Tex. Local Gov't Code effective September 1, 2017. A copy of the Design Manual is available

in the city secretary's office and on-line on the city website at www.sugarlandtx.gov. The city enacts the design requirements and guidelines in order to meet its fiduciary duty to its citizens and to give assistance and guidance to network provider in the safe, aesthetically pleasing, efficient, and timely installation of facilities.

(b) The Design Manual applies to any and all siting, installation, maintenance, collocation, or other placement of, in, over, or under the public right-of-way of network nodes, node support poles, micro network nodes, distributed antenna systems, microwave communications facilities, or other wireless facilities.

(c) From time-to-time the city manager may add to, delete from, or revise the Design Manual without council action if the revision:

- (1) Does not conflict with a provision of state law;
- (2) Is for the purpose of providing detailed or technical specifications, requirements, or procedures applicable to the matters regulated under chapter 5, article III. of this code or state law, but does not implement new substantive regulations or requirements not addressed in chapter 5, Article III of this code or state law;
- (3) Is adopted in compliance with written procedures, as approved by the city manager, that provide for public notice, an opportunity for public comment, and consideration of any public comments prior to adoption; and
- (4) Is approved by the city manager.

(d) The undergrounding requirement in an underground requirement area will control over a conflicting provision applicable to a residential area (public right-of-way adjacent to street or thoroughfare that is not more than 50 feet wide and adjacent to single-family residential lots, other multifamily residences, or undeveloped land that is designated for residential use by zoning or deed restriction), park, design district or historic district.

Section 5. That Chapter 5 is amended by adding Article IIIB. to read as follows:

ARTICLE IIIB. HISTORIC DISTRICTS AND DESIGN DISTRICTS

Sec. 5-36. Design districts.

(a) A design district is an area that is zoned, or otherwise designated by this code as a design district and for which the city maintains and enforces unique design and aesthetic standards.

(b) A decorative pole is a streetlight pole specially designed and placed for aesthetic purposes and for which no appurtenances or attachments, other than specially designed informational or directional signage or temporary holiday or special event attachments, have been placed or are permitted to be placed according to the city's ordinance(s).

(c) The following are designated as design districts:

(1) The planned development zoning districts consisting of:

- (A) Telfair Central Residential Final Development Plan approved by Ordinance No. 1808, as administratively amended;
- (B) Telfair Center Lakefront General Development Plan approved by Ordinance No. 1826, as administratively amended;
- (C) Crossing at Telfair Section 2 Final Development Plan, approved by Ordinance No. 1842, as administratively amended;
- (D) Lake Pointe Final Development Plan approved by Ordinance No. 1868, as administratively amended;
- (E) Telfair Lakefront District East Business Park Final Development Plan approved by Ordinance No. 1887, as administratively amended;
- (F) Imperial Single-Family and Entry Sign Feature Final Development Plan approved by Ordinance No. 1891;
- (G) Museum Square Final Development Plan approved by Ordinance No. 1904, as administratively amended;
- (H) Telfair West Commercial District General Development Plan as approved by Ordinance No. 1926;
- (I) Imperial Gracepoint Townhomes Final Development Plan approved by Ordinance No. 1935;
- (J) Imperial General Development Amendment No. 1 approved by Ordinance No. 1969;
- (K) Imperial Market District Final Development Plan approved by Ordinance No. 2036; and
- (L) Imperial Residential District-Crown Garden Final Development Plan approved by Ordinance No. 2083;
- (M) The area described by the boundaries of (i) Sugar Land Town Square, a 32.8275-acre tract of land, described in Ordinance No. 1116, as amended by Ordinance No. 1676 and (ii) the adjacent

public right-of-way of Town Center Blvd. North, as described in the Sugar Land Town Square Plat filed of record in File No. 2001117871 of the Plat Records of Fort Bend County, Texas; and
(N) The planned development zoning districts approved by ordinance on or after September 1, 2017 pursuant to the city's development code and in which the planned development district has decorative poles.

(2) The 38.450-acre tract, as shown on the plat recorded in File No. 2017042082, Fort Bend County, Texas Plat Records.

(3) The following signature streets established by the city's city council pursuant to the Streetscape Policy adopted by Resolution No. 17-20, which are design district corridors with decorative poles: Brooks Street, Burney Road, Commerce Green Blvd., Dulles Ave., Commonwealth Blvd., Ellis Creek Blvd., First Colony Blvd., Gateway Blvd., Lexington, New Territory (University Blvd. to Jillian Ln.), Sugar Creek Blvd. (US Highway 59 to Country Club Blvd.), Sweetwater, University Blvd., and Williams Trace.

A map of these signature streets is available in the city secretary's office and on-line on the city's website at www.sugarlandtx.gov

(b) On or after September 1, 2017, decorative poles will be installed within any public right-of-way located in planned development zoning districts designated by ordinance pursuant to the city's development code, as amended.

(c) The city council may designate an area as a design district at any time and such designation does not require a zoning case.

Sec. 5-37. Historic districts.

(a) A historic district is an area zoned, or otherwise designed as a historic district under municipal, state or federal law.

(b) The city council may designate an area as a historic district at any time, which shall not require a zoning case.

(c) The areas shown as Historic District 1 and Historic District 2 in the approved General Land Plan, which is attached as Exhibit B-1 to the Imperial General Development Plan Amendment No. 1 approved by Ordinance No. 1969, are designated as Historic Districts.

(d) On or after September 1, 2017, decorative poles will be installed within any public right-of-way located in a historic district.

Secs. 5-38-5-41. Reserved.

Section 6. That Section 5-41 of the Code of Ordinances is renumbered as Section 5-42 and the Reserved Numbers for Article IV. Division 1 are revised to read as Secs. 5-43-5-50.

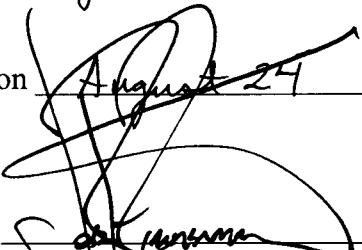
Section 7. That any person found guilty of violating this ordinance will be fined not more than \$500 for each offense. Notice of the enactment of this ordinance will be given by publishing the ordinance or its descriptive caption and penalty in the City's official newspaper one time within thirty days of passage.

Section 8. That the provisions of this ordinance are severable and the invalidity of any part of this ordinance will not affect the validity of the remainder of the ordinance.

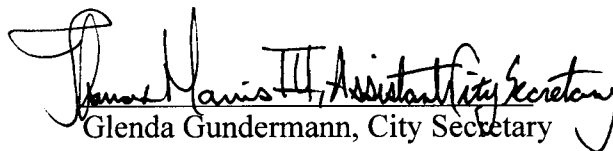
Section 9. That this ordinance is effective September 1, 2017.

APPROVED on first consideration on August 22, 2017.

ADOPTED on second consideration on August 24, 2017.


Joe R. Zimmerman, Mayor

ATTEST:


Glenda Gundermann, City Secretary

APPROVED AS TO FORM:

