

CITY OF ANNA, TEXAS

ORDINANCE NO 754-2017

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANNA, TEXAS AMENDING ORDINANCE NO. 748-2017 (MANAGEMENT OF PUBLIC RIGHTS-OF-WAY); ESTABLISHING A REVISED ORDINANCE FOR PUBLIC RIGHT-OF-WAY MANAGEMENT; AMENDING PART IV OF THE CODE OF ORDINANCES (SCHEDULE OF FEES), ARTICLE 5 (GENERAL MISCELLANEOUS FEES), BY AMENDING AND REVISING SECTIONS 11 AND 15, AND ADDING A NEW SECTION 74; PROVIDING FOR SAVINGS, REPEALING AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City of Anna, Texas ("City") is charged with maintaining control of and access to the right-of-way in order to protect the health, safety, and welfare of its citizens; and

WHEREAS, in accordance with applicable federal laws, including, but not limited to, 47 U.S.C., Section 253(c) and state laws, including, but not limited to, Texas Utility Code, Section 14.008 and Section 54.205, Texas Civil Statutes, Article 1175, Texas Local Government Code, Chapter 284, and Section 283.056, the City exercises its historical rights to control and manage its public rights-of-way in a competitively neutral and nondiscriminatory basis; and implement certain police power regulations in the use of those public rights-of-way; and

WHEREAS, the City Council of Anna ("City Council") has investigated and determined that it would be advantageous and beneficial to the City and its citizens to amend The Anna City Code of Ordinances ("Anna Code"), by amending Part II, Article 50 (Public Right-of-Way Management), Section 11 (Construction Standards), Section 15 (Location of Utility Structures), to add a new Section 74 (Ownership), and to amend Part IV (Schedule of Fees), Article 5 (General Miscellaneous Fees), Section 12 (Right-of-Way Permit Fee);

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

Section 1. Recitals Incorporated.

The recitals above are incorporated herein as if set forth in full for all purposes.

Section 2. Amending Article 50 to Part II of the Anna Code

2.01 This ordinance amends Part II, Article 50 (Public Right-of-Way Management), Section 11 (Construction Standards) of the Anna Code to add the provisions below, to

become and made part of the Anna Code, with additional provisions in underlined text (example) and deleted provisions in strikethrough text (~~example~~), as follows:

ARTICLE 50. PUBLIC RIGHT-OF-WAY MANAGEMENT

[...]

Section 11. Construction Standards

[...]

11.04 Public Notification.

- (a) For any closure of a traffic lane or blocking of a sidewalk or alley lasting six days or less, the permittee shall conspicuously mark its vehicles with the permittee's name and telephone number.
- (b) For projects scheduled to last more than seven calendar days, a three feet by three feet informational sign stating the identity of the person doing the work, a local telephone number and Owner's identity shall be placed at the location where construction is to occur 48 hours prior to the beginning of work in the Right-of-Way and shall continue to be posted at the location during the entire time the work is occurring. The informational sign will be posted on the Public Right-of-Way 100 feet before the construction location commences, unless other posting arrangements are approved or required by the Director.
- (c) When projects last more than seven calendar days, the Owner shall also provide written notification to all adjacent property occupants 48 hours prior to the beginning of construction. Informational fliers shall include the person doing the work, a local telephone number, Owner's identity, and proposed schedule.
- (d) Owner shall provide the notice in subsection (c) above to record owners and occupants (if applicable) of all properties abutting the same Public Right-of-Way within 300 linear feet of any area where Facilities are to be relocated or removed prior to initiating such work.

(Ordinance _____ - _____, adopted _____)

[...]

2.02 This ordinance amends Part II, Article 50 (Public Right of Way Management), Section 15 (Location of Utility Structures) of the Anna Code to add the provisions below,

to become and made part of the Anna Code, with additional provisions in underlined text (example) and deleted provisions in strikethrough text (~~example~~), as follows:

ARTICLE 50. PUBLIC RIGHT-OF-WAY MANAGEMENT

Section 15. Location of Utility Structures

[...]

15.07 Underground facilities shall not be removed without the advance written consent of the City, which shall not be unreasonably withheld. This restriction is applicable even when the Owner's franchise or other Municipal Authorization to occupy a public right-of-way has expired or been otherwise terminated, and also applies when underground facilities are being abandoned.

(Ordinance _____ - _____, adopted _____)

[...]

2.03 This ordinance amends Part II, Article 50 (Public Right-of-Way Management), of the Anna Code to add a new Section 74 (Ownership), to become and made part of the Anna Code, with additional provisions in underlined text (example) and deleted provisions in strikethrough text (~~example~~), as follows:

ARTICLE 50. PUBLIC RIGHT-OF-WAY MANAGEMENT

[...]

Section 51. – Section 734. Reserved.

Section 74. Ownership

No equipment, fixtures, or other personal property erected or placed in a Public Rights-of-Way by any Person other than the City will become or be considered by the City as being affixed to, or a part of, the Public Rights-of-Way. All portions of said personal property constructed, modified, erected, or placed by a Person other than the City on, across, over, or beneath the Public Rights-of-Way will remain the property of its original owner unless and until an appropriate written dedication of property is delivered to the City and a corresponding written acceptance is issued. The owner of non-City property located in the Public Rights-of-Way may direct the removal of the property at any time, subject to any prior notification requirements imposed by this Article or other law and scheduling restrictions relating to work taking place in the

Public Rights-of-Way.

(Ordinance - , adopted)

[...]

Section 3. Amending the Anna Code, Part IV, Article 5

3.01 This ordinance amends Part IV (Fee Schedule), Article 5 (General Miscellaneous Fees), Section 12 (Right-of-Way Fees) of the Anna Code by adding the provisions to become and made part of Anna Code, with additional provisions in underlined text (example) and deleted provisions in strikethrough text (~~example~~), as follows:

Article 5. General Miscellaneous Fees

[...]

Section 12. Right-of-Way Fees

The City shall not issue any refunds of fees tendered for any equipment covered by Texas Local Government Code Chapter 284 which has been removed.

(Ordinance - , adopted)

12.01 Public Right-of-Way Construction Application Fees

See Part II, Article 50 for definitions of the terms below.

(a) Network Nodes and Transport Facilities: The lesser of:

- i) Actual cost to the City, or
- ii) \$500 for an application including up to 5 network nodes, and \$250 for each additional network node per application.

(b) Node Support Poles: lesser of the actual cost to the City, or \$1,000 per application for each pole.

(c) Permits for other construction in a public right-of-way: \$100.

[...]

Section 4. Savings, Severability and Repealing Clauses.

All ordinances of the City in conflict with the provisions of this ordinance are repealed to the extent of that conflict. Cross-references in other parts, articles or sections of the Anna Code which make reference to previous enactments carrying the same designation as any section amended by this ordinance shall be construed as referencing whichever currently effective provision best preserves the original intent and effect of the cross-reference. If any provision of this ordinance shall be held to be invalid or unconstitutional, the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof. The City declares that it would have passed this ordinance, and each section, subsection, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

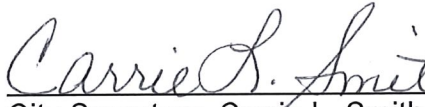
Section 5. Publication of the Caption Hereof and Effective Date.

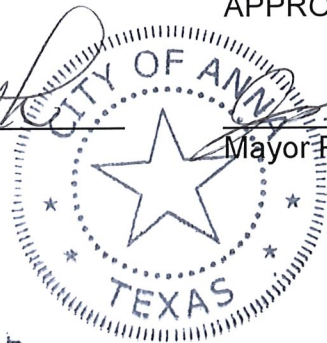
This ordinance shall be in full force and effective from and immediately after its passage and upon the posting and/or publication, if required by law, of its caption and the City Secretary is hereby directed to implement such posting and/or publication.

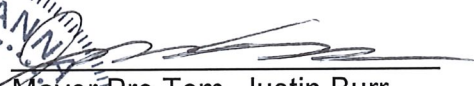
PASSED by the City Council of the City of Anna, Texas, this 21st day of September, 2017.

ATTESTED:

APPROVED:


City Secretary, Carrie L. Smith




Mayor Pro Tem, Justin Burr