

ORDINANCE NO. 207-112017

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF GARDEN RIDGE, TEXAS AMENDING THE CITY OF GARDEN RIDGE ORDINANCE 11-102015 BY ESTABLISHING FEES FOR WIRELESS NETWORK NODES, NODE SUPPORT POLES AND TRANSPORT FACILITIES DESIRING TO BE PLACED IN THE PUBLIC RIGHT OF WAY, DECLARING AN EMERGENCY AND SETTING AN EFFECTIVE DATE

WHEREAS, the City of Garden Ridge, Texas (“City”) recognizes that the State of Texas has delegated to the City the fiduciary duty, as a trustee, to manage the public right-of-way for the health, safety, and welfare of the public to Texas municipalities; and

WHEREAS, Chapter 284 of the Texas Local Government Code (“the Code”) allows certain wireless network providers to install in the City’s public rights-of-way their wireless facilities, described and defined in Section 284.002 of the Code as “Micro Network Nodes”, “Network Nodes”, “Node Support Poles”, and “Transport Facilities”; and

WHEREAS, the City of Garden Ridge (the “City”) has established by ordinances and resolutions for fees for licenses, permits, and services provided by the City; and

WHEREAS, Chapter 284 of the Code allows the City to charge fees for permit applications, right of way usage and rental, placing poles within the right of way and placing transport facilities within the right of way; and

WHEREAS, the City Council desires to regulate the installation of Network Nodes, Network Support Poles and Transport Facilities pursuant to Chapter 284 of the Code in a way that is fair, reasonable and nondiscriminatory.

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

SECTION 1.

All persons, firms, or corporations applying for licenses or permits or receiving other City services described on Exhibit A that require the payment of a fee incident to such application or service shall pay the fees as prescribed in the Fee Schedule attached hereto as Exhibit A and made a part of hereof. It shall be a violation of this Ordinance to conduct any activity or commence any use or receive any service for which payment of a fee described herein is required until such fee has been paid (if required to be paid in advance) or to fail to pay such fee when properly billed.

SECTION 2.

This Ordinance shall be cumulative of all provisions of ordinances of the City of Garden Ridge, Texas as to the fees set forth on Exhibit A effect on the effective date of this

Ordinance, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 3.

The City Council may, from time to time, by ordinance add to the fees set forth on Exhibit A, and the fees now or hereafter set forth on Exhibit A may be modified from time to time by resolution of the City Council.

SECTION 4.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 5.

Subject to the last sentence of this Section, any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of provisions of this Ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense. If any other ordinance, establishes a different penalty for the failure to pay any fee on Exhibit A, the provisions of such other ordinance shall control with respect to such penalty.

SECTION 6.

All rights and remedies of the City are expressly saved as to any and all violations of the provisions of ordinances in effect on the effective date of this Ordinance and modified by this Ordinance or any other ordinances in effect on the effective date of this Ordinance and modified by this Ordinance and requiring the payment of fees for licenses, permits, and other services provided by the City which have accrued on the effective date of this Ordinance; and any and all accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 7.

This Ordinance shall be in full force and effect as of November 1, 2017.

PASSED AND APPROVED ON THIS THE 1ST DAY OF NOVEMBER, 2017.



Larry Thompson, Mayor

ATTEST:



Shelley Goodwin, City Secretary