



**LAKEWOOD VILLAGE TOWN HALL
100 HIGHRIDGE DRIVE
LAKEWOOD VILLAGE, TEXAS**

**TOWN COUNCIL MEETING
OCTOBER 12, 2017 7:00 P.M.**

REGULAR SESSION – AGENDA

Call to Order and Announce a Quorum is Present

A. PLEDGE TO THE FLAG:

B. VISITOR/CITIZENS FORUM: At this time, any person with business before the Council not scheduled on the agenda may speak to the Council. No formal action may be taken on these items at this meeting.

C. PUBLIC HEARING: A public hearing is scheduled on the fence ordinance to provide an opportunity for citizen comment.

D. PUBLIC HEARING: A public hearing is scheduled on the Investment Ordinance to provide an opportunity for citizen comment.

E. REGULAR AGENDA:

1. Consideration of Simple Recycling Program (Asbell)
2. Discussion of Findings of the Capital Improvement Action Committee, Darrell West (Bushong)
3. Consideration of Investment Ordinance (Vargus)
4. Consideration of Resolution Authorizing Participation in TexPool Investment Pools (Vargus)
5. Consideration of Authorizing Expenditures for Road Repairs (Newsome)
6. Consideration of Fence Ordinance (Vargus)
7. Discussion of Dark Skies Initiative (Reed)
8. Consideration of Ordinance Regulating Wireless Network Facilities Within the Public Right-of-Way (Asbell)
9. Discussion of Finance and Audit Committee (Shields)
10. Discussion of Wastewater Plant Master Plan (Vargus)
11. Discussion of End of Year Financial Review (Tantalo)
12. Minutes of September 14, 2017 Council Meeting (Asbell)

F. EXECUTIVE SESSION: In accordance with Texas Government Code, Section 551.001, et seq., the Town Council will recess into Executive Session (closed meeting) to discuss the following: §551.071(2): Consultation with Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter; (2) §551.087: To discuss or deliberate regarding commercial or financial information that the Town of Lakewood Village has received from a business prospect that the Town seeks to have locate, stay, or expand in or near the territory of the Town of Lakewood Village and with which the Town is conducting economic development negotiations; and/or to deliberate the offer of a financial or other incentive to the business prospect.; and (3) § 551.072 Texas Government Code to wit: deliberations about real property

G. RECONVENE: Reconvene into regular session and consideration of action, if any, on items discussed in executive session

H. COUNCIL AND STAFF COMMENTS: Comments may be made by Council or Staff. No formal action may be taken on these items at this meeting.

I. ADJOURNMENT

I do hereby certify that the above notice of meeting was posted on the designated place for official notice at 6:00 p.m. on Friday, October 6, 2017.

Linda Asbell, TRMC, CMC, Town Secretary



The Town Council reserves the right to adjourn into closed session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Section 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development), 418.183 (Homeland Security)

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the Town Secretary's office at 972-294-5555 or FAX 972-292-0812 for further information.

One or more members of the LAKEWOOD VILLAGE MUNICIPAL DEVELOPMENT DISTRICT may attend this meeting. No action will be taken by the MDD Board during this meeting.



**FREE CURBSIDE
CLOTHING & HOME GOODS
RECYCLING PROGRAM**

FREE

**TURN
KEY**

**SIMPLE
& EASY**

**SAVE \$
MAKE \$**

Who is Simple Recycling?

We have over 50 years of experience in clothing & household discard collection

Our sister company manages clothing & household discard donation programs in partnership with non-profit organizations¹

Environmental Impact Facts

Clothing, Appliances, Durables, & Furniture account for 15% of local waste stream



**85% OF TEXTILES
ARE NOT RECYCLED
OR DONATED**



**EPA ESTIMATES
70 LBS./PERSON OF CLOTHING
ARE THROWN AWAY EACH YEAR**

(YOUR CITY'S POPULATION X 70LBS = MILLIONS OF LBS./YEAR)

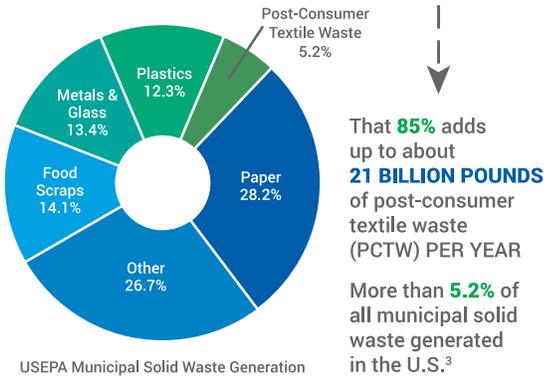
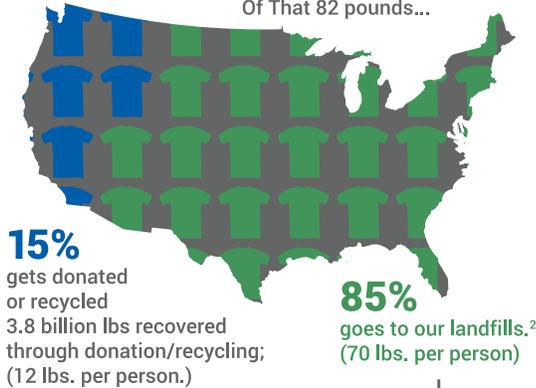
Source:
1. <http://www.weardonaterecycle.org>

THE FACTS ABOUT TEXTILE WASTE

The U.S. generates an average of **25 BILLION POUNDS** of textiles* per year.¹ → That's about **82 POUNDS** per U.S. resident.

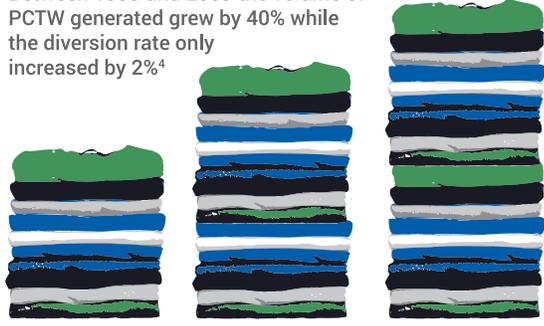
* Textiles includes clothing, footwear, accessories, towels, bedding, drapery, etc.

Of That 82 pounds...



AND THIS AMOUNT IS GROWING

Between 1999 and 2009 the volume of PCTW generated grew by 40% while the diversion rate only increased by 2%⁴



This Model has been Tested & Proven

Excerpt from USA Today, April 23, 2013 -

"Clothes recycling is going curbside in more U.S. towns as global prices rise for the used apparel, shoes and linens that Americans often toss in the trash.

Since September, more than a dozen local governments -- in Arizona, Massachusetts, New Jersey, Pennsylvania and Washington State -- have begun curbside pickup of textiles, often in special bags next to bins containing paper and cans."²



Source:
2. <http://www.usatoday.com/story/news/nation/2013/04/20/recycling-clothes-expands-curbside/2092351/>



COST TO YOUR RESIDENTS = \$0
COST TO YOUR CITY = \$0



Details & Logistics

Simple Recycling provides:

- Free residential curbside pickup service
- Specially designed recycling collection bags
- All informational materials
- All trucking, pickup expenses & program management
- Local jobs
- All related insurance coverage
- Drop boxes in locations of city's choosing (if desired)

Your city provides:

- Supplemental notification & information to residents



THE LIFE CYCLE OF SECONDHAND CLOTHING



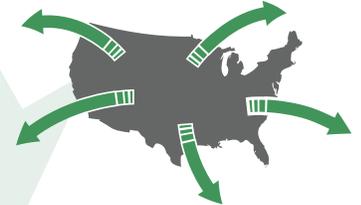
WHAT HAPPENS TO YOUR RECYCLED USED CLOTHING?

Once a resident determines that their clothing, shoes, handbags, or household textiles have reached the end of their useful life, materials are collected by Simple Recycling and collected clothing is sorted and graded for condition.



45%

Reused and Repurposed
Majority exported as secondhand clothing.



10-20%

Top quality materials are sold to local thrift stores where they create access to low cost clothing and jobs for local residents.



30%

Recycled and Converted
Reclaimed wiping rags are used in various ways as industrial and residential absorbents.



80%

The vast majority of clothing collected is not resaleable in the U.S. so it is further sorted for international export or broken down for raw materials.



20%

Recycled into Fiber
Post-consumer fiber is used to make home insulation, carpet padding, and raw material for the automotive industry.



Only **5%** ends up as waste.

Thrift industry employs nearly 100,000 workers in the U.S. with over \$1 billion wages paid. In addition, private sector recyclers create an additional 15,000 to 20,000 jobs nationally.¹

WE MAKE IT SIMPLE TO DRAMATICALLY REDUCE TEXTILE WASTE.

Source:
1. "Textile Recycling in the U.S." Report submitted to SMART by Dr. Jana Hawley PhD, Univ. of Missouri 2009

www.SimpleRecycling.com • Info@SimpleRecycling.com

AGREEMENT FOR COLLECTION OF SOFT RECYCLABLES

This Agreement for the Collection of Soft Recyclables ("Agreement") is made and entered into this ___ day of _____, 20___, (the "Date of Execution") by and between TOWN a municipal corporation with an address at Address (herein referred to as "TOWN"), and Great Lakes Recycling, Inc. d/b/a Simple Recycling, an Ohio corporation with a business address at 5425 Naiman Parkway, Solon, OH 44139 (together which with its successors and assigns, herein referred to as "Contractor").

WITNESSETH:

WHEREAS, Contractor is skilled and experienced in the collection and efficient recycling and disposition of Soft Recyclables; and

WHEREAS, TOWN desires to limit and restrict the quantity of Soft Recyclables which are deposited in the landfill; and

WHEREAS, TOWN has selected Contractor to collect, identify, haul, recycle and/or dispose of Soft Recyclables in the TOWN'S Service Area; and

WHEREAS, Contractor can provide such services and is in the business of and has the expertise, experience, resources and capability to perform the collecting, identifying, packaging, hauling, recycling and/or disposing of Soft Recyclables; and

Now, THEREFORE, in consideration of the premises and material promises set forth below and other consideration the receipt and sufficiency of which is hereby acknowledged by the parties, Contractor and TOWN (herein collectively called the "Parties") hereby agree as follows:

1. **Term.** This Agreement shall begin upon the Date of Execution and continue for an initial term of four (4) years (the "Initial Term"). At the end of the Initial Term Contractor and TOWN have the right to renew for an unlimited number of additional four (4) year terms upon mutual agreement (such term an "Extension Term" and collectively, the "Term"). Unless either Party provides written notice to the other Party at least sixty (60) days prior to the end of the Initial Term, the Term shall automatically renew for the Extension Term. During the Term, Contractor shall have the sole and exclusive rights to pick up Soft Recyclables in the TOWN'S Service Area through municipal contracted pick up.

2. **Collection Procedures.** During the Term and after the Date of Commencement, Contractor shall collect all acceptable Soft Recyclables set-out for recycling and collection by Residential Customers in approved Containers. The decision of what is an "acceptable" Soft Recyclable shall be made in the sole reasonable discretion of Contractor. However, in no event shall Contractor be required to accept any Excluded Items (excluded items include, but are not limited to the following items: garbage, hazardous waste, carpet, newspapers, mattresses, large furniture, large appliances, yard waste) and in no event shall Contractor provide service to Commercial Customers. Contractor shall not be responsible for collecting Soft Recyclables which have fallen or been placed Curbside but are not in a Container. Contractor agrees to operate collection vehicles in such a manner to prevent materials from being blown from the

vehicle. If at any time during collection and transport, Soft Recyclables are spilled onto a street, sidewalk, or private property, Contractor shall clean up and place in the collection vehicle all Soft Recyclables before the vehicle proceeds to the next stop on the collection route or shall promptly make all other reasonably necessary arrangements for the immediate clean-up of spilled Soft Recyclables. Contractor agrees to remove and dispose of all Soft Recyclables at no cost to TOWN.

3. **Ownership.** Soft Recyclables set out for collection on the regularly scheduled collection day shall belong to Contractor from the time of its set-out. Soft Recyclables physically collected by Contractor shall be deemed acceptable Soft Recyclables for the purposes of its obligations under this Agreement.

4. **Set Out Procedures.** Residents shall place Soft Recyclables into Containers and place Containers at Curbside for collection. Overflow material shall be placed adjacent to the Container(s) in plastic bags or other easily handled container. Soft Recyclables shall not be set out in tied bundles. Contractor must collect all Soft Recyclables that are set out in this manner and are placed within seven (7) feet of the Curbside. Containers shall be placed in a manner that will not interfere with or endanger the movement of vehicles or pedestrians. When construction work is being performed in the right-of-way, Containers shall be placed as close as practicable to an access point for the collection vehicle. Contractor may decline to collect any Soft Recyclables not set out in accordance with this paragraph.

5. **Contamination and Improper Set Out.** If Contractor encounters any improperly packaged Soft Recyclables or other contaminants in the Container, Contractor may leave those materials in the Container or remove them from the Container and leave them Curbside. Contractor must place a tag on the contaminant(s) that is not collected, collect the acceptable items, and leave contaminants at Curbside.

6. **Collection Schedule.** Contractor shall divide the Service Area into collection areas to coincide with TOWN collection dates. Collections shall be made from Service Recipients on a regular schedule in accordance with the existing TOWN recycling pickup schedule; however, Contractor reserves the right to alter the frequency of the scheduled pickups on an as needed basis.

Contractor shall not be required to perform any service under this Agreement on Holidays. Contractor may interrupt the regular schedule and quality of service because of street repairs, snow or other closures of public routes, which in Contractor's sole reasonable discretion makes the pick-up of the Soft Recyclables from a Service Recipient impracticable under the circumstances.

7. **Missed Collections and Complaints.** Service Recipients shall be instructed by TOWN to report missed collections and complaints to Contractor. The Program Brochure and other program information shall include contact information for the Contractor to facilitate communication from Service Recipients. Contractor shall give prompt and courteous attention to all reported missed collections and complaints.

8. **Inventory of Containers.** During the term of this Agreement, Contractor shall purchase (at its sole cost) and maintain an inventory of acceptable and approved Containers for distribution to Service Recipients. Prior to commencement of service under this Agreement, Contractor shall provide new Containers to each Service Recipient. Containers shall initially be delivered to Service Recipients with an informational brochure on the recycling collection program described herein that is produced and printed by the contractor and approved by TOWN, which approval shall not be unreasonably withheld (the "Program Brochure").

9. **Contractor's Fee.** Contractor shall pay to TOWN a contract fee of One Cent (\$0.01) per pound of gross receipts of Soft Recyclables in the TOWN'S portion of the Service Area. Payments shall be made to TOWN not more than thirty (30) days following the close of each calendar month during the term of this Agreement. Weight shall be collected and documented upon completion of each collection day. Under no circumstance will TOWN, its residents or Service Recipients incur any fees, charges or assessments to the Contractor for Contractor's delivery of services under this Agreement.

10. **Public Information and Education Program.** TOWN shall provide public information in the normal course to inform Service Recipients of this recycling program. The content and timing of TOWN public information shall be coordinate with and approved by Contractor. Contractor may prepare and distribute its own promotional materials subject to TOWN approval, which approval shall not be unreasonably withheld. Contractor shall participate in TOWN directed promotion and education efforts as outlined below:

- a. During the course of the routine recycling pick up, provide and distribute notices regarding rejected materials and proper set out procedures.
- b. Training of employees to deal courteously with customers on the telephone and on-route to promote the collection service and explain proper material preparation.
- c. Coordinate with TOWN for distribution of written promotional and instructional materials directly to Service Recipients.
- d. Provide advice to TOWN on promotion and education material content and presentation.

11. **Telephone and Customer Service.** Contractor shall maintain and staff a local toll-free telephone number where complaints of Service Recipients shall be received, recorded and handled by Contractor, between the hours of 9:00 AM and 4:30 PM Monday through Friday, excluding Holidays. Typically, all "call backs" shall be attempted a minimum of one time prior to 6:00 p.m. on the day of the call.

12. **Marketing and Disposition of Recyclable Material.** Contractor shall be solely responsible for the marketing and sale of collected Soft Recyclables, and shall be solely responsible for the storage and disposition of the Soft Recyclables in the event it is unable to sell the Soft Recyclables in a timely manner.

13. **Insurance.** During the term of this Agreement Contractor agrees to keep in force, with an insurance company licensed to transact business in the state of Texas, an "occurrence basis" insurance policy or policies indemnifying, defending and saving harmless TOWN from all damages (except for damages caused by TOWN's own negligence, willful misconduct or failure) which may be occasioned to any person, firm, or corporation, whether damages are by reason of any willful or negligent act or acts on part of Contractor, its agents or employees, with limits no less than:

a. General Liability: One Million and no/100 Dollars (\$1,000,000.00) combined single limit per occurrence for bodily injury, personal injury, and property damage.

b. Vehicle Liability: Two Million and no/100 Dollars (\$2,000,000.00) combined single limit per accident for bodily injury and property damage.

c. Worker's Compensation/Industrial Insurance: Limits as required by the State of Texas.

The general liability provisions in automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- (i) TOWN, its officers, officials, employees, and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied, or used by Contractor; or automobiles owned, leased, hired, or borrowed by Contractor.
- (ii) Contractor's insurance coverage shall be primary insurance as TOWN, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by TOWN, its officers, officials, employees, or volunteers shall be in excess of Contractor's insurance and shall not contribute with it.
- (iii) Any failure to comply with reporting provisions of the policy shall not affect coverage provided to TOWN, its officers, officials, employees, or volunteers.
- (iv) Contractor's insurance shall apply separate to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (v) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, nor reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to TOWN.

14. **Taxes.** Contractor agrees to save TOWN harmless from any and all taxes or assessments of any kind or nature levied by any political subdivision upon Contractor by reason of services rendered for Soft Recyclables and disposal for TOWN.

15. **Employee Conduct.** All Contractor personnel must maintain a courteous and respectful attitude toward the public at all times. At no time may they solicit, request or receive gratuities of any kind. Contractor must direct its employees to avoid loud and/or profane language at all times during the performance of duties. Any employee of Contractor who engages in misconduct or is incompetent or negligent in the proper performance of duties or is disorderly, dishonest, intoxicated, or discourteous must be removed from service under this contract by Contractor.

16. **Monthly Reports.** Contractor shall provide monthly project status reports. These reports will be due within fifteen (15) days of the close of the month being reported. At a minimum, the reports shall include detailed data to allow analysis of collection and processing efficiencies including pounds of Soft Recyclables collected in the prior month and the payment of the required fee to TOWN.

17. **Inspections.** Upon reasonable advanced request to Contractor, TOWN may inspect the facilities, equipment and operations of Contractor to assure itself of the appearance and compliance with provisions of this Agreement. Upon reasonable advance request, TOWN may review the records kept on the Soft Recyclables collected under the terms of this Agreement to test and validate the weights claimed. TOWN agrees to notify Contractor, in writing, at least forty-eight (48) hours prior to any such inspection.

18. **Meetings and Communications.** In order to minimize misunderstanding and to provide thereafter a forum for discussing and resolving any issues that may arise, the parties agree to meet on a regular basis and hereby adopt communications procedures as follows:

Meetings After Collection Begins. After Collections begin, meetings shall be held no less frequently than a quarterly basis, unless otherwise mutually agreed, between representatives of the parties. Such meetings will be held for the purpose of reviewing and discussing day-to-day operations, promotion, public information and public relations.

Designation of Representatives. Each party shall send at least one representative to each meeting. TOWN shall send to each meeting at least one staff member with operation expertise. Each party shall designate one, and only one, representative as its Lead Representative. If a party sends only one representative to any meeting, that person shall be conclusively presumed to be its Lead Representative.

19. **Compliance with Laws and Regulations.** Contractor agrees that, in performance of work and services under this contract, Contractor will qualify under and comply with any and all applicable federal, State and local laws and regulations now in effect, or hereafter enacted during the Term, which are applicable to Contractor, its employees, agents or subcontractors, if any, with respect to the work and services described herein.

20. **Termination and Breach.** In the event of a breach of the terms and conditions of this Agreement by either Party hereunder, the non-breaching Party may elect to terminate this Agreement by providing the defaulting Party with a written notice of such default, and allowing the breaching Party a period of thirty (30) days from and after the date of such notice to cure the breach complained of to the satisfaction of the non-breaching Party. In the event said breach is not cured within the thirty (30) day period, this Agreement shall be terminated (for-cause) as of the last day of the period. In the event TOWN is the non-defaulting party, Contractor agrees to furnish services under this Agreement until such time as another Soft Recyclables collection and disposal contractor can be selected by TOWN.

21. **Severability.** Should one or more of the provisions of this Agreement be held by any court to be invalid, void or unenforceable, the remaining provisions shall nevertheless remain

and continue in full force and effect, provided that the continuation of such remaining provisions does not materially change the original intent of this Agreement.

22. Independent Contractor Status. In the performance of services pursuant to this Agreement, Contractor shall be an independent contractor and not an officer, agent, servant or employee of TOWN. Contractor shall have exclusive control over the details of the service and work performed and over all persons performing such service and work. Contractor shall be solely responsible for the acts and omissions of its officers, agents, employees, Contractors and subcontractors, if any. Neither Contractor nor its officers, agents, employees or subcontractors shall obtain any right to retirement benefits, Workers' Compensation benefits, or any other benefits which accrue to TOWN employees and Contractor expressly waives and claim it may have or acquire to such benefits.

23. No Assignment. This Agreement, or any interest herein, shall not be transferred, sold, nor assigned by the TOWN to any person, firm, or corporation, without the prior written consent of the Contractor.

24. Definitions.

a. Commercial Customer: The term "Commercial Customer" means non-residential customers, including businesses, public or private schools, institutions, governmental agencies and all other users of commercial-type Garbage collection services.

b. Container: The term "Container" means a bag, supplied by Contractor for use by the Residential Customer to set out Soft Recyclables.

c. Curb or Curbside: The words "Curb" or "Curbside" relate to the homeowners' property, within five (5) feet of the Public Street or Private Road without blocking sidewalks, driveways or on-street parking. If circumstances preclude, a Curbside shall be considered a placement suitable to the resident, convenient to Contractor's equipment, and mutually agreed to by TOWN and Contractor.

d. Excluded Items: The term "Excluded Items" means Garbage, Hazardous Waste, large furniture, large appliances such as refrigerators, stoves, washers and dryers, magazines, newspapers, car seats, cribs, mattresses, paint, tires, cleaners, etc. and any item heavier than fifty (50) pounds.

e. Garbage: The term "Garbage" means all putrescible and non-putrescible solid and semi-solid wastes, including, but not limited to, rubbish, ashes, industrial wastes, grass, yard debris, leaves, swill, demolition and construction wastes, dead animals piles of debris, car parts, construction or demolition debris, any item that would be considered Hazardous Waste, or stumps.

f. Hazardous Waste: The term "Hazardous Waste" means any hazardous, toxic or dangerous waste, substance or material, or contaminant, pollutant or chemical, known or unknown, defined or identified as such in any existing or future local, state or federal law, statute, code, ordinance, rule, regulation, guideline, decree or order relating to human health or the environment or environmental conditions, including but not limited to any substance that is defined as hazardous by 40 C.F.R. Part 261 and regulated as hazardous waste by the United States Environmental Protection Agency under Subtitle C

of the Resource Conservation and Recovery Act ("RCRA") of 1976, 42 U.S.C. § 6901 et seq., as amended by the Hazardous and Solid Waste Amendments ("HSWA") of 1984; the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; or any other federal statute or regulation governing the treatment, storage, handling or disposal of waste imposing special handling or disposal requirements similar to those required by Subtitle C of RCRA or any Texas statute or regulation governing the treatment, storage, handling or disposal of wastes and imposing special handling requirements similar to those required by federal law.

g. Holiday: The term "Holiday" means the following days: New Year's Day, Martin Luther King's Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day and Christmas Day, unless otherwise specified by the TOWN recycling holiday schedule.

h. Residential Customer: The term "Residential Customer" means an individual or individuals residing in a living space rented, leased or owned.

i. Service Area: The Service Area will encompass all of TOWN'S curbside, residential trash and recycling collection area, as it may be amended from time to time.

j. Service Recipients: The term "Service Recipients" means Residential Customers of TOWN in the Service Area.

k. Soft Recyclable: The term "Soft Recyclable" means items of an individual weight less than fifty (50) pounds and can be carried by one person. Soft Recyclables include primarily men's, women's and children's clothing as well as items such as jewelry, shoes, purses, hats, toys, pictures, mirrors, blankets, drapes and curtains, pillows, rags, sewing scraps, sleeping bags, small furniture, small appliances, irons, radios and audio equipment, TVs and video equipment, cameras, lamps, hairdryers, tools, toasters, microwaves, coffee makers, computers and household or consumer electronics, silverware, dishes, pots and pans, glasses and the like. The definition of Soft Recyclable is subject to modification in the discretion of Contractor based upon experience gained during the term of this Agreement.

25. Additional Services. The Contractor shall establish a drop-box for Soft Recyclables at the TOWN'S recycling drop-off facility. The type of drop-box shall be approved by the Contractor, with the appearance subject to the mutual agreement of the Parties to this Agreement. The drop-box shall be viewed by the Contractor no less frequently than every week and shall be emptied of its contents on a schedule determined by the Contractor, but with sufficient frequency to avoid creating an unseemly appearance.

26. Service Modifications. To avoid confusion with the TOWN'S existing collector for trash and recycling, the Parties agree that the Contractor will not collect any material set outside of the Container, such as small furniture, small appliances, televisions and other items which do not fit into the Container. The Contractor and TOWN agree to discuss this service modification at the quarterly meetings set forth under Section 20 herein, with a goal of allowing the Contractor to collect and recycle these materials for the TOWN as soon as practicable.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the Date of Execution first written above.

TOWN

By: _____

Its:

Great Lakes Recycling, Inc. d/b/a Simple
Recycling

By: _____

Adam Winfield, President



SIMPLE IMPLEMENTATION STEPS

STEP 1

- Signed contract. Remit two (2) original signature copies. One will be returned back to the city with original signatures.

STEP 2

- Official City Street Map.
- Collection Schedule and Pickup Map along with a Holiday Schedule and process for holidays (Obtain this information from your waste hauler).
- Address list of single and dual family residences. Anyone receiving curbside pickup currently. (Must be sent in a Word document).
- City Logo.

STEP 3

- Select a Start Date.
- Get city approval of printed materials.

STEP 4

- Initial awareness mailer will go out two (2) weeks before start date. A second mailer will go out one (1) week before the start date with two (2) collection bags.
- City needs to start their information/awareness campaign to city residences for the Simple Recycling Program. This should include website, emailer, social platforms and newsletters, etc. Simple Recycling will provide graphics and content for the campaign. City needs to inform HAULER about the program and remind them to NOT pick up the orange bags.

STEP 5- Collection begins

**TOWN OF LAKEWOOD VILLAGE, TEXAS
ORDINANCE NO. 17-XX**

AN ORDINANCE ADOPTING AN INVESTMENT POLICY AND DEFINING SUITABLE INVESTMENTS; PROVIDING FOR PERIODIC REPORTS ON FINANCIAL PERFORMANCE; PROVIDING A REPEAL CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of Lakewood Village, Texas has a fiduciary obligation to invest its citizens' funds prudently;

WHEREAS, the Town of Lakewood Village, Texas is vested with full investment powers under the authority of Local Government Code Section 105.072 and the Texas Government Code Chapter 2256 ("The Public Funds Investment Act" as amended);

WHEREAS, Texas Government Code Chapter 2256.005 requires municipalities to adopt and maintain a written investment policy and describes specific conditions that the policy must satisfy;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS THAT THE TOWN HEREBY ADOPTS THE FOLLOWING:

1. INVESTMENT POLICY:

It is the policy of the Town of Lakewood Village ("Town") to invest public funds in a manner which will provide the highest investment return with maximum security while meeting the daily cash flow demands of the Town of Lakewood Village and conforming to the "Public Funds Investment Act". The receipt of a market rate of return will be secondary to the requirement for safety of principle and liquidity.

A written copy of the investment policy shall be presented to any person offering to engage in an investment transaction with an investing entity or to an investment management firm under contract with an investing entity to invest or manage the entity's investment

In conjunction with its annual financial audit, the Town shall perform a compliance audit of management controls on investments and adherence to the towns established investment policies.

2. STRATEGY:

The Town employs an overall investment strategy which provides for the safety of principle and liquidity, while segregating funds to allow for better monitoring and oversight, as

well as control. The strategy has the following attributes:

- The use of local financial institutions for demand deposits and operating accounts. These accounts generate the highest transaction volumes and are the source of the Town's daily working capital needs. Liquidity and fund availability are the primary requirements, while the relatively low balances minimize the effect on lower yields.
- The use of regulated investment pools to invest reserve funds and capital improvement funds which by their nature have longer investment cycles and less frequent transactions. Because these funds are not needed on a daily basis, the use of pools allows the Town to gain higher yields by lengthening the portfolio's maturity.
- The strategy does not allow for the Town to hold individual securities except for CD's which must be fully insured by the FDIC.

3. **PRUDENCE:**

Investments **by the investment officer** shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment considering the probable safety of their capital as well as the probable income to be derived. **The governing body of the investing entity retains ultimate responsibility as fiduciaries of the assets of the entity**

The standard of prudence to be used by the Investment Officer shall be the “prudent person” standard and shall be applied in the context of managing an overall portfolio. Investment Officers acting in accordance with written procedures of the Investment Policy and exercising due diligence shall be relieved of personal responsibility for an individual security’s credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

4. **OBJECTIVE:**

It is the policy of the Town that all funds shall be managed and invested with three primary objectives, listed in the order of their priority: safety, liquidity, and yield (return). These objectives encompass:

A) **Safety of Principal**

Safety of Principal is the foremost objective of the Town. Investments of the Town shall be undertaken in a manner that seeks to insure the preservation of capital in the overall portfolio. A diversification strategy is a key element of the Town’s investment policy in that it reduces the likelihood of large capital losses attributable to individual securities leading to an overall reduction in the Town’s assets. Diversification will be accomplished through the investment in eligible institutions, investment pools, and mutual funds which hold a portfolio of individual securities backed by numerous issuers. All mutual fund investments must be insured by the Securities Investor Protection Corporation (SIPC), a nonprofit corporation established by the U.S. Congress.

B) Liquidity

The Town's investment portfolio must remain sufficiently liquid to enable the Town to meet all operating requirements which might be reasonably anticipated. Pools and Mutual fund investments must allow for electronic transfer of funds on a next-business-day basis and be accessible via the internet.

C) Return on Investment

The Town's investment portfolio shall be designed with the objective of attaining a rate of return throughout the budgeting and economic cycles, commensurate with the Town's investment risk constraints and the cash flow characteristics of the portfolio.

5. CONTROLS and DELEGATION OF AUTHORITY:

The Town Council, shall designate by resolution or ordinance the Investment Officer of the Town who is responsible for investment management decisions and activities. The Investment Officer shall develop and maintain written administrative procedures for the operation of the investment program which are consistent with this Investment Policy. The Investment Officer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials and staff.

Controls:

- a. The Town Council shall adopt maximum investment limits (either in dollar terms of as a percentage of the towns cash) on the value of each investment type (pool, cd, money-market mutual fund).
- b. Any new investment transaction exceeding \$10,000, either to a new investment or to an existing investment one shall be reported to the council at the next subsequent meeting.

6. ETHICS AND CONFLICTS OF INTEREST:

Officers and employees involved in the investment process shall refrain from personal business activities that could conflict with proper execution of the investment program or which could impair their ability to make impartial investment decisions. In addition to those requirements imposed under state law, employees and Investment Officials shall disclose to the Town Council any material financial interest in financial institutions that conduct business within this jurisdiction and they shall further disclose any large personal financial/investment positions that could be related to the performance of the Town, particularly with regards to the time of purchases and sales.

7. AUTHORIZED FINANCIAL DEALERS AND BROKERS

The Town will not hold individual securities, therefore it is anticipated that there will not be a need for broker / dealers to execute buy and sell orders.

8. ACCEPTABLE INVESTMENT INSTRUMENTS:

The Town of Lakewood Village is permitted to invest only in the following subset of eligible investments empowered under The Public Funds Investment Act:

- ◆ Mutual funds or investment pools consisting of Obligations of the United States Government or its agencies and instrumentalities;
- ◆ Mutual funds or investment pools holding direct obligations of the State of Texas or its agencies;
- ◆ Mutual funds or investment pools holding other obligations, the principal of and interest on which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, the State of Texas or the United States or their respective agencies and instrumentalities;
- ◆ Certificate deposits issued by State and National banks domiciled in the State of Texas fully insured by FDIC;
- ◆ SEC registered, no-load money market mutual funds with a dollar weighted average portfolio maturity of 90 days or less whose assets consist exclusively of the US Government securities and whose investment objectives include seeking to maintain a stable net asset value of \$1 per share.
- ◆ Texas Local Government investment pools as defined by the Public Funds Investment Act.

The following investments are specifically not authorized: (1) individual securities (CD's excepted), (2) any investment with either a weighted average maturity of 3 years or a duration greater than three years

If additional types of securities are approved for investment under the PFIA, they will not be eligible for investment by the Town until this policy has been amended and approved by the Town Council.

9. INVESTMENTS IN REAL PROPERTY:

Nothing in this policy is to be construed as limiting the Town's rights to acquire real property as authorized under the Local Government Code, Section 271 or through eminent domain or other authorized methods.

10. INVESTMENT REPORTING:

Each quarter, the Investment Officer and any employees designated by the Investment Officer shall prepare and submit to the Town Council a written report of all investment transactions, balances, and changes in position.

The report must

1. Describe in full detail the investment position of the town on the date of the report
2. Must contain the beginning market value ending market value and fully accrued interest for the reporting period
3. State the book value and market values of each separately invested asset
4. Clearly state the maturity date of each separately invested asset
5. Clearly state the town account or fund in which the individual investment was acquired and state the compliance of the investments portfolio to the towns investment strategy

If the Town invests in other than money market mutual funds, investment pools or accounts offered by its depository bank in the form of certificates of deposit, or money market accounts or similar accounts, the reports prepared by the investment officers under this section shall be formally reviewed annually by an independent auditor, and the result of the review shall be reported to the governing body and then posted on the town website for at least 7 years.

11. REPEAL CLAUSE

Ordinance 08-01 and all other ordinances that are in conflict with the provisions of this ordinance are hereby repealed and all other ordinances of the Town not in conflict with the provisions of this ordinance shall remain in full force and effect.

12. SUPERCEDING REGULATION OR STATUTE

Whenever any applicable statute, regulation, or permit of any state, federal, or other agency, having jurisdiction over the subject matter of this Ordinance, is in conflict herewith, the stricter requirement shall apply, unless mandated otherwise.

13. SEVERABILITY CLAUSE

The provisions of this Ordinance are severable, and if any section, article, paragraph, sentence, clause, phrase or word in this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

14. EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its date of passage and publication as provided by law.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS, on this xxth day of 2017.

Dr. Mark E. Vargus
Mayor

ATTESTED:

LINDA ASBELL,
City Secretary



Resolution Authorizing Participation in the TexPool Investment Pools and Designating Authorized Representatives

WHEREAS, the Town of Lakewood Village

("Participant") is a local government or state agency of the State of Texas and is empowered to delegate to the public funds investment pools the authority to invest funds and to act as custodian of investments purchased with local investment funds; and

WHEREAS, it is in the best interest of the Participant to invest local funds in investments that provide for the preservation and safety of principal, liquidity, and yield consistent with the Public Funds Investment Act; and

WHEREAS, the Texas Local Government Investment Pools ("**TexPool/TexPool Prime**"), public funds investment pools, were created on behalf of entities whose investment objectives in order of priority are preservation and safety of principal, liquidity, and yield consistent with the Public Funds Investment Act.

NOW THEREFORE, be it resolved as follows:

- A. That Participant shall enter into a Participation Agreement to establish an account in its name in **TexPool/TexPool Prime**, for the purpose of transmitting local funds for investment in **TexPool/TexPool Prime**.
- B. That the individuals, whose signatures appear in this Resolution, are authorized representatives of the Participant and are each hereby authorized to transmit funds for investment in **TexPool/TexPool Prime** and are each further authorized to withdraw funds from time to time, to issue letters of instruction, and to take all other actions deemed necessary or appropriate for the investment of local funds.

Authorized Representatives of the Participant

These individuals will be issued P.I.N. numbers to transact business via telephone with a Participant Service Representative.

<p>1. <input style="width: 95%;" type="text"/></p> <p>Signature</p> <p><input style="width: 95%;" type="text" value="Dr. Mark E. Vargus"/></p> <p>Printed Name</p> <p><input style="width: 95%;" type="text" value="Mayor"/></p> <p>Title</p>	<p><input style="width: 95%;" type="text" value="9 7 2 2 9 4 5 5 5 5"/></p> <p>Telephone Number</p> <p><input style="width: 95%;" type="text" value="9 7 2 2 9 2 0 8 1 2"/></p> <p>Fax Number</p> <p><input style="width: 95%;" type="text" value="mark@lakewoodvillagetx.us"/></p> <p>Email</p>
<p>2. <input style="width: 95%;" type="text"/></p> <p>Signature</p> <p><input style="width: 95%;" type="text" value="Ed Reed"/></p> <p>Printed Name</p> <p><input style="width: 95%;" type="text" value="Mayor Pro-Tem"/></p> <p>Title</p>	<p><input style="width: 95%;" type="text" value="9 7 2 2 9 4 5 5 5 5"/></p> <p>Telephone Number</p> <p><input style="width: 95%;" type="text" value="9 7 2 2 9 2 0 8 1 2"/></p> <p>Fax Number</p> <p><input style="width: 95%;" type="text" value="ed@lakewoodvillagetx.us"/></p> <p>Email</p>
<p>3. <input style="width: 95%;" type="text"/></p> <p>Signature</p> <p><input style="width: 95%;" type="text" value="Clint Bushong"/></p> <p>Printed Name</p> <p><input style="width: 95%;" type="text" value="Councilman"/></p> <p>Title</p>	<p><input style="width: 95%;" type="text" value="9 7 2 2 9 4 5 5 5 5"/></p> <p>Telephone Number</p> <p><input style="width: 95%;" type="text" value="9 7 2 2 9 2 0 8 1 2"/></p> <p>Fax Number</p> <p><input style="width: 95%;" type="text" value="clint@lakewoodvillagetx.us"/></p> <p>Email</p>
<p>4. <input style="width: 95%;" type="text"/></p> <p>Signature</p> <p><input style="width: 95%;" type="text" value="Linda Asbell"/></p> <p>Printed Name</p> <p><input style="width: 95%;" type="text" value="Town Administrator/Town Secretary"/></p> <p>Title</p>	<p><input style="width: 95%;" type="text" value="9 7 2 2 9 4 5 5 5 5"/></p> <p>Telephone Number</p> <p><input style="width: 95%;" type="text" value="9 7 2 2 9 2 0 8 1 2"/></p> <p>Fax Number</p> <p><input style="width: 95%;" type="text" value="linda@lakewoodvillagetx.us"/></p> <p>Email</p>

Authorized Representatives of the Participant (continued)

5.
Signature
Telephone Number

Printed Name
Fax Number

Title
Email

List the name of the Authorized Representative provided above that will have primary responsibility for performing transactions and receiving confirmations and monthly statements under the Participation Agreement.

Dr. Mark E. Vargus
Printed Name

In addition and at the option of the Participant, one additional authorized representative can be designated to perform inquiry only of selected information. This limited representative cannot make deposits or withdrawals. If the Participant desires to designate a representative with inquiry rights only, complete the following information.

1.
Printed Name
Telephone Number

Title
Fax Number

C. That this resolution and its authorization shall continue in full force and effect until amended or revoked by the Participant, and until **TexPool/TexPool Prime** receives a copy of any such amendment or revocation.

This resolution is hereby introduced and adopted by the Participant at its regular/special meeting held on the ___ Day of _____, 20___.

Document is to be signed by your Board President, Mayor or County Judge and attested by your Board Secretary, City Secretary or County Clerk.

Town of Lakewood Village
Name of Participant

SIGNED:

Signature

Dr. Mark E. Vargus
Printed Name

Mayor
Title

ATTEST:

Signature

Linda Asbell
Printed Name

Town Administrator/Town Secretary
Title

ORDINANCE 17-xx

AN ORDINANCE REGULATING FENCES WITHIN THE TOWN OF LAKEWOOD VILLAGE; ESTABLISHING PERMITTED MATERIALS AND CONSTRUCTION STANDARDS; REQUIRING PERMITTING; REPEALING ORDINANCE 03-04; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the Town of Lakewood Village, Texas in order to provide for the general health and welfare of the citizens in the Town is permitted to enact certain rules and regulations: and

WHEREAS, the Town of Lakewood Village, Texas has adopted a flood-loss prevention ordinance which sets standards for all structures built in the floodplain including fences;

NOW, THEREFORE BE IT ORDAINED by the Town Council of the Town of Lakewood Village, Texas:

Section 1. Findings

The Town Council finds that is in the best interest of it's citizens to set standards for construction of fences, including determining acceptable and unacceptable materials and locations.

Section 2. Definitions

Unless otherwise stated, terms shall be defined to be that normally accepted in common English vernacular.

FENCE means an enclosure constructed of permitted fence materials.

FRONT YARD is the property between the front face on each side of the dwelling and the street right-of-way.

PERMITTED FENCE MATERIALS shall be of vinyl, wood, masonry, chain link or ornamental iron. Materials expressly prohibited are barbed wire, razor ribbon, sheet metal, or any other similar material.

SIDE YARD is the area on each side of the property which extends from the rear property line to the front face of the dwelling adjacent to the particular side. The left side yard extends from the rear property line to the front of the left side of the dwelling and the right side is defined analogously.

SOLID FENCE is any fence that is masonry, stockade type, or board on board or other similar style materials.

Section 3. Prohibited Construction

- (1) Fences not constructed of approved fence materials are prohibited.
- (2) No fence shall be located within any easement except by prior written approval of the Town. No fence can be constructed on the public right-of-way.
- (3) Electrical fences. No fence erected shall be electrically charged.

Section 4. Height Restriction

- (1) No fence shall be constructed at a height exceeding eight (8) feet.
- (2) Front yard. Fences cannot exceed three (3) feet in height in the front yard. No stockade or board on-board solid fence shall be permitted in the front yard.

Section 5. Special Provisions For Waterfront Properties

- (1) For any fence where any portion will be constructed in the floodplain, the property owner must submit construction plans along with written letters of approval from the U.S. Army Corps of Engineers and the Lakewood Village Floodplain Administrator prior to the town issuing a permit.
- (2) Solid fences are not permitted in the floodplain.
- (3) As a privacy screen, dwellings with pools and outdoor kitchens may construct a solid fence in the side yard, outside of the floodplain, for no more than fifty feet as measured from the rear of the dwelling. All poles and cross-members are to be on the inside of the fence.
- (4) No solid (non see-through) fences such as masonry walls, stockade-type, and board on board are permitted in the front yard.
- (5) Metal fences with masonry columns are permissible so long as the width of the fence (excluding the columns) is at least four times the width of the columns.

Section 6 . Building Permit Required

A approved permit is required prior to construction for any fence.

Section 8 Cumulative/Savings Clause

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Town ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. All rights and remedies of the Town of Lakewood Village are expressly saved to any and all violations of the provisions of any ordinance affecting new development of land and fees related thereto, which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 7 Severability

If any section, paragraph, or provision of this ordinance or the application of that section, paragraph, or provision to any person, firm, corporation or situation is for any reason judged invalid, the adjudication shall not affect any other section, paragraph, or provision of this ordinance or the application of any other section, paragraph or provision to any other person, firm, corporation or situation, nor shall adjudication affect any other section, paragraph, or provision of the Subdivision Regulations of the Town of Lakewood Village, Texas, and the Town Council declares that it would have adopted the valid portions and applications of the ordinance without the invalid parts and to this end the provisions for this ordinance are declared to be severable.

Section 8 Penalty Clause

Any person, firm, corporation or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof may be fined a sum not exceeding five hundred (\$500.00) for each offense, plus court costs. Each continuing day’s violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude the Town of Lakewood Village from filing suit to enjoin the violation. Lakewood Village retains all legal rights and remedies available to it pursuant to local, state and federal law.

Section 9 Repealer

Ordinance 03-04 is repealed in its entirety.

Section 10 Effective Date

This Ordinance shall become effective from and after its date of adoption and publication as required by law.

PASSED and APPROVED this 14th day of September, 2017.

Dr. Mark E. Vargus
Mayor

ATTEST:

Linda Asbell, TRMC, CMC
Town Secretary



MEMORANDUM

TO: Town Council
FROM: Linda Asbell, TRMC, Town Secretary
DATE: September 1, 2017
RE: Agenda Item F.10. – Wireless Network Facilities in Right-of-Way

Small cellular network facilities (small cell antennas) encompass numerous technologies that are used to address cellular network capacity issues in a small area. Small cell antennas are generally used to supplement large cell towers, specifically by handling data demand. Small cell antennas are intended to support more users in a concentrated area, which should result in fewer dropped calls and better data speeds. Small cell antennas are smaller and shorter, but are typically distributed in clusters. Small cell antennas can be collocated on existing utility, light, and traffic poles. Governor Abbott signed S.B. 1004 on June 9, 2017 with an effective date of September 1, 2017. The Bill creates Chapter 284 of the Texas Local Government Code, which imposes strict limitations and prohibitions on municipality's ability to regulate network nodes, network support poles, and transport facilities within the public right-of-way (commonly referred to as "small cell antennas") to include general construction and maintenance requirements and the maximum amount of compensation municipalities can demand from wireless providers. The bill allows attachments to any existing pole in the public right-of-way (ROW) and allows new poles in the public right-of-way with few limitations. The Bill does allow cities to adopt standards to establish guidelines in order to influence the location and appearance of these facilities in the public right-of-way. I reviewed ordinances proposed by other area cities and used model documents provided by Texas Municipal League to draft the proposed ordinance for your consideration.

The proposed ordinance addresses small cell antennas, and adopts a Design Manual. In addition to mirroring the requirements of the Bill, the ordinance requires a license agreement with any cellular provider looking to locate small cell facilities within the ROW. The Bill preempts zoning consideration and approval by the Town Council. As a result, the review and approval of small cell antennas within the ROW is a permitting process which is administered by staff. To that effect, the proposed ordinance outlines provisions for permitting, installation requirements.

Along with the proposed Ordinance and Design Manual I have submitted a proposed sample permit application. The full text of Senate Bill 1004 is provided for your reference.

Linda Asbell

From: Chad Madison <chadwick@madison911.com>
Sent: Friday, September 15, 2017 6:54 PM
To: Linda Asbell; Dan@lakewoodvillagetx.us
Subject: Re: Senate Bill 1004
Attachments: cactus.jpg; flagpole.jpg; palm.jpg; SB1004_cm.pdf; tree.jpg; trunk.jpg

Linda,

See my examination notes embedded in the attached copy of the senate bill. It is very straight forward to digest (no onerous language loops), and clearly outlines how a municipality can mandate camouflage/concealment. A design guide must be created by the town to assert specifics of the camouflage/concealment. Also, I have recommended the establishment of a town telecommunications review board tasked with application review/approval and the required meeting frequency. Finally, I have asserted the potential need to establish town-wide design districts to further insulate areas from infiltration of undesirable deployments.

Also, for fun, I have included images of some concealment methods.

On Fri, Sep 15, 2017 at 6:52 PM, Chad Madison <chadwick@madison911.com> wrote:
Linda,

See my examination notes embedded in the attached copy of the senate bill. It is very straight forward to digest (no onerous language loops), and clearly outlines how a municipality can mandate camouflage/concealment. A design guide must be created by the town to assert specifics of the camouflage/concealment. Also, I have recommended the establishment of a town telecommunications review board tasked with application review/approval and the required meeting frequency. Finally, I have asserted the potential need to establish town-wide design districts to further insulate areas from infiltration of undesirable deployments.

Also, for fun, I have included images of some concealment methods.

-Chad

On Fri, Sep 15, 2017 at 4:14 PM, Chad Madison <chadwick@madison911.com> wrote:
Thank you Linda. I will begin my examination over the weekend.

-Chad

On Fri, Sep 15, 2017 at 4:08 PM, Linda Asbell <linda@lakewoodvillagetx.us> wrote:

Chad,

Thank you very much for your offer to help. I've attached the final version of Senate Bill 1004 as well as my proposed ordinance and design manual. Please let me know if you see any areas to further protect Lakewood Village.

Linda Asbell, TRMC, CMC

Town Administrator/Town Secretary

972-294-5555 (direct)

www.lakewoodvillagetx.us



ATTENTION PUBLIC OFFICIALS: A "REPLY ALL" TO THIS EMAIL COULD LEAD TO VIOLATIONS OF THE TEXAS OPEN MEETINGS ACT. PLEASE REPLY ONLY TO THE SENDER.

S.B. No. 1004

AN ACT

relating to the deployment of network nodes in public right-of-way; authorizing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 9, Local Government Code, is amended by adding Chapter 284 to read as follows:

CHAPTER 284. DEPLOYMENT OF NETWORK NODES IN PUBLIC RIGHT-OF-WAY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 284.001. FINDINGS AND POLICY. (a) The legislature finds that:

(1) network nodes are instrumental to increasing access to advanced technology and information for the citizens of this state and thereby further an important public policy of having reliable wireless networks and services;

(2) this state has delegated to each municipality the fiduciary duty, as a trustee, to manage the public right-of-way for the health, safety, and welfare of the public, subject to state law;

(3) network nodes often may be deployed most effectively in the public right-of-way;

(4) network providers' access to the public right-of-way and the ability to attach network nodes to poles and structures in the public right-of-way allow network providers to densify their networks and provide next-generation services;

(5) expeditious processes and reasonable and

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1 nondiscriminatory terms, conditions, and compensation for use of
2 the public right-of-way for network node deployments are essential
3 to state-of-the-art wireless services and thereby further an
4 important public policy of having reliable wireless networks and
5 services;

6 (6) network nodes help ensure that this state remains
7 competitive in the global economy;

8 (7) the timely permitting of network nodes in the
9 public right-of-way is a matter of statewide concern and interest;

10 (8) requirements of this chapter regarding fees,
11 charges, rates, and public right-of-way management, when
12 considered with fees charged to other public right-of-way users
13 under this code, are fair and reasonable and in compliance with 47
14 U.S.C. Section 253;

15 (9) to the extent this state has delegated its
16 fiduciary responsibility to municipalities as managers of a
17 valuable public asset, the public right-of-way, this state is
18 acting in its role as a landowner in balancing the needs of the
19 public and the needs of the network providers by allowing access to
20 the public right-of-way to place network nodes in the public
21 right-of-way strictly within the terms of this chapter; and

22 (10) as to each municipality, including home-rule
23 municipalities, this state has determined that it is reasonable and
24 necessary to allow access to the public right-of-way for the
25 purposes of deploying network nodes to protect and safeguard the
26 health, safety, and welfare of the public as provided by this
27 chapter.

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1 (b) In order to safeguard the health, safety, and welfare of
2 the public, it is the policy of this state to promote the adoption
3 of and encourage competition in the provision of wireless services
4 by reducing the barriers to entry for providers of services so that
5 the number and types of services offered by providers continue to
6 increase through competition.

7 (c) It is the policy of this state, subject to state law and
8 strictly within the requirements and limitations prescribed by this
9 chapter, that municipalities:

10 (1) retain the authority to manage the public
11 right-of-way to ensure the health, safety, and welfare of the
12 public; and

13 (2) receive from network providers fair and reasonable
14 compensation for use of the public right-of-way and for collocation
15 on poles.

16 Sec. 284.002. DEFINITIONS. In this chapter:

17 (1) "Antenna" means communications equipment that
18 transmits or receives electromagnetic radio frequency signals used
19 in the provision of wireless services.

20 (2) "Applicable codes" means:

21 (A) uniform building, fire, electrical,
22 plumbing, or mechanical codes adopted by a recognized national code
23 organization; and

24 (B) local amendments to those codes to the extent
25 not inconsistent with this chapter.

26 (3) "Collocate" and "collocation" mean the
27 installation, mounting, maintenance, modification, operation, or

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1 replacement of network nodes in a public right-of-way on or
2 adjacent to a pole.

3 (4) "Decorative pole" means a streetlight pole
4 specially designed and placed for aesthetic purposes and on which
5 no appurtenances or attachments, other than specially designed
6 informational or directional signage or temporary holiday or
7 special event attachments, have been placed or are permitted to be
8 placed according to nondiscriminatory municipal codes.

9 (5) "Design district" means an area that is zoned, or
10 otherwise designated by municipal code, and for which the city
11 maintains and enforces unique design and aesthetic standards on a
12 uniform and nondiscriminatory basis.

13 (6) "Historic district" means an area that is zoned or
14 otherwise designated as a historic district under municipal, state,
15 or federal law.

16 (7) "Law" means common law or a federal, state, or
17 local law, statute, code, rule, regulation, order, or ordinance.

18 (8) "Macro tower" means a guyed or self-supported pole
19 or monopole greater than the height parameters prescribed by
20 Section 284.103 and that supports or is capable of supporting
21 antennas.

22 (9) "Micro network node" means a network node that is
23 not larger in dimension than 24 inches in length, 15 inches in
24 width, and 12 inches in height, and that has an exterior antenna, if
25 any, not longer than 11 inches.

26 (10) "Municipally owned utility pole" means a utility
27 pole owned or operated by a municipally owned utility, as defined by

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1 Section 11.003, Utilities Code, and located in a public
2 right-of-way.

3 (11) "Municipal park" means an area that is zoned or
4 otherwise designated by municipal code as a public park for the
5 purpose of recreational activity.

6 (12) "Network node" means equipment at a fixed
7 location that enables wireless communications between user
8 equipment and a communications network. The term:

9 (A) includes:

10 (i) equipment associated with wireless
11 communications;

12 (ii) a radio transceiver, an antenna, a
13 battery-only backup power supply, and comparable equipment,
14 regardless of technological configuration; and

15 (iii) coaxial or fiber-optic cable that is
16 immediately adjacent to and directly associated with a particular
17 collocation; and

18 (B) does not include:

19 (i) an electric generator;

20 (ii) a pole; or

21 (iii) a macro tower.

22 (13) "Network provider" means:

23 (A) a wireless service provider; or

24 (B) a person that does not provide wireless
25 services and that is not an electric utility but builds or installs
26 on behalf of a wireless service provider:

27 (i) network nodes; or

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1 (ii) node support poles or any other
 2 structure that supports or is capable of supporting a network node.

3 (14) "Node support pole" means a pole installed by a
 4 network provider for the primary purpose of supporting a network
 5 node.

6 (15) "Permit" means a written authorization for the
 7 use of the public right-of-way or collocation on a service pole
 8 required from a municipality before a network provider may perform
 9 an action or initiate, continue, or complete a project over which
 10 the municipality has police power authority.

11 (16) "Pole" means a service pole, municipally owned
 12 utility pole, node support pole, or utility pole.

13 (17) "Private easement" means an easement or other
 14 real property right that is only for the benefit of the grantor and
 15 grantee and their successors and assigns.

16 (18) "Public right-of-way" means the area on, below,
 17 or above a public roadway, highway, street, public sidewalk, alley,
 18 waterway, or utility easement in which the municipality has an
 19 interest. The term does not include:

20 (A) a private easement; or

21 (B) the airwaves above a public right-of-way with
 22 regard to wireless telecommunications.

23 (19) "Public right-of-way management ordinance" means
 24 an ordinance that complies with Subchapter C.

25 (20) "Public right-of-way rate" means an annual rental
 26 charge paid by a network provider to a municipality related to the
 27 construction, maintenance, or operation of network nodes within a

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1 public right-of-way in the municipality.

2 (21) "Service pole" means a pole, other than a
3 municipally owned utility pole, owned or operated by a municipality
4 and located in a public right-of-way, including:

5 (A) a pole that supports traffic control
6 functions;

7 (B) a structure for signage;

8 (C) a pole that supports lighting, other than a
9 decorative pole; and

10 (D) a pole or similar structure owned or operated
11 by a municipality and supporting only network nodes.

12 (22) "Transport facility" means each transmission
13 path physically within a public right-of-way, extending with a
14 physical line from a network node directly to the network, for the
15 purpose of providing backhaul for network nodes.

16 (23) "Utility pole" means a pole that provides:

17 (A) electric distribution with a voltage rating
18 of not more than 34.5 kilovolts; or

19 (B) services of a telecommunications provider,
20 as defined by Section 51.002, Utilities Code.

21 (24) "Wireless service" means any service, using
22 licensed or unlicensed wireless spectrum, including the use of
23 Wi-Fi, whether at a fixed location or mobile, provided to the public
24 using a network node.

25 (25) "Wireless service provider" means a person that
26 provides wireless service to the public.

27 Sec. 284.003. LIMITATION ON SIZE OF NETWORK NODES.

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- 1 (a) Except as provided by Section 284.109, a network node to which
2 this chapter applies must conform to the following conditions:
- 3 (1) each antenna that does not have exposed elements
4 and is attached to an existing structure or pole:
- 5 (A) must be located inside an enclosure of not
6 more than six cubic feet in volume;
- 7 (B) may not exceed a height of three feet above
8 the existing structure or pole; and
- 9 (C) may not protrude from the outer circumference
10 of the existing structure or pole by more than two feet;
- 11 (2) if an antenna has exposed elements and is attached
12 to an existing structure or pole, the antenna and all of the
13 antenna's exposed elements:
- 14 (A) must fit within an imaginary enclosure of not
15 more than six cubic feet;
- 16 (B) may not exceed a height of three feet above
17 the existing structure or pole; and
- 18 (C) may not protrude from the outer circumference
19 of the existing structure or pole by more than two feet;
- 20 (3) the cumulative size of other wireless equipment
21 associated with the network node attached to an existing structure
22 or pole may not:
- 23 (A) be more than 28 cubic feet in volume; or
24 (B) protrude from the outer circumference of the
25 existing structure or pole by more than two feet;
- 26 (4) ground-based enclosures, separate from the pole,
27 may not be higher than three feet six inches from grade, wider than

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1 three feet six inches, or deeper than three feet six inches; and

2 (5) pole-mounted enclosures may not be taller than
3 five feet.

4 (b) The following types of associated ancillary equipment
5 are not included in the calculation of equipment volume under
6 Subsection (a):

7 (1) electric meters;

8 (2) concealment elements;

9 (3) telecommunications demarcation boxes;

10 (4) grounding equipment;

11 (5) power transfer switches;

12 (6) cut-off switches; and

13 (7) vertical cable runs for the connection of power
14 and other services.

15 (c) Equipment attached to node support poles may not
16 protrude from the outer edge of the node support pole by more than
17 two feet.

18 (d) Equipment attached to a utility pole must be installed
19 in accordance with the National Electrical Safety Code, subject to
20 applicable codes, and the utility pole owner's construction
21 standards.

22 SUBCHAPTER B. USE OF PUBLIC RIGHT-OF-WAY

23 Sec. 284.051. APPLICABILITY OF SUBCHAPTER. This subchapter
24 applies only to activities related to transport facilities for
25 network nodes, activities of a network provider collocating network
26 nodes in the public right-of-way or installing, constructing,
27 operating, modifying, replacing, and maintaining node support

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1 poles in a public right-of-way, and municipal authority in relation
 2 to those activities.

3 Sec. 284.052. EXCLUSIVE USE PROHIBITED. A municipality may
 4 not enter into an exclusive arrangement with any person for use of
 5 the public right-of-way for the construction, operation,
 6 marketing, or maintenance of network nodes or node support poles.

7 Sec. 284.053. ANNUAL PUBLIC RIGHT-OF-WAY RATE. (a) A
 8 public right-of-way rate for use of the public right-of-way may not
 9 exceed an annual amount equal to \$250 multiplied by the number of
 10 network nodes installed in the public right-of-way in the
 11 municipality's corporate boundaries.

12 (b) At the municipality's discretion, the municipality may
 13 charge a network provider a lower rate or fee if the lower rate or
 14 fee is:

- 15 (1) nondiscriminatory;
 16 (2) related to the use of the public right-of-way; and
 17 (3) not a prohibited gift of public property.

18 Sec. 284.054. PUBLIC RIGHT-OF-WAY RATE ADJUSTMENT. (a) In
 19 this section, "consumer price index" means the annual revised
 20 Consumer Price Index for All Urban Consumers for Texas, as
 21 published by the federal Bureau of Labor Statistics.

22 (b) A municipality may adjust the amount of the public
 23 right-of-way rate not more often than annually by an amount equal to
 24 one-half the annual change, if any, in the consumer price index.
 25 The municipality shall provide written notice to each network
 26 provider of the new rate, and the rate shall apply to the first
 27 payment due to the municipality on or after the 60th day following

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1 that notice.

2 Sec. 284.055. USE OF PUBLIC RIGHT-OF-WAY AND APPLICABLE
3 RATE. (a) A network provider that wants to connect a network node
4 to the network using the public right-of-way may:

5 (1) install its own transport facilities subject to
6 Subsection (b); or

7 (2) obtain transport service from a person that is
8 paying municipal fees to occupy the public right-of-way that are
9 the equivalent of not less than \$28 per node per month.

10 (b) A network provider may not install its own transport
11 facilities unless the provider:

12 (1) has a permit to use the public right-of-way; and

13 (2) pays to the municipality a monthly public
14 right-of-way rate for transport facilities in an amount equal to
15 \$28 multiplied by the number of the network provider's network
16 nodes located in the public right-of-way for which the installed
17 transport facilities provide backhaul unless or until the time the
18 network provider's payment of municipal fees to the municipality
19 exceeds its monthly aggregate per-node compensation to the
20 municipality.

21 (c) A public right-of-way rate required by Subsection (b) is
22 in addition to any public right-of-way rate required by Section
23 284.053.

24 Sec. 284.056. COLLOCATION OF NETWORK NODES ON SERVICE
25 POLES. A municipality, subject to an agreement with the
26 municipality that does not conflict with this chapter, shall allow
27 collocation of network nodes on service poles on nondiscriminatory

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1 terms and conditions and at a rate not greater than \$20 per year per
 2 service pole.

3 Sec. 284.057. PROHIBITION ON OTHER COMPENSATION. A
 4 municipality may not require a network provider to pay any
 5 compensation other than the compensation authorized by this chapter
 6 for the right to use a public right-of-way for network nodes, node
 7 support poles, or transport facilities for network nodes.

8 SUBCHAPTER C. ACCESS AND APPROVALS

9 Sec. 284.101. RIGHT OF ACCESS TO PUBLIC RIGHT-OF-WAY.

10 (a) Except as specifically provided by this chapter, and subject
 11 to the requirements of this chapter and the approval of a permit
 12 application, if required, a network provider is authorized, as a
 13 permitted use, without need for a special use permit or similar
 14 zoning review and not subject to further land use approval, to do
 15 the following in the public right-of-way:

16 (1) construct, modify, maintain, operate, relocate,
 17 and remove a network node or node support pole;

18 (2) modify or replace a utility pole or node support
 19 pole; and

20 (3) collocate on a pole, subject to an agreement with
 21 the municipality that does not conflict with this chapter.

22 (b) A network provider taking an action authorized by
 23 Subsection (a) is subject to applicable codes, including applicable
 24 public right-of-way management ordinances.

25 Sec. 284.102. GENERAL CONSTRUCTION AND MAINTENANCE
 26 REQUIREMENTS. A network provider shall construct and maintain
 27 network nodes and node support poles described by Section 284.101

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1 in a manner that does not:

2 (1) obstruct, impede, or hinder the usual travel or
 3 public safety on a public right-of-way;

4 (2) obstruct the legal use of a public right-of-way by
 5 other utility providers;

6 (3) violate nondiscriminatory applicable codes;

7 (4) violate or conflict with the municipality's
 8 publicly disclosed public right-of-way design specifications; or

9 (5) violate the federal Americans with Disabilities
 10 Act of 1990 (42 U.S.C. Section 12101 et seq.).

11 Sec. 284.103. GENERAL LIMITATION ON PLACEMENT OF POLES. A
 12 network provider shall ensure that each new, modified, or
 13 replacement utility pole or node support pole installed in a public
 14 right-of-way in relation to which the network provider received
 15 approval of a permit application does not exceed the lesser of:

16 (1) 10 feet in height above the tallest existing
 17 utility pole located within 500 linear feet of the new pole in the
 18 same public right-of-way; or

19 (2) 55 feet above ground level.

20 Sec. 284.104. INSTALLATION IN MUNICIPAL PARKS AND
 21 RESIDENTIAL AREAS. (a) A network provider may not install a new
 22 node support pole in a public right-of-way without the
 23 municipality's discretionary, nondiscriminatory, and written
 24 consent if the public right-of-way is in a municipal park or is
 25 adjacent to a street or thoroughfare that is:

26 (1) not more than 50 feet wide; and

27 (2) adjacent to single-family residential lots or

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1 other multifamily residences or undeveloped land that is designated
2 for residential use by zoning or deed restrictions.

3 (b) In addition to the requirement prescribed by Subsection
4 (a), a network provider installing a network node or node support
5 pole in a public right-of-way described by Subsection (a) shall
6 comply with private deed restrictions and other private
7 restrictions in the area that apply to those facilities.

8 Sec. 284.105. INSTALLATION IN HISTORIC OR DESIGN DISTRICTS.

9 (a) A network provider must obtain advance approval from a
10 municipality before collocating new network nodes or installing new
11 node support poles in an area of the municipality zoned or otherwise
12 designated as a historic district or as a design district if the
13 district has decorative poles. As a condition for approval of new
14 network nodes or new node support poles in a historic district or a
15 design district with decorative poles, a municipality may require
16 reasonable design or concealment measures for the new network nodes
17 or new node support poles. A municipality may request that a
18 network provider comply with the design and aesthetic standards of
19 the historic or design district and explore the feasibility of
20 using certain camouflage measures to improve the aesthetics of the
21 new network nodes, new node support poles, or related ground
22 equipment, or any portion of the nodes, poles, or equipment, to
23 minimize the impact to the aesthetics in a historic district or on a
24 design district's decorative poles.

25 (b) This section may not be construed to limit a
26 municipality's authority to enforce historic preservation zoning
27 regulations consistent with the preservation of local zoning

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1 authority under 47 U.S.C. Section 332(c)(7), the requirements for
 2 facility modifications under 47 U.S.C. Section 1455(a), or the
 3 National Historic Preservation Act of 1966 (54 U.S.C. Section
 4 300101 et seq.), and the regulations adopted to implement those
 5 laws.

6 Sec. 284.106. EQUIPMENT CABINETS. A network provider shall
 7 ensure that the vertical height of an equipment cabinet installed
 8 as part of a network node does not exceed the height limitation
 9 prescribed by Section 284.003, subject to approval of the pole's
 10 owner if applicable.

11 Sec. 284.107. COMPLIANCE WITH UNDERGROUNDING REQUIREMENT.
 12 (a) A network provider shall, in relation to installation for
 13 which the municipality approved a permit application, comply with
 14 nondiscriminatory undergrounding requirements, including
 15 municipal ordinances, zoning regulations, state law, private deed
 16 restrictions, and other public or private restrictions, that
 17 prohibit installing aboveground structures in a public
 18 right-of-way without first obtaining zoning or land use approval.

19 (b) A requirement or restriction described by Subsection
 20 (a) may not be interpreted to prohibit a network provider from
 21 replacing an existing structure.

22 Sec. 284.108. DESIGN MANUAL. (a) A municipality may adopt
 23 a design manual for the installation and construction of network
 24 nodes and new node support poles in the public right-of-way that
 25 includes additional installation and construction details that do
 26 not conflict with this chapter. The design manual may include:

27 (1) a requirement that an industry standard pole load

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1 analysis be completed and submitted to the municipality indicating
2 that the service pole to which the network node is to be attached
3 will safely support the load; and

4 (2) a requirement that network node equipment placed
5 on new and existing poles be placed more than eight feet above
6 ground level.

7 (b) A network provider shall comply with a design manual, if
8 any, in place on the date a permit application is filed in relation
9 to work for which the municipality approved the permit application.

10 A municipality's obligations under Section 284.154 may not be
11 tolled or extended pending the adoption or modification of a design
12 manual.

13 Sec. 284.109. EXCEPTIONS. Subject to Subchapter D, a
14 network provider may construct, modify, or maintain in a public
15 right-of-way a network node or node support pole that exceeds the
16 height or distance limitations prescribed by this chapter only if
17 the municipality approves the construction, modification, or
18 maintenance subject to all applicable zoning or land use
19 regulations and applicable codes.

20 Sec. 284.110. DISCRIMINATION PROHIBITED. A municipality,
21 in the exercise of the municipality's administrative and regulatory
22 authority related to the management of and access to the public
23 right-of-way, must be competitively neutral with regard to other
24 users of the public right-of-way.

25 SUBCHAPTER D. APPLICATIONS AND PERMITS

26 Sec. 284.151. PROHIBITION OF CERTAIN MUNICIPAL ACTIONS.

27 (a) Except as otherwise provided by this chapter, a municipality

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1 may not prohibit, regulate, or charge for the installation or
 2 collocation of network nodes in a public right-of-way.

3 (b) A municipality may not directly or indirectly require,
 4 as a condition for issuing a permit required under this chapter,
 5 that the applicant perform services unrelated to the installation
 6 or collocation for which the permit is sought, including in-kind
 7 contributions such as reserving fiber, conduit, or pole space for
 8 the municipality.

9 (c) A municipality may not institute a moratorium, in whole
 10 or in part, express or de facto, on:

11 (1) filing, receiving, or processing applications; or
 12 (2) issuing permits or other approvals, if any, for
 13 the installation of network nodes or node support poles.

14 Sec. 284.152. AUTHORITY TO REQUIRE PERMIT. (a) Except as
 15 otherwise provided by this chapter, a municipality may require a
 16 network provider to obtain one or more permits to install a network
 17 node, node support pole, or transport facility in a public
 18 right-of-way if the permit:

19 (1) is of general applicability to users of the public
 20 right-of-way;

21 (2) does not apply exclusively to network nodes; and

22 (3) is processed on nondiscriminatory terms and
 23 conditions regardless of the type of entity submitting the
 24 application for the permit.

25 (b) A network provider that wants to install or collocate
 26 multiple network nodes inside the territorial jurisdiction of a
 27 single municipality is entitled to file a consolidated permit

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1 application with the municipality for not more than 30 network
 2 nodes and receive permits for the installation or collocation of
 3 those network nodes.

4 Sec. 284.153. GENERAL PROCESS RELATING TO PERMIT
 5 APPLICATION. (a) Except as otherwise provided by this section, a
 6 municipality may not require an applicant to provide more
 7 information to obtain the permit than a telecommunications utility
 8 that is not a network provider is required to provide unless the
 9 information directly relates to the requirements of this chapter.

10 (b) As part of the standard form for a permit application, a
 11 municipality may require the applicant to include applicable
 12 construction and engineering drawings and information to confirm
 13 that the applicant will comply with the municipality's publicly
 14 disclosed public right-of-way design specifications and applicable
 15 codes.

16 (c) A municipality may require an applicant to provide:

17 (1) information reasonably related to the provider's
 18 use of the public right-of-way under this chapter to ensure
 19 compliance with this chapter;

20 (2) a certificate that the network node complies with
 21 applicable regulations of the Federal Communications Commission;
 22 and

23 (3) certification that the proposed network node will
 24 be placed into active commercial service by or for a network
 25 provider not later than the 60th day after the date the construction
 26 and final testing of the network node is completed.

27 Sec. 284.154. MUNICIPAL REVIEW PROCESS. (a) A

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1 municipality shall process each permit application on a
2 nondiscriminatory basis.

3 (b) Not later than the 30th day after the date the
4 municipality receives an application for a permit for a network
5 node or node support pole, or the 10th day after the date the
6 municipality receives an application for a permit for a transport
7 facility, the municipality shall determine whether the application
8 is complete and notify the applicant of that determination. If the
9 municipality determines that the application is not complete, the
10 municipality shall specifically identify the missing information.

11 (c) A municipality shall approve an application that does
12 not require zoning or land use approval under this chapter unless
13 the application or the corresponding work to be performed under the
14 permit does not comply with the municipality's applicable codes or
15 other municipal rules, regulations, or other law that is consistent
16 with this chapter.

17 (d) A municipality must approve or deny an application for a
18 node support pole not later than the 150th day after the date the
19 municipality receives the complete application. A municipality
20 must approve or deny an application for a network node not later
21 than the 60th day after the date the municipality receives the
22 complete application. A municipality must approve or deny an
23 application for a transport facility not later than the 21st day
24 after the date the municipality receives a complete application.
25 An application for a permit for a node support pole, network node,
26 or transport facility shall be deemed approved if the application
27 is not approved or denied on or before the applicable date for

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1 approval or denial prescribed by this subsection.

2 (e) A municipality that denies a complete application must
3 document the basis for the denial, including the specific
4 applicable code provisions or other municipal rules, regulations,
5 or other law on which the denial was based. The municipality shall
6 send the documentation by electronic mail to the applicant on or
7 before the date the municipality denies the application.

8 (f) Not later than the 30th day after the date the
9 municipality denies the application, the applicant may cure the
10 deficiencies identified in the denial documentation and resubmit
11 the application without paying an additional application fee, other
12 than a fee for actual costs incurred by the municipality.
13 Notwithstanding Subsection (d), the municipality shall approve or
14 deny the revised completed application after a denial not later
15 than the 90th day after the date the municipality receives the
16 completed revised application. The municipality's review of the
17 revised application is limited to the deficiencies cited in the
18 denial documentation.

19 Sec. 284.155. TIME OF INSTALLATION. (a) A network
20 provider shall begin the installation for which a permit is granted
21 not later than six months after final approval and shall diligently
22 pursue the installation to completion.

23 (b) Notwithstanding Subsection (a), the municipality may
24 place a longer time limit on completion or grant reasonable
25 extensions of time as requested by the network provider.

26 Sec. 284.156. APPLICATION FEES. (a) A municipality may
27 charge an application fee for a permit only if the municipality

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1 requires the payment of the fee for similar types of commercial
2 development inside the municipality's territorial jurisdiction
3 other than a type for which application or permit fees are not
4 allowed by law.

5 (b) The amount of an application fee charged by a
6 municipality may not exceed the lesser of:

7 (1) the actual, direct, and reasonable costs the
8 municipality determines are incurred in granting or processing an
9 application that are reasonably related in time to the time the
10 costs of granting or processing an application are incurred; or

11 (2) \$500 per application covering up to five network
12 nodes, \$250 for each additional network node per application, and
13 \$1,000 per application for each pole.

14 (c) In determining for purposes of Subsection (b)(1) the
15 amount of the actual, direct, and reasonable costs, the
16 municipality may not:

17 (1) include costs incurred by the municipality in
18 relation to third-party legal or engineering review of an
19 application; or

20 (2) direct payments or reimbursement of third-party
21 public right-of-way rates or fees charged on a contingency basis or
22 under a result-based arrangement.

23 Sec. 284.157. CERTAIN WORK EXEMPTED. (a) Notwithstanding
24 any other provision of this chapter, a municipality may not require
25 a network provider to submit an application, obtain a permit, or pay
26 a rate for:

27 (1) routine maintenance that does not require

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1 excavation or closing of sidewalks or vehicular lanes in a public
2 right-of-way;

3 (2) replacing or upgrading a network node or pole with
4 a node or pole that is substantially similar in size or smaller and
5 that does not require excavation or closing of sidewalks or
6 vehicular lanes in a public right-of-way; or

7 (3) the installation, placement, maintenance,
8 operation, or replacement of micro network nodes that are strung on
9 cables between existing poles or node support poles, in compliance
10 with the National Electrical Safety Code.

11 (b) For purposes of Subsection (a)(2):

12 (1) a network node or pole is considered to be
13 "substantially similar" if:

14 (A) the new or upgraded network node, including
15 the antenna or other equipment element, will not be more than 10
16 percent larger than the existing node, provided that the increase
17 may not result in the node exceeding the size limitations provided
18 by Section 284.003; and

19 (B) the new or upgraded pole will not be more than
20 10 percent higher than the existing pole, provided that the
21 increase may not result in the pole exceeding the applicable height
22 limitations prescribed by Section 284.103;

23 (2) the replacement or upgrade does not include
24 replacement of an existing node support pole; and

25 (3) the replacement or upgrade does not defeat
26 existing concealment elements of a node support pole.

27 (c) The determination under Subsection (b)(1) of whether a

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1 replacement or upgrade is substantially similar is made by
 2 measuring from the dimensions of the network node or node support
 3 pole as approved by the municipality.

4 (d) Notwithstanding Subsection (a):

5 (1) a municipality may require advance notice of work
 6 described by that subsection;

7 (2) a network provider may replace or upgrade a pole
 8 only with the approval of the pole's owner; and

9 (3) the size limitations may not in any event exceed
 10 the parameters prescribed by Section 284.003 without the
 11 municipality's approval in accordance with Section 284.109, with
 12 the municipality acting on behalf of this state as the fiduciary
 13 trustee of public property.

14 SUBCHAPTER E. ACCESS TO MUNICIPALLY OWNED UTILITY POLES

15 Sec. 284.201. USE OF MUNICIPALLY OWNED UTILITY POLES.

16 (a) The governing body of a municipally owned utility shall allow
 17 collocation of network nodes on municipally owned utility poles on
 18 nondiscriminatory terms and conditions and pursuant to a negotiated
 19 pole attachment agreement, including any applicable permitting
 20 requirements of the municipally owned utility.

21 (b) The annual pole attachment rate for the collocation of a
 22 network node supported by or installed on a municipally owned
 23 utility pole shall be based on a pole attachment rate consistent
 24 with Section 54.204, Utilities Code, applied on a per-foot basis.

25 (c) The requirements of Subchapters B, C, and D applicable
 26 to the installation of a network node supported by or installed on a
 27 pole do not apply to a network node supported by or installed on a

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1 municipally owned utility pole.

2 SUBCHAPTER F. EFFECT ON OTHER UTILITIES AND PROVIDERS

3 Sec. 284.251. DEFINITIONS. In this subchapter:

4 (1) "Cable service" and "video service" have the
5 meanings assigned by Section 66.002, Utilities Code.

6 (2) "Electric cooperative" has the meaning assigned by
7 Section 11.003, Utilities Code.

8 (3) "Electric utility" has the meaning assigned by
9 Section 31.002, Utilities Code.

10 (4) "Telecommunications provider" has the meaning
11 assigned by Section 51.002, Utilities Code.

12 (5) "Telephone cooperative" has the meaning assigned
13 by Section 162.003, Utilities Code.

14 Sec. 284.252. EFFECT ON INVESTOR-OWNED ELECTRIC UTILITIES,
15 ELECTRIC COOPERATIVES, TELEPHONE COOPERATIVES, AND
16 TELECOMMUNICATIONS PROVIDERS. Nothing in this chapter shall govern
17 attachment of network nodes on poles and other structures owned or
18 operated by investor-owned electric utilities, electric
19 cooperatives, telephone cooperatives, or telecommunications
20 providers. This chapter does not confer on municipalities any new
21 authority over those utilities, cooperatives, or providers.

22 Sec. 284.253. EFFECT ON PROVIDERS OF CABLE SERVICES OR
23 VIDEO SERVICES. (a) An approval for the installation, placement,
24 maintenance, or operation of a network node or transport facility
25 under this chapter may not be construed to confer authorization to
26 provide:

27 (1) cable service or video service without complying

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1 with all terms of Chapter 66, Utilities Code; or

2 (2) information service as defined by 47 U.S.C.
 3 Section 153(24), or telecommunications service as defined by 47
 4 U.S.C. Section 153(53), in the public right-of-way.

5 (b) Except as provided by this chapter, a municipality may
 6 not adopt or enforce any regulations or requirements that would
 7 require a wireless service provider, or its affiliate, that holds a
 8 cable or video franchise under Chapter 66, Utilities Code, to
 9 obtain any additional authorization or to pay any fees based on the
 10 provider's provision of wireless service over its network nodes.

11 SUBCHAPTER G. GENERAL CONDITIONS OF ACCESS

12 Sec. 284.301. LOCAL POLICE-POWER-BASED REGULATIONS.

13 (a) Subject to this chapter and applicable federal and state law,
 14 a municipality may continue to exercise zoning, land use, planning,
 15 and permitting authority in the municipality's boundaries,
 16 including with respect to utility poles.

17 (b) A municipality may exercise that authority to impose
 18 police-power-based regulations for the management of the public
 19 right-of-way that apply to all persons subject to the municipality.

20 (c) A municipality may impose police-power-based
 21 regulations in the management of the activities of network
 22 providers in the public right-of-way only to the extent that the
 23 regulations are reasonably necessary to protect the health, safety,
 24 and welfare of the public.

25 Sec. 284.302. INDEMNIFICATION. The indemnification
 26 provisions of Sections 283.057(a) and (b) apply to a network
 27 provider accessing a public right-of-way under this chapter.

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1 Sec. 284.303. RELOCATION. Except as provided in existing
2 state and federal law, a network provider shall relocate or adjust
3 network nodes in a public right-of-way in a timely manner and
4 without cost to the municipality managing the public right-of-way.

5 Sec. 284.304. INTERFERENCE. (a) A network provider shall
6 operate all network nodes in accordance with all applicable laws,
7 including regulations adopted by the Federal Communications
8 Commission.

9 (b) A network provider shall ensure that the operation of a
10 network node does not cause any harmful radio frequency
11 interference to a Federal Communications Commission-authorized
12 mobile telecommunications operation of the municipality operating
13 at the time the network node was initially installed or
14 constructed. On written notice, a network provider shall take all
15 steps reasonably necessary to remedy any harmful interference.

16 SECTION 2. (a) In this section, "collocation," "network
17 node," "network provider," and "public right-of-way" have the
18 meanings assigned by Section 284.002, Local Government Code, as
19 added by this Act.

20 (b) Public/private agreements between a municipality and a
21 network provider for the deployment of network nodes in the public
22 right-of-way on fair and reasonable terms as provided by Chapter
23 284, Local Government Code, as added by this Act, and corresponding
24 ordinances governing that deployment, are necessary to protect the
25 health, safety, and welfare of the public by facilitating robust
26 and dependable wireless networks. Accordingly, those agreements
27 and ordinances shall be conformed as provided by this section.

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1 (c) Subject to Subsection (d) of this section, the rates,
2 terms, and conditions of agreements and ordinances entered into or
3 enacted before the effective date of this Act shall apply to all
4 network nodes installed and operational before the effective date
5 of this Act.

6 (d) For all network nodes installed and operational on or
7 after the effective date of this Act:

8 (1) if a rate, term, or condition of an agreement or
9 ordinance related to the construction, collocation, operation,
10 modification, or maintenance of network nodes does not comply with
11 the requirements of Chapter 284, Local Government Code, as added by
12 this Act, a municipality shall amend the agreement or ordinance to
13 comply with the requirements of Chapter 284, Local Government Code,
14 as added by this Act, and the amended rates, terms, or conditions
15 shall take effect for those network nodes on the six-month
16 anniversary of the effective date of this Act; and

17 (2) the rates, terms, and conditions of each agreement
18 executed, and each ordinance enacted, on or after the effective
19 date of this Act shall comply with the requirements of Chapter 284,
20 Local Government Code, as added by this Act.

21 SECTION 3. This Act takes effect September 1, 2017.

S.B. No. 1004

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1004 passed the Senate on April 6, 2017, by the following vote: Yeas 29, Nays 0, two present not voting; and that the Senate concurred in House amendment on May 25, 2017, by the following vote: Yeas 29, Nays 0, two present not voting.

Secretary of the Senate

I hereby certify that S.B. No. 1004 passed the House, with amendment, on May 18, 2017, by the following vote: Yeas 140, Nays 6, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor



Full-Length Electric Service Drop Riser

Omni Multi-Host Antenna w/4 strands of Coax Cable

Antenna Mount

Fiber/Telecom Junction Box

Radio Packs

Grounding Bar

Antenna Coax

Full-Length Electric Service Drop Riser

Electric Meter

Breaker Panel / Disconnect



Example of a cluttered small cell install











ORDINANCE NUMBER 17-XX

AN ORDINANCE OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS, ADOPTING RIGHT-OF-WAY MANAGEMENT REGULATIONS; REGULATING THE PHYSICAL USE, OCCUPANCY AND MAINTENANCE OF THE TOWN'S RIGHTS-OF-WAY BY TELECOMMUNICATIONS SERVICE AND WIRELESS NETWORK PROVIDERS; PROVIDING PROCEDURES FOR APPLICATIONS FOR PERMITS; ESTABLISHING TIME PERIODS FOR APPROVAL OF PERMIT APPLICATIONS; PROVIDING PERMIT FEES AND PUBLIC RIGHTS-OF-WAY RENTAL RATES; REQUIRING LAND USE APPROVAL PRIOR TO PLACEMENT OF NETWORK NODES AND NODE SUPPORT POLES IN PARKS, RESIDENTIAL AREAS, HISTORIC AREAS, UNDERGROUND AREAS AND DESIGN AREAS; ADOPTING A DESIGN MANUAL UNDER CHAPTER 284 OF THE TEXAS LOCAL GOVERNMENT CODE; PROVIDING A CRIMINAL PENALTY AS PROVIDED IN AN AMOUNT NOT TO EXCEED \$2,000.00 FOR ANY VIOLATION OF THIS ORDINANCE WITH EACH DAY CONSTITUTING A NEW VIOLATION HEREOF; PROVIDING A CIVIL PENALTY AS PROVIDED IN AN AMOUNT NOT TO EXCEED \$1,000.00 FOR ANY VIOLATION OF THIS ORDINANCE WITH EACH DAY CONSTITUTING A NEW VIOLATION HEREOF; AND PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE, A SAVINGS CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, in its most recent session, the Texas Legislature adopted Senate Bill 1004, relating to the use of public rights-of-ways by wireless communications companies; and

WHEREAS, Senate Bill 1004 goes into effect on September 1, 2017; and

WHEREAS, the Town Council desires to establish regulations related to use of its rights-of-ways by wireless communications companies as provided by Senate Bill 1004; and

WHEREAS, the Town Council finds it to be in the best interest of the health, welfare and safety of its citizens to establish the regulations set forth in this Ordinance.

NOW THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS, THAT:

Section 1. The facts and matters set forth in the preamble to this Ordinance are hereby found to be true and correct.

Section 2. Right-of-Way Management, hereby adopted to read in its entirety as follows:

“RIGHT-OF-WAY MANAGEMENT

CHAPTER 1. – PERMIT REQUIRED FOR WORK IN RIGHT-OF-WAY

Sec. 01. - Definitions

Whenever used in this chapter, the following terms, as well as their singulars, plurals and possessives, shall have the following definitions and meanings, unless the context of the sentence in which they are used indicates otherwise.

Access line: Pursuant to Chapter 283 of the Texas Local Government Code, as amended, a unit of measurement representing:

- (i) each switched transmission path of the transmission media that is physically within a public right-of-way extended to the end-use customer's premises within the municipality, that allows the delivery of local exchange telephone services within a municipality, and that is provided by means of owned facilities, unbundled network elements or leased facilities, or resale;
- (ii) (ii) each termination point or points of a nonswitched telephone or other circuit consisting of transmission media located within a public right-of-way connecting specific locations identified by, and provided to, the end-use customer for delivery of nonswitched telecommunications services within the municipality; or
- (iii) (iii) each switched transmission path within a public right-of-way used to provide central office-based PBX-type services for systems of any number of stations within the municipality, and in that instance, one path shall be counted for every 10 stations served.

An access line may not be construed to include interoffice transport or other transmission media that do not terminate at an end-use customer's premises or to permit duplicate or multiple assessment of access line rates on the provision of a single service.

Antenna: Communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

Cable service: "Cable service" as defined in the Cable Communications Policy Act of 1984, as amended, 47 U.S.C. § 532 et seq.

Town: The Town of Lakewood Village, Texas.

Town Code: The Ordinances of the Town of Lakewood Village, Texas, as amended.

Town Council: The municipal governing body of the Town of Lakewood Village, Texas.

Town Secretary: The Town Secretary or designee of the Town Secretary.

Collocate and collocation: The installation, mounting, maintenance, modification, operation, or replacement of network nodes in a public right-of-way on or adjacent to a pole.

Consumer price index: The annual revised Consumer Price Index for All Urban Consumers for Texas, as published by the federal Bureau of Labor Statistics.

Concealment: Any wireless facility that is covered, blended, painted, disguised, camouflaged, or otherwise concealed such that the wireless facility blends into the surrounding environment and is visually unobtrusive. Concealment includes but is not limited to covering with a façade, designs that blend with the surrounding character of an area, paint that matches surrounding poles, disguising with landscaping, or locating underground.

Decorative pole: A streetlight pole specially designed and placed for aesthetic purposes and on 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 direction of the town.

Design area: An area that is zoned, or otherwise designated by town code, and for which the town maintains and enforces unique design and aesthetic standards.

Design manual: The design requirements for specific types of facilities, including any adopted design manuals, the town's development ordinances, adopted constructed ordinances and any other town requirements.

Direction of the town: All ordinances, laws, rules, resolutions, and regulations of the town that are now in force or may hereafter be passed and adopted.

Easement: Any public easement or other compatible use created by dedication, or by other means, to the town for public utility purposes or any other purpose whatsoever. "Easement" shall include a private easement used for the provision of utilities.

Facilities: Any and all of the network nodes, transport facilities, equipment cabinets, node support poles, duct spaces, manholes, poles, conduits, underground and overhead passageways, and other equipment, structures, plant, and appurtenances and all transmission media used for the provision of wireless service or telecommunication service.

Federal Communications Commission or FCC: The Federal Administrative Agency, or lawful successor, authorized to oversee cable television and other multi-channel regulation on a national level.

Historic area: An area that is zoned or otherwise designated as a historic area under municipal, state, or federal law.

Highway right-of-way: The right-of-way adjacent to a state or federal highway.

Law: Common law or a federal, state, or local law, statute, code, rule, regulation, order, or ordinance.

Line fee: A monthly fee to be applied to each access line for the calculation of the total amount to be paid to the town as a rights-of-way fee.

Location: The town-approved and lawfully permitted location for the Network Node.

Macro tower: A guyed or self-supported pole or monopole greater than the lesser of (i) 55 feet, or (ii) 10 feet higher than the tallest existing utility pole located within 500 linear feet of the new pole in the same public right-of-way and that supports or is capable of supporting antennas.

Micro network node: A network node that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height, and that has an exterior antenna, if any, not longer than 11 inches.

Municipally owned utility pole: A utility pole owned or operated by a municipally owned utility, as defined by Section 11.003, Utilities Code, and located in a public right-of-way.

Park: Any property dedicated or used as a park or for public park purposes or that may be dedicated or used as a park or for public park purposes within the town.

Network node or node: Equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term includes: (i) equipment associated with wireless communications; (ii) a radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; and (iii) coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation; and does not include: (i) an electric generator; (ii) a pole; or (iii) a macro tower.

Network provider: A wireless service provider; or a person that does not provide wireless services and that is not an electric utility but builds or installs on behalf of a wireless service provider: (i) network nodes; or (ii) node support poles or any other structure that supports or is capable of supporting a network node.

New node support pole or new pole: A new installation, including any extension or replacement of an existing pole where the replacement is not excepted from permit requirements under this chapter.

Node support pole: A pole installed by a network provider for the primary purpose of supporting a network node.

Permit: A written authorization for the use of the public right-of-way, including collocation on a service pole, required from the town before a provider may perform an action under this chapter.

Permit holder: Any person that has applied for or been issued a permit pursuant to the terms of this chapter.

Provider: A network provider or telecommunication service provider.

Person: A natural person (an individual), corporation, company, association, partnership, firm, limited liability company, joint venture, joint stock company or association, and other such entity.

Pole: A service pole, municipally owned utility pole, node support pole, or utility pole.

Private easement: 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 or right-of-way: The area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest. The term does not include: (A) a private easement; or (B) the airwaves above a public right-of-way with regard to wireless telecommunications. This includes but is not limited to all present and future public streets, avenues, highways, alleys, sidewalks, boulevards, drives, tunnels, easements, bridges, and other such similar passageways, thoroughfares, and public ways within the town.

Public utility: A public utility as that term is used in the Public Utility Regulatory Act, V.T.C.A., Utilities Code § 11.004, including municipally owned and/or operated utilities.

Rights-of-way fee: The total amount paid to the town on a quarterly basis for access lines and on an annual basis for other facilities for the use and occupancy of the rights-of-way. For network providers, this is the rental charge paid in accordance with Chapter 284 of the Texas Local Government Code.

Service pole: A pole, other than a municipally owned utility pole, owned or operated by a municipality and located in a public right-of-way, including: a pole that supports traffic control functions; a structure for signage; a pole that supports lighting, other than a decorative pole; and a pole or similar structure owned or operated by a municipality and supporting only network nodes.

Street: The portion of the public right-of-way, including a highway, designed or used for vehicular traffic, including that part of the street marked or platted as a bicycle or public transit lane. Street width shall be the widest of the following measurements: (i) edge of pavement to edge of pavement, or (ii) curb to curb.

Substantially similar: Includes the following: (i) A replacement or upgrade that does not include replacement of an existing node support pole nor defeat existing concealment elements of a node support pole; and (ii) a new or upgraded network node, including the antenna or other equipment element, will not be more than 10 percent (10%) larger than the existing node, provided that the increase may not result in the node exceeding the size limitations provided by

the town's design manual; and the new or upgraded pole will not be more than 10 percent (10%) higher than the existing pole, provided that the increase may not result in the pole exceeding the applicable height limitations prescribed by the town's design manual.

Telecommunications service: The transmittal of voice, data, image, graphics and other communications between or among points by wire, fiber optics, or other similar facilities, as well as the rental, lease, or furnishing of the facilities to accomplish such transmittal, but does not include transmissions for long distance purposes (interLATA and intraLATA) or any "wireless service" as defined by law.

Telecommunications service provider: Any person that supplies telecommunications service to others within the corporate limits of the town in exchange for money or other value.

Telecommunications utility: "Telecommunications utility" as used in the Public Utility Regulatory Act, V.T.C.A., Utilities Code § 51.002(11).

Transmission media: Any and all of the cables, fibers, wires or other physical devices owned, maintained or placed by a user to transmit and/or receive communication signals, whether analog, digital or of other characteristics, and whether for voice, data or other purposes.

Transport facility: Each transmission path physically within a public right-of-way, extending with a physical line from a network node directly to the network, for the purpose of providing backhaul for network nodes.

Use and occupancy: Acquisition, installation, construction, reconstruction, maintenance, repair, control, or operation of any facilities within the rights-of-way for any purpose whatsoever.

User: Any person that owns, controls, constructs, installs, repairs, maintains, upgrades or removes a structure in the right-of-way, including any contractor or subcontractor of a person who owns or controls a structure in the right-of-way.

Utility pole: A pole that provides: electric distribution with a voltage rating of not more than 34.5 kilovolts; or services of a wireless provider, as defined by Section 51.002, Utilities Code.

Wireless service: Any service, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using a network node.

Wireless service provider: A person that provides wireless service to the public.

Sec. 3.702. - Registration and construction permits.

No person shall commence or continue with the construction or installation of any structure within the rights-of-way of the town except as provided by this Article, or as provided by other town permits or written agreements with the town.

- (a) *Registration required.* All users of the right-of-way must register annually with the Town of Lakewood Village. Registration and permits will be issued in the name of the person who will own the facilities. Registration shall include:
- i. The name of the user of the right-of-way;
 - ii. The name, address, and telephone number of people who will be contact person(s) for the user;
 - iii. The name(s) and telephone number of an emergency contact who shall be available twenty-four (24) hours a day;
 - iv. The location, including exact coordinates, of all structures located in the rights-of-way; and
 - v. a description of each structure located in the rights-of-way.
- (b) *Construction permit required.* Unless otherwise provided by this Article, no person shall perform any construction or installation of structures in the right-of-way without first obtaining a construction permit. The permit will be in the name of the person who will own the proposed structures. The permit must be completed and signed by a representative of the owner of the proposed structures. The permit shall state to whom it is issued, location of work, location of proposed structures, estimated dates and times the work is to take place and any other conditions set out by the Town Secretary or his/her designee, or other decision making body when applicable.
- (1) *Permit information required.* The person requesting a permit will provide the Town Secretary or his/her designee with documentation describing:
- i. The proposed, approximate location and route of all structures to be constructed or installed and the applicant's plan for right-of-way construction.
 - ii. Engineering plans provided on a drawing scale not smaller than one (1) inch equals one hundred (100) feet unless otherwise approved by the Town Secretary or his/her designee.
 - iii. Description of all existing public and private utilities in close proximity to applicant's proposed route.
 - iv. Description of the applicant's proposed installation, such as pipe size, number of interducts, valves, etc.
 - v. Description of plans to remove and replace pavement, public utility infrastructure, or drainage works in streets. Plans submitted must conform to Town of Lakewood Village standard construction requirements.
 - vi. Drawings of any bores, trenches, handholes, manholes, switch gear, transformers, pedestals, etc. including depth.
 - vii. Manholes of the type applicant plans to use or access.
 - viii. Complete legend of drawings submitted by applicant, which may be provided by reference to previously submitted documents.
 - ix. Three (3) hard copy sets and one (1) electronic version of engineering plans must be submitted with permit application.
 - x. The construction and installation methods to be employed for the protection of existing structures, fixtures, and facilities within or adjacent to the right-of-way,

and the estimated dates and times work will occur, all of which (methods, dates, times, etc.) are subject to approval of the Town Secretary or his/her designee; and

xi. Proof of insurance or net worth as required.

- (2) *Access to site.* All construction and installation in the right-of-way shall be in accordance with the permit for the facilities. The Town Secretary or his/her designee shall be provided access to the work and to such further information as may reasonably be required to ensure compliance with the permit.
- (3) *Plans at site.* A copy of the construction permit and approved engineering plans shall be maintained at the construction site and made available for inspection by the Town Secretary or his/her designee at all times when construction or installation work is occurring.
- (4) *Timeliness.* All construction or installation 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, the permittee may request an extension from the Town Secretary or his/her designee.
- (5) *Insurance and bonds.*
- i. An applicant must provide proof of liability insurance in the amount of one million dollars (\$1,000,000.00), as approved by the Town Secretary or his/her designee. Such requirements may be waived by the Town Secretary or his/her designee, if the applicant provides acceptable evidence of self-insurance backed by assets equal to but not less than a net worth in the amount of at least five million dollars (\$5,000,000.00) as approved by the Town Secretary or his/her designee and the director of financial services or his/her designee.
 - ii. The coverage provided shall be on an "occurrence" basis and shall include coverage for personal injury, contractual liability, premises liability, medical damages, underground, explosion, and collapse hazards.
 - iii. Each policy must include a cancellation provision in which the insurance company is required to notify the town in writing not fewer than thirty (30) days before canceling, failing to renew, or reducing policy limits.
 - iv. The applicant shall file the required original certificate of insurance prior to any commencement of work. The certificate shall state the policy number; name of the insurance company; name and address of the agent or authorized representative of the insurance company; name, address and telephone number of insured; policy expiration date; and specific coverage amounts.
 - v. Applicant shall file a surety bond from a surety company authorized to do business in the State of Texas in the amount of fifteen thousand dollars (\$15,000.00) to guarantee the restoration of the right-of-way in the event the applicant leaves a job site in the right-of-way unfinished, incomplete, or unsafe. Such requirement for a surety bond may be waived by the Town Secretary or his/her designee upon a showing of financial responsibility by the applicant.

- (6) *Approval.* Unless otherwise provided by this Article, requests for permits shall be approved or disapproved by the Town Secretary or his/her designee within a reasonable time of receiving all the necessary information. The Town Secretary or his/her designee shall use his/her best efforts to approve or disapprove a request for permit as soon as possible.
- (7) *Pre-construction meeting.* The Town or user may request a pre-construction meeting.
- (c) *Exception to construction permit and registration requirement.* The following activities shall not be required to obtain a permit under this Article.
 - (1) *Emergencies.* Emergency responses related to existing facilities may be undertaken without first obtaining a permit; however, the Town Secretary must be notified in writing within two (2) business days of any construction related to an emergency response. A reasonably detailed description of the work performed in the right-of-way and an updated map of any facilities moved shall be provided as soon as practicable.
 - (2) *Routine maintenance.* Except as specifically provided otherwise by this Article, the installation of structures necessary to initiate utility, water, wastewater or other service to a customer's property or the repair or maintenance of existing structures, unless such repair or maintenance requires the breaking of pavement, excavation in the right-of-way, or the closure of a public traffic lane for greater than two (2) hours, are not required to obtain a permit under this Article.

Sec. 3.703. - Construction standards.

- (a) *Advance notice required.* The Town Secretary shall be notified twenty-four (24) hours in advance that construction is ready to proceed by either the right-of-way user, their contractor or representative, including the name, address, and phone numbers of the contractor performing the actual construction, and the name and telephone number of the individual who will be available at all times during construction. Failure to provide the above information will result in the suspension of the permit until the required information is received.
- (b) *Conformance to other laws.* All construction shall be in conformance with all town codes and applicable local, state, and federal laws.
- (c) *Erosion Control.* Erosion control measures (*i.e.*, silt fence) and advance warning signs, markers, cones, and barricades must be in place before work begins. Permit holder may be required to show proof of EPA approved plans relating to storm water and erosion when applicable or a letter stating such plans are not required. User shall comply with town, state, and federal guidelines regulating storm water management erosion control. Requirements shall include, but not be limited to, silt fencing around any excavation that will be left overnight, silt fencing in erosion areas until reasonable vegetation is established, barricade fencing around open holes, and high erosion areas will require wire backed silt fencing, or straw bales, as appropriate.

- (d) *Lane closures.* Lane closures on collectors and thoroughfares, as identified by the town's thoroughfare plan, is limited to after 8:30 a.m. and before 4:00 p.m. unless the Town Secretary grants prior approval. Arrow boards will be required on lane closures, with all barricades, advanced warning signs and 36" reflector cones placed according to the specifications of the Town Secretary.
- (e) *Workmanship.* Users are responsible for the workmanship and any damages caused by a contractor or subcontractor. A responsible representative of the permit holder will be available to Town Secretary at all times during construction.
- (f) *Notice of damage.* All users shall notify the Town Secretary immediately of any damage to other utilities, either town or privately owned.
- (g) *Prior approval required for street or sidewalk cut.* Except in the event of an emergency, prior approval must be obtained from the Town Secretary when a street or sidewalk cut is required and all requirements of the town shall be followed. Repair of all street and sidewalk removals shall be made promptly to avoid safety hazards to vehicle and pedestrian traffic.
- (h) *Interference prohibited.* Newly installed structures shall not interfere with facilities or structures of other users, in particular gravity dependent facilities.
- (i) *Depth.* Structures shall be installed at a minimum of two (2) feet depth, unless approved by the Town Secretary or as otherwise provided by this Article.
- (j) *Working hours.* Except in the event of an emergency, working hours in the rights-of-way are 7:00 a.m. to 7:00 p.m., Monday through Saturday. Except in the event of an emergency, any work performed on Sunday is prohibited. Directional boring is permitted only Monday through Friday, unless approved in advance by the Town Secretary.

Sec. 3.704. - "Plans of record".

Right-of-way users shall provide the Town Secretary or his/her designee with "plans of record" within ten (10) calendar days of completion of structures in the right-of-way. The plans shall be provided to the town in the format specified by the Town Secretary. Submittal of "plans of record" shall be in digital formatting as well as written or in any other format requested by the Town Secretary. The requirement to provide "plans of record" may be waived by the Town Secretary upon a showing of good cause.

Sec. 3.705. - Facility location and conformance with public improvements.

Prior to initiating construction of a "town project" in the right-of-way, the town will provide each right-of-way user preliminary project plans at various stages of completion. Upon receipt of the first submittal of preliminary project plans, each right-of-way user shall be responsible for verifying the location of its underground structures in the vicinity of the town's project. In verifying the location of structures as required by this section, each right-of-way user shall

compile the information obtained regarding any structures located in the right-of-way that are potentially affected by the town project and shall, within thirty (30) days of receipt of the first submittal of the preliminary project plans, make that information available to the town in a written and verified format acceptable to the Town Secretary or his/her designee. Whenever by reasons of widening or straightening of streets, water or sewer line projects, or any other town projects (*i.e.*, install or improve storm drains, water lines, sewer lines) it shall be deemed necessary by the governing body of the town to remove, alter, change, adapt, or conform the underground or overhead structures of a right-of-way user, such alterations shall be made by the owner of the structures at the owner's expense within forty five (45) calendar days from the receipt of written notice to make the alterations, unless a different schedule has been approved by the project director or his/her designee. The owner of the structures shall be responsible for any direct costs incurred by the town, associated with project delays resulting from owner's failure to conform structures within the time limits established by this section. Reimbursement to the town for all costs provided for by this section shall be made within thirty (30) calendar days from the day which the owner receives written notice of such costs.

Sec. 3.706. - Improperly installed structures.

- (a) *Proper installation required.* Structures in the rights-of-way shall be properly installed, repaired, upgraded and maintained. Structures shall be considered to be improperly installed, repaired, upgraded, or maintained if:
 - i. The installation, repairs, upgrade, or maintenance endangers people;
 - ii. The structures do not meet the applicable town requirements;
 - iii. The structures are not capable of being located using standard practices; or
 - iv. The structures are not located in the proper place in accordance with the plans approved by the Town Secretary.
- (c) *Existing structures.* This section shall not apply to structures installed prior to the effective date of this ordinance unless such structures are repaired or upgraded.
- (d) *Town Secretary review of poles.* When poles are used, the type of poles, location, depth, upgrades, etc. shall be subject to review of the Town Secretary, or his/her designee, unless otherwise provided by this Article.

Sec. 3.707. - Restoration of property.

- (a) *Restoration of affected property required.* Users of the right-of-way shall restore property affected by construction in the right-of-way to a condition that is equal to or better than the condition of the property prior to the performance of the work. This includes, but is not limited to, replacing all natural ground cover with an equal or better type of ground cover damaged during work, either by sodding or seeding, as directed by Town Secretary.
- (b) *Restoration requirements.* Restoration shall be to the reasonable satisfaction of the Town Secretary. The restoration shall include, but not be limited to:
 - i. Installation of all manholes and handholes, as required;
 - ii. All bore pits, potholes, trenches, or any other holes shall be covered or barricaded daily;

- iii. Leveling of all trenches and backhoe lines;
 - iv. Restoration of excavation site to town specifications.
- (c) *Locator flags.* All locator flags shall be removed during the cleanup process by the permit holder or his/her contractor at the completion of the work.

Sec. 3.708. - Revocation or denial of permit.

If any provisions of this Article are not followed, a permit may be revoked by the Town Secretary, or his/her designee. If any person fails to follow the terms and conditions of this chapter in work performed pursuant to a permit, except as provided by Chapter 2 below, new permits may be denied or additional terms required prior to issuance of permits to the same user.

Sec. 3.709. – Criminal penalties.

- (a) Any violation or failure to abide by, and comply with, any provision or requirement of this Ordinance shall be a violation of town ordinance and shall be punishable as a Class C misdemeanor, subject to a fine not to exceed Two Thousand Dollars (\$2,000.00) per occurrence, unless otherwise provided by State law.
- (b) Each day upon which there exists a violation of this Article or a failure to abide by or comply with any provision or requirement of this Article shall constitute a separate occurrence and may subject the offender to separate criminal penalties.
- (c) Prosecution pursuant to this Article is in addition to and does not supplant other remedies.
- (d) With the exception of any actions requiring authorization, franchises, licenses or permits (including permits issued before actual use of the right-of-way), it shall be an affirmative defense that notice of the violation of this Article and 45 days to correct the violation was not given to the offender.

Sec. 3.710 – Civil Penalties.

- (a) Civil penalties may be imposed for the violation of any provision of this Article, as follows:
 - i. Up to One Thousand Dollars (\$1,000.00) for each violation, and each day of a continuing violation may be considered a new violation; and/or
 - ii. If applicable, default and revocation of any or all permits granted to allow work in the rights-of-way, subject to the procedural guidelines noted in this Article and any agreement that applies to the right-of-way user, and further subject to any limitations imposed by federal or state law.
- (b) In imposing the penalties and the amount, the town may weigh all applicable factors, such as damages caused by the violation, reasons for the violation, the seriousness of the violation, and all other factors.

- (c) Monetary civil penalties and damages may be imposed in the manner prescribed by either local or state law, and the town attorney is hereby authorized to take all necessary steps to collect any penalties or damages provided herein.
- (d) In addition, the Town Council may order specific performance of any actions required by this Article or required by a franchise, license, or permit, including a permit authorizing work to be performed in the right-of-way, or any other agreement or authorization.

CHAPTER 2 – TELECOMMUNICATIONS AND WIRELESS FACILITIES

Sec. 3.711. - Purpose.

The purpose of this chapter is to:

- i. Assist the town in the management of the rights-of-way;
- ii. Govern the use and occupancy of the rights-of-way by telecommunications and network providers;
- iii. Secure fair and reasonable compensation for the use and occupancy of the rights-of-way by providers in a nondiscriminatory and competitively neutral manner; and
- iv. Assist the town in its efforts to protect the public health, safety and welfare.

Sec. 3.712. – Exceptions to permit requirement; Notice requirement.

A network provider is not required to obtain a construction permit, or pay a rate to the town for:

- i. Routine maintenance that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way;
- ii. Replacing or upgrading a network node or network pole with a node or pole that is substantially similar in size or smaller and that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way; or
- iii. The installation, placement, maintenance, operation, or replacement of micro network nodes that are strung on cables between existing poles or node support poles in compliance with the National Electrical Safety Code.

At least 24 hour advance written notice to the town of work performed under this section is required, including proof that the network provider is acting with approval of a pole's owner; and proof that the size limitations may not in any event exceed the parameters prescribed by this chapter and the town's design manual.

Sec. 3.713. - General terms.

- (a) *Permit rights apply to permit holder only.* The rights granted by this Article inure to the benefit of the permit holder only. The rights granted by permit may not be assigned, transferred, or sold to another by the permit holder. For the purposes of this section, assignment, transfer or sale means a change of operating control of the permit holder, expressly excepting an assignment or transfer to entities that control, are controlled by or are under common control with permit holder.

- (b) *Not exclusive.* No rights agreed to in this Article by the town shall be exclusive and the town reserves the right to grant franchises, licenses, easements or permissions to use the rights-of-way within the town to any person as the town, in its sole discretion, may determine to be in the public interest.
- (c) *Deed restrictions.* A provider installing facilities in a public right-of way shall comply with private deed restrictions and other private restrictions in the area.
- (d) *Cable service not authorized by permit.* A permit holder is not authorized to provide cable service as a cable operator in the town under this Article, but must first obtain a franchise agreement from the town for that purpose, under such terms and conditions as may be required by law. A permit for the installation, placement, maintenance, or operation of a network node or transport facility under this Article shall not confer authorization to provide cable service or video service, as defined by Section 66.002, Utilities Code, or information service as defined by 47 U.S.C. Section 153(24), or wireless service as defined by 47 U.S.C. Section 153(53), in the public right-of-way.
- (e) *Interference not permitted; Notice and time for correction of interference.* A network provider shall ensure that the operation of a network node does not cause any harmful radio frequency interference to a Federal Communications Commission-authorized mobile wireless operation of the municipality operating at the time the network node was initially installed or constructed. On written notice, a network provider shall take all steps reasonably necessary to remedy any harmful interference. If a network provider fails to correct any harmful interference within 60 days of written notice, the town may upon 14 day advance written notice revoke any and all permits for the network node.
- (f) *Permit limited.* A permit provided under this Article does not provide authorization for attachment of network nodes on poles and other structures owned or operated by investor-owned electric utilities, as defined by Section 31.002, Utilities Code, electric cooperatives, telephone cooperatives, as defined by Section 162.003, Utilities Code, or wireless providers, as defined by Section 51.002, Utilities Code.
- (g) *Other requirements.* The town may impose additional requirements on the activities of providers in the public right-of-way to the extent that the regulations are reasonably necessary to protect the health, safety, and welfare of the public.

Sec. 3.714. – Compensation

- (a) *Construction permit fee.* The applicant shall pay to the town a construction permit fee that is calculated as of the date of application for permit by applying the appropriate permit fee to each of the facilities included in the application, in accordance with the town's design manual, not to exceed the values provided in the table below.
- (b) *Rights-of-way fee.* The permit holder shall pay to the town a rights-of-way fee that is calculated as of month-end for access lines and as of year-end for all other facilities by

applying the appropriate fee to each facility type owned, placed, or maintained by the permit holder. The rights-of-way fee for access lines shall be as proscribed by Chapter 283 of the Texas Local Government Code and calculated by the Texas Public Utilities Commission. Rights-of-way fees for all facilities other than access lines shall be prorated for the first year in which a construction permit fee is paid, and shall be paid at the time of the permit application.

Equipment Type	Construction Permit Fee	Rights-of-way Fee
Transport Facilities	\$500 for first 5 nodes, \$250 for each additional node	\$28 per month per node ^{1 4}
Network Nodes	\$500 for first 5 nodes, \$250 for each additional node	\$250 per year per node ^{2 3}
Node Support Poles	\$1000 per pole	\$250 per year per pole ²

¹ Unless equal or greater amount is paid under Chapter 283 of the Local Government Code or Chapter 66 of the Utility Code.

² As adjusted by an amount equal to one-half the annual change, if any, in the consumer price index .The town shall provide written notice to each network provider of the new rate; and the rate shall apply to the first payment due to the town on or after the 60th day following the written notice.

³ Collocated network nodes on town service poles shall also pay an annual collocation fee at a rate not greater than \$20 per year per service pole.

⁴ A network provider may not install its own transport facilities unless the provider: (i) has a permit to use the public right-of-way; and (ii) pays to the town a monthly public right-of-way rate for transport facilities in an amount equal to \$28 multiplied by the number of the network provider's network nodes located in the public right-of-way for which the installed transport facilities provide backhaul unless or until the time the network provider's payment of fees to the town exceeds its monthly aggregate per-node compensation to the town. A network provider that wants to connect a network node to the network using the public right-of-way may: (i) install its own transport facilities as provided in this section; or (ii) obtain transport service from a person that is paying municipal fees to occupy the public right-of-way that are the equivalent of not less than \$28 per node per month. A public right-of-way rate required by this section is in addition to any other public right-of-way rate required by the town.

(c) *Annexation and disannexation.* Within thirty (30) days following the date of the passage of any action effecting the annexation of any property to or the disannexation of any property from the town's corporate boundaries, the town agrees to furnish user written notice of the action and an accurate map of the town's corporate boundaries showing, if available, street names and number details. For the purpose of compensating the town under this chapter, a permit holder shall start including or excluding facilities within the affected area in the

permit holder's count of facilities within thirty (30) days of notice of the annexation or disannexation.

- (d) *No other fees.* The payments due hereunder shall be in lieu of any permit, license, approval, inspection, or other similar fees or charges, including, but not limited to, all general business license fees customarily assessed by the town for the use of the rights-of-way against persons operating businesses similar to that of the permit holder. Further, such rights-of-way fee shall constitute full compensation to the town for all of a telecommunication services provider's facilities located within the rights-of-way, including interoffice-transport and other transmission media that do not terminate at an end-user customer's network interface device, even though those types of lines are not used in the calculation of the rights-of-way fee.

- (e) *Timing of rights-of-way fee payment.* Permit holder shall remit the rights-of-way fees on a quarterly basis for transmission media, and on an annual basis for all other facilities. The payment for rights-of-way fees for access lines shall be made in accordance with the provisions of Chapter 283 of the Texas Local Government Code, as amended. The payment of rights-of-way fees for all other facilities shall be due on January 31st of each year following the year in which a construction permit fee and prorated rights-of-way fee was paid.

- (h) *Telecommunication service providers uncollectibles.* Town and telecommunication service provider understand and agree that telecommunication service provider has a statutory right to pass through to its customers on a pro rata basis any compensation paid to the town for access to the rights-of-way. Any other provision of this Article notwithstanding, telecommunication service provider shall not be obligated to pay the town for any access lines for which revenues remain uncollectible.

- (i) *Facilities provided to other telecommunications service providers.* To the extent allowed by applicable state and federal law, any telecommunications service providers that purchase unbundled network elements or other facilities for the purpose of rebundling those facilities to create telecommunications service for sale to persons within the town shall pay to the town a rights-of-way fee that is calculated as of month-end by applying the appropriate line fee, as specified in subsection (1) above, to each access line created by rebundling services or facilities. Such direct payment to the town is necessary because it is only the person creating the services for resale that will be able to determine the number of access lines being provided, so that the rights-of-way fee imposed herein can be applied on a nondiscriminatory basis to all telecommunications service providers that sell telecommunications service within the town. Other provisions of this Article notwithstanding, the permit holder shall not include in its monthly count of access lines any unbundled network elements or other facilities provided to other telecommunications service providers for rebundling into telecommunications services, if the telecommunications service provider that is rebundling those facilities for resale has provided a signed statement to the permit holder that the telecommunications service provider is paying the access line fees applicable to those rebundled services directly to the

town. If permit holder provides a copy of the signed statement to the town, then permit holder is absolved of all responsibility for the line fees payable on the services, unbundled network facilities, and other facilities rebundled for the creation of telecommunications service for sale within the town.

- (j) *Fee application to leased facilities.* Pursuant to V.T.C.A., Utilities Code § 54.206, a telecommunications service provider may collect the line fee imposed by the town pursuant to this Article through a pro rata charge to the customers in the boundaries of the town, including any other persons who are leasing, reselling or otherwise using the permit holder's access lines to provide telecommunications service. With respect to any person leasing, reselling, or otherwise using a permit holder's access lines, if a permit holder believes it does not have sufficient information to determine the appropriate rate to apply, then the higher line fee shall apply until such time as the person using the access lines provides to the permit holder sufficient written information to determine the correct line fee. If a person provides sufficient written information for the application of the line fee, permit holders may bill the person on the basis of the information provided. Permit holder shall provide to the town any information regarding the locations to which it is providing service or facilities for use by another person for the provision of telecommunications service to end-user customers, so long as town first obtains written permission of such other person for permit holder to provide the information to the town. Any other provision of this chapter notwithstanding, however, a telecommunications service provider shall not be liable for underpayment of line fees resulting from the permit holder's reliance upon the written information provided by any person that uses permit holder's service or facilities for the provision of telecommunications service to end-user customers.

Sec. 3.715. - Construction and maintenance of facilities.

- (a) *Construction requirements.* Except where otherwise provided by state law, a provider shall construct and maintain facilities in accordance with the design manual to ensure facilities do not:
- i. Obstruct, impede, or hinder the usual travel or public safety on a public right-of-way;
 - ii. Obstruct the legal use of a public right-of-way by other utility providers;
 - iii. Violate nondiscriminatory applicable codes;
 - iv. Violate or conflict with the town's publicly disclosed public right-of-way design specifications; or
 - v. Violate the federal Americans with Disabilities Act of 1990 (ADA).
- (b) *Design Manual; Separate agreements.* Facilities to which this Article applies must conform to the specifications required by the design manual. If the town desires to attach or place electric light or power wires, communications facilities or other similar systems or facilities in or on the permit holder's facilities, then a further separate, noncontingent agreement with the permit holder shall be required. Nothing contained in this Article shall obligate the permit holder to exercise or restrict the permit holder from exercising its right to enter voluntarily into pole attachment, pole usage, joint ownership or other wire space or facilities agreements

with any person authorized to operate as a public utility or a wireless utility or authorized to offer cable service within the town.

- (c) *Requests for temporary moves.* Upon request, the permit holder shall remove or raise or lower its aerial wires, fiber or cables temporarily to permit the moving of houses or other bulky structures. The expense of such temporary rearrangements shall be paid by the party or parties requesting them, and the permit holder may require payment in advance. The permit holder shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary rearrangements.
- (d) *Tree trimming.* The permit holder, its contractors and agents have the right, permission and license to trim trees upon and overhanging the rights-of-way to prevent trees from coming in contact with the permit holder's facilities and transmission media. When directed by the town, tree trimming shall be done under the supervision and direction of the town or under the supervision of the town's delegated representative.

Sec. 3.716. - Administration.

- (a) *Reasonable inquiries.* The town may, at any time, make reasonable inquiries pertaining to the terms, conditions, rights and obligations of this chapter, and the permit holder shall respond to such inquiries in a timely basis.
- (b) *FCC / PUC documents.* Copies of petitions, applications, and reports submitted by the permit holder to the Federal Communications Commission or the Public Utility Commission of Texas shall be provided to the town upon specific request.
- (c) *Consolidated permit application.* A network provider that wants to install or collocate multiple network nodes inside the limits of the town is entitled to file a consolidated permit application with the town for not more than 30 network nodes.
- (d) *Documents required for application.* The provider shall provide the following information in its permit applications:
 - i. The name and address of the person to whom notices are to be sent, a 24-hour per day contact number for the applicant in case of emergency;
 - ii. Location map that includes all other structures within 300 feet of the proposed location;
 - iii. Applicable construction and engineering drawings and information to confirm that the applicant will comply with the town's design manual and applicable codes;
 - iv. A certificate that the network node(s) complies with applicable regulations of the Federal Communications Commission;
 - v. certification that the proposed network node(s) will be placed into active commercial service by or for the network provider not later than the 60th day after the date of construction and final testing of each network node is completed;
 - vi. A certificate of insurance that provides that the provider and its contractor has at least \$1,000,000.00 in general liability coverage;
 - vii. An industry standard pole load analysis certified by a licensed engineer;

- viii. Geotechnical survey for any proposed new pole;
- ix. Specific location information, including geographic positioning system coordinates;
- x. A complete application and supporting documents for specific use permit or other land use approval where required by the design manual;
- xi. Proof of payment of the construction permit fee and prorated rights-of-way fee for the remaining portion of the current calendar year; and
- xii. Any additional information reasonably related to the provider's use of the public rights-of-way to ensure compliance with the design manual and this Article.

(e) *Determination of Application Completeness.* The town shall determine whether the permit application is complete and notify the applicant of that determination:

- i. *For Network Nodes and Note Support Poles:* no later than 30 days after the date the town receives the permit application.
- ii. *For a Transport Facility:* no later than 10 days after the date the town receives the permit application.

(f) *Approval or Denial of Application.* The town shall approve or deny a completed application after the date it is submitted to the town:

- i. *For Network Nodes:* No later than 60 days after the date the Town Secretary receives the complete application.
- ii. *For Network Support Poles:* No later than 150 days after the date the town receives the complete application.
- iii. *For Transport Facilities:* No later than 21 days after the town receives the complete application.

(g) *Basis for Denial of Application.* If an application is denied by the town, it shall document the basis for the denial, including the specific applicable town code provisions or other town rules, regulations, or other law on which the denial is based. The documentation for the denial must be sent by electronic mail to the applicant on or before the date that the Town Secretary denies the application.

(h) *Resubmission of Denied Application.* The permit holder may cure the deficiencies identified in the denial application.

- i. The permit holder has 30 days from the date the town denies the completed application to cure the deficiencies identified in the denial documentation without paying an additional application fee, other than any fee for actual costs incurred by the town.
- ii. The town shall approve or deny the revised completed application after a denial not later than the 90th day after the Town Secretary receives the revised completed application. The town's review shall be limited to the deficiencies cited in the denial documentation.

Sec. 3.717. - Indemnification.

The permit holder shall indemnify and hold the town harmless from all costs, expenses, and damages to persons or property arising directly or indirectly from the construction, maintenance,

repair, or operation of the permit holder's facilities located within the rights-of-way found to be caused solely by the negligence of the permit holder. Expenses shall include any reasonable and necessary attorney's fees and court costs. The town shall give the permit holder prompt written notice of any claim for which the town seeks indemnification. The permit holder shall have the right to investigate, defend and compromise any such claim. This provision is not intended to create a cause of action or liability for the benefit of third parties, but rather this provision is solely for the benefit of the town.

Sec. 3.718. - Relocation and removal of facilities.

- (a) *Street widening or straightening.* In accordance with V.T.C.A., Utilities Code § 54.203(c), upon thirty (30) days notice by the town, permit holder shall begin relocation of its facilities within the rights-of-way at its own expense to permit the widening or straightening of streets. The notice by the town shall include a specification of the new location for the permit holder's facilities along the rights-of-way.
- (b) *Town's right to relocate.* The town retains the right to move any facilities within the rights-of-way to cure or otherwise address a public health or safety emergency. The town shall cooperate to the extent possible with the permit holder in such instances to assure continuity of service and to afford to the permit holder the opportunity to make such relocation itself.
- (c) *Expense and timelines for relocation.* Except as otherwise provided in existing state and federal law, upon notice from the town, a network provider shall relocate or adjust network nodes in a public right-of-way in a timely manner and without cost to the municipality managing the public right-of-way.

Sec. 3.719. - Future contingency.

In the event this Article or any tariff or other provision that authorizes permit holders to recover the fee provided for in this Article, becomes unlawful or is declared or determined by a judicial or administrative authority exercising its jurisdiction to be excessive, unenforceable, void, or illegal, in whole or in part, then the town and all permit holders shall negotiate a new compensation arrangement that is in compliance with the authority's decision.

Sec. 3.720. - Conflicts with other requirements.

Where this Chapter conflicts with any other provision of the Town Ordinances, this Chapter shall control.”

Section 4. The Design Manual attached as Exhibit A to this Ordinance is hereby adopted and incorporated herein by reference for all purposes.

Section 5. All provisions of the ordinances of the Town of Lakewood Village in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the

Ordinances of the Town of Lakewood Village not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section 6. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it is the intention of the town Council that the invalidity or unconstitutionality of the one or more parts shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision other than the part declared to be invalid or unconstitutional; and the town Council of the Town of Lakewood Village, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 7. This Ordinance shall be cumulative of all other ordinances and shall not repeal any of the provisions of said ordinances save and except those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at this time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided, however, that any complaint, action, claim, or lawsuit that has been initiated or has arisen under or pursuant to any of the ordinances or sections thereof that have been specifically repealed on the date of adopting of this Ordinance shall continue to be governed by the provisions of such ordinance or section thereof and for that purpose the ordinance or section thereof shall remain in full force and effect.

Section 8. Any person, corporation, or entity who intentionally, knowingly, recklessly, or with criminal negligence violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000.00. Each day in which any violation occurs, or each occurrence of any violation, shall constitute a separate offense.

Section 9. This Ordinance shall become effective upon its adoption by the Town Council, in accordance with law.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS, on this 10th day of August 2017.

Dr. Mark E. Vargus
MAYOR

ATTESTED:

Linda Asbell, TRMC, CMC
Town Secretary

EXHIBIT A - DESIGN MANUAL

I. Introduction

A. Purpose

A municipality may adopt a design manual for the installation and construction of wireless facilities in the public right-of-way that includes additional installation and construction details that do not conflict with Chapter 284 of the Texas Local Government Code. The following design specifications are required to: (i) prevent obstruction, impediment, or hindrance of the usual travel or public safety on a public right-of-way; (ii) prevent obstruction of the legal use of the public rights-of-way by other utility providers; and (iii) protect the health, safety, and welfare of the public.

B. Scope

Any person that constructs, modifies, maintains, operates, relocates, or removes network nodes, supporting equipment for network nodes, node support poles, transport facilities, or ground equipment within the rights-of-way shall conform to the following design specifications. The Town Secretary shall deny any permit application that does not strictly conform to the following design specifications.

C. Application of requirements

Permit holders shall comply with a design manual, if any, in place on the date a permit application is submitted in relation to work for which the town approved the permit application.

D. Definitions

Terms defined in Right-of Way Management Ordinance of the Town of Lakewood Village, Texas shall have those same meanings when used in this Design Manual.

II. Design Requirements for all rights-of-way

A. Pole stability requirements

Nodes, equipment cabinets, and poles shall be constructed based on an industry standard pole load analysis completed and submitted to the town indicating that the service pole or network support pole to which the network node is to be attached will safely support all proposed and existing equipment. Poles shall be constructed with foundations based on a geotechnical survey completed and submitted to the town indicating that the pole foundation or anchoring mechanism is 1) sufficient for the type of soil in the proposed location, and 2) sufficient to withstand typical area wind loads as identified by the adopted construction codes of the town.

B. Limit on number of network nodes per pole.

The number of nodes allowed per pole may be designated by the town engineer based on the pole load analysis.

C. Minimum placement height

Network node equipment placed on new and existing poles shall be placed more than eight (8) feet above ground level. If a network node or other equipment is projecting toward the street, for the safety and protection of the public and vehicular traffic, the attachment shall be installed no less than sixteen (16) feet above the ground.

D. Equipment size limitations

(1) *Collocated antenna.* Each antenna that does not have exposed elements and is attached to an existing structure or pole:

- i. must be located inside an enclosure of not more than six cubic feet in volume;
- ii. may not exceed a height of three feet above the existing structure or pole; and
- iii. may not protrude from the outer circumference of the existing structure or pole by more than two feet.

(2) *Exposed antenna.* If an antenna has exposed elements and is attached to an existing structure or pole, the antenna and all of the antenna's exposed elements:

- i. must fit within an imaginary enclosure of not more than six cubic feet;
- ii. may not exceed a height of three feet above the existing structure or pole; and
- iii. may not protrude from the outer circumference of the existing structure or pole by more than two feet.

(3) *Cumulative size limit.* The cumulative size of other wireless equipment associated with the network node attached to an existing structure or pole may not:

- i. be more than 28 cubic feet in volume; or
- ii. protrude from the outer circumference of the existing structure or pole by more than two feet.

(4) *Ground equipment.* Ground-based enclosures, separate from the pole, may not be higher than three feet six inches from grade, wider than three feet six inches, or deeper than three feet six inches; and Pole-mounted enclosures may not be taller than five feet.

(5) *Exceptions to size limits.* The following types of associated ancillary equipment are not included in the calculation of equipment volume above:

- i. electric meters;
- ii. concealment elements;
- iii. wireless demarcation boxes;
- iv. grounding equipment;
- v. power transfer switches;
- vi. cut-off switches; and
- vii. vertical cable runs for the connection of power and other services.

(6) *Protrusion limit.* Nodes and support equipment attached to poles may not protrude from the outer edge of the node support pole by more than two feet.

E. Compliance with National Electrical Code

Facilities must be installed in accordance with the National Electrical Safety Code, subject to applicable codes, and any utility pole owner's construction standards.

F. New node support pole locations and construction requirements

New node support poles shall be constructed with break away bases and located as close as possible to the outside edge of the right-of-way. New node support poles shall be spaced apart from existing utility poles or node support poles at the same as the spacing between utility poles in the immediate proximity, but no less than 300 feet from a utility pole or another node support pole. New node support poles may not be located within two (2) feet of sidewalks, marked or otherwise designated bicycle paths, streets, or highways. New node support poles may not be located within five (5) feet of driveways.

G. Installations near intersections

A provider shall not install network nodes, node support poles, and ground equipment within 150 feet of any intersection, as measured from the closest outside corner of the two intersecting streets. This includes the installation of new facilities or attachment to existing poles.

H. Installation near schools

For the safety of pedestrians, particularly small children, and to allow full line of sights near school property, a provider shall not install ground equipment or new node support poles within a right-of-way inside the boundary line of school property or within 250 feet of the boundary line of school property.

I. Installation of transport facilities

Transport facilities shall be located underground, except where the town engineer identifies based on the permit application that existing utility or other facilities prevent the safe and installation of transport facilities underground. Where transport facilities are required to be installed aboveground, those facilities shall be attached to existing poles where possible. New poles installed to support aboveground transport facilities shall comply with all location and construction requirements for new node support poles.

J. Installations in utility easements

Facilities may be installed in utility easements where i) the installation will not interfere with existing or planned utilities, and ii) the underlying property owner grants written authorization, except where installation of a collocated network node does not require installation of any ground equipment.

K. Equipment cabinet and pole height limitation

A provider shall ensure that each new, modified, or replacement pole installed in a public right-of-way does not exceed the lesser of:

- i. 10 feet in height above the tallest existing utility pole located within 500 linear feet of the new pole in the same public right-of-way; or
- ii. 55 feet above ground level.

A network provider shall ensure that the vertical height of an equipment cabinet installed as part of a network node does not exceed:

- i. 10 feet in height above the tallest existing utility pole located within 500 linear feet of the new pole in the same public right-of-way; or
- ii. 55 feet above ground level.

L. Electrical supply

Providers shall be responsible for obtaining any required electrical power service to the facilities. The town shall not be liable to the provider for any stoppages or shortages of electrical power furnished to the facilities, including without limitation, stoppages or shortages caused by any act, omission, or requirement of the public utility serving the structure or the act or omission of any other tenant or provider of the structure. Providers shall not allow or install generators or back-up generators in the rights-of-way.

III. Designated areas

Facilities are not required to obtain conditional use permits or other land use approvals for location in town rights-of-way, except as specified in this section. In addition to the requirements of Section II of this design manual, the following requirements shall apply to network nodes, node support poles and ground equipment to be located in designated areas as described by this Section. A conditional use permit or other land use approval is in addition to any other permit required by town code.

A. Historic Areas / Design Areas with decorative poles

A provider must obtain advance written consent from the town council before installing facilities in an area of the town that has been designated as a historic area or as a design area with decorative poles. The town may designate new historic areas and design areas at a future date.

B. Underground requirement areas

A provider shall comply with undergrounding requirements where applicable, including town ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way without first obtaining zoning or land use approval.

C. Parks / residential areas

A provider may not install a new node support pole in a public right-of-way without town council's written consent if the public right-of-way is in a municipal park or is adjacent to a street or thoroughfare that is:

- i. Not more than 50 feet wide; and
- ii. Adjacent to single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions.

D. Designation of areas under this section

Design areas with decorative poles, historic areas, underground requirement areas, parks, and residential areas adjacent to streets not more than 50 feet wide are designated herein. A

provider's facilities in a particular location shall be subject to the area designations in place at the time of a permit application for those particular facilities. Any area where all poles within 1000 feet of a proposed location are of a similar design with no additional permanent appurtenances attached are designated by this section as design areas with decorative poles.

E. Land Use Approval process

The following shall constitute the process for obtaining advance written consent of town council for installation of any facilities required to obtain approval by this section.

(1) *Application.* The provider shall submit an application for conditional use permit, in addition to any other permits required for construction of facilities and use of the public rights-of-way. This permit application shall include documentation for the following:

- i. plans or design specifications compliant with specific design criteria for an area;
- ii. a conditional use permit fee, provided the total fees paid by the provider for a facility does not exceed the maximum allowed construction permit fee in the town code;
- iii. the locations of all other buildings, structures, facilities and poles located within 1000 feet of the proposed location; and
- iv. at least one photo of the nearest pole to the proposed location.

(2) *Processing.* The provider's application for conditional use permit shall be processed for review by the town council using the town's standard notice procedures, administrative processes, and scheduling procedures for zoning applications.

(3) *Evaluation criteria.* Conditional Use Permit applications for facilities shall be evaluated using only the following criteria:

- i. alternative locations available within 1000 feet for the specific type of facility being requested;
- ii. concealment measures proposed for minimizing the impact of the proposed facilities on surrounding land uses; and
- iii. conditions to the permit requested by landowners within 200 feet of the proposed location.

Note: Conditional use permits where the proposed plans for facilities meet the design criteria for a proposed location should be granted for that location or an alternate location within 1000 feet, as determined by the town council.

IV. Design requirements in underground areas

All facilities must be installed underground, or obtain town approval in accordance with section III E. of this manual to install above ground facilities, in designated underground areas, including areas where utilities are required to be installed underground by town ordinance, zoning regulations, state law, private deed restrictions and other public or private restrictions that prohibit installing aboveground utilities or structures in a public right-of-way without first obtaining zoning or land use approval. Areas may be designated from time to time by the town as underground areas in accordance with filed plats, and or conversions of overhead to underground areas, as may be allowed by law.

V. Design requirements in historic and design areas

A. Concealment measures required

As a condition for approval of facilities in design areas with decorative poles or in a historic area, the town shall require concealment measures for any above ground facilities. Any request for installations in designated areas must be accompanied with proposed concealment measures that are similar to an existing structure that is 1) within the area, 2) within 1000 feet of the proposed location, and 3) is not a nonconforming structure. Facilities shall comply with and observe all town, state, and federal historic preservation laws and requirements.

B. Concealment shall comply with other town code requirements

Concealment measures shall comply with other town code requirements, including zoning requirements, where applicable. Colors in designated areas must be approved by the Town Secretary. Unless otherwise provided, all colors shall be earth tones or shall match the background of any structure the facilities are located upon and all efforts shall be made for the colors to be inconspicuous.

C. Distance required from Historic Landmark

A provider is prohibited from installing facilities within 300 feet of a historic site or structure or historic landmark recognized by the town, state or federal government (including but not limited to Section 442.001(3) of the Texas Government Code and 16 U.S.C. §470) as of the date of submission of the permit.

VI. Design requirements in parks and residential areas

A. New node support poles

(1) *Conditional use permit required.* A network provider may not install a new node support pole in a public right-of-way without the town's written consent obtained in accordance with section III E. of this manual if the public right-of-way is in a park or is adjacent to a street or thoroughfare that is:

- i. not more than 50 feet wide; and
- ii. adjacent to single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions.

(2) *Deed restrictions.* In addition, a network provider installing a network node or node support pole shall comply with private deed restrictions and other private restrictions in the area that apply to those facilities.

B. Ground equipment near parks

For the safety of park patrons, particularly small children, and to allow full line of sights near park property, a provider shall not install ground equipment in rights-of-way that are within a park or within 250 feet of the boundary line of a park.

VII. Administrative hearing

Should a provider desire to deviate from any of the standards set forth in this design manual, or to appeal an interpretation by town staff of the town regulations applicable to facilities located in the rights-of-way, the provider may request an administrative hearing before the Town Council. The Town Council shall act as the board of appeals for a request for variance or appeal of administrative decision. The process for an application, hearing and vote shall follow the process set out for a zoning variance, except where this process conflicts with this section.

VIII. Unauthorized and improperly located facilities

If any facilities are installed in a location that has not obtained a permit, that impedes pedestrian or vehicular traffic, or that obstructs the legal use of a public right-of-way by other utility providers, then the provider shall promptly remove the facilities. After 30 days' advance written notice to remove unauthorized or improperly located facilities, facilities that remain noncompliant may be removed and disposed of by the town.

Sample Permit Application



100 Highridge Drive Lakewood Village, TX 75068 972-294-5555 www.lakewoodvillagetx.us
Date Received:
Date Approved:

NOTICE: AS AUTHORIZED BY CHAPTER 284 OF THE TEXAS LOCAL GOVERNMENT CODE, A NETWORK PROVIDER SHALL OBTAIN A PERMIT OR PERMITS FROM THE TOWN TO INSTALL A NETWORK NODE, NODE SUPPORT POLE OR TRANSPORT FACILITY IN A TOWN OF LAKEWOOD VILLAGE PUBLIC RIGHT-OF-WAY

Owner: _____ | Owner Phone #:(____) _____

Owner Mailing Address: _____

City: _____ State: _____ Zip: _____

Contractor: _____ Cont. Phone #:(____) _____

Contractor Mailing Address: _____

City: _____ | State: _____ | Zip: _____

Job Site Addresses:

Description of work:

Is any network node being installed in a municipal park? _____

Is any network node being installed in a residential area? _____

The permit applicant must submit the following information with this application:

1. Applicable construction and engineering drawings of the facilities to be installed.
2. Any additional information to confirm that the applicant will comply with the Town’s Design Manual and Right-of-Way Management Ordinance.
3. A certificate that the proposed Network Node(s) comply with applicable Federal Communications Commission regulations.
4. A certificate that the proposed Network Nodes will be placed into active commercial service not later than the 60th day after the date of construction and final testing of each Network Node.
5. A certificate of insurance confirming that the Owner and Contractor each have at least \$1,000,000.00 of general liability insurance coverage.

FEES FOR WIRELESS NETWORK FACILITIES PLACED IN TOWN RIGHTS-OF-WAY:

\$100.00	Application Fee Per Network Node
\$250.00	Annual Public Right-of-Way Rate Per Network Node
\$100.00	Application Fee Per Node Support Pole
\$100.00	Application Fee Per Transfer Facility
\$28.00	Monthly Rental Rate Per Network Node For Each Transfer Facility
\$20.00	Annual Rental Rate For Collocation of Network Node Per Service Pole

APPLICANT HEREBY ACKNOWLEDGES THAT IT HAS READ AND WILL COMPLY:

- 1. WITH THE TOWN DESIGN MANUAL FOR THE INSTALLATION OF NETWORK NODES AND NODE SUPPORT POLES, AND**
- 2. WITH THE TOWN RIGHT-OF-WAY MANAGEMENT ORDINANCE.**

I hereby certify that I have read and examined this application and know the same to be true & correct. All provisions of law and ordinances governing this type of work will be complied with whether or not specified herein. The granting of this permit does not presume to give authority to violate or cancel the provisions of any state law or local ordinance regulating the installation of wireless telecommunication network nodes, node support poles, and transfer facilities.

Name of Applicant: _____ **Applicant Signature:** _____

Title: _____

Date: _____

OFFICE USE ONLY

Date Delivered: _____ Accepted By: _____

Application Fees for _____ Network Nodes: \$ _____

Application Fees for _____ Node Support Poles: \$ _____

Application Fees for _____ Transfer Facilities: \$ _____

Annual Rental Rate for _____ Network Nodes: \$ _____

Annual Rental Rate for _____ Transfer Facilities: \$ _____

Annual Rental Rate for Collocation of Network Nodes on _____ Town Service Poles: \$ _____

PERMIT FEES AND ANNUAL RATE TOTAL: \$ _____

FINANCE AND AUDIT COMMITTEE

The Town of Lakewood Village

PURPOSE

The role of the finance committee is primarily to provide financial oversight for the town of Lakewood Village. The committee will review / recommend financial planning for current and future town projects. It will recommend changes to internal controls and accountability policies. It audits financials to provide suggestions for improvement. The committee does not replace the annual independent audit but does review findings and make recommendations to the council. The committee will meet quarterly or as often as needed. The committee will make a semi-annual report to the council. This report will be available for public review.

Composition

Composed of town citizens that live and own their primary residence in the Town of Lakewood Village. This will be a volunteer position without monetary compensation. They are willing to contribute their time and expertise. It will consist of no more than 7 members. The committee will be appointed by the Town council and will serve a term of 2 years.

Ethics Rules

The committee will remain independent from the town elected officials. They will not have a vested interest with any contractors, developers or any individual or company that the town chooses to do business with. If any relationship exist it must be disclosed to the committee. The member must also refrain from giving their endorsement, vote, cast opinion or support to such contractor, developer, individual or company.

Areas the Committee Will Review

The committee will have access to all financial records, reports and contracts to include; Town Invoices, Payables, Annual Budget, Funding Strategies, Bank Accounts, Multi-Year Budget Planning, Revenue, Contracts, Short and Long-Term Town Planning.

General Fund (consolidated)
Profit & Loss Budget vs. Actual
October 2016 through September 2017

	Oct '16 - Sep 17	Budget
Income		
4000 · Ad Valorem Tax	220,466.66	218,800.00
4001 · Ad Valorem - Debt Servicing	45,867.24	43,800.00
4005 · Sales Tax	38,671.57	30,000.00
4010 · Interest Earned	422.43	500.00
4100 · Building Department		
4101 · Building Permits - New Constr.	32,581.00	30,000.00
4102 · C/O CSI Inspections	2,400.00	3,000.00
4103 · Contractor Registrations	1,275.00	600.00
4104 · Sprinkler Permits	600.00	400.00
4105 · Fence Permits	550.00	300.00
4106 · Reinspection Fees	3,975.00	3,000.00
4107 · Pool Permits	750.00	1,000.00
4108 · Flatwork Permits	1,050.00	400.00
4109 · Plumbing Permits	1,850.00	500.00
4110 · Electrical Permits	775.00	1,000.00
4111 · Replatting Fees	250.00	
4112 · Building Permits - Remodel	2,325.00	2,500.00
4113 · Misc Permits	2,925.00	1,000.00
Total 4100 · Building Department	51,306.00	43,700.00
4200 · Administration Fees & Revenues		
4201 · Franchise Fees	27,583.69	32,000.00
4202 · Pet Registration	25.00	
4204 · Town Hall Rental	100.00	100.00
4207 · Fee for Services - Utility Fund	36,000.00	38,000.00
4208 · Fee for Services - MDD	4,200.00	4,000.00
Total 4200 · Administration Fees & Revenues	67,908.69	74,100.00
4209 · PEG Fees	508.45	
4250 · Road Maintenance Revenue		
4251 · EDC Road Contributions	9,787.79	
4253 · Residential Franchise Fees	6,788.20	
4254 · Trash Container Fees - Allied	1,618.64	
Total 4250 · Road Maintenance Revenue	18,194.63	
4400 · Code Enforcement		
4402 · Lien Releases	23,434.10	2,000.00
4403 · Code Enforcement	374.00	
Total 4400 · Code Enforcement	23,808.10	2,000.00
4800 · Asset Disposition	108,499.00	
4996 · Extraordinary Item	27,052.84	
4997 · Misc Income	6,995.32	2,500.00
4999 · Transfers In	1,990.00	
Total Income	611,690.93	415,400.00
Expense		
5000 · Administrative Expenses		
5001 · Office Supplies	1,289.82	1,200.00
5002 · Postage	275.51	100.00
5003 · Computers/Maintenance	1,482.66	300.00
5007 · Advertising	300.07	875.00
5008 · Elections	2,845.34	3,000.00
Total 5000 · Administrative Expenses	6,193.40	5,475.00
5010 · Professional Services		
5011 · Engineer	420.00	
5012 · Attorney		
5012e · Attorney - Litigation	6,308.25	
5012 · Attorney - Other	35,486.75	20,000.00

General Fund (consolidated)
Profit & Loss Budget vs. Actual
October 2016 through September 2017

	Oct '16 - Sep 17	Budget
Total 5012 · Attorney	41,795.00	20,000.00
5013 · Accountant	10,800.00	10,800.00
5014 · Fire/EMS	24,900.00	30,000.00
5016 · Building Inspections	23,375.00	18,000.00
5010 · Professional Services - Other	15.88	
Total 5010 · Professional Services	101,305.88	78,800.00
5020 · Public Works		
5021 · Town Maintenance	10,186.03	4,000.00
5024 · Animal Control	185.00	300.00
5025 · Parks & Recreation	2,588.00	12,000.00
5026 · Town Mowing	5,456.93	2,500.00
5027 · Town Hall Improvements	2,854.66	1,000.00
Total 5020 · Public Works	21,270.62	19,800.00
5030 · Utilities & Maintenance		
5031 · Telephone	1,834.71	1,600.00
5032 · Electricity	6,044.92	6,500.00
5033 · Propane	446.83	600.00
Total 5030 · Utilities & Maintenance	8,326.46	8,700.00
5040 · Code Enforcement Expenses		
5041 · Ordinance Mowing	1,200.00	
5043 · Lien Filings	364.00	150.00
5044 · Abatements	3,600.00	
Total 5040 · Code Enforcement Expenses	5,164.00	150.00
5050 · Personnel		
5051 · Salaries	62,875.00	63,000.00
5053 · Payroll Social Security	4,230.70	
5054 · Payroll Medicare	989.46	
5055 · Benefits - Insurance	8,553.00	8,200.00
5056 · Payroll Taxes	0.00	4,800.00
5057 · Benefits - Retirement	5,320.00	3,150.00
5058 · Payroll - UF SS	1,075.01	750.00
5059 · Payroll - UF MC	251.44	250.00
Total 5050 · Personnel	83,294.61	80,150.00
5060 · Ad Valorem Tax Expense		
5061 · Appraisal District	1,644.20	1,300.00
5062 · Tax Collector	0.00	300.00
Total 5060 · Ad Valorem Tax Expense	1,644.20	1,600.00
5070 · Capital Improvements	8,368.69	
5075 · Debt Servicing (principle)	149,000.00	149,000.00
5076 · Debt Servicing (interest)	24,924.75	24,925.00
5085 · Town Functions	1,411.84	2,500.00
5100 · Professional Development		
5101 · Continuing Education	2,144.30	500.00
5102 · Travel / Meeting Expenses	2,327.95	3,000.00
5103 · Membership Dues	1,032.00	1,000.00
Total 5100 · Professional Development	5,504.25	4,500.00
5200 · Contengency Fund	43,088.82	3,000.00
5300 · Casualty Expense	27,052.84	
Total Expense	486,550.36	378,600.00
Net Income	125,140.57	36,800.00

Utility Fund
Profit & Loss Budget vs. Actual
October 2016 through September 2017

	Oct '16 - Sep 17	Budget
Income		
4000 · Interest Received	292.73	600.00
4005 · MDD Loan Interest	592.15	
4006 · USACE Water Operations	9,000.00	
4010 · Water Revenue		
4010A · Water Revenue - Commercial	100.00	
4010 · Water Revenue - Other	143,022.26	150,000.00
Total 4010 · Water Revenue	143,122.26	150,000.00
4011 · Sewer Revenue	102,818.39	104,000.00
4012 · Sanitation Revenue	45,016.87	46,000.00
4013 · Late Fees	3,687.18	4,000.00
4015 · Miscellaneous (dis etc)	50.00	
4020 · Water Taps	6,300.00	4,725.00
4021 · Sewer Taps	5,100.00	4,725.00
4022 · Meter Set Fee	780.00	1,170.00
4090 · Misc Income	1,832.68	1,000.00
4998 · Unallocated Revenues	100.00	
Total Income	318,692.26	316,220.00
Expense		
5000 · Administrative Expenses		
5001 · Office Supplies	2,039.33	1,500.00
5002 · Postage	1,022.17	1,800.00
5005 · Insurance (TML)	5,137.16	4,600.00
5006 · Licensing Fees - Water	588.00	500.00
5007 · Licensing Fee - Sewer	1,250.00	1,250.00
5008 · Fees for Services - Admin Svcs	36,000.00	38,000.00
5009 · Software Licensing	1,050.00	750.00
Total 5000 · Administrative Expenses	47,086.66	48,400.00
5010 · Professional Svcs & Contracts		
5011 · Operator Salary	40,800.00	36,600.00
5012 · Solid Waste Removal - Trash	41,291.10	42,000.00
5013 · Engineer	37,162.50	30,000.00
5014 · GIS Mapping	500.00	
5015 · Attorney	1,990.00	
Total 5010 · Professional Svcs & Contracts	121,743.60	108,600.00
5020 · Utility Line Maintenance		
5021S · Scheduled Maintenance - Sewer	7,490.00	1,000.00
5021W · Scheduled Maintenance - Water	4,751.91	1,000.00
5022S · Laboratory - Sewer	5,315.00	4,500.00
5022W · Laboratory - Water	1,166.83	500.00
5023 · Water Repairs		
5023a · Water Repairs - Labor	360.00	
5023c · Water Repairs - Equipment	620.00	
5023 · Water Repairs - Other	4,632.40	10,000.00
Total 5023 · Water Repairs	5,612.40	10,000.00
5024 · Sewer Repairs		
5024a · Sewer Repairs - Labor	240.00	
5024b · Sewer Repairs - Parts/Materials	1,254.38	
5024c · Sewer Repairs - Equipment	14,244.42	
5024 · Sewer Repairs - Other	39,013.19	10,000.00
Total 5024 · Sewer Repairs	54,751.99	10,000.00
5025-1 · Meter Set - New Construction	2,077.34	
5025 · Water Equipment	7,003.69	2,000.00
5026 · Sewer Equipment	1,333.07	1,000.00
5027 · Chemicals - Water	648.31	1,000.00
5028 · Chemicals - Sewer	1,206.75	8,000.00

Utility Fund
Profit & Loss Budget vs. Actual
 October 2016 through September 2017

	<u>Oct '16 - Sep 17</u>	<u>Budget</u>
5029 · Sludge Removal	600.00	1,200.00
Total 5020 · Utility Line Maintenance	91,957.29	40,200.00
5030 · Utilities		
5032 · Electricity - Water	17,301.26	17,000.00
5033 · Electricity - Sewer	14,539.61	21,000.00
Total 5030 · Utilities	31,840.87	38,000.00
5050 · Personnel		
5051 · Salaries	17,338.83	8,000.00
Total 5050 · Personnel	17,338.83	8,000.00
5060 · Contingency Fund	882.06	1,000.00
5070 · Capital Improvements		
5071 · Cap. Imp. - Water	39,933.12	
5072 · Cap. Imp. - Sewer	24,072.68	
5073 · Drainage Improvements	3,700.00	
5070 · Capital Improvements - Other	22,881.05	51,000.00
Total 5070 · Capital Improvements	90,586.85	51,000.00
5999 · Transfers Out	100.00	
Total Expense	401,536.16	295,200.00
Net Income	-82,843.90	21,020.00

Municipal Development District
Profit & Loss Budget vs. Actual
October 2016 through September 2017

	<u>Oct '16 - Sep 17</u>	<u>Budget</u>
Ordinary Income/Expense		
Income		
4000 · Interest Received	24.67	10.00
4005 · Sales Tax	18,583.04	16,920.00
4010 · Water Revenue	16,682.55	15,055.00
4013 · Late Fees	505.68	300.00
4015 · Miscellaneous (disconnects etc)	50.00	
4041 · Donations	300.00	
4090 · Misc. Income	92.78	
Total Income	<u>36,238.72</u>	<u>32,285.00</u>
Expense		
5000 · Administrative Expenses		
5006 · Licensing Fees	0.00	175.00
5008 · Fee for Svcs (Admin)	4,200.00	4,250.00
Total 5000 · Administrative Expenses	<u>4,200.00</u>	<u>4,425.00</u>
5010 · Professional Svcs & Contracts		
5011 · Water Operator	2,400.00	2,400.00
5012 · Legal Fees	3,906.70	3,906.70
Total 5010 · Professional Svcs & Contracts	<u>6,306.70</u>	<u>6,306.70</u>
5020 · Utility Line Maintenance		
5021 · Scheduled Maintenance	285.00	0.00
5022 · Laboratory	1,308.31	720.00
5023 · Water Repairs	450.00	1,500.00
5027 · Chemicals	392.46	200.00
Total 5020 · Utility Line Maintenance	<u>2,435.77</u>	<u>2,420.00</u>
5030 · Utilities		
5032 · Electricity	1,210.30	1,200.00
Total 5030 · Utilities	<u>1,210.30</u>	<u>1,200.00</u>
5040 · Debt Servicing	0.00	8,460.00
5060 · Contengency Fund	250.00	
5070 · Capital Improvements	0.00	0.00
5080 · LWV Road Project	0.00	0.00
5100 · Projects Fund	0.00	4,553.30
5310 · LWV Operating Loan Interest	529.14	550.00
Total Expense	<u>14,931.91</u>	<u>27,915.00</u>
Net Ordinary Income	<u>21,306.81</u>	<u>4,370.00</u>
Net Income	<u><u>21,306.81</u></u>	<u><u>4,370.00</u></u>

LAKEWOOD VILLAGE TOWN COUNCIL

COUNCIL MEETING

SEPTEMBER 14, 2017

Council Members:

Dr. Mark Vargus, Mayor
Ed Reed – Mayor Pro-Tem
Clint Bushong
Gary Newsome
Dan Tantalo
Elizabeth Shields

Town Staff:

Linda Asbell, TRMC, Town Secretary

REGULAR SESSION - 7:00 P.M.

With a quorum of the Council Members present, Mayor Vargus called the Regular Meeting of the Town Council to order at 7:05 p.m. on Thursday, September 14, 2017, in the Council Chambers of the Lakewood Village Town Hall, 100 Highridge Drive, Lakewood Village, Texas.

PLEDGE TO THE FLAG:

(Agenda Item A)

Mayor Vargus led the Pledge of Allegiance

PRESENTATIONS:

(Agenda Item B)

Mayor Vargus presented a proclamation designating September 17 – 23, 2017 as Constitution week. The presentation was received by a representative of the Prestonwood Chapter of the Daughters of the American Revolution.

Mayor Vargus presented a proclamation designating October 2017 as Domestic Violence Awareness Month. The proclamation was received by a representative of Denton County Friends of the Family.

VISITOR/CITIZENS FORUM:

(Agenda Item C)

Dave Getka, 620 Melody Lane, stated he previously served for seven years as on the Lakewood Village Town Council. Mr. Getka stated that he finds it unacceptable that Councilman Tantalo distributed a flyer to other municipalities that airs his grievances. Mr. Getka stated that he spoke to Councilman Tantalo when he was a citizen and believed that Councilman Tantalo would be a

**LAKWOOD VILLAGE TOWN COUNCIL
REGULAR SESSION
SEPTEMBER 14, 2017**

Page 2

good replacement for him when he left office. Mr. Getka stated that he was very disappointed that Councilman Tantalo alienated the entire council at his first meeting. Mr. Getka gave Councilman Tantalo a copy of the book *How to Win Friends and Influence People*. Mr. Getka also distributed a list of the accomplishments of the council prior to Councilman Tantalo and Councilwoman Shields tenure. Mr. Getka stated that he disapproved of Councilman Tantalo's attempts to impugn Councilman Clint Bushong during the election. Mr. Getka reported that he looked at the Projects Board and out of 34 projects Councilman Tantalo's is not participating on any project. Mr. Getka stated that he has reviewed Councilman Tantalo's history since being elected and determined that Councilman Tantalo has not accomplished anything. Councilman Tantalo stated that he disagreed. Mr. Getka invited Councilman Tantalo to come to his house to discuss these issues anytime.

PUBLIC HEARING:

(Agenda Item D)

A public hearing was held to provide an opportunity for citizens to comment on the proposed combined property tax rate of \$0.30/\$100. Mayor Vargus opened the public hearing at 7:21 p.m. Mayor Vargus reviewed the effective and rollback tax rates. Mayor Vargus invited questions from the audience. No one requested to speak.

MOTION: Upon a motion made by Councilman Bushong and seconded by Councilwoman Shields, council voted five (5) "ayes", no (0) "nays" to close the public hearing at 7:26 pm. *The motion carried.*

CONSENT AGENDA:

(Agenda Item E)

1. Minutes of August 10, 2017 Council Meeting (Asbell)
2. Resolution setting Public Hearing for Amendments to the Capital Improvements Plan, Land Use Assumptions, and Impact Fees for Water and Wastewater (Asbell)

MOTION: Upon a motion made by Councilman Bushong and seconded by Mayor Pro-Tem Reed, council voted five (5) "ayes", and no (0) "nays" to approve the consent agenda items as presented. *The motion carried.*

REGULAR AGENDA:

(Agenda Item F)

**Consideration of Ordinance Adopting the
2017 Property Tax Rate of \$0.30/\$100
(Asbell)**

(Agenda Item F.1)

Mayor Vargus reviewed the tax rate.

MOTION: Upon a motion made by Councilman Newsome and seconded by Councilman Bushong, council voted five (5) “ayes”, and no (0) “nays” to approve the 2017 Property Tax Rate of \$0.30/\$100 as presented. *The motion carried.*

ROLLCALL VOTE

Mayor Vargus – present and not voting
Mayor Pro-Tem Reed - aye
Councilman Bushong - aye
Councilman Newsome - aye
Councilman Tantalo - aye
Councilwoman Shields - aye

**Consideration of Ratification of Ordinance
17-02 Adopting Fiscal Year 2017-2018
Budget (Asbell)**

(Agenda Item F.2)

Mayor Vargus reported that the budget was adopted last month and needs to be ratified following the adoption of the tax rate. Councilman Tantalo reported that he voted against this and reported the budget summary shows a comparison with numbers from June instead of a full year.

MOTION: Upon a motion made by Councilman Bushong and seconded by Mayor Pro-Tem Reed, council voted three (3) “ayes”, and two (2) “nays” to approve the 2017 Property Tax Rate of \$0.30/\$100 as presented. *The motion carried.*

ROLLCALL VOTE

Mayor Vargus – present and not voting
Mayor Pro-Tem Reed - aye
Councilman Bushong - aye
Councilman Newsome - aye
Councilman Tantalo - nay
Councilwoman Shields - nay

**Discussion of Municipal Development
District Sponsored Community Event on
October 14th (Asbell)**

(Agenda Item F.3)

Mayor Vargus reported that the 40th anniversary of the incorporation of the town is this year. The Municipal Development District will host a community event. Linda Loudon, Municipal Development District Board Member reported that the event will be held on October 14th. The MDD will provide meat, and lemonade, guests are asked to bring a covered dish. A bounce house and a live band will be at the event. The MDD has set a budget and is asking for the town to contribute \$300 toward the event. Linda Loudon invited all citizens to come and meet their neighbors and participate. All citizens of the MDD will be invited. Businesses in the area are invited to set up a booth and provide information. Councilman Tantalo stated that he would donate \$100. The event will be held at the town hall park. Brent Ashton stated that he would donate \$200. Mayor Vargus thanked the Board of the Municipal Development District for coordinating this event. Councilman Tantalo asked for volunteers to clean up Sunday morning.

Consideration of Investment Policy (Vargus)

(Agenda Item F.4)

Mayor Vargus reported that Town funds have been held at Point Bank because the Town locked in a two-percent interest rate in the depository agreement. The interest rate reset when the agreement renewed and the town is now receiving 0.29% interest. Investing in a pool/money market account will allow the town to take advantage of the increasing interest rates. The State of Texas requires compliance with the Public Funds Investment Act. Each municipality adopts an investment policy stating the strategy and acceptable investment instruments. Municipalities are only permitted to invest in bonds and money markets. The State of Texas requires certification of each investment, provided by the company stating that the investment complies with State Law and the Town of Lakewood Village investment policy. Mayor Vargus stated that investments are not covered by FDIC insurance. Treasury Bonds are considered “risk-free” investments. TexPool investments are short-term investments and the rules are established by the State of Texas in order to eliminate as much possible risk as possible. There was some discussion about the numbers and types of government agencies that participate in TexPool. All applications to participate in TexPool are approved by the State Comptroller. Councilwoman Shields stated that at the last council meeting the council agreed that participation in this pool is a good idea. Her concern is setting a limit on the amount invested, insuring that some funds are maintained in a bank account for security reasons. Mayor Vargus explained the cash flow fluctuations during the year due to ad valorem taxes being collected primarily December through February. There was some discussion about creation of a risk model. Councilman Tantalo stated that he spoke to Point Bank about the town accounts. Mayor Vargus reviewed the edits to the investment policy proposed by Councilman Tantalo. There was some discussion on controls within the investment policy. There was some discussion of annual auditing of the investments. Mayor Vargus reported on the current town controls; two-signatures, review of invoices, moving

of funds between bank accounts, and minimizing the amount of funds held in the checking accounts. Mayor Vargus reported that there are problems when requiring multiple authorizers on investment transfers due to open meetings regulations. Councilman Tantalo reported that he talked to Point Bank and they want to continue to work with the town. Mayor Vargus reported the depository agreement with the bank a five year contract at a fixed interest rate. When the interest rates are trending up and it does not make sense to commit to an interest rate that is lower now and will increase later. Carl Menckhoff, M.D., former Mayor Pro-Tem, stated that there are issues being discussed that are not related to the policy being considered. Dr. Menckhoff stated that he liked the compromise Councilman Bushong and Councilwoman Shields recommended for getting approval when funds are transferred out to investment accounts but no approval being needed when funds are being transferred in to town operating accounts. Mayor Vargus reviewed the proposed strategy in the ordinance. Use of local financial institutions for demand deposits would mean using a local bank like Point Bank for checking accounts and use of regulated investment pools, like TexPool, to invest reserve funds. The strategy prohibits holding of any individual securities except for certificates of deposit. There was some discussion on the limitations of the accounts that town funds can be transferred from and to within TexPool. Mayor Vargus stated that council would establish the policy on investment risk. Council reviewed the investment reporting requirements. There was some discussion about the repeal clause. Mayor Vargus reported that he will incorporate most of Councilman Tantalo's proposed changes and will propose language for council to consider based on their feedback about controls. There was some discussion about inclusion of non-boilerplate language potentially making it more difficult to obtain required certifications. Mayor Vargus reported that he believes a recent law change removes the certification requirement from TexPool because the pool is run by the State. There was some discussion about vetting TexPool. There was some discussion about inviting TexPool to attend a future meeting.

Motion: *no motion made*

**Consideration of Resolution Authorizing
Participation in TexPool Investment Pools
(Vargus)**

(Agenda Item F.5)

Councilman Tantalo stated that he is concerned about why the town is leaving Point Bank. Mayor Vargus stated the town is not leaving Point Bank.

Motion: *no motion made*

**Consideration of Authorizing Expenditures
for Road Repairs (Newsome)**

(Agenda Item F.6)

Councilman Newsome reported that a few of the patches made last year have failed and the vendor will warrantee those patches and will make additional repairs. Mayor Vargus reported that Councilman Newsome worked with the vendor and the vendor identified areas that need to be repaired with paint. Council then allocated a specific amount of money and the vendor made the repairs based on council's direction. There was some discussion about repairs to be made on Carrie Lane and Highridge Drive. Mayor Vargus stated that the road fund currently has approximately \$29,000. He would like council to approve spending \$25,000 on repairs and allow for a 10% contingency. Councilman Tantalo asked if the town was going to issue a request for proposals. Mayor Vargus explained the process to be followed for requests for bids or proposals. The engineers are required to give specifications that the vendors will use to bid and it does not make financial sense for such a small job. There was some discussion about the selection process for the contractor. Mayor Pro-Tem Reed recommended that council delay road repairs because small repairs will not satisfy people that want good roads and the money not spent can be saved and earn interest. There was some discussion about the vendor providing warrantee work on the patches that have failed.

MOTION: Upon a motion made by Councilman Newsome and seconded by Councilman Bushong, council voted two (2) "ayes", three (3) "nays" (Reed, Tantalo, Shields) to approve \$25,000 with a 10% contingency for the repair of the asphalt roads. *The motion failed.*

Discussion of Dark Skies Initiative (Reed)

(Agenda Item F.7)

Mayor Pro-Tem Reed stated that information he presents regarding the Dark Skies Initiative may be changed in future meetings as more information becomes available. Mayor Pro-Tem Reed reviewed the history of the International dark Sky Association. Mayor Pro-Tem Reed reported that Dripping Springs and Horseshoe Bay are the only two cities he is aware of in the State of Texas to achieve Dark Skies Certification. The requirements are extensive and would need broad support from local utilities and other organizations. The timeline for implementation and certification is between two and five years. Mayor Pro-Tem Reed reviewed the next steps required for taking on this project. Mayor Vargus reported that two-thirds of the town has not been developed and could be developed to comply with established requirements. There was some discussion about flood or security lights on existing homes. There was some discussion about the possibility of receiving a grant to offset some of the cost of implementation.

Consideration of Fence Ordinance (Vargus)

(Agenda Item F.8)

Mayor Vargus stated that he reviewed the regulations of a few other municipalities and he proposed a very simple ordinance for Lakewood Village. He reviewed the history of the change to the fence ordinance for waterfront properties. Mayor Vargus reported on the prohibition on solid fences inside the floodplain. There was some discussion about allowing waterfront properties to construct solid fences near the house to allow for privacy. Paul Bowers, owner of waterfront property on Carrie Lane stated that he would like to be able to fence his property. Shay Ruth, Lakecrest, stated that she does not live on the water but she has a view of the lake and would like to protect that view. Jeff Williams, Highridge Drive, stated that it is common for communities to have fencing restrictions and he likes the open feel in town. Mehrdad Farjadian, 704 Stowe Lane, showed an aerial view of his backyard and his neighbor's backyard. Mr. Farjadian showed the area he would like to construct a wood or masonry fence that would provide both privacy and a sound damper between him and his neighbor. There was some discussion about the possibilities of water front properties to have some privacy. There was some discussion about council reviewing the ordinance and considering it at the next council meeting.

MOTION: *No motion was made*

**Consideration of Simple Recycling Program
(Asbell)**

(Agenda Item F.9)

Town Secretary Asbell reviewed the program. There was some discussion about the contract terms. There was some discussion about donations of items to non-profit charities. Town Secretary Asbell reported that she would present the contract to the council for consideration at a future council meeting.

MOTION: *No motion made*

**Consideration of Ordinance Regulating
Wireless Network Facilities Within the
Public Right-of-Way (Asbell)**

(Agenda Item F.10)

Mayor Vargus reported that the federal government restricted the individual State's ability to regulate wireless node facilities. The State of Texas responded with Senate Bill 1004. Town Secretary Asbell reported that the town passed a resolution in opposition to Senate Bill 1004. A form of the senate bill passed. The ordinance presented is a compilation of ordinances passed by other municipalities and based on Texas Municipal League's recommendations. Town Secretary Asbell reported that she created a design manual and an application form for council to consider.

Chad Maddison, 615 Melody, stated that he that is in the telecommunications industry and offered to review the law and see if there is an option for requiring a design facade. Mr. Maddison could propose any changes to the ordinance, if necessary, at the next council meeting. There was some discussion about passing the ordinance next month after a detail review of the current law and the ability of the town to require a design facade.

MOTION: *No motion was made*

**Discussion of Finance and Audit Committee
(Shields)**

(Agenda Item F.11)

Councilwoman Shields reviewed her proposal for creation of a finance and audit committee. There was some discussion about how many municipalities have a finance and audit committee in place. There was some discussion about attending a local finance audit committee and reviewing the reports and lessons-learned. Councilwoman Shields reported that when she attended a Texas Municipal League training class she learned about the benefits of this type of committee. The committee would provide input and support to the council. There was some discussion about what the goals and objectives would be for creation of this committee. There was some discussion about maintaining document integrity for the records in town hall. There was some discussion about the selection process for the members and leadership of the committee. Councilman Bushong stated that he would attend a finance committee meeting with Councilwoman Shields.

**Discussion of August 2017 Mayor's Letter
(Vargus)**

(Agenda Item F.12)

Mayor Vargus reviewed the typical process for handling contacts by developers. After an initial meeting with Town Secretary Linda Asbell, occasionally a developer will request a meeting with the Mayor. Mayor Vargus reported that he will meet with the developers and often Mayor Pro-Tem Reed and/or Councilman Newsome will attend the meeting. Mayor Vargus reported on initial meetings with the property owner currently building the wedding venue on Eldorado. Mayor Vargus reported the property owner was initially interested in purchasing a property off of Boy's Camp Road and requested water and sewer service to that property. Mayor Vargus reported on the discussions about development of that property. Mayor Vargus stated he was notified of a zoning change being proposed by the Town of Little Elm and learned that the wedding venue was going to be developed on property north of Cardinal Ridge. Mayor Vargus reported that the property owner contacted the Town of Lakewood Village many times requesting water and sewer service to that property. Mayor Vargus stated that he would not discuss providing utilities with a property owner that is partially in the Town of Little Elm and partially in the Town of Oak Point Extra Territorial Jurisdiction. Mayor Vargus reported the first

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funeral he ever attended as an adult was for a close friend that was killed by a drunk driver. Mayor Vargus stated that he provides his opinion and vision in the Mayor's letter and he is careful not to speak for the entire council. Councilwoman Shields stated that because the Mayor represents the town, he also represents the council. Mayor Vargus stated that many municipalities have mayors that author mayor's letters and those mayors write those letters providing their independent vision and opinions in those letters. Councilwoman Shields reported that she spoke to an officer who provides oversight to wedding type events and that officer stated that there are typically not many issues associated with those events. Councilwoman Shields encouraged citizens to research similar venues and form their own opinions. Mayor Vargus stated that he does not believe that our citizens' safety is improved with this type of venue in place. Mayor Vargus stated that there is a lot of misinformation being circulated about his communication with this developer and he wants to clarify the facts. Councilman Tantalo stated that he is concerned the Mayor's letter has been used to publish his personal opinions and that puts the Town of Lakewood Village in an adversarial position with neighboring cities. Mayor Vargus stated that he believes Councilman Tantalo is attempting to impede his ability to write a Mayor's letter and is spreading misinformation to further that objective. Mayor Vargus reported on his agenda process and the authority to control the agenda items.

EXECUTIVE SESSION:

(Agenda Item G)

At 11:15 p.m. Mayor Vargus recessed into executive session in accordance with Texas Government Code, Section 551.001, et seq., the Town Council will recess into Executive Session (closed meeting) to discuss the following: (1) §551.071(2): Consultation with Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter; (2) §551.087: To discuss or deliberate regarding commercial or financial information that the Town of Lakewood Village has received from a business prospect that the Town seeks to have locate, stay, or expand in or near the territory of the Town of Lakewood Village and with which the Town is conducting economic development negotiations; and/or to deliberate the offer of a financial or other incentive to the business prospect.; and (3) § 551.072 Texas Government Code to wit: deliberations about real property

RECONVENE:

(Agenda Item H)

Mayor Vargus reconvened the regular session of the Lakewood Village Town Council at 11:42 p.m.

COUNCIL AND STAFF COMMENTS

(Agenda Item I)

Town Secretary Linda Asbell thanked Councilman Bushong for all the work he has done making improvements to Town Hall, specifically to the back office.

ADJOURNMENT

(Agenda Item J)

MOTION: Upon a motion made by Councilman Bushong and seconded by Councilwoman Shields council voted five (5) “ayes” and no (0) “nays” to adjourn the Regular Meeting of the Lakewood Village Town Council at 11:44 p.m. on Thursday, September 14, 2017. The motion carried.

These minutes approved by the Lakewood Village Town Council on the 12th day of October 2017.

APPROVED

Ed Reed
MAYOR PRO-TEM

ATTEST:

Linda Asbell, TRMC, CMC
TOWN SECRETARY