



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

**TOWN COUNCIL MEETING  
SEPTEMBER 14, 2017 7:00 P.M.**

**REGULAR SESSION – AGENDA**

Call to Order and Announce a Quorum is Present

**A. PLEDGE TO THE FLAG:**

**B. PRESENTATIONS:** (1) A proclamation designating September 17 – 23, 2017 as Constitution Week in the Town of Lakewood Village; to be received by representatives of the Daughters of the American Revolution. (2) A proclamation designating October as Domestic Violence Awareness Month and October 19<sup>th</sup> to be “Go Purple Day”, to be received by representatives of the Denton County Friends of the Family.

**C. 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.

**D. PUBLIC HEARING:** A public hearing is scheduled on the proposed combined property tax rate of \$0.30/\$100 to provide an opportunity for citizen comment.

**E. CONSENT AGENDA:** All of the items on the Consent Agenda are considered to be self-explanatory and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member or citizen so request. For a citizen to request removal of an item from the Consent Agenda a speaker card must be filled out and submitted to the Town Secretary prior to the call to order.

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)

**F. REGULAR AGENDA:**

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

2. Ratification of Ordinance 17-02 Adopting Fiscal Year 2017-2018 Budget (Asbell)

3. Discussion of Municipal Development District sponsored Community Event on October 14th (Asbell)

4. Consideration of Investment Policy (Vargus)

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

6. Consideration of Authorizing Expenditures for Road Repairs (Newsome)

7. Discussion of Dark Skies Initiative (Reed)

8. Consideration of Fence Ordinance (Vargus)

9. Consideration of Simple Recycling Program (Asbell)

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

11. Discussion of Finance and Audit Committee (Shields)

12. Discussion of August 2017 Mayor’s Letter (Vargus)

**G. 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

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

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

**J. ADJOURNMENT**

I do hereby certify that the above notice of meeting was posted on the designated place for official notice at 5:00 p.m. on Friday, September 8, 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.

# *Proclamation*

## *Of The Town of Lakewood Village*

**WHEREAS:** on September 17, 1787, fifty-five delegates to the Constitutional Convention in Philadelphia's Independence Hall signed the United States Constitution, a document that serves as the guardian of our liberties; and

**WHEREAS:** September 17, 2017 marks the two hundred thirtieth anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

**WHEREAS:** It is the privilege, honor, and duty of the American people to accord official recognition to this magnificent document; and

**WHEREAS:** Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17<sup>th</sup> through September 23<sup>rd</sup> as Constitution week,

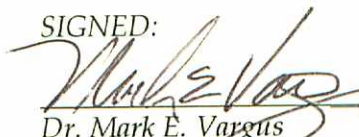
**NOW, THEREFORE I, Dr. Mark E. Vargus, Mayor of the Town of Lakewood Village in the State of Texas do hereby proclaim the week of September 17<sup>th</sup> through September 23<sup>rd</sup> as**

## *Constitution Week*

*and ask our citizens to reaffirm the ideals the framers of the Constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us, and reflecting on the privilege of being an American with all the rights and responsibilities, which that privilege involves.*


**IN WITNESS WHEREOF,** I have set my hand and caused the Seal of the Town to be affixed this 14<sup>th</sup> day of September of the year 2017.

SIGNED:

  
Dr. Mark E. Vargus  
Mayor



ATTEST:

  
Linda Asbell, TRMC, CMC  
Town Secretary

# *Proclamation*

## *Of The Town of Lakewood Village*

*WHEREAS: the crime of domestic violence violates an individual's dignity, security, and humanity; and*

*WHEREAS: domestic violence is not confined to any group or groups of people, but cuts across all economic, racial, and societal barriers; and*

*WHEREAS: the impact of domestic violence is wide ranging, directly effecting individuals and society as a whole, here in this community; throughout the United States, and the world; and*

*WHEREAS: domestic violence remains a major public health, social justice, and human rights issue; and*

*WHEREAS: More than 100 women are killed by a male partner each year in Texas, and 72,782 Texans sought services from domestic violence programs last year.*

*NOW, THEREFORE I, Dr. Mark E. Vargus, Mayor of the Town of Lakewood Village in the State of Texas do hereby proclaim October 2017 as*

## *Domestic Violence Awareness Month*

*and call upon our citizens to speak out against domestic violence, actively work toward improving victim safety, and hold perpetrators of domestic abuse accountable for their actions against individual victims and our society as a whole.*

*IN WITNESS WHEREOF, I have set my hand and caused the Seal of the Town to be affixed this 14<sup>th</sup> day of September of the year 2017.*

SIGNED:

*Mark E. Vargus*  
Dr. Mark E. Vargus  
Mayor



ATTEST:

*Linda Asbell*  
Linda Asbell, TRMC, CMC  
Town Secretary



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

**PUBLIC HEARING  
SEPTEMBER 14, 2017 7:00 P.M.**

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## ***PUBLIC HEARING NOTICE***

**NOTICE** is hereby given that The Town of Lakewood Village will hold a Public Hearing on Thursday September 14, 2017 at 7:00 p.m. at Lakewood Village Town Hall, 100 Highridge Drive, Lakewood Village, Texas pursuant to LGC § 102.006(c). The purpose of this meeting is to allow citizens an opportunity to be heard, either for or against the proposed combined property tax rate of \$.30 per \$100 valuation.

The Town Council may adopt the tax rate with or without amendment by ordinance on one (1) reading. The proposed property tax rate ordinance will be submitted for adoption at the regular Town Council meeting on Thursday, September 14, 2017.

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 for further information.

**LAKEWOOD VILLAGE TOWN COUNCIL**

**COUNCIL MEETING**

**AUGUST 10, 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, August 10, 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

**VISITOR/CITIZENS FORUM:**

**(Agenda Item B)**

No one requested to speak.

**PUBLIC HEARING:**

**(Agenda Item C)**

A public hearing was held to provide an opportunity for citizens to comment on the proposed fiscal year 2017-2018 budget. Mayor Vargus opened the public hearing at 7:05 p.m. No one requested to speak.

**MOTION:** Upon a motion made by Mayor Pro-Tem Reed and seconded by Councilman Bushong, council voted five (5) “ayes”, no (0) “nays” to close the public hearing at 7:06 pm. *The motion carried.*

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REGULAR SESSION  
AUGUST 10, 2017**

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**PUBLIC HEARING:**

**(Agenda Item D)**

A public hearing was held to provide an opportunity for citizens to comment on the combined tax rate of \$0.30/\$100. Mayor Vargus opened the public hearing at 7:03 p.m. Mayor Vargus reported that the tax rate will stay the same. There is no proposed increase. Councilman Tantalo reported that although the tax rate has not changed the town is receiving more funds because of increased values. Mayor Pro-Tem Reed clarified that costs also increase - salaries, and other costs of doing business. No one requested to speak.

**MOTION:** Upon a motion made by Councilman Newsome and seconded by Mayor Pro-Tem Reed, council voted five (5) “ayes”, no (0) “nays” to close the public hearing at 7:12 pm. *The motion carried.*

**REGULAR AGENDA:**

**(Agenda Item E)**

**Consideration of Municipal Development  
District 2017-2018 Budget (Asbell)**

**(Agenda Item E.1)**

Mayor Vargus reported that the MDD has adopted a conservative budget that includes \$10,000 for a possible future project, and projects increased revenues.

**MOTION:** Upon a motion made by Councilwoman Shields and seconded by Councilman Bushong, council voted five (5) “ayes”, and no (0) “nays” to approve the Municipal Development District 2017-2018 Budget as presented. *The motion carried.*

**Consideration of 2017-2018 Budget  
Ordinance (Vargus)**

**(Agenda Item E.2)**

Mayor Vargus reviewed the proposed budget and stated no changes have been made. Mayor Vargus reviewed the long range fire hydrant project which was approved in 2014. Councilman Bushong reported that Kimley Horn confirmed the engineering numbers were accurate. There was some discussion about the effective and roll-back tax rates. Councilman Tantalo stated concern about not putting funds aside for roads. There was some discussion about creating a Road Reserve line in the budget. There was some discussion about the reserve funds. Councilman Tantalo requested that \$130,000 be added to the budget and designated for roads. He requested council review the expenses in the budget line by line. Councilman Bushong and Mayor Pro-Tem Reed stated that the council has reviewed the budget line by line that at the last two council meetings.. There was some discussion about a Standard & Poor rating and the town’s goal to set aside as much cash as possible in the next four years. There was some

**LAKEWOOD VILLAGE TOWN COUNCIL  
REGULAR SESSION  
AUGUST 10, 2017**

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discussion about planning for installation of concrete roads in the rest of the town. There was some discussion about contracted services provided by vendors. Town Hall improvements were discussed.

**MOTION:** Upon a motion made by Mayor Pro-Tem Reed and seconded by Councilman Bushong, council voted three (3) “ayes”, and two (2) “nays” (Tantalo, Shields) to approve the budget as presented. *The motion carried.*

**Consideration of Replat of 595 Melody Lane  
(Vargus)**

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**(Agenda Item E.3)**

Mayor Vargus reviewed the proposed replat of 595 Melody Lane. The lot can be replatted to divide it into a one acre buildable lot and allow for the planned thoroughfare. There was some discussion about neighboring properties being notified about the replat. Sheryl France, 590 Melody Lane, reported that she received a personal visit from the mayor to discuss the plans. Council discussed the thoroughfare being a necessity to provide an additional means of exit for citizens living below the Highridge Drive and Melody Lane intersection.

**MOTION:** Upon a motion made by Councilman Bushong and seconded by Councilman Newsome, council voted four (4) “ayes”, and one (1) “nays” (Tantalo) to approve the replat of 595 Melody. *The motion carried.*

**Consideration of Investment Policy (Vargus)**

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**(Agenda Item E.4)**

Mayor Vargus reviewed the State of Texas policy on investments. Mayor Vargus reported the town’s original policy was adopted in 2008. There was some discussion about the benefits of investing available funds. Mayor Vargus reviewed the types of investments permitted in this policy. There was some discussion about reporting of investments to the council. There was some discussion about TexPool Investment Pools. There was some discussion about the risks of investing funds. Councilman Tantalo requested that the council table this policy to the next meeting to allow council time to consider any changes.

**MOTION:** *No motion was made.*

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

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**(Agenda Item E.5)**

Mayor Vargus reviewed the resolution. Mayor Vargus stated that council will need to determine who will be authorized to make transactions. There was some discussion about segregation of duties.

**MOTION:** *No motion was made.*

**Discussion of Dark Sky Initiative (Vargus)**

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**(Agenda Item E.6)**

Mayor Vargus stated that he would like the council to make a Dark Sky certification a goal for Lakewood Village. Mayor Vargus reported that CoServ has products that would qualify for the certification. Brent Ashton, 829 Carrie Lane, stated that he has a connection in CoServ that might assist with implementation of that process.

Councilman Newsome reported that a list of damaged street light was provided to CoServ and repairs are expected to be completed soon. Council indicated support of this project. Mayor Pro-Tem Reed volunteered to lead this effort.

**Consideration of Minutes of July 13, 2017  
Council Meeting (Asbell)**

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**(Agenda Item E.7)**

**MOTION:** Upon a motion made by Councilman Newsome and seconded by Mayor Pro-Tem Ed Reed, council voted five (5) “ayes”, no (0) “nays” to approve the minutes as presented. *The motion carried.*

**EXECUTIVE SESSION:**

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**(Agenda Item F)**

At 9:10 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

**LAKEWOOD VILLAGE TOWN COUNCIL  
REGULAR SESSION  
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financial or other incentive to the business prospect.; (3) § 551.072 Texas Government Code to wit: deliberations about real property; and (4) § 551.074, Texas Government Code to wit: Personnel Matters, Town Secretary Annual Review

**RECONVENE:**

**(Agenda Item F)**

Mayor Vargus reconvened the regular session of the Lakewood Village Town Council at 10:46 p.m.

**MOTION:** Upon a motion made by Mayor Pro-Tem Reed and seconded by Councilman Bushong, council voted five (5) “ayes”, no (0) “nays” to authorize Mayor Vargus to sell 595 Melody Lane. *The motion carried.*

**COUNCIL AND STAFF COMMENTS**

**(Agenda Item G)**

Councilman Newsome reported that Janie Newsome has done a great job with the neighborhood watch. She has also coordinated volunteers to update the town bulletin boards.

Councilman Bushong reported that the fences screening the HVAC equipment and trash containers at town hall has been completed.

Councilman Tantalo thanked Janie Tantalo for recording the council meeting tonight.

Councilwoman Shields thanked the council for supporting her attending the Texas Municipal League training. Councilwoman Shields stated that during the TML training she learned about creating a finance and audit committee. She reported that the committee would review expenses and the general ledger and give feedback to the council. Councilwoman Shields reported that she met people when she was campaigning who had an interest in serving. Mayor Pro-Tem Reed stated that if the council created the committee then the application process should be open to all citizens.

**ADJOURNMENT**

**(Agenda Item H)**

**MOTION:** Upon a motion made by Councilman Tantalo and seconded by Councilman Newsome council voted five (5) “ayes” and no (0) “nays” to adjourn the Regular Meeting of the Lakewood Village Town Council at 10:54 p.m. on Thursday, August 10, 2017. *The motion carried.*

**LAKEWOOD VILLAGE TOWN COUNCIL  
REGULAR SESSION  
AUGUST 10, 2017**

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These minutes approved by the Lakewood Village Town Council on the 14th day of September 2017.

APPROVED

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Ed Reed  
MAYOR PRO-TEM

ATTEST:

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Linda Asbell, TRMC, CMC  
TOWN SECRETARY

**RESOLUTION NO. 17-XX**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS, SETTING A DATE FOR A PUBLIC HEARING FOR THE PURPOSES OF AMENDMENTS TO THE TOWN'S CAPITAL IMPROVEMENTS PLAN, LAND USE ASSUMPTIONS, AND IMPACT FEES FOR WATER AND WASTEWATER.**

**WHEREAS**, Chapter 395 of the Local Government Code has outlined the procedure for amending impact fees; and

**WHEREAS**, it is desirable to amend water and wastewater impact fees to be charged in the Town of Lakewood Village; and

**WHEREAS**, an engineering study has been completed on the proposed water and wastewater infrastructure to meet the needs of the Town for future development

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS, THAT A PUBLIC HEARING SHALL BE HELD TO APPROVE AMMENDMENTS TO CAPITAL IMPROVEMENTS PLANS, LAND USE ASSUMPTIONS, AND IMPACT FEES FOR WATER AND WASTEWATER, AS PROVIDED BY CHAPTER 395 OF THE TEXAS LOCAL GOVERNMENT CODE, TO BE HELD AS DESCRIBED BELOW:**

**SECTION 1.** This public hearing will be held on **December 14<sup>th</sup>, 2017 at 7:00 pm at Town Hall at 100 Highridge Drive, Lakewood Village, TX 75068.**

**SECTION 2.** Any member of the public has the right to appear at the public hearing and present evidence for or against the plan and assumptions.

**SECTION 3.** A public notice shall be posted for the public hearing meeting all the requirements of Chapter 395 of the Texas Local Government Code for the amendment of impact fees.

**DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS, on this 14th day of September, 2017.**

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Dr. Mark E. Vargus  
MAYOR

**ATTEST:**

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Linda Asbell, TRMC, CMC  
Town Secretary

## **TOWN OF LAKEWOOD VILLAGE**

### **ORDINANCE NO. 17-XX**

**AN ORDINANCE OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS FIXING AND LEVYING TAXES FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2017 AND ENDING SEPTEMBER 30, 2018 AT A RATE OF \$.30 PER ONE HUNDRED DOLLARS (\$100.00) ASSESSED VALUATION OF ALL TAXABLE PROPERTY WITHIN THE CORPORATE LIMITS OF THE TOWN AS OF JANUARY 1, 2017; DIRECTING THE ASSESSMENT THEREOF TO PROVIDE REVENUES FOR THE PAYMENT OF CURRENT OPERATIONS AND MAINTENANCE EXPENSES; PROVIDING FOR DUE AND DELINQUENT DATES TOGETHER WITH PENALTIES AND INTEREST; ADOPTING AN EXEMPTION FROM THE TAX HEREIN LEVIED FOR PERSONS 65 YEARS OF AGE OR OLDER IN THE AMOUNT OF \$25,000.00 OF THE APPRAISED VALUE OF THEIR RESIDENCE HOMESTEAD; REPEALING CONFLICTING ORDINANCES; PROVIDING A SAVINGS CLAUSE AND SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Lakewood Village, Texas (the "Town") hereby finds that the tax for the fiscal year beginning on October 1, 2017 and ending September 30, 2018 hereinafter levied for current expenses of the Town and the general improvements of the Town and its property, must be levied to provide the revenue requirements of the budget for the ensuing year; and

**WHEREAS**, the Town Council has approved, by a separate ordinance, adopted on the 10th of August, 2017 the budget for the fiscal year beginning October 1, 2017 and ending September 30, 2018; and

**WHEREAS**, all statutory and constitutional requirements concerning the levying and assessments of ad valorem taxes have been approved and completed in due and correct time.

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

Section 1. That there be and is hereby levied and ordered to be assessed and collected for the fiscal year beginning October 1, 2017 and ending September 30, 2018, on all taxable property, real, personal, and mixed, situated within the corporate limits of the Town of Lakewood Village, Texas, and not exempted by the Constitution of the State, valid State laws or this ordinance, a total tax of \$.30 on each One Hundred Dollars (\$100.00) assessed value of taxable property, which shall be apportioned and distributed as follows : For the purpose of the payment of defraying the maintenance and operation expenses of the Town, a tax of \$.25 on each One Hundred Dollars (\$100.00) assessed value of all taxable property, and for the purpose of the payment of defraying debt servicing expenses of the Town, a tax of \$.05 on each One Hundred Dollars (\$100.00) assessed value of all taxable property.

Section 2. That all ad valorem taxes shall become due and payable on October 1, 2017, and all ad valorem taxes shall be delinquent after January 31, 2018. There shall be no discount for payment

of taxes on or prior to January 31, 2018. A delinquent tax shall incur all penalty and interest authorized by law, Section 33.01 of the Texas Property Tax Rate Code, to wit: a penalty of 6% of the amount of the tax for the first calendar month the tax is delinquent plus 1% for each additional month or portion of a month the tax remains unpaid prior to July 1<sup>st</sup> of the year in which it becomes delinquent.

Provided, however, a tax delinquent on July 1 incurs a total penalty of 12% of the amount of the delinquent tax without regard to the number of the months the tax has been delinquent. A delinquent tax shall also accrue interest at a rate of 1% for each or portion of a month the tax remains unpaid. Taxes that remain delinquent on July 1, 2018 incur additional penalty of 15% if the amount of taxes, penalty and interest due; such additional penalty is to defray the cost of collection due pursuant to the contract with the Town's Attorney authorized by Section 6.30 Texas Property Code.

Section 3. Taxes shall be payable in Denton County, Texas at the office of the Denton County Tax Collector. The Town shall have available all rights and remedies provided by law for the enforcement of the collection of taxes levied under this ordinance.

Section 4. All delinquent taxes shall bear interest as provided by State Law, in addition to penalties.

Section 5. There is hereby adopted and established an exemption from the tax levied by this ordinance for persons who are 65 years of age or older in the amount of \$25,000.00 of the appraised value of their residence homestead.

Section 6. That any and all ordinances, resolutions, rules, regulations, policies or provisions in conflict with the provisions of this ordinance are hereby repealed and rescinded to the extent of the conflict herewith.

Section 7. If any section, paragraph, sentence, clause, phrase or word in this ordinance, or application thereof by any person or circumstances, is held invalid by any Court of competent jurisdiction, such holdings shall not affect the validity of the remaining portions and shall remain in full force and effect.

Section 8. The fact that it is necessary that this ordinance be enacted in order to authorize the collection of ad valorem taxes for the fiscal year beginning October 1, 2017, and ending September 30, 2018, this ordinance shall take effect from and after its passage as the law in such cases provides.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS, on this 14<sup>th</sup> day of September 2017.

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Dr. Mark E. Vargus  
Mayor

ATTESTED:

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Linda Asbell, TRMC, CMC  
Town Secretary

# **TOWN OF LAKEWOOD VILLAGE**

## **ORDINANCE NO. 17-02**

### **AN ORDINANCE OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS ADOPTING AND APPROVING THE BUDGET FOR THE FISCAL YEAR BEGINNING ON OCTOBER 1, 2017 AND TERMINATING ON SEPTEMBER 30, 2018, AND MAKING APPROPRIATIONS FOR EACH DEPARTMENT PROJECT AND ACCOUNT; AND DECLARING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Lakewood Village, Texas (the “Town”) has caused to be filed with the Town Secretary a budget to cover all proposed expenditures of the government of the Town for the fiscal year beginning October 1, 2017 and terminating September 30, 2018, and

**WHEREAS**, the said budget shows as definitely as possible each of the various projects for which appropriations are set in the budget, and the estimated amount of money carried in the budget for each of such projects, and

**WHEREAS**, said budget has been filed with the Town Secretary and available for inspection by any taxpayer, and

**WHEREAS**, public notice of a public hearing on the proposed annual budget, stating the date, time, place, and subject matter of said hearing, was given as required by laws of the State of Texas, and

**WHEREAS**, such public hearing was held on July 13, 2017, and August 10, 2017 prior approval of which date being hereby ratified and confirmed by the Town Council, and all those wishing to speak on the budget were heard, and

**WHEREAS**, the Town Council has studied said budget and listened to the comments of the taxpayers at the public hearing held therefore and has determined that the budget attached hereto is in the best interest of the Town of Lakewood Village.

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

1. That the budget attached hereto as Exhibit “A” and incorporated herein for all purposes is adopted for the fiscal year beginning October 1, 2017 and ending September 30, 2018; and such purposes, respectively such sums of money for such projects, operations, activities, purchases and other expenditures as proposed in the attached budget.
2. That no expenditures of the funds of the Town shall hereafter be made except in compliance with such budget, except in case of grave necessity, emergency expenditures to meet unusual or unforeseen conditions, which could not, by reasonable, diligent thought and attention, have included in the original budget, may from time to time be authorized by the Town Council as amendments to the original budget.

3. That the Mayor shall file or cause to be filed a true and correct copy of said budget, along with this ordinance with the Town Secretary.
4. The necessity of adopting and approving a proposed budget for the next fiscal year as required by the laws of the State of Texas, require that this ordinance shall take effect immediately from and after its passage, and it is accordingly so ordained.

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

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Dr. Mark E. Vargus  
MAYOR

**ATTESTED:**

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Linda Asbell, TRMC  
Town Secretary



**TOWN OF LAKEWOOD VILLAGE, TEXAS  
FISCAL YEAR 2017-2018  
ANNUAL BUDGET**

This budget will raise more Maintenance and Operations revenue from property taxes than last year's budget by an amount of \$15,393, which is a 6.9 percent increase from last year's M&O budget. The M&O revenue to be raised from new property added to the tax roll this year is \$3,388.

This budget will raise more Debt Servicing revenue from property taxes than last year's budget by an amount of \$3,078, which is a 6.9 percent increase from last year's I&S budget. The I&S revenue to be raised from new property added to the tax roll this year is \$678.

Debt obligations were reduced by \$149,000 in the prior year and now total \$1,178,000. Scheduled Interest and Principle payments on debt in 2018 will be \$175,910. Of this amount, Debt Servicing revenue will pay \$47,396 and M&O funds of \$128,514 will be used to pay the remainder. The amount of M&O funds used in debt payments is 54 percent of the Maintenance and Operations total revenue.

# **RECORD OF VOTE ON PROPOSAL TO CONSIDER ADOPTION OF BUDGET**

POSITION	NAME	FOR	AGAINST	PRESENT and not voting	ABSENT
<b>Mayor</b>	Dr. Mark E. Vargus			X	
<b>Mayor Pro-Tem</b>	Ed Reed	X			
<b>Council Member #1</b>	Elizabeth Shields		X		
<b>Council Member #2</b>	Dan Tantalo		X		
<b>Council Member #4</b>	Gary Newsome	X			
<b>Council Member #5</b>	Clint Bushong	X			

## **PROPERTY TAX RATE COMPARISON (Rates expressed per \$100 of value)**

TAX RATE	TAX YEAR 2016	TAX YEAR 2017
Property Tax Rate	\$0.300000/\$100	\$0.300000/\$100
Effective Tax Rate	\$0.290901/\$100	\$0.283159/\$100
Effective Maintenance and Operations Tax Rate	\$0.262617/\$100	\$0.235966/\$100
Debt Rate	\$0.050000/\$100	\$0.050000/\$100
Rollback Tax Rate	\$0.460518/\$100	\$0.304843/\$100

## **PROPERTY TAX RATE COMPARISON (Rates expressed per \$100 of value)**

DEBT ISSUE	PRINCIPAL	INTEREST	TOTAL
<b>2014 Certificates of Obligation</b>	0.05	0	0.05

## 2017-2018 BUDGET SUMMARY

### Exhibit A

	BUDGET	Actual	BUDGET	Actual	BUDGET	YTD (9 mo.)	BUDGET
CASH BUDGET	2015	2015	2016	2016	2017	30-Jun-17	2018
General Fund Revenues	\$382,160	\$409,141	\$402,650	\$431,479	\$415,400	\$419,413	\$446,300
General Fund Operating Expenses	<b>\$215,170</b>	<b>\$233,168</b>	<b>\$224,900</b>	<b>\$331,681</b>	<b>\$204,375</b>	<b>\$214,170</b>	<b>\$254,400</b>
General Fund Debt Servicing	<b>\$166,526</b>	<b>\$166,084</b>	<b>\$172,800</b>	<b>\$172,850</b>	<b>\$173,925</b>	<b>\$162,204</b>	<b>\$175,900</b>
General Fund Surplus	<b>\$464</b>	<b>\$9,889</b>	<b>\$4,950</b>	<b>(\$73,052)</b>	<b>\$37,100</b>	<b>\$43,039</b>	<b>\$16,000</b>
Utility Fund Revenues	\$323,120	\$335,690	\$315,320	\$319,515	\$319,960	\$235,258	\$335,000
Utility Fund Operating Expenses	<b>\$203,960</b>	<b>\$208,516</b>	<b>\$207,000</b>	<b>\$225,069</b>	<b>\$225,110</b>	<b>\$202,308</b>	<b>\$238,500</b>
CAPX and Engineer	<b>\$0</b>	<b>\$44,529</b>	<b>\$81,000</b>	<b>\$159,063</b>	<b>\$110,000</b>	<b>\$113,016</b>	<b>\$75,000</b>
Utility Fund Surplus/Deficit	<b>\$119,160</b>	<b>\$82,645</b>	<b>\$27,320</b>	<b>(\$64,617)</b>	<b>(\$15,150)</b>	<b>(\$80,066)</b>	<b>\$21,500</b>
Utility Fund Operating Cash Flow	<b>\$127,174</b>		<b>\$94,446</b>		<b>\$32,950</b>		<b>\$96,500</b>
(excluding Engineer and CAPX)							

# **GENERAL FUND REVENUES**

	<b>Discretionary (V)</b>								
	<b>Steady-State (F)</b>								
	<b>Uncontrollable (V)</b>								
		<b>BUDGET</b>	<b>Actual</b>	<b>BUDGET</b>	<b>Actual</b>	<b>BUDGET</b>	<b>YTD (9 mo.)</b>	<b>BUDGET</b>	
		<b>2015</b>	<b>2015</b>	<b>2016</b>	<b>2016</b>	<b>2017</b>	<b>30-Jun-17</b>	<b>2018</b>	
<b>OPERATING REVENUES</b>									
4000	<i>Tax Income</i>	\$194,000	\$191,273	\$210,000	\$210,347	\$218,800	\$218,143	\$240,000	
	<i>Debt Servicing (\$0.05)</i>	\$38,600	\$38,703	\$42,000	\$42,105	\$43,800	\$45,648	\$48,000	
4005	<i>Sales Tax</i>	\$25,000	\$31,030	\$28,000	\$30,007	\$30,000	\$32,425	\$34,000	
4010	<i>Interest</i>	\$800	\$1,854	\$1,000	\$1,044	\$500	\$346	\$700	
4101	<i>Building Permits- New</i>	\$41,000	\$48,698	\$30,000	\$25,001	\$30,000	\$22,601	\$30,000	
4102	<i>CO/CSI Inspections</i>	\$3,600	\$3,150	\$2,500	\$3,750	\$3,000	\$1,625	\$2,000	
4103	<i>Contractor Registrations</i>	\$600	\$750	\$600	\$1,025	\$600	\$950	\$1,000	
4104	<i>Sprinkler Permits</i>	\$300	\$925	\$300	\$400	\$400	\$450	\$400	
4105	<i>Fence Permits</i>	\$500	\$525	\$300	\$500	\$300	\$350	\$400	
4106	<i>Reinspect Fees</i>	\$2,000	\$2,400	\$2,000	\$8,125	\$3,000	\$2,375	\$3,000	
4107	<i>Pool Permits</i>	\$1,000	\$3,375	\$1,000	\$1,450	\$1,000	\$750	\$1,000	
4108	<i>Flatwork Permits</i>	\$600	\$750	\$600	\$675	\$400	\$600	\$600	
4109	<i>Plumbing Permit</i>	\$300	\$1,225	\$1,000	\$750	\$500	\$1,000	\$1,000	
4110	<i>Electrical Permits</i>	\$1,000	\$1,325	\$1,000	\$1,475	\$1,000	\$700	\$1,000	
4111	<i>Replating Fees</i>			\$0	\$250		\$250		
4112	<i>Building Permits - Remodel</i>				\$4,875	\$2,500	\$1,500	\$2,000	
4113	<i>Miscellaneous Permits</i>	\$500	\$2,200	\$500	\$1,950	\$1,000	\$2,475	\$2,000	
4120	<i>Preliminary Plat Fees</i>			\$0	\$1,400				
4201	<i>Franchise Fee</i>	\$29,000	\$35,323	\$34,000	\$32,261	\$32,000	\$26,437	\$30,000	
4202	<i>Pet Registration</i>		\$70		\$45		\$25		
4204	<i>Town Hall</i>	\$100	\$150	\$100	\$50	\$100	\$50		
4950	<i>Miscellaneous Revenues</i>	\$2,300	\$4,011	\$4,000	\$2,641	\$2,500	\$6,755	\$4,000	
4207	<i>Utility Fee for Services-LWV</i>	\$35,260	\$35,260	\$38,000	\$38,000	\$38,000	\$27,000	\$38,000	
4208	<i>Utility Fee for Services-Rocky Pt</i>	\$4,200	\$4,200	\$4,250	\$5,300	\$4,000	\$3,150	\$4,200	
4301	<i>Code Enforcement</i>		\$904		\$1,000		\$374		
4302	<i>Court Costs Fees</i>								
4401	<i>Mowing Abatement Fees</i>	\$500		\$500	\$1,084				
4402	<i>Lien Receipts</i>	\$1,000	\$1,040	\$1,000	\$6,888	\$2,000	\$23,434	\$3,000	
4800	<i>Asset Sales</i>				\$9,081				
<b>TOTAL OPERATING FUNDS</b>		<b>\$382,160</b>	<b>\$409,141</b>	<b>\$402,650</b>	<b>\$431,479</b>	<b>\$415,400</b>	<b>\$419,413</b>	<b>\$446,300</b>	

# GENERAL FUND EXPENSES

		<b>Discretionary (V)</b>							
		<b>Steady-State (F)</b>							
		<b>Uncontrollable (V)</b>							
			<b>BUDGET</b>	<b>Actual</b>	<b>BUDGET</b>	<b>Actual</b>	<b>BUDGET</b>	<b>YTD (9 mo.)</b>	<b>BUDGET</b>
			<b>2015</b>	<b>2015</b>	<b>2016</b>	<b>2016</b>	<b>2017</b>	<b>30-Jun-17</b>	<b>2018</b>
<b>Operating Expenses</b>									
5001	Office Supplies		\$1,000	\$2,470	\$1,000	\$1,418	\$1,200	\$934	\$1,200
5002	Postage		\$200	\$151	\$200	\$46	\$100	\$276	\$100
5003	Computers Maintenance		\$1,000	\$197	\$200	\$180	\$300	\$982	\$500
5007	Advertising		\$300	\$369	\$300	\$1,146	\$875	\$369	\$400
5008	Elections		\$2,000	\$2,832	\$3,000	\$3,168	\$3,000	\$2,620	\$3,000
5011	Town Engineer		\$0	\$0	\$0	\$780	\$0		
5012	Attorney Fees		\$20,000	\$45,200	\$50,000	\$90,001	\$20,000	\$24,349	\$60,000
5013	Accounting Fees		\$10,500	\$10,500	\$10,500	\$10,500	\$10,800	\$10,800	\$11,300
5014	Fire/EMS		\$26,000	\$28,750	\$29,000	\$38,100	\$30,000	\$12,450	\$25,000
5016	Building Inspections		\$18,000	\$23,625	\$18,000	\$26,100	\$18,000	\$16,300	\$18,000
5021	Town Maintenance		\$4,000	\$7,408	\$4,000	\$7,525	\$4,000	\$9,200	\$6,000
5022	Street Repair		<=== Moved to Road Maintenance Fund ===>						
5024	Animal Control		\$200	\$365	\$200	\$300	\$300	\$185	\$300
5025	Parks/Recreation/Playground		\$35,000	\$8,746	\$8,000	\$4,454	\$12,000	\$2,588	\$10,000
5026	Town Mowing		\$2,000	\$3,110	\$1,500	\$3,900	\$2,500	\$3,457	\$3,500
5027	Town Hall Improvements		\$1,000	\$0	\$1,000	\$1,052	\$1,000	\$700	\$4,000
5031	Telephone/Telecom		\$1,700	\$1,249	\$1,600	\$2,068	\$1,600	\$1,157	\$1,600
5032	Electricity		\$6,680	\$6,421	\$6,800	\$6,013	\$6,500	\$4,411	\$6,500
5033	Propane		\$800	\$466	\$600	\$590	\$600	\$271	\$600
5041	Abatement Mowing		\$700	\$1,158	\$700	\$1,414			
5051	Payroll		\$57,000	\$57,262	\$60,000	\$60,000	\$63,000	\$47,125	\$65,000
5055	Benefits - Insurance		\$8,000	\$7,853	\$8,200	\$8,037	\$8,200	\$6,358	\$8,400
5056	Payroll Tax Expense		\$4,400	\$3,719	\$4,600	\$3,902	\$4,800	\$3,336	\$5,000
5057	Benefits- Retirement		\$2,900	\$3,000	\$3,000	\$3,000	\$3,150	\$3,150	\$6,500
5058	UF Payroll Tax Sharing			\$657		\$1,117	\$1,000	\$931	\$1,200
5061	Appraisal District		\$1,300	\$1,568	\$1,300	\$1,629	\$1,300	\$1,233	\$1,000
5070	Capital Improvements		\$0	\$1,245	\$0	\$7,400	\$0	\$8,369	
5071	Drainage Improvements					\$3,600	\$0		\$5,000
5085	Town Functions		\$2,000	\$1,122	\$1,500	\$2,329	\$2,500	\$1,412	\$2,000
5101	Continuing Education		\$1,500	\$955	\$1,000	\$225	\$500	\$509	\$1,000
5102	Travel Meeting Expenses		\$2,400	\$3,433	\$3,600	\$3,124	\$3,000	\$1,736	\$3,000
5103	Membership Dues		\$500	\$1,209	\$1,000	\$1,210	\$1,000	\$933	\$1,000
5200	Contingency Fund		\$3,000	\$1,711	\$3,000	\$28,457	\$3,000	\$44,065	\$3,000
5280	Municipal Court								
	Court Attorney Fees		\$1,000		\$1,000				
	Lien Recording Fees		\$90	\$317	\$100	\$346	\$150	\$364	\$300
	Abatements			\$6,100		\$8,550		\$3,600	
<b>TOTAL OPERATING EXPENSES</b>			<b>\$215,170</b>	<b>\$233,168</b>	<b>\$224,900</b>	<b>\$331,681</b>	<b>\$204,375</b>	<b>\$214,170</b>	<b>\$254,400</b>
\$5,075	Debt Servicing (Principle)		\$128,000	\$128,000	\$145,000	\$145,000	\$149,000	\$149,000	\$154,000
\$5,076	Debt Servicing (Interest)		\$38,526	\$38,084	\$27,800	\$27,850	\$24,925	\$13,204	\$21,900
<b>TOTAL EXPENDITURES</b>			<b>\$381,696</b>	<b>\$399,252</b>	<b>\$397,700</b>	<b>\$504,531</b>	<b>\$378,300</b>	<b>\$376,374</b>	<b>\$430,300</b>

## **UTILITY FUND REVENUES**

	<b>Discretionary (V)</b>									
	<b>Steady-State (F)</b>									
	<b>Uncontrollable (V)</b>									
		<b>BUDGET</b>	<b>Actual</b>	<b>BUDGET</b>	<b>Actual</b>	<b>BUDGET</b>	<b>YTD (9 mo.)</b>	<b>Seasonal Change</b>	<b>BUDGET</b>	
		<b>2015</b>	<b>2015</b>	<b>2016</b>	<b>2016</b>	<b>2017</b>	<b>30-Jun-17</b>	<b>from Prior Year</b>	<b>2018</b>	
<b>OPERATING REVENUES</b>										
	<i>Water Revenue</i>	\$160,000	\$143,978	\$150,000	\$147,433	\$154,000	\$102,372	7.6%	\$160,000	
	<i>Sewer Revenue</i>	\$101,000	\$102,248	\$104,000	\$102,550	\$102,000	\$78,216	6.5%	\$106,000	
	<i>Solid Waste</i>	\$44,000	\$44,615	\$46,000	\$44,562	\$46,000	\$34,318	7.6%	\$50,000	
	<i>Late Fees</i>	\$4,000	\$4,359	\$4,000	\$3,184	\$3,000	\$2,740	17.5%	\$3,500	
	<i>USACE - OLW</i>						\$6,000			
	<i>Sendziak Restitution</i>	\$2,500	\$27,007							
	<i>Miscellaneous</i>	\$1,000	\$5,859	\$1,000	\$4,389	\$1,000	\$1,833		\$2,000	
	<i>Water Tap Fees</i>	\$4,725	\$3,150	\$4,725	\$8,075	\$6,300	\$4,725		\$6,300	
	<i>Meter Set Fees</i>	\$1,170	\$780	\$1,170	\$1,950	\$1,560	\$390		\$1,560	
	<i>Sewer Tap Fees</i>	\$3,825	\$2,550	\$3,825	\$6,375	\$5,100	\$3,825		\$5,100	
	<i>Interest</i>	\$500	\$855	\$600	\$907	\$600	\$247		\$540	
	<i>MDD LOC Interest</i>	\$400	\$289		\$90	\$400	\$592			
<b>TOTAL OPERATING FUNDS</b>		<b>\$323,120</b>	<b>\$335,690</b>	<b>\$315,320</b>	<b>\$319,515</b>	<b>\$319,960</b>	<b>\$235,258</b>		<b>\$335,000</b>	

# UTILITY FUND EXPENDITURES

	<b>Discretionary (V)</b>								
	<b>Steady-State (F)</b>								
	<b>Uncontrollable (V)</b>								
		<b>BUDGET</b>	<b>Actual</b>	<b>BUDGET</b>	<b>Actual</b>	<b>BUDGET</b>	<b>YTD (9 mo.)</b>	<b>BUDGET</b>	
		<b>2015</b>	<b>2015</b>	<b>2016</b>	<b>2016</b>	<b>2017</b>	<b>30-Jun-17</b>	<b>2018</b>	
<b>Operating Expenses</b>									
Office Supplies		\$2,000	\$1,145	\$1,500	\$2,258	\$2,000	\$515	\$1,500	
Postage		\$1,500	\$1,415	\$1,800	\$1,653	\$2,000	\$380	\$1,500	
Insurance		\$5,600	\$4,622	\$4,600	\$4,928	\$5,200	\$5,137	\$6,000	
TCEQ Licensing Fees (Water)		\$450	\$484	\$500	\$484	\$500	\$588	\$600	
TCEQ Licensing Fees (Sewer)		\$1,250	\$1,250	\$1,250	\$3,565	\$1,250	\$1,250	\$1,300	
Fee for Administrative Services		\$35,260	\$35,260	\$38,000	\$38,000	\$38,000	\$27,000	\$36,000	
Software Licensing Fees		\$700	\$750	\$750	\$720	\$1,000	\$780	\$1,000	
Operator Salaries		\$36,600	\$36,600	\$36,600	\$36,600	\$42,200	\$30,600	\$42,200	
Solid Waste		\$40,000	\$37,704	\$42,000	\$41,131	\$42,000	\$27,421	\$43,000	
GIS Mapping		\$2,000	\$92		\$320		\$500	\$500	
Contract Labor		\$8,000	\$2,424		\$168				
Sewer Scheduled Maintenance		\$1,000	\$3,285	\$1,000	\$3,800	\$3,000	\$3,890	\$10,000	
Water Scheduled Maintenance		\$0	\$0	\$1,000	\$1,680	\$2,000	\$2,752	\$5,000	
Laboratory (Sewer)		\$4,500	\$4,281	\$4,500	\$4,190	\$4,000	\$2,964	\$4,000	
Laboratory (Water)		\$600	\$1,629	\$500	\$535	\$600	\$895	\$1,000	
Water Repairs		\$10,000	\$12,444	\$10,000	\$1,725	\$10,000	\$3,132	\$10,000	
Sewer Repairs		\$10,000	\$11,176	\$10,000	\$19,345	\$10,000	\$49,737	\$10,000	
Meter Set Fee			\$675		\$1,500	\$1,560	\$885	\$1,000	
Sewer Tap Install					\$1,800				
Water Equipment		\$2,500	\$2,016	\$2,000	\$7,757	\$4,000	\$5,343	\$4,000	
Sewer Equipment		\$500	\$0	\$1,000	\$4,172	\$4,000	\$1,250	\$2,000	
Chemicals (Water)		\$800	\$767	\$1,000	\$1,625	\$1,000	\$776	\$1,000	
Chemicals (Sewer)		\$500	\$1,122	\$800	\$211	\$200	\$426	\$300	
Electricity (Water)		\$17,000	\$18,045	\$17,000	\$14,739	\$15,000	\$11,883	\$15,000	
Electricity (Sewer)		\$21,000	\$20,131	\$21,000	\$17,160	\$18,000	\$10,287	\$17,000	
Payroll			\$8,306	\$8,000	\$14,597	\$16,000	\$13,335	\$23,000	
Contingency Fund		\$1,000	\$2,893	\$1,000	\$406	\$1,000	\$582	\$1,000	
Sludge Removal (Sewer)		\$1,200	\$0	\$1,200	\$0	\$600		\$600	
<b>TOTAL OPERATING EXPENSES</b>		<b>\$203,960</b>	<b>\$208,516</b>	<b>\$207,000</b>	<b>\$225,069</b>	<b>\$225,110</b>	<b>\$202,308</b>	<b>\$238,500</b>	
Capital Improvements			\$43,759	\$51,000	\$92,063	\$70,000	\$80,354	\$65,000	
Engineer			\$770	\$30,000	\$67,000	\$40,000	\$32,662	\$10,000	
<b>TOTAL EXPENDITURES</b>		<b>\$203,960</b>	<b>\$253,045</b>	<b>\$288,000</b>	<b>\$384,132</b>	<b>\$335,110</b>	<b>\$315,324</b>	<b>\$313,500</b>	

**ROAD MAINTENANCE FUND**

	<b>BUDGET</b>	<b>BUDGET</b>	<b>Actual</b>		<b>BUDGET</b>	<b>2017 YTD</b>	<b>Projected</b>		<b>BUDGET</b>
	<b>2015</b>	<b>2016</b>	<b>2016</b>		<b>2017</b>	<b>30-Jun</b>	<b>9/30/2017</b>		<b>2018</b>
<b>Revenues</b>									
<i>Town ( 0.5% sales tax )</i>	\$3,200	\$7,000	\$14,214		\$15,000	\$13,088	\$17,000		\$17,000
<i>MDD</i>	\$2,720	\$4,700			\$8,500				
<i>Franchise Fee - Residential</i>	\$5,160	\$5,160	\$5,048		\$10,000	\$3,887	\$5,050		\$5,000
<i>Franchise Fee - Commercial</i>	\$900	\$900	\$4,015		\$4,000	\$2,990	\$4,100		\$4,000
<i>Interest</i>	\$30	\$30	\$85		\$100	\$33	\$60		\$100
	<b>\$12,010</b>	<b>\$17,790</b>	<b>\$23,362</b>		<b>\$37,600</b>	<b>\$19,998</b>	<b>\$26,210</b>		<b>\$26,100</b>
<b>Expenses</b>									
<i>Maintenance</i>	\$0	\$0	(\$25,000)		\$0	\$0	(\$25,000)		\$0
<i>Beginning Fund Balance</i>	\$1,000	\$7,000	\$8,097		\$6,459	\$6,459	\$6,459		\$7,669
<i>Revenues</i>	\$12,010	\$17,790	\$23,362		\$37,600	\$19,998	\$26,210		\$26,100
<i>Expenses</i>	\$0	\$0	(\$25,000)		\$0		(\$25,000)		\$0
<b>Ending Fund Balance</b>	<b>\$13,010</b>	<b>\$24,790</b>	<b>\$6,459</b>		<b>\$44,059</b>	<b>\$26,457</b>	<b>\$7,669</b>		<b>\$33,769</b>

**DEBT SERVICING FUND**

<b><i>Debt Servicing Fund</i></b>			<b><i>Loan Balance</i></b>		
<b>Starting: OCT-01-2015</b>	<b>\$166</b>		CO Balance: OCT-01-2015	<b>\$1,472,000</b>	
Interest	\$42		Principle Payments	<b>(\$145,000)</b>	
D/S Tax	\$41,966		Interest Payments	<b>(\$27,850)</b>	
GF Transfer	\$131,000		CO Balance: SEP-30-2016	<b>\$1,327,000</b>	
Bond Payment	<b>(\$159,646)</b>				
Bond Payment	<b>(\$13,204)</b>				
Fee	<b>(\$300)</b>				
<b>Ending: SEP-30-2016</b>	<b>\$23</b>				
<b>Starting: OCT-01-2016</b>	<b>\$23</b>		CO Balance: OCT-01-2016	<b>\$1,327,000</b>	
Interest	\$20		Principle Payments	<b>(\$149,000)</b>	
Tax	\$44,397		Interest Payments	<b>(\$24,925)</b>	
GF Transfer	\$130,425		CO Balance: SEP-30-2017	<b>\$1,178,000</b>	
Bond Payment	<b>(\$162,204)</b>				
Bond Payment	<b>(\$11,721)</b>				
Fee	<b>(\$300)</b>				
<b>Ending: SEP-30-2017</b>	<b>\$640</b>				
<b>Starting: OCT-01-2017</b>	<b>\$640</b>		CO Balance: OCT-01-2017	<b>\$1,178,000</b>	
Interest	\$20		Principle Payments	<b>(\$154,000)</b>	
Tax	\$48,000		Interest Payments	<b>(\$21,910)</b>	
GF Transfer	\$127,550		CO Balance: SEP-30-2018	<b>\$1,024,000</b>	
Bond Payment	<b>(\$165,721)</b>				
Bond Payment	<b>(\$10,189)</b>				
Fee	<b>(\$300)</b>				
<b>Ending: SEP-30-2018</b>	<b>\$0</b>				

**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 and liquidity.

**2.     STRATEGY:**

The Town employs an overall investment strategy which provides safety 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 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 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. 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.

**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.

**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 10th day of August 2017.

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**Dr. Mark E. Vargus**  
**Mayor**

**ATTESTED:**

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**LINDA ASBELL,**  
**City Secretary**

**TOWN OF LAKEWOOD VILLAGE, TEXAS  
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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 portfolio.

((Need a section on controls))

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

**Comment [DJT1]:** Need reference to government code Title 10, Subtitle F, Chapter 2256

**Comment [DJT2]:** Chapter 2256 Section (k)

## 2. **STRATEGY:**

The Town employs an overall investment strategy which provides safety of principle and liquidity, while segregating funds into separate accounts 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.

**Comment [DJT3]:** Need to detail the new monitoring, oversight, control.

No new oversight is listed here

No new monitoring are listed here

## 3. **PRUDENCE:**

Investments 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 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.

In the administration of the duties of an investment officer, the person designated as investment officer shall exercise the judgment and care, under prevailing circumstances, that a prudent person would exercise in the management of the person's own affairs, but the governing body of the investing entity retains ultimate responsibility as fiduciaries of the assets of the entity.

**Comment [DJT4]:** Copied from 2256 section F

## 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:

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**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.

[Need Section on Execution of Investments](#)

- [1. Electronic Funds Transfer authorized but need list of controls here](#)
- [2. Clearly list authorized payment methods / accounts](#)

**5. 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.

**6. ETHICS AND CONFLICTS OF INTEREST:**

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**Comment [DJT5]:** Town Council needs to  
review both conflicts of interest issues and  
delegation of authority

Currently Mayor is also the Chief Investment  
Officer. From a separation of powers perspective,  
CIO and Mayor need to be separate people  
(unrelated).

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.

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- ◆ 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.
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## **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

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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 at least annually by an independent auditor, and the result of the review shall be reported to the governing body by that auditor and then posted on the town website for at least 7 years.

**Comment [DJT6]:** 2256 .023 section (d)

## **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.

**Comment [DJT7]:** We need a list of all ordinances which are being repealed with this "revised investment policy"

List each Acts which this supersedes, repeals, or otherwise alters here  
XX, XX, XX, XX, XX, XX.

**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 10th day of August 2017.

**Comment [DJT8]:** Date to be updated

\_\_\_\_\_  
**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.

1.	<div>Signature</div> <div>Dr. Mark E. Vargus</div> <div>Printed Name</div> <div>Mayor</div> <div>Title</div>	<div>Telephone Number</div> <div>9 7 2 2 9 4 5 5 5 5</div> <div>Fax Number</div> <div>9 7 2 2 9 2 0 8 1 2</div> <div>Email</div> <div>mark@lakewoodvillagetx.us</div>
2.	<div>Signature</div> <div>Ed Reed</div> <div>Printed Name</div> <div>Mayor Pro-Tem</div> <div>Title</div>	<div>Telephone Number</div> <div>9 7 2 2 9 4 5 5 5 5</div> <div>Fax Number</div> <div>9 7 2 2 9 2 0 8 1 2</div> <div>Email</div> <div>ed@lakewoodvillagetx.us</div>
3.	<div>Signature</div> <div>Clint Bushong</div> <div>Printed Name</div> <div>Councilman</div> <div>Title</div>	<div>Telephone Number</div> <div>9 7 2 2 9 4 5 5 5 5</div> <div>Fax Number</div> <div>9 7 2 2 9 2 0 8 1 2</div> <div>Email</div> <div>clint@lakewoodvillagetx.us</div>
4.	<div>Signature</div> <div>Linda Asbell</div> <div>Printed Name</div> <div>Town Administrator/Town Secretary</div> <div>Title</div>	<div>Telephone Number</div> <div>9 7 2 2 9 4 5 5 5 5</div> <div>Fax Number</div> <div>9 7 2 2 9 2 0 8 1 2</div> <div>Email</div> <div>linda@laekwoodvillagetx.us</div>

**Authorized Representatives of the Participant (continued)**

5. <input type="text"/>	<input type="text"/>
Signature	Telephone Number
<input type="text"/>	<input type="text"/>
Printed Name	Fax Number
<input type="text"/>	<input type="text"/>
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. <input type="text"/>	<input type="text"/>
Printed Name	Telephone Number
<input type="text"/>	<input type="text"/>
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

Energy use and its impacts on our environment has become one of the top concerns facing humanity.



### What is Energy Waste?

Poorly designed outdoor lighting wastes energy by not being shielded, emitting more light than necessary or shining when and where it's not needed. Wasting energy in this way has huge economic and environmental consequences.

Lights left on overnight while we're sleeping – such as those in office buildings – wastes energy and contributes to the general skyglow of the city. Dark sky friendly lighting does not mean “no light.” It means using the light that you need for a specific task in the most efficient manner possible.

“We can create a more sustainable, cleaner and safer world by making wiser energy choices.”

— Robert Alan Silverstein,  
children's science book author



# SKYGLOW

Skyglow is the artificial brightness of the night sky that's caused by light pollution. Lights that are overly bright, unshielded or left on overnight get scattered by dust and gas molecules in the atmosphere, producing a bright sky. The skyglow from Las Vegas, Nevada, can be seen from 250 miles away!

## About IDA

The International Dark Sky Association, a 501(c)(3) nonprofit organization based in Tucson, Ariz., is dedicated to preserving the natural nighttime environment by educating policymakers and the public about night sky conservation and promoting eco-friendly outdoor lighting.

### Our Mission

To preserve and protect the nighttime environment and our heritage of dark skies through environmentally responsible outdoor lighting.

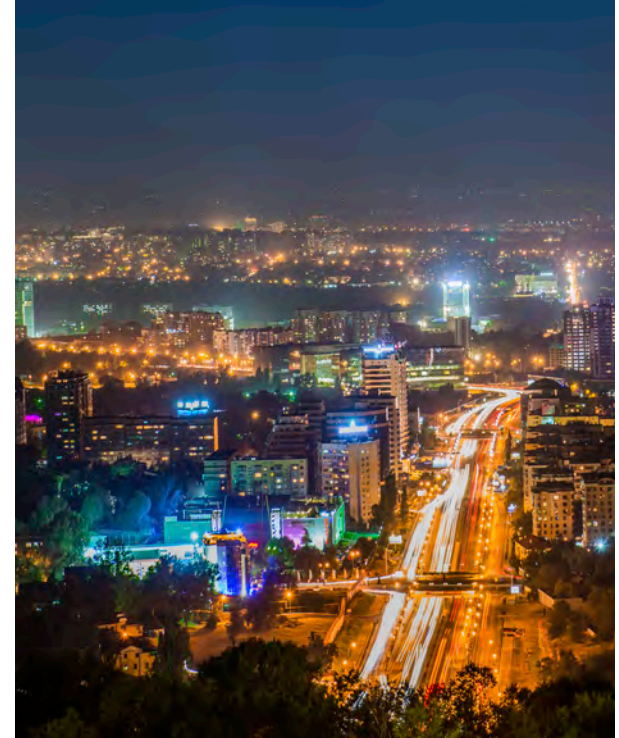
### Our Goals

- Advocate for the protection of the night sky
- Educate the public and policymakers about night sky conservation
- Promote environmentally responsible outdoor lighting
- Empower the public with tools and resources to help bring back the night



International Dark-Sky Association  
3223 N. First Avenue  
Tucson, AZ 85719 USA  
darksky.org +1-520-293-3198

# Light pollution wastes energy and money



# Light Pollution Costs Money and Wastes Resources

Save energy and enjoy the night sky

## How Does Energy Waste Harm the Environment?

Millions of tons of carbon are pumped into our atmosphere every year due to light pollution—wasted energy.

Light pollution:

- Increases greenhouse gas emissions
- Contributes to climate change
- Increases our energy dependence

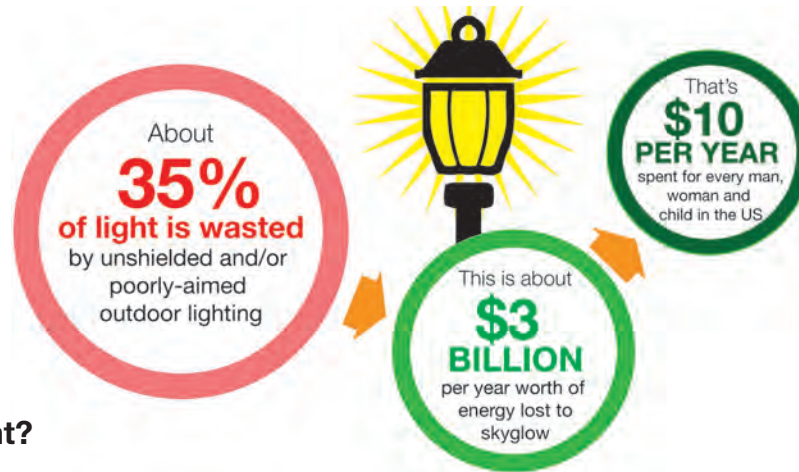
## What About Our Carbon Footprint?

In the U.S. alone, about 15 million tons of CO<sub>2</sub> are emitted each year to power residential outdoor lighting. That equals the emissions of about 3 million passenger cars and adds up to 40,000 tons per day. To offset all that carbon dioxide, we'd need to plant about 600 million trees annually!



## What Does Light Pollution Cost?

About \$3 billion dollars per year worth of energy is lost to bad lighting. This is about \$10 a year for every man, woman and child in the U.S.



## How Much Energy am I Wasting?

The average house with bad outdoor lighting wastes 0.5 kilowatt-hours (kWh) per night. A kilowatt hour is a unit of energy equivalent to one kilowatt of power for an hour. It's enough energy to power a 50-inch plasma TV for one hour or run one load in your dishwasher!



It just takes small changes to save energy, money and our night skies. You can make a difference today.

Keep Light  
on the  
Ground

## Energy Efficiency Solutions

Shielding outdoor lighting saves energy and money, reduces our carbon footprint and helps protect night skies. Luckily, the solutions are easy. Work with your neighbors and local government to keep the light on the ground and the skies natural. It's a win-win for everyone. You save money while preserving a valuable natural resource.

Tips to help you conserve energy and use light efficiently:

- Install quality outdoor lighting to cut energy use by 60-70%, save money and cut carbon emissions
- Fully shield all outdoor lighting — light should go down on the ground where it's needed, not up into the sky
- Be aware that fully shielded fixtures can provide the same level of illumination as unshielded fixtures, but with lower cost and less energy waste
- Turn off indoor lights in office buildings or homes when not in use to save money and energy

Visit [darksky.org](http://darksky.org) and join IDA for resources and more information.

## Good vs. Bad Lighting

This photo (right) shows examples of good and poor lighting design. The unshielded light fixture on the left throws light into the sky and creates glare, impairing visibility. The shielded light fixture on the right not only directs light to the ground where it is needed, it isn't creating lighting pollution. To learn about light fixtures that are environmentally friendly, energy efficient and certified with the IDA Fixture Seal of Approval, visit [darksky.org](http://darksky.org).



## Exposure to artificial light at night is unnatural



In less than 100 years, humans have radically altered our nighttime environment, putting our health at risk. Due to the rapid growth of artificial light at night, most of us spend our nights bathed in light. But basking in all this light at night is not natural and it may be taking a serious toll on our health.

We are only just beginning to understand the potential negative consequences of this swift change in our environment. A growing body of scientific research suggests that artificial light at night can have lasting adverse effects on human health.

“The power to artificially override the natural cycle of light and dark is a recent event and represents a man-made self-experiment.”

— The American Medical Association



## Not All Artificial Light Is Created Equally

Warm White	Natural White	Day White	Cool White
2700K-3500K	4000 K-4500 K	5000 K-5500 K	6000 K-7000 K

Exposure to blue light at night is especially harmful because it is particularly disruptive to circadian rhythms and melatonin production. Unfortunately, most LEDs used for outdoor lighting — as well as computer screens, TVs and other electronic displays — create abundant blue light. We recommend using light bulbs that emit warm white light with a color temperature of 3000K or lower.

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## Artificial Light at Night Can Put Your Health at Risk



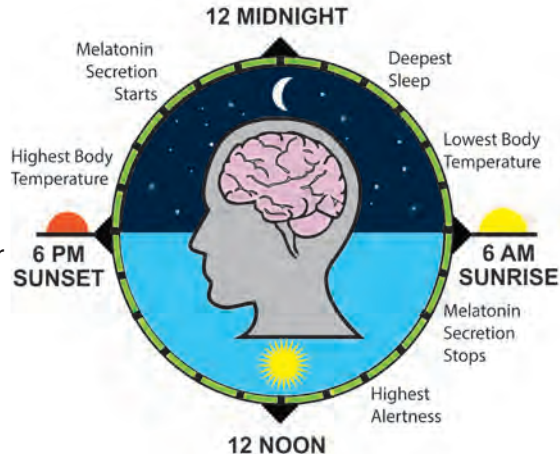
# Humans need the natural day/night cycle

## Our Biological Clocks Help Keep Us Healthy

### What is Circadian Rhythm?

Humans evolved with the rhythms of the natural light-dark cycle of bright days and dark nights. Before the advent of artificial lighting, we spent our evenings in relative darkness.

Like most life on Earth, humans adhere to a circadian rhythm — our master clock, which is crucial for our overall health. It interacts with our body systems, changes our hormone levels and even modifies our genetic code. Natural light helps keep our clock in tune with Earth's 24-hour cycle.



### Effects of Circadian Disruption

Circadian disruption may increase our risk of obesity, diabetes, mood disorders, reproductive problems and cancers.

Numerous studies have linked working the night shift and exposure to light at night to increased risks for breast and prostate cancers and other health problems.

Circadian disruption can affect our natural sleep patterns, too. A good night's sleep helps reduce weight gain, stress, depression and the onset of diabetes.

### What is Circadian Disruption?

When our master clock is out of sync with the day-night cycle, it's called circadian disruption. Altering or interrupting our normal circadian rhythm can put us at risk for physiological and behavioral impacts. Shift work almost always causes circadian disruption because it puts the internal body clock at odds with the shift schedule.



### What is Melatonin?

We don't know why light at night appears to be so bad for us. But we do know that exposure to light at night – even if it's dim – can suppress the body's natural production of melatonin, a hormone that is important for our health including regulating our sleep-wake cycle, metabolism and immune system.



## Glare Impairs Our Vision

Artificial light at night can also create blinding glare from overly bright and poorly shielded outdoor lighting. Aging eyes are especially at risk. The effects of glare are cumulative, meaning that every light source in view impacts our vision. Blue light, like that in many newer LED streetlights, is more likely than conventional light sources to impair our vision.



## Solutions

- Use only fully shielded, dark sky friendly fixtures for all outdoor lighting, so lights shine down, not up.
- Use only the right amount of light needed. Too much light is wasteful, creating glare and harsh shadows that impair vision.
- Keep the blues away. Two to three hours before bed avoid devices with screens that emit blue light such as tablets, smartphones, computers and televisions.
- If you must use devices at night, install a color temperature app that automatically limits blue light at night based on your time zone.
- Keep your bedroom dark by using blackout curtains and cover or remove light sources such as clock radios and charging stations.
- If you need a nightlight, use one with dim red or amber light. Red light is least likely to be disruptive.
- Use indoor light bulbs that emit warm white light with a color temperature of 3000K or lower. All packaging for new CFL & LED light bulbs provide this information.
- Work with your neighbors and local government to keep light on the ground and the night skies natural.

Visit [darksky.org](http://darksky.org) and join IDA for resources and more information.

# IDA International Dark Sky Association

[www.darksky.org](http://www.darksky.org)

... to observe and protect the nighttime environment  
and our heritage of dark skies through  
environmentally responsible outdoor lighting

## IDA Texas

[www.idatexas.org](http://www.idatexas.org)

...seeks to connect everyone interested in better  
outdoor lighting and providing information to help  
foster better outdoor lighting practices.

## IDA Designations

- ❖ Parks
- ❖ Reserves
- ❖ Sanctuaries
- ❖ Developments of Distinction
- ❖ Communities

# What Is A Dark Sky Community

A IDA Dark Sky Community (DSC) is a town, city or municipality that has shown dedication to the preservation of the night sky through the:

- ❖ implementation and enforcement of quality lighting codes
- ❖ dark sky education
- ❖ citizen support of dark skies
- ❖ Currently nearly 5 dozen across the globe

## Dark Sky Community Lighting Philosophy

- ❖ Eliminate light pollution
  - ❖ Glare
  - ❖ Sky Glow
  - ❖ Light Trespass
  - ❖ Clutter
- ❖ Lighting should be used wisely to minimize harmful effects to light pollution:
  - ❖ only be on when needed
  - ❖ only light the area that needs it
  - ❖ be no brighter than necessary
  - ❖ minimize the light emissions
  - ❖ be fully shielded (pointing downward)









# Requirements

- ❖ A quality comprehensive lighting code with the following minimum standards for permanent lighting installation:
  - Fully-shielded or full-cutoff standard for all lighting fixtures over 1500 Lumens initial lamp output, and;
  - Establish a threshold of 3000 Kelvins for the allowable correlated color temperature of all lighting fixtures, and;
  - Restrictions on total amount of unshielded lighting, such as limit on Lumens per acre or total site Lumens in unshielded fixtures, and;
  - A policy to address over-lighting, such as energy density caps, Lumens/acre caps, or maximum luminance specifications, and;
  - A provision that clearly 1) indicates when, where and under what circumstances new public outdoor lighting (street lighting and lighting on other public property and rights-of-way) is warranted and will be permitted, and 2) requires that adaptive controls and curfews be employed in all future installations of public outdoor lighting.

# Requirements

- ❖ Community commitment to dark skies and quality lighting as shown by:
  - City approved lighting conforming with, or committed to conforming with, the lighting code (if the latter, a published plan with a timeline for completion in no more than 5 years), and;
  - Municipal support of dark skies and good lighting as indicated through city publications, flyers, public service announcements, funding of lighting upgrades.
- ❖ Broad support of dark skies from a wide range of community organization such as;
  - Local electrical utility
  - School District
  - Local IDA chapter
  - Lighting Retailers
  - Others

# Requirements

- ❖ Community commitment to dark skies as shown by at least one of the following:
  - Planning and execution of at least two community dark sky awareness events per year. This may be organized through a local astronomy club, municipality, school, and/or;
  - Inclusion of dark sky awareness documents (IDA brochures or Community-created brochures) with other community information for residents and visitors, and/or;
  - Inclusion of dark sky education in Community schools and curriculum.
- ❖ Success in light pollution control. At least one of the following conditions must be demonstrated:
  - Examples of a minimum of ten (10) projects built under the lighting code, demonstrating effective application of the local lighting code, and/or;
  - Alternative demonstrations of success in light pollution control, to be discussed with IDA for compliance.

# Requirements

- ❖ A sky brightness measurement program must be maintained either by the community or by another public or private organization (university, research center, IDA chapter, astrology club) to follow the evaluation of light pollution in the DSC.
- ❖ Designation is permanent, but is subject to regular review by IDA and possible revocation if minimum requirements are not maintained.
- ❖ Periodic checks, through the submission of an annual report due October 1<sup>st</sup> will be performed to ensure that minimum standards and objectives of the program are being upheld and adequate progress is being made
  - 1-2 page synopsis of activities and initiatives throughout the previous year

## Certification

- ❖ Satisfy and document requirements
- ❖ Application submitted to Dark Sky Places Committee
- ❖ Recommendation made to IDA Board of Directors for approval
- ❖ Process takes, on average, **1-2 years** from initial inquiry to formal designation



## Next Steps

- ❖ Create a Dark Skies Committee comprised of dedicated residents to begin key activities to meet program requirements
- ❖ Establish contact with Texas IDA Chapter and International IDA Association
- ❖ Complete inventory of current street lights
- ❖ Schedule meetings to gain support from key supportive groups (CoServe, LEISD, NTU, TWU)
- ❖ Initiate review and make changes to existing lighting ordinance for Council approval



# MEMORANDUM

TO: Town Council  
CC: Linda Asbell  
FROM: Dr. Mark E. Vargus, Mayor  
DATE: July 8, 2017  
RE: Fence Ordinance Revisions

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The fence ordinance does not conform to our current practices and is outdated. I would like to simplify and create a new ordinance that clean up the errors and definitions.

In addition, I would like the Council's thoughts on waterfront fencing. In 2003, Mayor Pro-tem Tony Lacausi was the driving force behind the "non solid fence" waterfront restriction. Tony lived on Stowe across from the lake and was concerned that the empty lots would have a solid wall along the street when they were built on.

The issue that I would like to discuss is the possibility of allowing privacy fencing along the side yard for pools and patios. Say, 25 feet or whatever seems reasonable. Just in the immediate location of a pool or deck. No pool, no patio, no fence. The Lakewood Village Flood Loss Prevention Ordinance and U.S. Army Corps of Engineer rules do not allow solid fences in the floodplain, so this would only be possible in the very close proximity of the house.

I look forward to your comments;

## **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.

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Dr. Mark E. Vargus  
Mayor

ATTEST:

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Linda Asbell, TRMC, CMC  
Town Secretary



**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

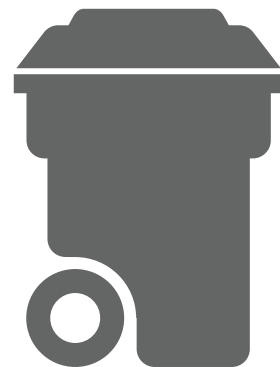
Our sister company manages clothing & household discard donation programs in partnership with non-profit organizations<sup>1</sup>

## 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)**

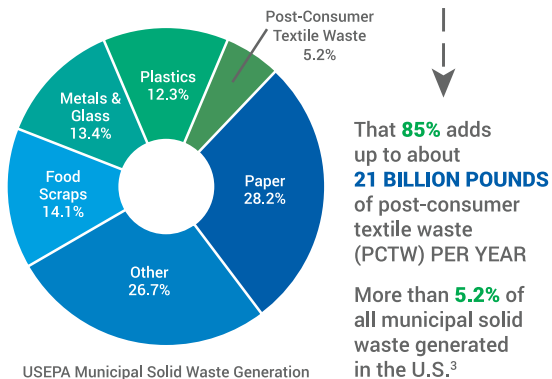
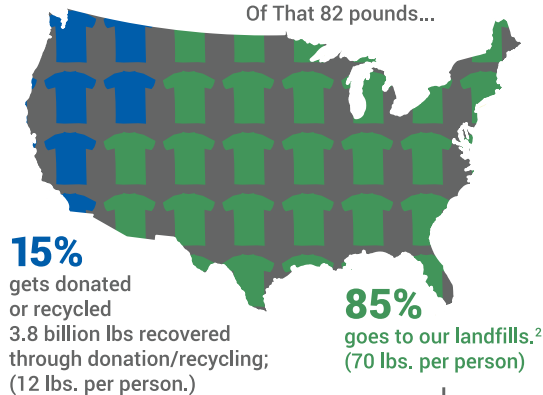
Source:  
1. <http://www.weardonaterecycle.org>

# THE FACTS ABOUT TEXTILE WASTE

The U.S. generates an average of **25 BILLION POUNDS** of textiles\* per year.<sup>1</sup> That's about **82 POUNDS** per U.S. resident.

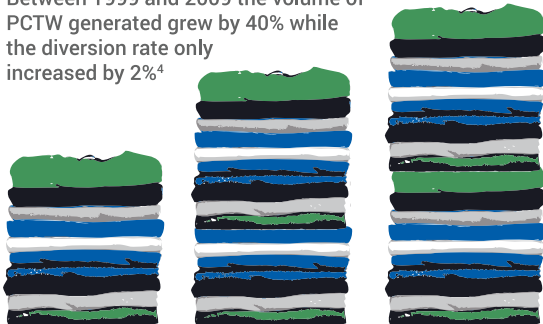
\* Textiles includes clothing, footwear, accessories, towels, bedding, drapery, etc.

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%.<sup>4</sup>



## 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."<sup>2</sup>



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



**10-20%**

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



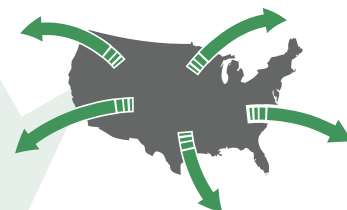
**80%**

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.



**45%**

Reused and Repurposed  
Majority exported as secondhand clothing.



**30%**

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



**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.<sup>1</sup>

# 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](http://www.SimpleRecycling.com) • [Info@SimpleRecycling.com](mailto:Info@SimpleRecycling.com)



## 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.



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

Full-Length Electric  
Service Drop Riser

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

June 1, 2017

**SUGGESTED STEPS TO PREPARE FOR CHAPTER 284, LOC. GOV. CODE**  
**INSTALLATION OF WIRELESS NETWORK PROVIDERS FACILITIES IN THE RIGHTS-OF-WAY.**  
**(Sept 1, 2017-Effective date of Chapter 284.)**

**1. City Must Review and Understand Details of Chap. 284:**

(See attached Annotated Chapter 284 for a comprehensive section-by-section analysis and commentary.)

**In General, the key provisions:**

- Sec. 284.002. Review the definitions in Sec. 284.002, including several newly coined terms (Below is only commentary on those terms, not the entire statutory definition.):
  - “*Collocate or Collocation*”, this term is broader than its “normal” meaning, and thus confusing as it includes not only adding (collocating) facilities to existing installation or structure, it also includes the new/initial installation. (It is also inconsistent and confusing relative to the FCC definition of “collocation” in the Section 6409 rules, 47 C.F.R. § 1.40001 Wireless Facility Modifications, *et al*, where a “collocation” only applies to an “existing” “eligible support structure”. 47 C.F.R. § 1.40001 (b) (2) “*Collocation*”, (4) “*Eligible Support Structure*”, (5) “*Existing*”).
  - “*Decorative pole*”, is specific definition for certain qualified street lights that results in their access not being mandated by Sec. 284.101 (a) (3) as that section only applies to “Poles” and while “Poles” includes “Service poles”, “Service poles” does not include “Decorative poles”.
  - “*Design district*”. A new type of area that is generally an area that has land use controls as to certain design elements, including Decorative poles. A city may require concealment of wireless facilities in a Design district. For the city to apply stealth/concealment conditions to network nodes or node support poles in a Design district under Sec. 284.105, each city must formally zone or designate the applicable areas as Design districts that meet the statutory definition.
  - “*Historic district*”. In a Historic district the city may require concealment of wireless facilities, but for the City to apply stealth/concealment conditions to network nodes or node support poles in Historic districts under Sec. 284.105, each City must formally zone or designate applicable areas as Historic Districts that meet the statutory definition.
  - “*Micro network node*” - these are the tennis racket size devices cable companies have installed by lashing in the lines between poles in the rights-of-ways for several years now.

- "Municipal park". For the exclusion of Node support poles in a Municipal park RoW under Sec. 284.104 each City must formally zone or designate the applicable areas as a Municipal park.
- "*Network node*" is the broadly written term in Chapter 284 for wireless equipment but does not include fiber connecting "Transfer Facilities" or the "Pole, which are separately defined, below.
- "*Network provider*" is very broad, as it includes a "wireless provider" which is defined such that it could arguably include any entity that provides a wi-fi hot spot to the public.
- "*Node support pole*" is a new pole installed just to support a network node facility.
- "*Pole*" includes three other defined term items: "Node support pole", "Service pole", Utility pole". This is key as to what is included as mandated access and use in Sec. 284.101 (a) (3).
- "*Public right-of-way management ordinance*", this is a RoW Ord. conforming to Chap. 284.
- "*Public right-of-way rate*", annual rental charge per Network node site, CPI adjusted, Sec. 284.054.
- "*Service pole*" includes city traffic signal poles, non-decorative street lights, street signs.
- "*Transport facility*" is the physical fiber or line connection between the Network node in the right-of-way and the cellular network's mobile switching location, which in most instances is on private property. A Transport facility is "for the purpose of providing backhaul for network nodes."
- "Wireless service" and "*Wireless service provider*" are very broadly defined that could arguably include any entity that provides a wi-fi hot spot to the public. It is not limited to a CMRS provider (Cellular telephone) licensed by the FCC, or an entity that installs for them.
- **Chap. 284 mandate access to ROW for Network nodes and Node support poles, similar to Chapter 283 for CTPs. However, what is new in Chap. 284 is mandated access to use and collocate on Service poles in Sec. 284.101 (a) (3) (and in Sec. 284.056.)**
- **Understand the distinction between mandated access, conditional access, limited access and prohibited access and distinguish between what facilities are allowed or not-Network Nodes or Node support poles:**

- *Sec. 284.101 (a) (1) -(2) mandated access to RoW to install* Network nodes, use utility poles and install new Node support poles.
- *Sec. 284.101 (a) (3) mandated use of City Service poles--*traffic signals, non-decorative street lights, street signage, with agreement, but no access or use of Decorative poles, as defined in Sec. 284.002;
- Sec. 284.104 (a) *limited access* to place Node Support poles in designated or zoned **Municipal parks RoW and in certain designated or zoned residential areas if street is 50 ft. wide or less, “without the municipalities' discretionary, non-discriminatory, and written consent”;**
- Sec. 284.104 (b), requires *additional restrictions* for Network nodes and Node support poles in *Municipal parks or residential areas* that meet the area criteria of Sec. 284.104 (a) as they must **comply with private deed restrictions and other private restrictions.**
- **Sec. 284.105. Conditional concealment restrictions** -- Before installations of Network nodes and Node support poles in designated **Historic districts and Design districts with decorative Poles**, they **"must obtain advance approval from municipality". "As a condition for approval... [a city] may require reasonable design or concealment measures"**.
- **Sec. 284.107.** Compliance with *undergrounding requirements*.
- **Sec. 284.102.** General installation requirements.
- **Sec. 284.103. 55-foot max. height.**
- **Sec. 284.108 (a) (2).** Equipment must be 8 ft. above grade and (b) comply with Design manual.
- **Permits are generally required for a Network node, Node support pole and Transfer facility, with up to 30 Network nodes per permit per Sec. 284.152.**
- *Exceptions when no permit is required are detailed in Sec. 284.157 (a) (1) -(3), but there still must be notice of work in the ROW, per Sec. 284.157 (d).*
- **Sec. 284.157 (a) (1) -(3), exceptions when no permit is required are:**
  - **Routine maintenance without excavation or closing sidewalks or vehicular lanes.**
  - **Replacing or upgrading that is substantially the same size (as defined in Sec. 284.157 (b)).**

- **Micro network node needs no permit *if* the installation is “strung” on lines between poles or node support poles. Sec. 284.157 (a) (3).**
- ***Distinguish between types of installations to determine different shot clocks:***
  - **Sec. 284.154. Shot clock Chart-** Review and understand Sec. 284.154’s deadlines for completeness, and time for the city to act, as otherwise, the permit is “deemed” approved. Note the very short time to review fiber Transport facility installations for completeness of within 10 days of the application date, while the time allowed for Network nodes and Node support poles is 30 days. Transfer facilities also have a very short period of 21 days to act to approve or deny, or they are deemed granted.
  - **Network nodes**—30 days to determine completeness; 60 days to approve or deny, or if not acted on by that time permit is deemed approved.
  - **Node Support poles**—30 days to determine completeness; 150 days to approve or deny, or if not acted on by that time permit is deemed approved
  - **Transfer facility**—10 days to determine completeness; 21 days to approve or deny, or if not acted on by that time permit is deemed approved
  - **Micro network node**—no permit, and no shot clock *if* the installation is “strung” on lines between poles or node support poles. Sec. 284.157 (a) (3).
  - **For denied applications and arguably for incomplete applications:**
    - **Applicant may resubmit in 30 days a completed or cured application.**
    - **City has 90 days to act on resubmitted applications that were either initially incomplete or denied.**
  - **See attached Memo with both State Law, Chapter 284 Shot clocks and the FCC’s shot clocks and process of notification for incompleteness, and time frames to review “cured” or resubmitted applications.**
- ***Distinguish between types of installations to determine different application and annual fees:***
  - **Network nodes:**
    - **Application Fee:** Sec. 283.156 (b) application fee is lesser of: actual cost or \$500 for up to 5 Network nodes, and \$250 for each additional Network node on a permit (up to 30, per Sec. 284.152 (b).) Sec. 283.156 (c) has restrictions on what may be included in “cost”.

- **Annual Network Node site rental rate:** Sec. 284.053 \$250 per Network Node site, with annual CPI adjustment. Sec. 284.054.
- **Node Support poles:**
  - **Application Fee:** Sec. 283.156 (b). application fee is lesser of: actual cost or \$1,000 for each pole. Sec. 283.156 (c) has restrictions on what may be included in “cost”.
  - **Annual rental rate:** No separate rate from Sec. 284.053 of \$250 per Network node site, with annual CPI adjustment. Sec. 284.054.
- **Transfer facility:**
  - **Application Fee:** Sec. 284.152 requires a permit for Transfer facilities, thus an application is required. Sec. 284.156 (a) allows a city to charge a permit fee “if the municipality requires the payment of the fee for similar types of commercial development inside the municipality's territorial jurisdiction other than a type for which application or permit fees are not allowed by law”. Although inartfully written, it seems that either under a city’s home rule authority or under Sec. 283.156 (b) the application fee for a Transfer facility is the lesser of: actual cost or \$500 for an application including up to 5 Network nodes, and \$250 for each additional Network node on a permit. Sec. 283.156 (c) has restrictions on what may be included in “cost”.
  - **Annual Transfer Facility rental rate:** Sec. 284.055. \$28 monthly for each Network Node site, unless an equal or greater amount is paid the city, e.g., under Chapter 283, Tex. Loc. Gov. Code or Chapter 66, Tex. Util. Code.
- **Micro network node: no fee *if*** the installation is “strung” on lines between poles or node support poles. Sec. 284.157 (a) (3).

## 2. City should Designate Areas and Districts by zoning or otherwise:

- Municipal parks that meet the definition in Sec. 284.002.
- Residential areas that meet the criteria of Sec. 284.104.
- Historic Districts that meet the definition in Sec. 284.002 and the criteria in Sec. 284.105.
- Design Districts that meet the definition in Sec. 284.002 and the criteria of Sec. 284.105.
- Perhaps areas that qualify for compliance with underground requirements that meet the criteria of Sec. 284.107.

## 3. City Documents to be prepared or reviewed:

- **Agreement between city and “Network provider” to access/use of municipal “Service Poles” (city traffic lights, non-decorative street lights, signage)** (“Service Poles” is a defined term in Sec. 284.002 (22).)
  - While access to “Service poles” is “mandated” by Sec. 284.101 (a) (3), the city can have a more detailed agreement. The agreement must be consistent with and not in conflict with Chapter 284 to use "Service poles" (city traffic lights, non-decorative street lights, signage.)
  - This agreement can be very short i.e., simply requiring compliance with RoW ord. and Design Manual, or more detailed, i.e., based on a Houston Master License Agreement Template, conformed to be consistent with Ch. 284.
  - Note: While city police powers are retained in Sec. 284.301, they are subject to the extent they do not conflict with Chapter 284, in accordance with Sec. 284. 151, arguably a general preemption of police powers by Chap. 284. Therefore, if there is any dispute on any conflict between the RoW Ord. and Chap. 284, litigation may ensue. Sec. 284.110, reiterates no discrimination among providers.
- **Design manual** per Sec. 284.108. And see Sec. 284.102 and Sec. 284.103 both on general limitations in installations; Sec. 284.107 requires compliance with undergrounding requirements. (Pole min. spacing and 1 network per pole allowed according to testimony by ATT attorney and House sponsor at House hearing.)
- **Review of RoW Management Ord. Sec. 284.101 (b) requires compliance with RoW Ord.** RoW Management Ord. is defined in Sec. 284.002 (19) as an ord. that complies with Subchapter C [Sec. 284.101-284.110]. City should review and perhaps update RoW ord.
- **Application Forms**—These must distinguish between wireless facilities in RoW, as opposed to those sited private property.
  - *For those on private property* distinguishing between new installations, and modifications, and for those that are modifications distinguishing between substantial changes and those that are not “substantial changes” under FCC Rules for Section 6409 unilateral expansion purposes and different FCC shot clocks. (See Memo on FCC Shot Clocks.)
  - *For those on RoW* as Chap. 284 shot clock, application and annual rental fees vary. The application form must distinguish between:
    - “Network node” installations.
    - “Node support poles” installation;

- “Transport facility”. installations.
- Include contact info. for CPI changes.
- **Permits** allowed for Network node, Node support pole and Transfer facility, but can only request the same information requested of other telecoms, and information to show compliance with ch. 284. Sec. 284.153.
- **No permit as to “Micro network nodes” if the installation is “strung” on lines between poles or node support poles.** Sec. 284.157 (a) (3).

### **Suggested time line for preparation:**

#### **June 2017:**

- **Review Bill in detail.**
- **Plan for the designation by zoning of other designation of:**
  - Municipal parks that meet the definition in Sec. 284.002.
  - Residential areas that meet the criteria of Sec. 284.104.
  - Historic Districts that meet the definition in Sec. 284.002 and the criteria in Sec. 284.105.
  - Design Districts that meet the definition in Sec. 284.002 and the criteria of Sec. 284.105.
  - Perhaps areas that qualify for compliance with underground requirements that meet the criteria of Sec. 284.107.
- **Draft:**
  - Agreement for use of “Service poles” (traffic signals, non-decorative street lights, street signage.) per Sec. 284.056 and 284.101 (a) (3).
  - Ord. to allow Administrative authority to sign Agreement.
  - Design Manual per Sec. 284.108.
  - Review of RoW Ord. for conforming changes.
  - Application and or permit forms.

#### **July 2017:**

- **Designate Areas and Districts by zoning or otherwise:**
  - Municipal parks that meet the definition in Sec. 284.002.
  - Residential areas that meet the criteria of Sec. 284.104.
  - Historic Districts that meet the definition in Sec. 284.002 and the criteria in Sec. 284.105.
  - Design Districts that meet the definition in Sec. 284.002 and the criteria of Sec. 284.105.
  - Perhaps areas that qualify for compliance with underground requirements that meet the criteria of Sec. 284.107.
- **Adopt Documents:**
  - Agreement to Use City “Service Poles” per Sec. 284.056 and 284.101 (a) (3).

- Ord. to allow Administrative authority to sign Agreement.
- Design Manual per Sec. 284.107.
- Changes in RoW Ord..

**August 2017:**

- Post documents on publicly available portions of the City website.
- Education of application and permit processing personnel, including detailed review of types of installations.
- Shot clock time lines- detailed review.

**Sept 1, 2017**-Effective date of Chapter 284.

- **Attached are:**
  - **Ch. 284, with annotated commentary**, section by section. (including analysis of legislative intent- Chap. 284 controlling over Chap. 283.)
  - **Shot Clock Memo**-for Chap. 284 and FCC Shot clock deadlines and terms.

## **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.

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

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

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> 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 31<sup>st</sup> 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 60<sup>th</sup> 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 90<sup>th</sup> 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.

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Dr. Mark E. Vargus  
MAYOR

**ATTESTED:**

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Linda Asbell, TRMC  
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:

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### Description of work:

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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 60<sup>th</sup> 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: \_\_\_\_\_

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**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:** \$ \_\_\_\_\_

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1 AN ACT  
2 relating to the deployment of network nodes in public right-of-way;  
3 authorizing fees.

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

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

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

8 SUBCHAPTER A. GENERAL PROVISIONS

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

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

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

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

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

24 (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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three feet six inches, or deeper than three feet six inches; and

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

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

(1) electric meters;

(2) concealment elements;

(3) telecommunications demarcation boxes;

(4) grounding equipment;

(5) power transfer switches;

(6) cut-off switches; and

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

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

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

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

Sec. 284.051. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to activities related to transport facilities for network nodes, activities of a network provider collocating network nodes in the public right-of-way or installing, constructing, 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.

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\_\_\_\_\_  
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

# 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.