

ORDINANCE # 2021.11.09B

AN ORDINANCE OF THE CITY OF GLEN ROSE, TEXAS, AMENDING ARTICLE 3.15 “STREETS AND SIDEWALKS,” DIVISION 4 “RIGHT OF WAY MANAGEMENT” AND ARTICLE A3.000 “CONSTRUCTION AND DEVELOPMENT RELATED FEES,” APPENDIX A “FEE SCHEDULE” OF THE CITY’S CODE OF ORDINANCES; PROVIDING FOR REPEALING, SEVERABILITY AND PROPER NOTICE, MEETING, AND QUORUM CLAUSES; ESTABLISHING A PENALTY FOR VIOLATIONS NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) PER OFFENCE; REQUIRING PUBLICATION; AND, ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Glen Rose (City) is a Type A General Law Municipality;

WHEREAS, pursuant to §311.002 of the Texas Transportation Code, “A general-law municipality has exclusive control over the highways, streets, and alleys of the municipality”;

WHEREAS, pursuant to §181.022 and §181.023 of the Texas Utilities Code (TUC), “A gas utility has the right to lay and maintain a gas facility through, under, along, across, or over a public highway, a public road, a public street or alley, or public water...with the consent of and subject to the direction of the governing body of the municipality”;

WHEREAS, pursuant §181.042 and §181.043 of the TUC, “An electric utility has the right to construct, maintain, and operate lines over, under, across, on, or along a state highway, a county road, a municipal street or alley, or other public property in a municipality...with the consent of and subject to the direction of the governing body of the municipality”;

WHEREAS, pursuant to 181.089 of the TUC, “The appropriate authorities of a municipality through which a line of a telephone or telegraph corporation is to pass may adopt, by ordinance or another method, regulations governing the corporation that specify the: (1) location of the facilities of the corporation; (2) kind of posts that must be used by the corporation; or (3) height at which the wires of the corporation must be placed. After the construction of the telephone or telegraph line, the appropriate authorities of the municipality, after giving the corporation or its agents an opportunity to be heard, may direct any change in: (1) the construction or location of the facilities; or (2) the height at which the corporation must locate the wires”;

WHEREAS, pursuant to §283.056 of the Texas Local Government Code (TLGC), with respect to certificated telecommunications providers, “A municipality may exercise those police power-based regulations in the management of a public right-of-way that apply to all persons within the municipality. A municipality may exercise police power-based regulations in the management of the activities of certificated telecommunications providers within a public right-of-way only to the extent that they are reasonably necessary to protect the health, safety, and welfare of the public”;

WHEREAS, pursuant to §51.001 of the TLGC, “The governing body of a municipality may adopt, publish, amend or repeal an ordinance...that: is for the good government, peace, or order of the municipality or for the trade and commerce of the municipality; and is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality”;

WHEREAS, pursuant to §54.001(a) of the TLGC, “The governing body of a municipality may enforce each rule, ordinance, or police regulation of the municipality and may punish a violation of a rule, ordinance, or police regulation”;

WHEREAS, pursuant to §54.001(b) of the TLGC, “A fine or penalty for the violation of a rule, ordinance, or police regulation may not exceed \$500 except that: a fine or penalty for the violation of a rule, ordinance, or police regulation that governs fire safety, zoning, or public health and sanitation, other than the dumping of refuse, may not exceed \$2,000; a fine or penalty for the violation of a rule, ordinance, or police regulation that governs the dumping of refuse may not exceed \$4,000”;

WHEREAS, pursuant to §54.203 of the Texas Utilities Code, “The governing body of a municipality may require a certificated telecommunications utility to relocate the utility's facility at the utility's expense to permit the widening or straightening of a street by: (1) giving the utility 30 days' notice; and (2) specifying the new location for the facility along the right-of-way of the street”;

WHEREAS, pursuant to §181.047 of the Texas Utilities Code, “The governing body of the municipality may require the electric utility to relocate a pole or line, at the utility's own expense, to allow the widening or straightening of a street. To impose a requirement under this subsection, the governing body of the municipality must give to the electric utility 30 days' notice. The notice must indicate the new location for the pole or line along the right-of-way of the street”;

WHEREAS, an ordinance providing for right-of-way management imposing fines for violations of said ordinance is consistent with the authorizations cited above;

WHEREAS, on August 31, 2017, the City adopted Ordinance 17.08.31 to “establish regulations related to the use of its rights-of-ways by wireless communications”;

WHEREAS, there exists a need to regulate other construction and maintenance activity within the City’s right-of-ways;

WHEREAS, for sake of consistency it is better to provide information related to right-of-way fees in the Code of Ordinances’ Appendix A Fee Schedule;

WHEREAS, again, for the sake of consistency it is better to reference the general penalty provisions in the City’s Code of Ordinances rather than restating them in each chapter or article of the Code of Ordinances; and,

WHEREAS, pursuant to §51.001 of the TLGC, in the lawful exercise of the powers granted to it and for the good government, peace, and order of the City, the City Council has decided to amend Article 3.15 “Streets and Sidewalks,” Division 4 “Right-of-Way Management” of the City’s Code of Ordinances to provide for the regulation of all construction activity within the City’s right-of-ways, to modify the provisions of said Division, and to relocate the right-of-way fees provided in that section to the Code of Ordinances’ Appendix A Fee Schedule.

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

SECTION 1 (of 19)
INCORPORATION OF RECITALS

All of the above recitals are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2 (of 19)
AMEND SEC. 3.15.091
“DEFINITIONS”

Amend Sec. 3.15.091 “Definitions” to add definitions for “Emergency,” “Engineering plans,” “Large” projects and “Small projects,” to remove the definition for “Location,” and to amend the definitions for “Facilities,” and “User” to read as follows:

Emergency. A situation that could jeopardize public health, safety or welfare if immediate action is not taken.

Engineering plans. Drawings that accurately depict the existing features of the proposed construction area and that show the relationship of the existing features to the proposal improvements. Such drawings shall be prepared under the direction of and by a professional engineer in the state, if required by state law.

Facilities. Includes, but is not limited to, the following: pipes, conduits, wires, cables, towers, switches, amplifiers, transformers, fiber optic lines, antennae, poles, network nodes, cabinets, passageways, ducts, conductors, lines, mains, vaults, appliances, attachments, equipment, structures, manholes, fixtures, appurtenances, and such other objects, devices, or facilities that are designed, constructed, installed, used or operated in, upon, across, above or below the right-of-way. For purposes of this article, facilities shall not include drainage facilities.

Large projects. Projects requiring 1,000 linear feet or more of facilities.

Location. The city-approved and lawfully permitted location for the network node.

Small projects. Projects requiring less than 1,000 linear feet of facilities.

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

SECTION 3 (of 19)
AMEND SEC. 3.15.092 THROUGH SEC. 3.15.096
SUBSTITUTING “FACILITY” FOR “STRUCTURE”

Amend Sec. 3.15.092 through Sec. 3.15.096 to substitute the word “facility” wherever the word “structure” is found, except where “structure” is used as a verb, and the word “facilities” wherever the word “structures” is found. Where this substitution creates a redundancy, the redundancy shall be eliminated.

SECTION 4 (of 19)
AMEND SEC. 3.15.092
REGISTRATION AND CONSTRUCTION PERMITS

Amend Sec. 3.15.092 “Registration and construction permits” as follows:

4.1 The statement at the beginning of this section shall be amended to read as follows:

Unless otherwise specifically provided by law, it shall be unlawful for any person to lay, construct, operate, maintain, offer for lease, or make available for any use whatsoever, any facilities across, along, over, above, or under any public right-of-way for any private or commercial purpose unless authorization has been granted by the city. No person shall

commence or continue with the construction or installation of any facility within the rights-of-way of the city except as provided by this division, or as provided by other city permits or written agreements with the city.

4.2 Sec. (1) “Registration required” shall be amended to read as follows:

(1) Registration required. To protect the public health, safety and welfare, all users of the right-of-way must register with the city. The registration application must be filed with the city's planning and development department. The initial registration application shall be submitted within sixty (60) days of enactment of this article. Registration and permits will be issued in the name of the person who will own the facilities. The registration will be issued in the name of the person who owns the facilities. Registration must be renewed annually. For users with a current franchise or license, the franchise or license will be evidence of renewal. When any information provided in the registration application changes, the user shall inform the city of the change no more than thirty (30) days after the date of such change. Registration shall include: *(Items A through E as included in the original ordinance shall remain unchanged.)*

4.3 Subsection (2)(D) “Timeliness” shall be amended to read as follows:

(2)(D) 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 period, the permittee may request an extension from the building official, which extension shall not be unreasonably withheld. The permittee shall have the right to continue the work authorized by the permit while a request for extension is pending provided that the request is made prior to the expiration date of the permit period.

4.4 Subsection (2)(E) “Insurance and bonds” shall be amended to omit “and bonds” from the title of the subsection and to omit subsection (v).

4.5 Subsection (2)(F) “Approval” shall be amended to read as follows:

(F) Approval. Unless otherwise provided by this division, requests for permits shall be prepared by the building department, reviewed by the public works director, and approved or disapproved by the city administrator or his/her designee.. The city shall promptly process each valid and administratively complete permit application. The building official shall notify the applicant of any deficiencies in the application within five (5) business days after submission of the application for small projects and within fifteen (15) business days after submission of the application for large projects.

4.5 Subsection (2)(H) “Bonds, letter of credit, or statement of fiscal responsibility” shall be added to read as follows:

(H) Bonds, letter of credit, or statement of fiscal responsibility. A right-of-way user shall submit a bond, letter of credit, or statement of fiscal responsibility to the city in accordance with the following:

(i) Bond. At the time of submission of its initial and each renewal registration application, a user of the right-of-way, who selects this option, shall file with the city a corporate surety bond from a surety company authorized to do business in the state in the amount of \$50,000.00 plus an amount equal to the amount of the estimated cost to restore the rights-of-way for work anticipated to be performed in the succeeding five years by the right-of-way user. A right-of-way user with a current franchise, license or other written consent, shall submit its bond within sixty (60) days of enactment of this article and every five years thereafter. The bond shall be valid for the entire registration period. The bond shall provide, but not be limited to, the following condition: There shall be recoverable by the city, jointly and severally from the principal and surety, any and all damages, loss or costs suffered by the city from a right-of-way user's incomplete, unsafe or unfinished work in the rights-of-way. The bond shall contain the following endorsement: "It is hereby understood and agreed that this bond may not be canceled by the surety nor any intention not to renew be exercised by the surety until sixty (60) days after receipt by the city, by registered mail or written notice, of such intent to cancel or not to renew." The rights reserved by the city with respect to the bond are in addition to all other rights of the city and no action, proceeding or exercise of a right with respect to such bond shall affect any other rights of the city.

(ii) Letter of credit. At the time of submission of its initial and each renewal registration application under this division, the right-of-way user, who selects this option, shall deposit with the city administrator an irrevocable letter of credit in a form satisfactory to the city administrator and the city attorney. A right-of-way user with a current franchise, license or other written consent, shall submit its letter of credit within sixty (60) days of enactment of this article and every five (5) years thereafter. The amount of the irrevocable letter of credit shall be in the amount of \$50,000.00 plus an amount equal to the amount of the estimated cost to restore the rights-of-way for work anticipated to be performed during the registration period. The letter of credit shall be issued by a federally insured commercial lending institution with a credit rating of BAA or BBB+ or higher. The federally insured commercial institution of which the irrevocable letter of credit is to be drawn shall be acceptable to the city. The irrevocable letter of credit to be drawn shall be acceptable to the city attorney. The irrevocable letter of credit shall be used to:

1. Ensure the right-of-way user's compliance with the terms and conditions of this article; and
2. Ensure the right-of-way user's payment of any liabilities arising out of the construction, installation, operation or maintenance of the right-of-way user's

facilities in the rights-of-way, including the cost of removal or abandonment of any property of the right-of-way user.

The irrevocable letter of credit shall contain the following endorsement: "At least sixty (60) days prior written notice shall be given to the city administrator by the financial institution of the right-of-way user of any intention to cancel, replace, fail to renew, or materially alter this irrevocable letter of credit. Such notice shall be given by certified mail to the city administrator and the city attorney."

After providing the right-of-way user thirty (30) days' advance written notice of the amounts due and owing and the right-of-way user's failure to pay such amounts, the city may draw upon the irrevocable letter of credit by presentation of a draft at sight on the lending institution, accompanied by a written certificate signed by the city administrator certifying that the right-of-way user has failed to comply with the requirements of this article.

The right-of-way user shall structure the irrevocable letter of credit in such a manner so that if the city draws upon the irrevocable letter of credit and reduces the amount of available credit to an amount below \$50,000.00, the right-of-way user shall replenish the irrevocable letter of credit to a minimum of \$50,000.00 within five (5) calendar days after the available credit is reduced to the amount below such amount. The intent of this subsection is to ensure that the credit available to the city shall at no time fall below \$50,000.00.

The rights reserved to the city with respect to the irrevocable letter of credit are in addition to all other right of the city, whether reserved by this article or otherwise authorized by law, and no action, proceeding or right with respect to the irrevocable letter of credit shall affect any other right the city has or may have.

(iii) Statement of fiscal responsibility. In lieu of the bond or letter of credit, the right-of-way user may provide to the city written evidence in the form of its most recent audited financial statement showing assets or reserves sufficient to cover the amount of the bond or letter of credit required by this section. If the right-of-way user's assets or reserves are no longer adequate to comply with the amount required by this section, the right-of-way user shall immediately notify the city and shall obtain the bond or letter of credit referenced above.

4.6 Subsection (2)(I) "Fees" shall be added to read as follows:

(2)(I) Fees. Fees, except for telecommunications and wireless fees which are addressed more fully in Sec. 3.15.124, shall be as set forth in Appendix A, Article A3.000 CONSTRUCTION AND DEVELOPMENT RELATED FEES, Sec. A3.012 Right-of-Way Fees.

SECTION 5 (of 19)
AMEND SEC. 3.15.093
CONSTRUCTION STANDARDS

Sec. 3.15.093 Construction standards shall be amended as follows:

5.1 Subsection (b) “Conformance to other laws” shall be amended to read as follows:

(b) Conformance to the permit and other laws. All construction shall be in conformance with all the requirements of any city permit issued for said construction and all city codes and applicable local, state, and federal laws.

5.2 Subsection (g) “Prior approval required for street or sidewalk cut” shall be amended to read as follows:

(g) Borings, excavations and street cuts. Except in cases of emergency, no excavations in rights-of-way shall be performed without first securing permission from the city and obtaining all necessary permits. Any authorized excavation or obstruction made or erected in the right-of-way shall be performed in accordance with all applicable state, federal and city ordinances and regulations, and shall be made/erected at the sole cost of the user of the right-of-way. Advance warning signs, markers, cones, and barricades must be in place prior to commencement of the work per approved traffic control plan. The user of a right-of-way shall excavate only for the construction, reconstruction, installation, expansion, repair, removal and maintenance of all or a portion of its facilities. All directional boring shall have locator, place, bore marks, and depths while boring is in progress. Locator shall place mark at each stem with paint dot and depth at least every other stem. Depths of sanitary sewer lines and services shall be defined prior to crossing with directional boring. It is the city's policy not to cut streets or sidewalks; however, when a street or sidewalk cut is required, prior approval must be obtained from the city administrator and all requirements of the public works department shall be followed. Repair of all street and sidewalk removals must be made promptly to avoid safety hazards to vehicle and pedestrian traffic.

5.3 Subsection (j) “Underground requirements” shall be amended to read as follows:

(j) Underground requirements. Aboveground structures in a public right-of-way are discouraged. Where economically feasible, underground facilities are preferred over aboveground facilities for the City’s rights-of-way. Underground facilities are required where so dictated by federal or state law or City code. A provider shall comply with undergrounding requirements where applicable, including city ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions.

5.4 Subsection (k) “Working hours” shall be amended to read as follows:’

(k) Working hours. Except in the event of an emergency, working hours in the rights-of-way are 8:30 a.m. to 4:00 p.m., Monday through Friday. Work that needs to be performed after 4:00 p.m. Monday through Friday must be approved in advance. Except in the event of an emergency, any work performed on Saturday or Sunday must be approved twenty-four (24) hours in advance by the city administrator. Directional boring is permitted only Monday through Friday, unless approved in advance.

5.5 Subsection (l) “Abatement of a dangerous condition” shall be added to read as follows:

(l) Abatement of dangerous condition. The city shall have the power at any time to order and require a user of the right-of-way to remove or abate any of its facilities that through failing to comply with the applicable laws, regulations and policies have created a dangerous condition. In the event the user of the right-of-way, after twenty-four (24) hours' notice, fails or refuses to remedy the condition in accordance with such laws, regulations or policies, the city shall have the power to remove or abate the same at the expense of the right-of-way user without compensation or liability for damages to the right-of-way user.

5.6 Subsection (m) “Line locates” shall be added to read as follows:

(m) Line locates. Persons working in the rights-of-way are responsible for obtaining line locates from the Texas One-Call System, the city, and all affected utilities and others with facilities in the right-of-way prior to any excavation. Use of the geographic information system or the plans of record do not satisfy this requirement. The permittee will be responsible for verifying the location, both horizontal and vertical, of all existing facilities. When required by the public works department, the permittee shall verify locations of potential conflicts with existing facilities by pot holing, hand digging or other method approved by the public works department prior to any excavation or boring with the exception of work involving lane closures. Placement of all manholes and/or handholes must be approved in advance by the public works department. Handholes or manholes shall not be located in sidewalks, unless approved by the public works director.

5.7 Subsection (n) “Removal of abandoned facilities” shall be added to read as follows:

(n) Removal of abandoned facilities. Facilities must be removed when they are no longer in service and when they either create visual blight or create a nuisance to the public; provided, however, a right-of-way user shall not be required to remove any facilities for which renovation, restoration, or a future use is planned by the right-of-way user. When permanent facilities in public rights-of-way are removed or abandoned, the city shall be notified in writing of such removal or abandonment. The public works director may direct such remedial measures as the

city administrator may determine are necessary for public safety and the integrity of public rights-of-way until such time that the facilities are completely and satisfactorily removed from the public rights-of-way.

5.8 Subsection (o) “Conservation of public rights-of-way” shall be added to read as follows:

(o) Conservation of public rights-of-way. To the extent the city may be authorized by state or federal law to do so, and to the extent reasonable under the circumstances then existing, the city may require a user of the right-of-way to attach portions of their facilities to other facilities within the public rights-of-way owned and maintained by other persons. A user of the rights-of-way shall not be required to attach its facilities to the facilities of such other person(s) if it is shown that such right-of-way user would be subjected thereby to increased risks of interruption to its service, to increased liability for accidents, or to unreasonable delays in construction or availability of service, or if the facilities of such other person are not of the character, design, or construction required by, or are not being maintained in accordance with, current practice, or are not available to the right-of-way user on reasonable terms, including, without limitation, reasonable fees. In requiring such work to be done, the city shall not be liable for any damages so caused nor shall the city be liable for any damages arising out of the performance of such work by the city's licensees or franchisees; provided, however, nothing shall relieve any other person from liability for damages to the facilities of the right-of-way user.

5.9 Subsection (o) “City administrator review of poles” shall be added to read as follows:

(p) City administrator review of poles. When poles are used, the type of poles, location, depth, upgrades, etc. shall be subject to review of the city administrator, unless otherwise provided by this division.

SECTION 6 (of 19)
AMEND SEC. 3.15.096
IMPROPERLY INSTALLED STRUCTURES

Sec. 3.15.096 “Improperly installed structures” shall be amended to read as follows:

Sec. 3.15.096 Improperly installed facilities

Proper installation required. Facilities in the rights-of-way shall be properly installed, repaired, upgraded, and maintained. Facilities shall be considered to be improperly installed, repaired, upgraded, or maintained if:

- (a) The installation, repairs, upgrade, or maintenance endangers people;
- (b) The facilities do not meet the applicable federal and state laws and city requirements;

- (c) ~~The New structures~~ facilities are not capable of being located using standard practices; or,
- (d) The facilities are not located in the proper place in accordance with the plans approved by the city administrator or are placed in an area that interferes with city-owned facilities including, but not limited to, water or sewer lines or streets. Privately-owned facilities shall be considered to interfere with city-owned facilities if the privately-owned facility is within three feet horizontally of the city-owned facility, or the distance required by the permit, whichever is greater. Nothing in this section shall diminish the authority of the city administrator to direct the specific placement of specific line.

SECTION 7 (of 19)
AMEND SEC. 3.15.097
RESTORATION OF PROPERTY

Sec. 3.15.097 “Restoration of Property” shall be amended to add subsection (d) to read as follows:

(d) Any restoration work performed in the rights-of-way for a project for which a permit has been issued or is required under this division shall be maintained by the user to the satisfaction of the city for a period of one (1) year from the date of completion of such restoration work. No right-of-way shall be encumbered by construction, maintenance, removal, restoration, or repair work for a longer period than shall be necessary to conclude such work. If there is an unreasonable delay by the permittee in restoring and maintaining the rights-of-way or restoring such rights-of-way after such excavations, construction, installation, or repairs have been made, the city shall notify the right-of-way user in writing that if such restoration or maintenance is not completed within five (5) days of receipt of such notice, the city shall have the right to restore or repair the same and to require the user to pay the reasonable cost of such restoration or repair. Furthermore, if restoration is not performed satisfactorily and in a timely manner, all work in progress, except that related to the problem, including all work previously permitted but not complete, may be halted and a hold may be placed on any permits not approved until all restoration is complete.

SECTION 8 (of 19)
ADD SECTION 3.15.101
APPEAL FROM DENIAL OR REVOCATION OF A PERMIT

Article 3.15 “Streets and Sidewalks,” Division 4 “Right-of-Way Management” of of the City’s Code of Ordinances shall be amended to include Sec. 3.15.099 “Appeal from denial or revocation of a permit” to read as follows:

Sec. 3.15.099 Appeal from denial or revocation of a permit. Appeal from denial or revocation of a permit or from a decision of the building official shall be to the city council. An appeal shall be

filed with the city secretary within fifteen (15) days from the date of the denial or revocation of the permit or other decision. If such approval is filed, the city secretary shall set a time and place for the hearing and shall notify the right-of-way user in writing. Such hearing shall be held within thirty (30) days of the date the appeal is filed with the city secretary and at least five (5) business days after notification to the right-of-way user of the date and time of the hearing unless such notification time period is waived by the right-of-way user. At the hearing the right-of-way user shall be entitled to all rights of due process consistent with federal and state laws.

SECTION 9 (of 19)
ADD SECTION 3.15.101
CONFLICTS WITH EXISTING FRANCHISES

Article 3.15 “Streets and Sidewalks,” Division 4 “Right-of-Way Management” of the City’s Code of Ordinances shall be amended to include Sec. 3.15.102 “Conflicts with existing franchises” to read as follows:

Sec. 3.15.102 Conflicts with existing franchises. If any provision of this article directly conflicts with a provision of a franchise or written authorization from the city in effect on the effective date of the ordinance from which this article derives, the franchise provision will be followed until such time that the franchise or written authorization expires or is terminated. All other provisions of this Code shall remain in full force and effect. To the extent of any conflict or inconsistency between the provisions of this article and any other ordinance in this Code of Ordinances, the more restrictive provision shall control unless otherwise specified or provided.

SECTION 10 (of 19)
AMEND SEC. 3.15.124(a) & (b)
COMPENSATION

7.1 Amend Sec. 3.15.124 “Compensation” (a) to read as follows:

Construction permit fee. The applicant shall pay to the city 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 city’s design manual, not to exceed the values provided in the table ~~below~~ found in Appendix A, Article A3.000 CONSTRUCTION AND DEVELOPMENT RELATED FEES, Sec. A3.012 Right of Way Fees.

7.2 Amend Sec. 3.15.124 “Compensation” (b) to omit the table and footnotes and to read as follows:

Rights-of-way fee. The permit holder shall pay to the city 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 as found in Appendix A, Article A3.000 CONSTRUCTION AND DEVELOPMENT RELATED FEES,

Sec. A3.012 Right of Way Fees 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 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.

SECTION 11 (of 19)
AMEND APPENDIX A FEE SCHEDULE
ARTICLE A3.000 CONSTRUCTION AND DEVELOPMENT RELATED FEES

Amend Article A3.000 “CONSTRUCTION AND DEVELOPMENT RELATED FEES” of Appendix A “Fee Schedule” of the City’s Code of Ordinances to add the following:

Sec. A3.012 Right of Way Fees

- (a) A fee of \$100 will be collected for right-of-way user registrations and renewals.
- (b) A fee of \$50 will be collected for each right-of-way construction permit.

Equipment Type	Construction Permit Fee	Rights-of-Way Fee
Transport facilities	\$500.00 for first 5 nodes, \$250.00 for each additional node	\$28.00 per month per node ¹ 4
Network nodes	\$500.00 for first 5 nodes, \$250.00 for each additional node	\$250.00 per year per node ² 3
Node support poles	\$1,000.00 per pole	\$250.00 per year per pole ²

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

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

³ Collocated network nodes on city service poles shall also pay an annual collocation fee at a rate not greater than \$20.00 per year per service pole.

⁴ A network provider may not install its own transport facilities unless the provider: (i) has a permit to use the public right-of-way; and (ii) pays to the city a monthly public right-of-way rate for transport facilities in an amount equal to \$28.00 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 city exceeds its monthly aggregate per-node compensation to the city. 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 \$28.00 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 city.

SECTION 12 (of 19)
REDESIGNATE SEC. 3.15.127
INDEMNIFICATION

Redesignate Sec. 3.15.127 “Indemnification” as Sec. 3.15.100.

SECTION 13 (of 19)
REDESIGNATE SEC. 3.15.130
CONFLICTS WITH OTHER REQUIREMENTS

Redesignate Sec. 3.15.130 “Conflicts with other requirements “as Sec. 3.15.101.

SECTION 14 (of 19)
AMEND AND REDESIGNATE SEC. 3.15.131
PENALTY CLAUSE

Amend Sec. 3.15.131 “Penalty Clause” to read as follows and redesignate it as Sec. 3.15.102:

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this division shall be subject to the provisions of Sec. 1.01.009 General penalty for violations of code; continuing violations of this Code of Ordinances.

SECTION 15 (of 19)
SAVINGS/REPEALING CLAUSE

Chapter 3 of the City’s Code of Ordinances shall remain in full force and effect, save and except as amended by this or any other ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 16 (of 19)
SEVERABILITY CLAUSE

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional, illegal or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council of the City of Glen Rose hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 17 (of 19)
PROPER NOTICE, MEETING, AND QUORUM CLAUSE

It is hereby officially found and determined that the meeting at which this Ordinance was adopted by majority vote of the City Council of the City of Glen Rose, Texas was open to the public; that public notice of the time, place, and purpose of the meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code; and, that a quorum was present pursuant to §22.039 of the Texas Local Government Code.

SECTION 18 (of 19)
PUBLICATION REQUIREMENT

The City Secretary shall see to it that the caption of this Ordinance is published in the City's Official Newspaper.

SECTION 19 (of 19)
EFFECTIVE DATE

This Ordinance shall take effect immediately upon passage and publication.

PASSED AND APPROVED this the 9th day of November, 2021.

APPROVED:

Julia Douglas, Mayor

ATTEST:

Stephanie Ritchie, City Secretary