



ENGINEERING SERVICES

To: Mayor and Town Council

From: Hulon T. Webb, Jr., P.E., Director of Engineering Services

**Through: Mario Canizares, Town Manager
Chuck Ewings, Assistant Town Manager**

Re: Right-of-Way Ordinance Update

Town Council Meeting – January 9, 2024

Strategic Visioning Priority: 4. Provide Excellent Municipal Services

Agenda Item:

Consider and act upon an ordinance repealing existing Article 13.08, “Right-of-Way Management,” of Chapter 13 “Utilities,” of the Town’s Code of Ordinances and replacing it with a new Article 13.08, “Right-of-Way Management”.

Description of Agenda Item:

The current Right-of-Way (ROW) Management requirements were adopted in 2007. Due to the rapid growth in the Town of Prosper, franchise utility companies are expediting installations and expanding their infrastructure in existing neighborhoods with utilities like high-speed fiber. With expedited installations and expansions in existing neighborhoods, coupled with limited state regulations, the current ROW Management requirements needed to be reviewed and changes made to better manage the ROW permitting and ROW inspection processes.

In preparation for updating the ROW Management requirements, the Town ROW staff reached out to the neighboring cities (Frisco, McKinney, Little Elm, and Celina) last year and reviewed their ordinances to get a better understanding of what other cities are requiring compared to the Town’s requirements. Town ROW staff also participated in a “ride-along” with the Frisco ROW staff to witness their ROW inspection operations. In addition, Town ROW staff attended the first CoServ hosted “Franchise Roundtable” with all franchise utilities and local municipalities, to share current policies, technology and procedures. Lastly, Town ROW staff evaluated prior complaints from residents with the intent to incorporate a “we can do better” attitude into the process.

Upon performing a thorough review of the current ROW Management requirements, compared to “real world” practices and requirements from the neighboring cities, the following updates are recommended to provide the Town ROW staff with the tools to better manage the contractors installing the franchise utilities, and improve the protection of both private and infrastructure.

- Requirements for Franchise Contractors to attend Town Utility Coordination Meetings
- New language for “online” applications
- New requirements for better communication with residents; door hangers, vehicle and equipment identification signs, telephone numbers and contacts after hours

- Implementation of best management practices such as smaller permit authorization in larger communities versus one large permit for the entire community
- Requirement of storm water pollution prevention near creeks, channels and streams
- Verification and review of Traffic Control Plans required
- Implementation of “Daily Work Location” forms
- Compliance measures for “above ground temporary lines”
- More stringent requirements for tree trimming within ROWs
- Implementation of “potholing” large water mains
- More stringent rules for non-destructive methods such as boring
- Implementation of “Notice of Violation” forms
- Additions and explanations of “Penalties”
- Permit expiration after 30 days with renewal applications required
- More descriptive language and timelines for clean-up and restoration policies
- Requirements for “as-built” drawings after work is completed

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality.

Attached Documents:

1. Ordinance
2. Redline Changes to Article 13.08

Town Staff Recommendation:

Town staff recommends that the Town Council approve an ordinance repealing existing Article 13.08, “Right-of-Way Management,” of Chapter 13 “Utilities,” of the Town’s Code of Ordinances and replacing it with a new Article 13.08, “Right-of-Way Management”.

Proposed Motion:

I move to approve an ordinance repealing existing Article 13.08, “Right-of-Way Management,” of Chapter 13 “Utilities,” of the Town’s Code of Ordinances and replacing it with a new Article 13.08, “Right-of-Way Management”.