

CITY OF CELINA, TEXAS

ORDINANCE 2017-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CELINA, TEXAS, AMENDING THE CITY'S CODE OF ORDINANCES, APPENDIX A: FEE SCHEDULE, ARTICLE A6.000 SUBDIVISION, ZONING AND LAND USAGE FEES, BY ADDING A NEW SECTION A6.021 CONDUIT AND FIBER OPTIC FEES; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FINDINGS; PROVIDING FOR AMENDMENT TO THE CODE OF ORDINANCES; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING FOR SAVINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Celina, Texas ("City") is a Home Rule Municipality located in Collin County and Denton County, Texas, created in accordance with the provisions of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas and the Celina City Charter; and

WHEREAS, the City Council of the City of Celina, Texas ("City Council") has investigated and determined that expanded broadband access via a fiber optic network in the City is a fundamental aspect of the infrastructure required to educate youth, create jobs, promote public safety, improve citizens' standards of living and deliver essential services such as health care; and

WHEREAS, requiring conduit to be installed as part of public improvements projects or developments in order to accommodate anticipated future demand for access to internet and telecommunications services will assist the City in responsibly managing such facilities and areas by reducing or eliminating the need for excavation within public streets and rights-of-way when telecommunications service providers seek to locate underground telecommunications facilities within such streets and public property, easements and rights-of-way in the future; reducing or eliminating the traffic disruption that occurs whenever excavation occurs within or around these areas; and reducing or eliminating the loss of pavement integrity and diminishment of the useful life of pavement that occurs whenever paved or improved streets and rights-of-way are cut and excavated; and

WHEREAS, according to the Federal Communications Commission, the largest cost element for deploying broadband is burying fiber optic cables and conduit underground and the Federal and the Federal Highway Administration has indicated that ninety percent of the cost of deploying broadband is when the work requires significant excavation of the roadway; and

WHEREAS, coordinating road construction projects with the installation of broadband facilities will save on costs incurred by repeated excavation in areas where the entire right-of-way is paved or developed and reduces deployment time by preventing the need to acquire duplicative reviews and permits for work done at the same location; and

WHEREAS, the City seeks to recover a portion of those costs of such services and has determined that the fees are fair, reasonable, and consistent with the actual costs, and the implementation of fees for such services is necessary to cover costs incurred by the City; and

WHEREAS, the City Council has taken into consideration the health, safety, and welfare of the public and the equities of the various interests of the community and determined the adoption of this ordinance is in the best interest of the community.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CELINA, TEXAS

SECTION 1
INCORPORATION OF PREMISES

The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2
FINDINGS

After due deliberations the City Council has concluded that the adoption of this Ordinance is in the best interest of the City of Celina, Texas and of the public health, safety and welfare.

SECTION 3
AMENDMENTS

3.01 That the Celina Code of Ordinances, Appendix A: Fee Schedule, Article A6.000, Subdivision, Zoning and Land Usage Fees, shall be amended by adding Section A6.021 Conduit and Fiber Optic Fees, which shall read as follows:

“Sec. A6.021 Conduit and Fiber Optic Fees

a) All reasonable costs incurred by the city for professional design and review of subdivision conduit and fiber systems and related materials and construction shall be borne by the applicant and payable to the city prior to final approval of the plat or construction as the case may be. The professional fees shall include, but not necessarily be limited to, outside plant engineering services, development of a work plan, meetings with applicant architects and engineers, engineering a fiber to the home network, construction, inspection of construction, and expenses for related legal fees, land planning and financial analysis in order that the application can be properly evaluated to achieve compliance with the city’s comprehensive plan, thoroughfare plan, facilities plan, comprehensive zoning ordinance, subdivision regulations, building codes and other city regulations.

(b) (1) In accordance with subsection (a) above, engineering of the conduit and fiber network within a subdivision shall be \$2.50 per linear foot. Bill of materials pricing shall be based on actual costs of individual items and volume. Actual costs for construction of conduit and fiber optic networks within the subdivision will be determined and paid prior to acceptance of the conduit construction by the City.

(2) The applicant shall be provided with documentation detailing actual costs of engineering review, bill of materials, and construction costs.

(c) The city manager or his or her designee may refuse to issue any building permits to the applicant or his or her successor or assigns if the fees are not paid.”

SECTION 4
CUMULATIVE REPEALER 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. 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. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such other Ordinances on this date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

SECTION 5
SAVINGS CLAUSE

All rights and remedies of the City of Celina, Texas are expressly saved as to any and all violations of the provisions of any other ordinance affecting zoning which have secured 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 court.

SECTION 6
SEVERABILITY

The provisions of the Ordinance are severable. However, in the event this Ordinance or any procedure provided in this Ordinance becomes unlawful, or is declared or determined by a judicial, administrative or legislative authority exercising its jurisdiction to be excessive, unenforceable, void, illegal or otherwise inapplicable, in whole or in part, the remaining and lawful provisions shall be of full force and effect and the City shall promptly promulgate new revised provisions in compliance with the authority's decisions or enactment.

SECTION 7
PUBLICATION CLAUSE

The City Secretary of the City of Celina is hereby directed to publish in the Official Newspaper of the City of Celina the Caption, and Effective Date Clause of this Ordinance as required by Section 52.013 of the Local Government Code.

SECTION 8
ENGROSSMENT AND ENROLLMENT

The City Secretary is hereby directed to engross and enroll this Ordinance by copying the descriptive Caption in the minutes of the City Council and by filing this Ordinance in the Ordinance records of the City.

SECTION 9
EFFECTIVE DATE

This Ordinance shall become effective from and after its date of passage in accordance with law.

AND IT IS SO ORDAINED.

PASSED AND APPROVED by the City Council of the City of Celina, Texas this ____day of _____, 2017.

Sean Terry, Mayor
City of Celina, Texas

ATTEST:

Vicki Faulkner, City Secretary
City of Celina, Texas

[SEAL]

APPROVED AS TO FORM:

City Attorney
City of Celina, Texas