

ORDINANCE NO. 2025-06-09 (22)

AN ORDINANCE AMENDING CHAPTER 3, BUILDING REGULATIONS, ARTICLE 3.11, STREETS, SIDEWALKS AND RIGHTS OF WAY THE CODE OF ORDINANCES OF THE CITY OF ROCKDALE, TEXAS, BY ADDING DIVISION 4, USE OF PUBLIC RIGHTS-OF-WAY BY NETWORK PROVIDERS – WIRED AND AMENDING APPENDIX A, FEE SCHEDULE, ARTICLE A1.00 BUILDING, DEVELOPMENT AND PROPERTY MAINTENANCE FEES, BY ADDING A1.015 WIRED NETWORK PROVIDERS RATES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PENALTIES; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City Council (“Council”) is the governing body for the City of Rockdale, Texas, and therefore, it must bear the initial responsibility for the integrity of governance; and

WHEREAS, the public health, safety and welfare, require the adoption and enforcement of codes governing the issuance of permits, definitions of such terms and uses and guidance for use of the public rights-of-way for wired provision of telecommunication services by such telecommunication service providers as well as establishing such rates for the provision of such services within the City of Rockdale, Texas; and

WHEREAS, the public health, safety and welfare will be served by updating certain codes heretofore adopted by the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKDALE, TEXAS, THAT:

Section 1. Findings of Fact. The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact. The City Council hereby further finds and determines that the rules, regulations, terms, conditions, provisions and requirements of this ordinance are reasonable and necessary to protect the public health, safety and quality of life.

Section 2. Adoption of Chapter 3, Building Regulations, Article 3.11, Streets, Sidewalks, and Rights of Way, Division 4, Use of Public Rights-of-Way by Network Providers - Wired Article 3.11.120-123 is hereby adopted as follows:

Division 4 Use and Compensation for Use of Public Rights-of-Way – Wired

3.11.120 Purpose. The purpose of this division is to assist the City in competitively neutral and nondiscriminatory management of the physical use, occupancy and maintenance of its public rights-of-way by wired/cabled providers.

3.11.121 Governing Law.

This division shall be construed in accordance with Chapter 283 of the Texas Local Government Code (“the code”) to the extent not in conflict with the Constitution and laws of the United States or of the State of Texas.

3.11.122 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Access line means a unit of measurement representing:

- (1) Each switched transmission path of the transmission media that is physically within the public right-of-way extended to the end-user customer's premises within the city that allows delivery of local exchange telephone services within the city that is provided by means of owned facilities, unbundled network elements or leased facilities, or resale;
- (2) Each termination point or points of a nonswitched telephone or other circuit consisting of transmission media located within the public right-of-way connecting specific locations identified by, and provided to, the end-user for delivery of nonswitched telecommunications services within the city; or
- (3) 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 such instance, one such path shall be counted for every ten stations served. The term "access line" shall not be construed to include interoffice transport or other transmission media that do not terminate at an end-user customer's premises, or to permit duplicate or multiple assessment of access line rates upon the provision of a single service.

Applicant means a person who files an application with the city, pursuant to division 4 of this article, to obtain a license to use or place network facilities within the city's public rights-of-way, whether by means of the person's own facilities or by purchase or lease of one or more network facilities from another provider of telecommunications services.

Cable Act means the Cable Communications Policy Act of 1984, 47 USC 532 et seq., as amended.

Cable operator means a person providing or offering to provide cable service within the city as that term is defined in the Cable Act.

Cable service shall have the same meaning provided by the Cable Act.

City property means all real property owned by the city, other than public rights-of-way, as that term is defined in this section, and all other properties held in a proprietary capacity by the city, which are not subject to right-of-way licensing as provided in this article.

3.11.123 Compensation for use of Rights-of-way

(1) Rights-of-way fee. The Applicant/Cable Operator shall pay to the City a rights-of-way fee that is calculated as of month-end by applying the appropriate line fee to each access line owned, placed, or maintained by a permit holder that is activated for use by an end-user or for another telecommunications service provider that uses the permit holder's services or facilities for the provision of telecommunications service within the city. The line fee to be applied to each access line on a monthly basis shall be as set by the Public Utility Commission (PUC) and shall be updated periodically as the PUC updates such rate. Such rate shall be shown in the Article A1.00 Building, Development and Property Maintenance Fees, A1.015, Wired Network Providers.

(2) Number of access lines. Subject to the city's agreement not to disclose this information, each permit holder must provide annually, within a reasonable time after receipt of the city's written request, a report showing the number of each type of access line owned or placed and maintained by the permit holder within the city that are activated for end-user customers and other telecommunications service providers at month's end for each of the preceding 12 months. The city agrees that the report shall be used solely for the purpose of verifying the number of the permit holder's access lines within the city that are activated for end-user customers and telecommunications service providers. Upon written request, the permit holder shall verify the information in the report and, upon

reasonable advance notice, produce to the city and permit inspection by the city of all noncustomer specific records and documents reasonably calculated to verify the information. For purposes of payment of fees for use of the rights-of-way, lines terminating at a customer's premises that are billed as "lifeline," "tel-assistance," or other service that is required to be similarly discounted pursuant to state or federal law or regulation for the purpose of advancing universal service to the economically disadvantaged shall not be included in the lines upon which the fee is calculated.

(3) Annexation and disannexation. Within 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 city's corporate boundaries, the city agrees to furnish the permit holder written notice of the action and an accurate map of the city's corporate boundaries showing, if available, street names and number details. For the purpose of compensating the city under this article, a permit holder shall start including or excluding access lines within the affected area in the permit holder's count of access lines on the effective date designated by the state comptroller of public accounts for the imposition of state local sales and use taxes, but in no case less than 30 days from the date the permit holder is notified by the city of the annexation or disannexation.

(4) Confidential records. If the permit holder notifies the city of the confidential nature of any information, reports, documents, or writings, the city agrees to maintain the confidentiality of the information, reports, documents, and writings to the extent permitted by law. Upon receipt by the city of requests for the permit holder's confidential information, reports, documents, or writings, the city shall notify the permit holder of the request in writing by facsimile transmission. The city shall request an attorney general's opinion before disclosing any confidential information, reports, documents or writings and will furnish the permit holder with copies of attorney general opinion requests it makes pertaining to the permit holder's confidential information, reports, documents or writings.

(5) 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 city 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 city for all of the permit holder'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.

(6) Timing of payment. A permit holder shall remit the line fee on a quarterly basis. The payment shall be due on the 45th day following the close of each calendar quarter for which the payment is calculated.

(7) Uncollectibles. Permit holders have a statutory right to pass through to their customers on a pro rata basis any compensation paid to the city for access to the rights-of-way. Any other provision of this article notwithstanding, permit holders shall not be obligated to pay the city for any access lines for which revenues remain uncollectible.

(8) 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 city shall pay to the city a rights-of-way fee that is calculated as of month-end by applying the appropriate line fee, as specified in subsection (a) above, to each access line created by rebundling services or facilities. Such

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

(9) Fee application to leased facilities. Pursuant to Tex. Utilities Code section 54.206, a permit holder may collect the line fee imposed by the city pursuant to this article through a pro rata charge to the customers in the boundaries of the city, 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 holders shall provide to the city 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 the city first obtains written permission of such other person for permit holders to provide the information to the city. Any other provision of this article notwithstanding, however, a permit holder 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 the permit holder's service or facilities for the provision of telecommunications service to end-user customers.

Section 3. Amending Appendix A, entitled Fee Schedule, Building, Development and Property

Maintenance Fees, A1.015 Wired Network Providers Rates. Appendix A, Fee Schedule, is hereby amended to add: A1.015 Wired Network Providers Rates: which shall read as follows:

Section A1.015 Wired Network Providers Rates:

2025 CPI-Adjusted City-Preferred Rates - Rockdale

Category 1 (residential) access lines	\$0.84
Category 2 (non-residential) access lines	\$1.92
Category 3 (point-to-point) access lines.	\$5.18

Section 4. Repeal of Conflicting Ordinances. All ordinances or parts of ordinances, and sections of the City Code of Ordinances, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict; provided, however, that all other provisions of said ordinances not in conflict herewith shall remain in full force and effect. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the city, the terms and provision of this ordinance shall govern.

Section 5. Severability. If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, unlawful, unenforceable, or unconstitutional, the same shall not affect other provisions or applications hereof which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Section 6. Savings Clause. All rights and remedies of the City of Rockdale are expressly saved as to any and all violations of the provisions of any ordinances affecting zoning and all other codes affected hereby including permit issuance, or vendor registration within the City 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. Effective Date. This ordinance shall take effect immediately upon its adoption by the City Council and publication as required by the City Charter and the Texas Local Government Code.

Section 8. Open Meeting Act. It is officially found and determine that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code.

PASSED AND APPROVED on first reading on this the 9th day of June, 2025.

PASSED AND APPROVED on second reading on this the 9 day of June 2025.

THE CITY OF ROCKDALE, TEXAS



Ward Roddam, Mayor

ATTEST:



Shanna Johnson, City Secretary