

# City Council

200 North Brazil

## Special Meeting

Los Fresnos, TX 78566

<http://citylf.cloudaccess.net/en/>

### ~ Agenda ~

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Tuesday, September 12, 2017

7:00 PM

City Hall

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**NOTICE IS HEREBY GIVEN THAT THE CITY COUNCIL OF THE CITY OF LOS FRESNOS PURSUANT TO CHAPTER 551, TITLE 5 OF THE TEXAS GOVERNMENT CODE, THE TEXAS OPEN MEETINGS ACT, WILL MEET ON TUESDAY, SEPTEMBER 12, 2017 AT 7:00 PM AT CITY HALL, 200 NORTH BRAZIL ST, LOS FRESNOS, TX 78566.**

### **I. CALL TO ORDER**

### **II. ACTION ITEMS**

1. Consideration and ACTION to approve the second and final reading of Ordinance 486 for regulating the physical use, occupancy and maintenance of city rights-of-way by wireless network providers due to SB 1004.
2. Consideration and ACTION to approve the second and final reading of Ordinance 487 approving a design manual for the installation of network nodes and node support poles due to SB 1004.
3. Consideration and ACTION to approve the second and final reading of Ordinance 484 adopting the budgets for fiscal year 2017/2018.
4. Consideration and ACTION to approve the second and final reading of Ordinance 485 approving the 2017 tax roll and levying municipal ad valorem taxes for the use, benefit, and support of the City and directing the assessment and collection thereof.

### **III. ADJOURNMENT**

This is to certify that I, Pam Denny, posted this agenda on the front bulletin board of the City Hall on September 7, 2017 on or before 5:30 p.m. and it shall remain so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

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Pam Denny, City Secretary

Persons with any disabilities that would like to attend meetings must notify City Secretary 24 hours in advance so that the City can make arrangements for that disabled person.

**City Council**  
200 North Brazil  
Los Fresnos, TX 78566

Meeting: 09/12/17 07:00 PM  
Department: City Secretary  
Category: Ordinances  
Prepared By: Pam Denny  
Initiator: Pam Denny  
Sponsors:

**REVIEWED**

**ACTION ITEM (ID # 2320)**

DOC ID: 2320 A

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**Consideration and ACTION to approve the second and final reading of Ordinance 486 for regulating the physical use, occupancy and maintenance of city rights-of-way by wireless network providers due to SB 1004.**

This is a requirement to meet the new state law that allows network nodes to be placed in city right-of-ways. This is what TML suggests to utilize. We already have a company wanting to put these up.

I recommend approval.

## ORDINANCE NO. 486

**A PUBLIC RIGHT-OF-WAY MANAGEMENT ORDINANCE BY THE CITY OF LOS FRESNOS, TEXAS; REGULATING THE PHYSICAL USE, OCCUPANCY AND MAINTENANCE OF CITY RIGHTS-OF-WAY BY WIRELESS NETWORK PROVIDERS; DESCRIBING THE PURPOSE; PROVIDING DEFINITIONS; REQUIRING COMPLIANCE WITH THE CITY DESIGN MANUAL AND APPLICABLE CODES FOR THE INSTALLATION OF NETWORK NODES AND NODE SUPPORT POLES PURSUANT TO CHAPTER 284 OF THE TEXAS LOCAL GOVERNMENT CODE; PROVIDING CITY PROCEDURES FOR APPLICATIONS FOR PERMITS; ESTABLISHING TIME PERIODS FOR APPROVAL OF PERMIT APPLICATIONS; PROVIDING APPLICATION FEES AND ANNUAL PUBLIC RIGHT-OF-WAY RENTAL RATES; PROVIDING RESTRICTIONS ON PLACEMENT OF NETWORK NODES AND NODE SUPPORT POLES IN MUNICIPAL PARKS, RESIDENTIAL AREAS, HISTORIC DISTRICTS AND DESIGN DISTRICTS; PROVIDING INDEMNITY FOR THE CITY; PROVIDING REPEALING AND SAVINGS CLAUSES; PROVING A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

This ordinance was introduced and submitted to the City Council for passage and adoption after the second reading of the Ordinance. After presentation and discussion of the Ordinance, a motion was made by \_\_\_\_\_ that the Ordinance be finally passed and adopted in accordance with the City's Home Rule Charter. The motion was seconded by \_\_\_\_\_ and carried by the following voted:

Mayor Polo Narvaez	___	For	___	Against	___	Abstained
Councilmember Yolanda H. Cruz	___	For	___	Against	___	Abstained
Councilmember Swain Real	___	For	___	Against	___	Abstained
Mayor Pro-tem Javier Mendez	___	For	___	Against	___	Abstained
Councilmember Bibi Garza	___	For	___	Against	___	Abstained
Councilmember Juan Munoz	___	For	___	Against	___	Abstained

Attachment: right-of-way use by network nodes (2320 : Wireless Network Providers)

**WHEREAS**, the City of Los Fresnos, Texas (“City”) recognizes that the State of Texas has delegated to the City the fiduciary duty, as a trustee, to manage the public right-of-way for the health, safety, and welfare of the public to Texas municipalities; and

**WHEREAS**, Chapter 284 of the Texas Local Government Code (“the Code”) allows certain wireless network providers to install in the City’s public rights-of-way their wireless facilities, described and defined in Section 284.002 of the Code as “Micro Network Nodes”, “Network Nodes”, and “Node Support Poles;” and

**WHEREAS**, as expressly allowed by Section 284.108 of the Code and pursuant to its police power authority reserved in Sec. 284.301 of the Code, the City has enacted a *Design Manual for the Installation of Network Nodes and Node Support Poles* (“the Design Manual”) in order to meet its fiduciary duty to the citizens of the City, and to give assistance and guidance to wireless telecommunications network providers to assist such companies in the timely, efficient, safe and aesthetically pleasing installation of technologically competitive equipment; and

**WHEREAS**, the City Council desires to regulate the installation of Network Nodes and Network Support Poles pursuant to Chapter 284 of the Code in a way that is fair, reasonable and nondiscriminatory.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF LOS FRESNOS, TEXAS THAT:**

## **SECTION I** **FINDINGS OF FACT**

The forgoing recitals are incorporated into this Right-of-Way Management Ordinance as findings of fact.

## **SECTION II.** **USE OF PUBLIC RIGHTS-OF-WAY**

### **§ 1.01 PURPOSE.**

The purpose of this chapter is to:



(A) Assist the City in the competitively neutral and nondiscriminatory management of the physical use, occupancy and maintenance of its public rights-of-way by wireless network providers;

(B) Secure fair and reasonable compensation for the physical use and occupancy of the public rights-of-way by wireless network providers in a nondiscriminatory and competitively neutral manner; and

(C) Assist the City in protecting the public health, safety, and welfare.

## **§ 1.02 GOVERNING LAW.**

This chapter shall be construed in accordance with Chapter 284 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.

## **§ 1.03 DEFINITIONS.**

For the purpose of this chapter, the definitions found in the *City Design Manual for the Installation of Network Nodes and Node Support Poles* (“the Design Manual”) are hereby incorporated into this chapter and shall apply unless the context clearly indicates or requires a different meaning. The following definitions as found in the Design Manual are specifically applicable to this chapter:

*Applicable codes* means:

- (A) the City uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; and
- (B) local amendments to those codes to the extent not inconsistent with Chapter 284.

*City* means the City of Los Fresnos, Texas or its lawful successor.

*City Council* means the municipal governing body of the City of Los Fresnos, Texas.

*Chapter 284* means Texas Local Government Code, Chapter 284.

*Code* means the Texas Local Government Code.

*Collocate* and *collocation* mean the installation, mounting, maintenance, modification, operation, or replacement of Network Nodes in a public right-of-way on or adjacent to a pole.

*Decorative pole* means 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 nondiscriminatory City codes and ordinances.

*Design District* means an area that is zoned, or otherwise designated by municipal code, and for which the City maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis.

*Easement* means and shall include any public easement or other compatible use created by dedication, or by other means, to the City for public utility purposes or any other purpose whatsoever. "Easement" shall include a private easement used for the provision of utilities.

*Federal Communications Commission or FCC* means the Federal Administrative Agency, or lawful successor, authorized to oversee cable television and other multi-channel regulation on a national level.

*Highway right-of-way* means right-of-way adjacent to a state or federal highway.

*Law* means common law or a federal, state, or local law, statute, code, rule, regulation, order, or ordinance.

*Local* means within the geographical boundaries of the City.

*Location* means the City-approved and lawfully permitted location for the Network Node.

*Micro network node* means 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.

*Municipal park* means an area that is zoned or otherwise designated by the City as a public park for the purpose of recreational activity.

*Network node* means equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term:

(A) 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

(B) does not include:

- (i) an electric generator;
- (ii) a pole; or
- (iii) a macro tower

*Network provider* means:

- (A) a wireless service provider; or
- (B) 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.

*Node support pole* means a pole installed by a network provider for the primary purpose of supporting a Network Node.

*Permit* means a written authorization for the use of the public right-of-way or collocation on a service pole required from the City before a network provider may perform an action or initiate, continue, or complete a project over which the municipality has police power authority.

*Pole* means a service pole, City-owned utility pole, node support pole, or utility pole.

*Private easement* means an easement or other real property right that is only for the benefit of the grantor and grantee and their successors and assigns.

*Provider* has the same meaning as “Network Provider.”

*Public right-of-way* means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the City 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.

*Service pole* means a pole, other than a City-owned utility pole, owned or operated by the City and located in a public right-of-way, including:

- (A) a pole that supports traffic control functions;
- (B) a structure for signage;
- (C) a pole that supports lighting, other than a decorative pole; and
- (D) a pole or similar structure owned or operated by a municipality and supporting only network nodes.

*Street* means only the paved portion of the right-of-way used for vehicular travel, being the area between the inside of the curb to the inside of the opposite curb, or the area between the two parallel edges of the paved roadway for vehicular travel where there is no curb. A “Street” is generally part of, but smaller in width than the width of the entire right-of-way, while a right-of-way may include sidewalks and utility easements. A “Street” does not include the curb or the sidewalk, if either are present at the time of a permit application or if added later.

*Traffic Signal* means any device, whether manually, electrically, or mechanically operated by which traffic is alternately directed to stop and to proceed.

*Transport facility* means 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.



*User* means a person or organization which conducts a business over facilities occupying the whole or a part of a public street or right-of-way, depending on the context.

*Utility pole* means a pole that provides:

- (A) electric distribution with a voltage rating of not more than 34.5 kilovolts; or
- (B) services of a telecommunications provider, as defined by Chapter 284, Section 51.002, Utilities Code.

*Wireless service* means 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* means a person that provides wireless service to the public.

*Wireless facilities* mean “Micro Network Nodes,” “Network Nodes,” and “Node Support Poles” as defined in Texas Local Government Code, Chapter 284.

#### **§ 1.04 USE AND OCCUPANCY OF PUBLIC RIGHTS-OF-WAY.**

Pursuant to this chapter and subject to the Design Manual and the Code, a wireless network provider has the nonexclusive right to use and occupy the public rights-of-way in the City for the purpose of constructing, maintaining, and operating its facilities used in the provision of Wireless facilities.

The terms of this chapter shall apply to all wireless network providers’ facilities used, in whole or part, in the provision of wireless services throughout the City, including any annexed areas upon the effective date of annexation or the date the City provides the company written notice, whichever date occurs later.

#### **§ 1.05 COMPLIANCE WITH DESIGN MANUAL AND APPLICABLE CODES.**

All wireless network providers shall comply with the terms of this right-of-way management ordinance, City applicable codes, and the terms and conditions of the City’s Design Manual.

#### **§ 1.06 GENERAL CONSTRUCTION AND MAINTENANCE REQUIREMENTS.**

A network provider shall construct and maintain Network Nodes and Network Support Poles described in the Code in a manner that does not:

- (A) Obstruct, impede, or hinder the usual travel or public safety on a public right-of-way;
- (B) Obstruct the legal use of a public right-of-way by other utility providers;
- (C) Violate nondiscriminatory applicable codes;

- (D) Violate or conflict with the City's publicly disclosed public right-of-way design specifications;
- or
- (E) Violate the federal Americans with Disabilities Act of 1990 (ADA).

### § 1.07 PERMIT APPLICATIONS.

- (A) Except as otherwise provided in Chapter 284 of the Code, a network provider shall obtain a permit or permits from the City to install a Network Node, Node Support Pole, or Transport Facility in a City public right-of-way.
- (B) As required by Chapter 284 of the Code, the City shall not require a network provider to perform services for the City for which the permit is sought.
- (C) A network provider that wants to install or collocate multiple Network Nodes inside the municipal limits of the City is entitled to file a consolidated permit application with the City for not more than 30 Network Nodes and upon payment of the applicable fee(s), receive a permit or permits for the installation or collocation of those Network Nodes.
- (D) The network provider shall provide the following information in its permit applications:
  - (1) Applicable construction and engineering drawings and information to confirm that the applicant will comply with the City's Design Manual and applicable codes;
  - (2) Any additional information reasonably related to the network provider's use of the public rights-of-way to ensure compliance with the Design Manual and this chapter;
  - (3) A certificate that the Network Node(s) complies with applicable regulations of the Federal Communications Commission; and 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.
  - (4) A certificate of insurance that provides that the Network Provider and its contractor has at least \$1,000,000.00 in general liability coverage.
- (E) **Exception:** As provided in Section 284.157 of the Code, a network provider is not required to apply, obtain a permit, or pay a rate to the City for:
  - (1) Routine maintenance that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way;

- (2) 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
- (3) 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;
- (4) Notwithstanding Subdivision (D) above, the network provider or its contractors shall notify the City at least 24 hours in advance of work described in this Subdivision (D).

### § 1.08 INSTALLATION IN MUNICIPAL PARKS AND RESIDENTIAL AREAS

A network provider may not install a new Node Support Pole in a public right-of-way without the City Council's discretionary, nondiscriminatory and written consent if the public right-of way:

- (1) Is in a municipal park; or
- (2) 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.
- (3) In addition to the above, a network provider installing a Network Node or Node Support Pole in a public right-of way shall comply with private deed restrictions and other private restrictions in the area that apply to those facilities.
- (4) The network provider shall be further required to comply with guidelines set out in the City's Design Manual.

### § 1.09 MUNICIPAL REVIEW PROCESS BY THE CTIY.

(A) **Determination of Application Completeness:** The City shall determine whether the permit application is complete and notify the applicant of that determination:

- (1) *For Network Nodes and Node Support Poles:* no later than 30 days after the date the City receives the permit application.
- (2) *For a Transport Facility:* no later than 10 days after the date the City receives the permit application.



(B) **Approval or Denial of Application:** The City shall approve or deny a completed application after the date it is submitted to the City:

- (1) *For Network Nodes:* No later than 60 days after the date the City receives the complete application.
- (2) *For Network Support Poles:* No later than 150 days after the date the City receives the complete application.
- (3) *For Transport Facilities:* No later than 21 days after the City receives the complete application.

(C) **Basis for Denial of Application:** If an application is denied by the City, it shall document the basis for the denial, including the specific applicable City code provisions or other City 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 City denies the application.

(D) **Resubmission of Denied Application:** The applicant may cure the deficiencies identified in the denial application.

- (1) The applicant has 30 days from the date the City 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 City.
- (2) The City shall approve or deny the revised completed application after a denial not later than the 90<sup>th</sup> day after the City receives the revised completed application. The City's review shall be limited to the deficiencies cited in the denial documentation.

(E) **Nondiscriminatory Review:** Each completed application shall be processed by the City on a nondiscriminatory basis.

#### § 1.10 TIME OF INSTALLATION.

A network provider shall begin installation for which a permit is granted not later than six months after final approval of the application and shall diligently pursue installation to completion. The City Manager may in his/her sole discretion grant reasonable extensions of time as requested by the network provider.



## § 1.11 APPLICABLE FEES AND RENTAL RATES TO THE CITY.

(A) As compensation for the network provider's use and occupancy of the City public rights-of-way, the network provider shall pay application fees and annual public right-of-way rental rates as set forth below, which shall be in lieu of any lawful tax, license, charge, right-of-way permit, use, construction, street cut or inspection fee; or other right-of-way related charge or fee, whether charged to the network provider or its contractor(s) within the City, except the usual general ad valorem taxes, special assessments and sales tax levied in accordance with state law and equally applicable to all general businesses in the City.

### (B) Network Nodes:

- (1) **Application Fee:** The application fee is in fee schedule for each Network Node for up to but not more than 30 Network Nodes.
- (2) **Annual Public Right-of-Way Rate Fee:** The annual public right-of-way rate is in fee schedule and is per Network Node installed in the City public rights-of-way.
- (3) **Public Right-of-Way Rate Adjustment:** As provided in Section 284.054 of the Code, the City may adjust the amount of the annual public right-of-way rate not more than annually by an amount equal to one-half the annual change, if any, in the Consumer Price Index (CPI). 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 60<sup>th</sup> day following the written notice.

### (C) Node Support Poles:

- (1) The application fee for each Network Support Pole is in fee schedule.

### (D) Transfer Facilities:

- (1) The application fee for each Transfer Facility is in fee schedule.
- (2) The annual Transfer Facility rental rate is in fee schedule and fee is monthly for each Network Node site located in a public right-of-way. However, no rate is required if the network provider is already paying the City an amount equal to or greater than the amount of other City right-of-way fees for access lines under Chapter 283 of the Code or cable franchise fees under Chapter 66 of the Texas Utility Code.

### (E) Micro Network Nodes:

- (1) No application fee is required for a Micro Network Node if the installation is attached on lines between poles or node support poles.

**(F) Collocation of Network Nodes on Service Poles**

- (1) Subject to the City's Pole Service Agreement, the collocation of Network Nodes on City service poles is in fee schedule as is per year per service pole.

**(G) City-Owned Municipal Utility Poles:**

- (1) A network provider shall pay an annual pole attachment rate for the collocation of a Network Node supported by or installed on a City-owned utility pole based upon the pole attachment rate consistent with Section 54.024 of the Texas Utilities Code, applied on a per-foot basis.

- (H) The City shall not seek or accept in-kind services in lieu of or as additional payment or consideration from any user of the public rights-of-way for use of the public rights-of-way.

**§ 1.12 INDEMNITY.**

As provided in Section 284.302 of the Code, a wireless Network Provider shall indemnify, defend, and hold the City harmless from and against all liability, damages, cost, and expense, including reasonable attorney's fees, arising from injury to person or property proximately caused by the negligent act or omission of the Network Provider. The City shall promptly notify the Network Provider of any claims, demands, or actions ("claims") covered by this indemnity after which the Network Provider shall defend the claims. The Network Provider shall have the right to defend and compromise the claims. The City shall cooperate in the defense of the claims. The foregoing indemnity obligations shall not apply to claims arising solely from the negligence of City; however, they shall apply in the case of all claims which arise from the joint negligence of the Network Provider and the City; provided that in such cases, the amount of the claims for which the City shall be entitled to indemnification shall be limited to that portion attributable to the Network Provider. ~~Nothing in this section shall be construed as waiving any governmental immunity available to the City under state law or waiving any defenses of the parties under state law.~~

**§ 1.13 EFFECT ON OTHER UTILITIES AND TELECOMMUNICATION PROVIDERS.**

**SECTION III.**  
**REPEALING ALL ORDINANCES IN CONFLICT**

All other ordinances or parts of ordinances inconsistent or in conflict herewith, or to the extent of such inconsistency or conflict are hereby repealed.

**SECTION IV.**  
**SAVINGS CLAUSE**

This City Council of the City of Los Fresnos, Texas does hereby declare that if any section, subsection, paragraph, sentence, clause, phrase, work or portion of this Ordinance is declared invalid, or unconstitutional, by a court of competent jurisdiction, that, in such event that it would have passed and ordained any and all remaining portions of this Ordinance without the inclusion of that portion or portions which may be so found to be unconstitutional or invalid, and declare that its intent is to make no portion of this Ordinance dependent upon the validity of any portion thereof, and that all said remaining portions shall continue in full force and effect.

**SECTION V.**  
**COMPLIANCE WITH OPEN MEETINGS ACT**

It is hereby officially found and determined that the meeting at which this Ordinance was considered 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 Open Meetings Act, Chapter 551 of the Texas Government Code.

**SECTION VI.**  
**EFFECTIVE DATE.**

This Ordinance shall become effective after publication of caption of ordinance as required by City Charter.

INTRODUCED AND APPROVED on the first reading this \_\_\_\_ day of \_\_\_\_\_ 2017.

APPROVED AND PASSED on the second reading this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Polo Narvaez, Mayor

ATTEST:

\_\_\_\_\_  
Pam Denny, City Secretary



**City Council**  
200 North Brazil  
Los Fresnos, TX 78566

Meeting: 09/12/17 07:00 PM  
Department: City Secretary  
Category: Ordinances  
Prepared By: Pam Denny  
Initiator: Pam Denny  
Sponsors:

**REVIEWED**

**ACTION ITEM (ID # 2321)**

DOC ID: 2321 A

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**Consideration and ACTION to approve the second and final reading of Ordinance 487 approving a design manual for the installation of network nodes and node support poles due to SB 1004.**

This is a requirement to meet the new state law that allows network nodes to be places in city right-of-ways. This is what TML suggests to utilize. We already have a company wanting to put these up.

I recommend approval.

**ORDINANCE NO. 487**

**AN ORDINANCE BY THE CITY OF LOS FRESNOS, TEXAS, APPROVING A DESIGN MANUAL FOR THE INSTALLATION OF NETWORK NODES AND NODE SUPPORT POLES; AND APPROVING A POLE ATTACHMENT AGREEMENT REGULATING THE INSTALLATION OF NETWORK NODES ON CITY SERVICE POLES AND UTILITY POLES; DECLARING GOVERNING LAW; PROVIDING REPEALING AND SAVINGS CLAUSES; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

This ordinance was introduced and submitted to the City Council for passage and adoption after the second reading of the Ordinance. After presentation and discussion of the Ordinance, a motion was made by \_\_\_\_\_ that the Ordinance be finally passed and adopted in accordance with the City's Home Rule Charter. The motion was seconded by \_\_\_\_\_ and carried by the following voted:

Mayor Polo Narvaez	___ For ___ Against ___ Abstained
Councilmember Yolanda H. Cruz	___ For ___ Against ___ Abstained
Councilmember Swain Real	___ For ___ Against ___ Abstained
Mayor Pro-tem Javier Mendez	___ For ___ Against ___ Abstained
Councilmember Bibi Garza	___ For ___ Against ___ Abstained
Councilmember Juan Munoz	___ For ___ Against ___ Abstained

**WHEREAS**, the City of Los Fresnos, Texas ("City") recognizes that the State of Texas has delegated to the City the fiduciary duty, as a trustee, to manage the public right-of-way for the health, safety, and welfare of the public to Texas municipalities; and

**WHEREAS**, Chapter 284 of the Texas Local Government Code ("the Code") allows certain wireless network providers to install in the public rights-of-way their wireless facilities, described and defined in Section 284.002 of the Code as "Micro Network Nodes", "Network Nodes", and "Node Support Poles;" and

**WHEREAS**, as expressly allowed by Section 284.108 of the Code and pursuant to its police power authority reserved in Sec. 284.301 of the Code, the City desires to enact a *Design Manual by the City of Los Fresnos, Texas for the Installation of Network Nodes and Node Support Poles* ("the Design Manual") in order to meet its fiduciary duty to the citizens of the City, and to

give assistance and guidance to wireless telecommunications network providers to assist such companies in the timely, efficient, safe and aesthetically pleasing installation of technologically competitive equipment; and

**WHEREAS**, the City Council desires to approve a *Pole Attachment Agreement* by which wireless telecommunication network providers may attach and collocate their network nodes on city service and utility poles subject to the Code, the Design Manual, and the City Right-of-Way Management Ordinance.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF LOS FRESNOS, TEXAS THAT:**

#### **SECTION I FINDINGS OF FACT**

The forgoing recitals are incorporated into this Ordinance as true and correct findings of fact.

#### **SECTION II. APPROVING DESIGN MANUAL**

The City Council hereby approves the *Design Manual by the City of Los Fresnos, Texas for the Installation of Network Nodes and Node Support Poles*, which is attached here as Exhibit "A."

#### **SECTION III. APPROVING POLE ATTACHMENT AGREEMENT**

The City Council hereby approves the *Pole Attachment Agreement*, which is attached here as Exhibit "B."

#### **SECTION IV. GOVERNING LAW**

This Ordinance shall be construed in accordance with Chapter 284 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.

**SECTION V.**  
**REPEALING ALL ORDINANCES IN CONFLICT**

All other ordinances or parts of ordinances inconsistent or in conflict herewith, or to the extent of such inconsistency or conflict are hereby repealed.

**SECTION VI.**  
**SAVINGS CLAUSE**

This City Council of the City of Los Fresnos, Texas does hereby declares that if any section, subsection, paragraph, sentence, clause, phrase, work or portion of this Ordinance is declared invalid, or unconstitutional, by a court of competent jurisdiction, that, in such event that it would have passed and ordained any and all remaining portions of this Ordinance without the inclusion of that portion or portions which may be so found to be unconstitutional or invalid, and declare that its intent is to make no portion of this Ordinance dependent upon the validity of any portion thereof, and that all said remaining portions shall continue in full force and effect.

**SECTION V.**  
**COMPLIANCE WITH OPEN MEETINGS ACT**

It is hereby officially found and determined that the meeting at which this Ordinance was considered 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 Open Meetings Act, Chapter 551 of the Texas Government Code.

**SECTION VI.**  
**EFFECTIVE DATE.**

This Ordinance shall become effective after publication of caption as required by City Charter.



INTRODUCED AND APPROVED on the first reading the \_\_\_\_ day of \_\_\_\_\_, 2017.

APPROVED AND PASSED on the second reading this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Polo Narvaez, Mayor

ATTEST:

\_\_\_\_\_  
Pam Denny, City Secretary

**City Council**  
200 North Brazil  
Los Fresnos, TX 78566

Meeting: 09/12/17 07:00 PM  
Department: City Secretary  
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Sponsors:

**REVIEWED**

**ACTION ITEM (ID # 2318)**

DOC ID: 2318 A

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**Consideration and ACTION to approve the second and final reading of Ordinance 484 adopting the budgets for fiscal year 2017/2018.**

This will adopt the budget as we have discussed and reviewed over the last several meetings and was approved in the earlier meeting on the first reading.

I recommend approval.

**ORDINANCE NO. 484**

**AN ORDINANCE ADOPTING THE BUDGET FOR THE CITY OF LOS  
FRESNOS, TEXAS, FOR THE FISCAL YEAR OCTOBER 1, 2017 THROUGH  
SEPTEMBER 30, 2018; PROVIDING FOR THE PUBLICATION AND  
ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.**

Was introduced and submitted to the City Council for passage and adoption after the second reading of the Ordinance. After presentation and discussion of the Ordinance, a motion was made by \_\_\_\_\_ that the Ordinance be finally passed and adopted in accordance with the City's Home Rule Charter. The motion was seconded by \_\_\_\_\_ and carried by the following vote:

Mayor Polo Narvaez	___ For ___ Against ___ Abstained
Councilmember Yolanda H. Cruz	___ For ___ Against ___ Abstained
Councilmember Swain Real	___ For ___ Against ___ Abstained
Mayor Pro-tem Javier Mendez	___ For ___ Against ___ Abstained
Councilmember Bibi Garza	___ For ___ Against ___ Abstained
Councilmember Juan Munoz	___ For ___ Against ___ Abstained

**WHEREAS**, the City Manager of the City of Los Fresnos has prepared and presented to the City Council a budget for the fiscal year October 1, 2017 through September 30, 2018; and

**WHEREAS**, workshops on said budget were called for on August 8, 2017, August 24, 2017, and a public hearing was held on September 12, 2017 at 6:00 p.m. by publication in a newspaper of general circulation at least ten days and not more than thirty days before the public hearings to be held at the City Hall in the City of Los Fresnos, Texas, where and when any and all interested persons might appear and be heard with reference to any item contained in said budget; and

**WHEREAS**, said public hearing was held on September 12, 2017 at the time and place aforesaid, and the said budget was discussed, and all interested persons were given an opportunity to be heard on any matter relative thereto, and all interested persons having appeared and been heard, and there be not other persons seeking to be heard with reference to any matter concerning said budget, the said public hearings were closed.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOS FRESNOS, TEXAS:**

SECTION 1. That the budget of the City of Los Fresnos, Texas for the fiscal year October 1, 2017 through September 30, 2018 will increase from last year's total property tax budget by \$ 195,328 or 18%. The amount \$ 230,970 is tax revenue to be raised from new property added to the roll this year.

SECTION 2. That the budget of the City of Los Fresnos, Texas for the fiscal year October 1, 2017 through September 30, 2018 is hereby adopted by this Ordinance. A summary of the budget adopted is hereby attached and incorporated herein as Exhibit A and the complete detail budget adopted by this Ordinance is incorporated hereby reference and shall be made available for public inspection at the Office of the City Secretary during regular business hours.

SECTION 3. That the City Council is authorized to amend the budget from time to time during the fiscal year should there be changes in revenues and expenditures according to law. An unanticipated need and an emergency shall be defined by and expenditures increased only upon a majority vote of the City Council.

SECTION 4. That once a month the Director of Finance shall present the City Council a written report showing the city's financial condition to date. Such report shall include the status of all revenues and expenditures of the city by each fund and department. The Director of Finance shall also present said report to the head of each city department.

INTRODUCED and APPROVED on the first reading this 12<sup>th</sup> day of September, 2017.

APPROVED and PASSED on the second reading this 12<sup>th</sup> day of September, 2017 at a meeting of the City Council of the City of Los Fresnos, Texas, at which a quorum was present and which was held in accordance with the laws of the State of Texas.

CITY OF LOS FRESNOS

\_\_\_\_\_  
Polo Narvaez, Mayor

ATTEST:

\_\_\_\_\_  
Pam Denny, City Secretary



**City Council**  
200 North Brazil  
Los Fresnos, TX 78566

Meeting: 09/12/17 07:00 PM  
Department: City Secretary  
Category: Ordinances  
Prepared By: Pam Denny  
Initiator: Pam Denny  
Sponsors:

**REVIEWED**

**ACTION ITEM (ID # 2319)**

DOC ID: 2319 A

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**Consideration and ACTION to approve the second and final reading of Ordinance 485 approving the 2017 tax roll and levying municipal ad valorem taxes for the use, benefit, and support of the City and directing the assessment and collection thereof.**

This ordinance is the second reading from the prior meeting that sets the property tax rate at \$0.715 per \$100 valuation like we have discussed which is the same rate we have had for the last 10 years. The Operations tax rate will be \$0.620491 and the debt tax rate will be \$0.094509.

I recommend approval.

**ORDINANCE NO. 485**

**AN ORDINANCE APPROVING THE TAX ROLL FOR 2017 AND LEVYING  
MUNICIPAL AD VALOREM TAXES FOR THE USE, BENEFIT AND SUPPORT  
OF THE MUNICIPAL GOVERNMENT OF THE CITY OF LOS FRESNOS,  
TEXAS; AND DIRECTING THE ASSESSMENT AND COLLECTION  
THEREOF.**

Was introduced and submitted to the City Council for passage and adoption after the second reading of the Ordinance. After presentation and discussion of the Ordinance, a motion was made by \_\_\_\_\_ that the Ordinance be finally passed and adopted in accordance with the City's Home Rule Charter. The motion was seconded by \_\_\_\_\_ and carried by the following vote:

Mayor Polo Narvaez	___ For	___ Against	___ Abstained
Councilmember Yolanda H. Cruz	___ For	___ Against	___ Abstained
Councilmember Swain Real	___ For	___ Against	___ Abstained
Mayor Pro-tem Javier Mendez	___ For	___ Against	___ Abstained
Councilmember Bibi Garza	___ For	___ Against	___ Abstained
Councilmember Juan Munoz	___ For	___ Against	___ Abstained

**WHEREAS**, the City Council finds that the tax for the year 2017 herein after levied for current expenses of the City and the general improvements of the City and its property, must be levied to provide the revenue requirements of the budget for the ensuing year.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE  
CITY OF LOS FRESNOS, TEXAS:**

SECTION 1. The Tax Appraisal Roll of the City of Los Fresnos for 2017, as heretofore approved and certified by the Cameron Appraisal District, is hereby approved, together with those supplemental rolls, which the Cameron Appraisal District deems necessary to complete the 2017 Certified Roll.

SECTION 2. For the current expenses of the City of Los Fresnos and for the general improvements of the City and its property, also known as maintenance and operations expenses, there is hereby levied and ordered to be assessed and collected for the year 2017, and for each year thereafter until it be otherwise provided and ordained, on all property situated within the limits of the City of Los Fresnos, and not exempt from taxation by valid laws, and ad valorem tax at the rate of \$0.620491 on the one hundred (\$100.00) dollars valuation of such property.

**THE TOTAL TAX RATE WILL REMAIN THE SAME AS PREVIOUS YEARS.**

**TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME  
WILL DECREASE APPROXIMATELY \$8.57.**

Attachment: tax rate ordinance (2319 : Tax Rate Ordinance)

SECTION 3. For the purpose of paying interest and providing a sinking fund for the payment of each issue of certificates of obligation issued for various municipal purposes heretofore issued by the City of Los Fresnos, including the various installments of principal falling due during the ensuing year on certificates of obligation issued for such purposes, there is hereby levied and ordered to be assessed and collected for the year 2017 and for each year thereafter until it be otherwise provided and ordained, on all property situated within the limits of the City of Los Fresnos and not exempt from taxation by valid laws, an ad valorem tax at the rate of \$0.094509 on the one hundred (\$100.00) dollars valuation of such property.

SECTION 4. For the purpose of collecting ad valorem taxes levied and ordered to be assessed and collected for the year 2017, and for each year thereafter until it be otherwise provided and ordained, payment shall become due on the first day of October of the year for which the levy is made and may be paid up to and including the following January 31<sup>st</sup>, without penalty, and discounts shall be allowed on said taxes if paid as follows, to wit:

- (1) Three percent (3%) if payment is received in the month of October; and
- (2) Two percent (2%) if payment is received in the month of November; and
- (3) One percent (1%) if payment is received in the month of December; and
- (4) Gross amount without penalty is due in the month of January; and

If not paid before February 1, 2018 said taxes shall become delinquent and the following penalty shall be payable thereon, to wit:

	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
February 1	6%	1%	7%
March 1	7%	2%	9%
April 1	8%	3%	11%
May 1	9%	4%	13%
June 1	10%	5%	15%
July 1	12%	6%	18%
Each month thereafter		+1%	+1%

From February 1, 2018 delinquent tax accrues interest at a rate of one percent for each month or portion of a month the tax remains unpaid. Attorney fees may accrue as provided by law.

SECTION 5. The unpaid taxes on all years prior to 2017 shall continue to be delinquent as of February 1<sup>st</sup> of the year next succeeding the year for which such taxes were levied and assessed and shall be subject to penalty and interest as governed by Section 33.01, Texas Property Tax Laws, Annotated 1982.

SECTION 6. This Ordinance shall become effective immediately upon its passage.

INTRODUCED and APPROVED on the first reading this 12<sup>th</sup> day of September, 2017.

APPROVED and PASSED on the second reading this the 12<sup>th</sup> day of September, 2017.

CITY OF LOS FRESNOS

\_\_\_\_\_  
Polo Narvaez, Mayor

ATTEST:

\_\_\_\_\_  
Pam Denny, City Secretary

Attachment: tax rate ordinance (2319 : Tax Rate Ordinance)