

**CITY OF PLANTERSVILLE, TEXAS**

**ORDINANCE NO. 2026-47**

**AN ORDINANCE OF THE CITY OF PLANTERSVILLE, TEXAS, REGULATING USE OF THE PUBLIC RIGHT-OF-WAY; REQUIRING REGISTRATION AND FACILITY MAPPING; ESTABLISHING PERMIT, RESTORATION, AND RELOCATION REQUIREMENTS; PROVIDING FOR COMPENSATION; PROVIDING A PENALTY; AND PROVIDING ENFORCEMENT AND AN EFFECTIVE DATE.**

WHEREAS, the City of Plantersville, Texas ("City") is a Type B General Law City incorporated under the laws of the State of Texas; and

WHEREAS, various utility providers installed facilities within what is now the City's public rights-of-way before incorporation and the City lacks a complete record of the location of those facilities; and

WHEREAS, the City Board of Aldermen finds it necessary to establish a basic framework for managing the public rights-of-way to protect public safety, support infrastructure planning, and receive lawful compensation consistent with state law; and

WHEREAS, nothing in this Ordinance is intended to conflict with applicable state or federal law, including Texas Local Government Code Chapters 283 and 284, Texas Utilities Code Chapters 54, 66, and 181, and the federal Telecommunications Act of 1996 (47 U.S.C. § 253);

NOW, THEREFORE, BE IT ORDAINED BY THE CITY BOARD OF ALDERMEN OF THE CITY OF PLANTERSVILLE, TEXAS:

**SECTION 1. DEFINITIONS**

As used in this Ordinance:

- (a) "City" means the City of Plantersville, Texas.
- (b) "Facility" means any pipe, conduit, cable, wire, fiber-optic line, pole, antenna, vault, or associated equipment located in the public right-of-way.
- (c) "Mayor" means the Mayor of the City, or such other City official or employee as the City Board may designate by resolution to administer this Ordinance.
- (d) "Provider" means any person, entity, utility, cooperative, or company that installs, owns, operates, or maintains a facility within the public right-of-way, including but not limited to electric utilities, gas utilities, telecommunications providers, cable and video service providers, water supply corporations, and pipeline operators.
- (e) "Public right-of-way" or "ROW" means any area on, below, or above a public street, road, alley, or utility easement in which the City holds a public interest.

## **SECTION 2. REGISTRATION AND FACILITY MAPPING**

(a) Every Provider with facilities in the City's ROW shall register with the Mayor within ninety (90) days of the effective date of this Ordinance, and before installing any new facilities. Registration shall include:

- (1) Provider's legal name, principal address, and a twenty-four-hour emergency contact name and telephone number;
- (2) A description of the type of facilities operated in the ROW (e.g., telecom, electric, gas, water, cable);
- (3) A facility map or sketch depicting, to the best of the Provider's knowledge, the location, type, and approximate depth of all existing facilities within the City's ROW; and
- (4) Copies of any state certificate or authorization to operate within the City.

(b) Within ninety (90) days of completing any new construction in the ROW, the Provider shall submit updated as-built drawings showing the actual location, type, and depth of installed facilities.

(c) Facility maps submitted under this Section are confidential and exempt from public disclosure to the extent required by law, Texas Government Code Chapter 552. The City shall use them only for infrastructure planning, construction coordination, and emergency response.

(d) A Provider that fails to register within the time required and has no valid franchise agreement or other lawful authorization is subject to enforcement action under Section 7.

## **SECTION 3. WORK PERMITS**

(a) No Provider shall perform excavation, boring, or other construction that disturbs the ROW surface without first obtaining written authorization from the Mayor, except for Emergency Work as provided in subsection (b).

(b) Emergency Work, being work necessary to prevent imminent harm to public safety or to restore essential utility service, may begin without prior authorization. The Provider shall notify the Mayor within twenty-four (24) hours of commencing Emergency Work and shall apply for authorization within two (2) business days.

(c) All work in the ROW is subject to the Texas Underground Facility Damage Prevention and Safety Act, Texas Utilities Code Chapter 251. The Provider shall notify the Texas 811 call system and obtain clearance before any excavation.

(d) Permit fees, if any, shall be set by resolution of the City. No fee shall be set at a level that has the practical effect of prohibiting the provision of telecommunications service in violation of 47 U.S.C. § 253.

(e) Small wireless facilities, network nodes, and transport facilities are subject to Texas Local Government Code Chapter 284. To the extent any provision of this Section conflicts with Chapter 284, Chapter 284 controls.

#### **SECTION 4. RESTORATION**

(a) Upon completing any work in the ROW, the Provider shall, at its own expense, restore the ROW — including pavement, gravel, drainage, and vegetation — to the same or better condition as existed before the work. The Provider warrants that restoration shall remain in satisfactory condition for two (2) years after completion.

(b) If a Provider fails to restore the ROW after written notice from the Mayor and a ten (10)-day cure period, the City may perform the restoration and recover all costs from the Provider.

#### **SECTION 5. RELOCATION OF FACILITIES**

(a) When the City undertakes a public improvement project that requires relocation of a Provider's ROW facilities, the Mayor shall provide written notice to the Provider specifying the required relocation and the new location.

(b) As required by applicable state law:

(1) An electric utility shall relocate poles or lines at its own expense to allow the widening or straightening of a City street, upon thirty (30) days' written notice from the City Board of Aldermen specifying the new location. (Tex. Utilities Code § 181.047(c))

(2) A certificated telecommunications utility shall relocate its facilities at its own expense to allow the widening or straightening of a City street, upon written notice. (Tex. Utilities Code § 54.203(c))

(3) For all other Providers, or for relocations required for reasons other than street widening or straightening, the cost and timing of relocation shall be governed by the Provider's franchise agreement with the City, or, if none exists, by written agreement between the City and the Provider.

(c) A Provider that fails to relocate within the time required after proper notice may be subject to enforcement action, and the City may cause the relocation to be performed and recover reasonable costs from the Provider.

#### **SECTION 6. COMPENSATION FOR USE OF THE ROW**

(a) Certificated Telecommunications Providers (CTPs). CTPs shall compensate the City for use of the public ROW in the amount determined by the Public Utility Commission of Texas under Texas Local Government Code Chapter 283. The City shall register its base amount with the PUC in accordance with PUC Substantive Rule 26.463 to receive such compensation.

(b) Cable and Video Service Providers. Holders of a state-issued certificate of franchise authority shall pay the City a franchise fee of five percent (5%) of gross revenues as required by Texas Utilities Code § 66.005, payable quarterly.

(c) Network Nodes and Small Wireless Facilities. Compensation shall be as set forth in Texas Local Government Code § 284.054 and § 284.055.

(d) Other Providers. All other Providers, unless preempted by state or federal law, shall compensate the City through a franchise or access agreement approved by the City Board of Aldermen.

(e) Non-Discrimination. All fees and requirements imposed under this Ordinance shall be applied on a non-discriminatory basis to all similarly situated Providers, consistent with Texas Utilities Code § 54.204.

## **SECTION 7. PRE-EXISTING UTILITIES AND FRANCHISE AGREEMENT REQUIREMENT**

(a) The City acknowledges that certain utility facilities were lawfully installed within the City's territory prior to the City's 2017 incorporation. Under Texas Utilities Code § 181.047 (electric utilities) and § 181.026 (gas utilities), those utilities may continue to operate in the ROW without municipal consent until the tenth anniversary of the City's incorporation. After that period, the formal consent of the City Board of Aldermen is required.

(b) Any electric utility or gas utility relying on the transitional period described in subsection (a) shall submit a written application for a franchise agreement with the City no later than one hundred eighty (180) days before the expiration of the applicable ten-year period.

(c) All other Providers operating in the City's ROW without a valid franchise agreement or other written City authorization shall apply for a franchise agreement within one hundred eighty (180) days of the effective date of this Ordinance, unless their ROW access rights are established exclusively by state law (e.g., CTPs under LGC Chapter 283).

## **SECTION 8. ENFORCEMENT**

(a) Violations. The following constitute violations of this Ordinance: (1) performing ROW construction without required authorization; (2) failure to register within the time required; (3) failure to restore the ROW as required; (4) failure to comply with a relocation notice; and (5) failure to apply for a required franchise agreement within the time specified.

(b) Stop-Work Order. The Mayor may issue a written stop-work order requiring immediate cessation of any unauthorized construction in the ROW. Any person receiving a stop-work order shall immediately comply.

(c) Fines. Any person or entity that violates this Ordinance shall be subject to a civil fine of not more than Five Hundred Dollars (\$500.00) per day for each day a violation continues, as permitted by applicable law.

(d) Other Remedies. The City may pursue all remedies available at law or equity, including injunctive relief and recovery of costs the City incurs as a result of a Provider's failure to comply.

**SECTION 9. GENERAL PROVISIONS**

(a) Severability. If any provision of this Ordinance is held invalid, the remaining provisions shall continue in full force and effect.

(b) Conflict with State and Federal Law. To the extent any provision of this Ordinance conflicts with applicable state or federal law, the applicable state or federal law controls. This Ordinance shall not be applied in a manner that prohibits the provision of telecommunications services in violation of 47 U.S.C. § 253.

(c) Existing Franchise Agreements. Any existing franchise agreement between the City and a Provider remains in full force and effect until it expires or is terminated in accordance with its terms. Upon expiration, the Provider shall negotiate a new agreement consistent with this Ordinance.

(d) Effective Date. This Ordinance shall take effect immediately upon passage and approval.

PASSED AND APPROVED on this 6 day of May, 2026.

ATTEST:

Kimberly Alphin                      Misty Hemminger  
Mayor, City of Plantersville, Texas      City Secretary