

## ORDINANCE 1970

### AN ORDINANCE AMENDING CHAPTER 122 (UTILITY LICENSES) OF THE MUNICIPAL CODE OF THE CITY OF ANKENY, IOWA BY INCORPORATING SMALL WIRELESS FACILITY PERMITS.

---

**BE IT ORDAINED**, by the City Council of the City of Ankeny, Iowa, that:

**Section 1.** The title of Chapter 122 of the Municipal Code of the City of Ankeny, Iowa, should be and the same is hereby amended from “UTILITY LICENSES” to “NON-FRANCHISE UTILITY ACCOMODATION”.

**Section 2.** Section 122.01 PURPOSE of the said Chapter 122 is hereby amended by removing the last two sentences of this section and replacing them with the following two sentences:

This chapter provides for uniform licensing and permitting procedures for the installation and maintenance of private or commercial utility and communication facilities within the City of Ankeny rights-of-way and on city property. This chapter also provides for the recovery of expenses from companies using the public rights-of-way for private gain.

**Section 3.** Section 122.02 LICENSE REQUIRED of the said Chapter 122 is hereby amended by retitling the section as follows:

#### **122.02 LICENSE OR PERMIT REQUIRED.**

**Section 4.** Section 122.02 of the said Chapter 122 LICENSE OR PERMIT REQUIRED is hereby amended by removing Paragraph 4. in this section and replacing it with the following two new paragraphs:

4. Small Wireless Facilities are compact, low power wireless communication transceivers generally mounted on street lights or utility poles within the street right-of-way. These specific utility installations are subject to a Small Wireless Facility Permit in accordance with Section 122.16 of this chapter.

5. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa, or as subsequently amended or changed.

**Section 5.** The first sentence of Section 122.07 INSURANCE CERTIFICATE is hereby amended by adding the words “or permit” after the words “Before any license...”.

**Section 6.** The first sentence of Section 122.08 PERFORMANCE BOND is hereby amended by adding the words “or permit” after the words “Before any license...”.

**Section 7.** The first sentence of Section 122.10 OTHER OBLIGATIONS is hereby amended by adding the words “or permit” after the words “Obtaining a license...”.

**Section 8.** The first sentence of Section 122.11 PERMISSIVE DENIAL is hereby amended by adding the words “or permit” after the words “The public works director may deny a license...”.

**Section 9.** The first sentence of Section 122.12 SALE, ASSIGNMENT, OR CHANGE IN USE is hereby amended by adding the words “or permittee” after the words “A licensee...”.

**Section 10.** The first sentence of Section 122.13 SYSEM ABANDONMENT is hereby amended by adding the words “or permittee” after the words “A licensee...”.

**Section 11.** Chapter 122 is hereby amended by creating a new Section 122.15 SMALL WIRELESS FACILITY PERMIT as follows:

**122.15 SMALL WIRELESS FACILITY PERMIT**

Small Wireless Facilities are compact, low power wireless communication transceivers which can be mounted on street lights or utility poles within the street right-of-way or on other city property pending issuance of a permit. Subject to the following provisions and conditions, a company that proposes to install a Small Wireless Facility (SWF) on an existing street light pole within the city right-of-way, on a new pole within the right-of-way, or on other facilities owned by the City of Ankeny within the right-of-way or on city property, shall be subject to a Small Wireless Facility Permit according to this section.

1. Said Small Wireless Facility installations are subject to the requirements of Chapter 151 in addition to the requirements of this section.
2. The SWF permit and corresponding fee applies only to the spot facility installation. The Utility License identified in Section 122.02 and subsequent sections of this chapter shall apply to any wiring and conduits that are installed within the right-of-way to provide power or fiber optics to the SWF.
3. Locations of Small Wireless Facilities: The strong preference for locations of SWF’s within Ankeny are on non-City owned poles and infrastructure. If city infrastructure must be used, it shall be on streetlights, buildings or towers. SWF installations shall be restricted from city traffic signal poles due to the complexity of the signal systems present in the poles. Also, the city traffic signals are located at high-traffic volume intersections where SWF installations would create safety hazards and disruption to traffic.

A. SWF installations shall be located as far as feasible from residential neighborhoods. Installations along some of Ankeny's main corridors may not be possible due to the quantity of existing utilities within those corridors. Alternate locations will be coordinated with the City.

B. New poles that are installed within the right-of-way to facilitate a SWF installation shall meet the requirements of the zoning district that applies to the adjacent property, including height and appearance. Said new poles shall match the height of any surrounding poles.

C. A separation distance of at least one city block or approximately 300 feet shall be maintained between SWF installations. A lesser distance may be allowed by the city when it is justified by the applicant due to coverage or service gap issues.

4. Aesthetics: Small Wireless Facility installations shall be completed with regard to the aesthetics of the surroundings. The SWF equipment shall match the color, dimensions and style of the host pole and nearby poles as closely as possible. For SWF installations that include the replacement of a street light pole, the replacement pole shall match the color, dimensions, height and style of the existing street light pole. For uniformity of lighting, any replacement street light poles shall have the same fixture type and wattage as the existing street light.

A. Uptown Ankeny and The District at Prairie Trail are special commercial districts within Ankeny that have black decorative street lights. SWF installations within these districts will need to utilize existing poles or replacement poles that match the exact style of the existing decorative street lights.

B. Screening: If a SWF installation does not aesthetically blend in to the surrounding environment, screening of the equipment may be required by the City. Screening features shall be approved by the city and may include camouflage treatments or solid coverings that fully mask the SWF equipment from view and environmentally match the surrounding.

C. For a SWF installation within the right-of-way, no other above-ground equipment such as accessory structures or cabinets at-grade will be allowed.

D. The total volume of the equipment and fixtures that comprises a SWF shall not exceed 28 cubic feet exclusive of the antenna. No guy wires or other auxiliary supports can be used to fortify a SWF installation.

5. Structural Certification: As part of the permit application process, each SWF installation shall be certified by a professional engineer licensed in Iowa that the installation will be structurally sound in accordance with applicable standards including the National Electric Safety Code, ANSI, TIA, and EIA standards.

6. Discontinuation and Relocation: If an SWF is no longer needed, the service provider shall immediately inform the city. Any SWF within the city that is no longer in operation shall be considered abandoned and shall be removed by the service provider within 12 months.

A. If the city undertakes a street or utility project that will require the relocation or modification of an existing SWF, the service provider shall accommodate the City project by scheduling and completing the relocation or modification so that the City project is not delayed in accordance with Sections 122.04 and 122.05 of this chapter. All costs associated with the relocation or modification of the SWF shall be the responsibility of the service provider.

**Section 12.** Section 122.15 LICENSE FEES of the said Chapter 122 is hereby amended by renumbering and retitling the section as follows:

**122.16 LICENSE AND PERMIT FEES.**

**Section 13.** Section 122.16 LICENSE AND PERMIT FEES of the said Chapter 122 is hereby further amended by adding two new paragraphs as follows:

5. Small Wireless Facility Permit Fees: The Federal Communications Commission (FCC) issued a Declaratory Ruling and Third Report and Order dated September 18, 2018 which clarified the scope and meaning of the Communications Act Sections 253 and 332(c)(7). This document established the compensation to states and cities for permitting a Small Wireless Facility (SWF) to be installed within the said jurisdiction's rights-of-way or property. The total amount of fees for processing or issuing a single permit, including any fees charged by third parties, shall be as the following:

- A) \$500 for a single up-front application that includes up to five SWFs.
- B) \$50 for each SWF beyond five in a single application.

6. Permit Fee Adjustments: The total amount of fees shall be adjusted every five years to reflect any increases or decreases in the consumer price index, and as dictated by Federal requirements as stipulated in the Communications Act Sections 253 and 332(c)(7).

And Paragraph 5. shall be relabeled as Paragraph 7. to allow the insertion of the above two new sections.

**Section 14.** Section 122.16 LICENSE TERMS of the said Chapter 122 is hereby amended by removing the section in its entirety and replacing it with the follow new Section 122.17 LICENSE AND PERMIT TERMS:

**122.17 LICENSE AND PERMIT TERMS.**

The Utility Licenses and Permits issued under this chapter shall be issued by the public works director for a maximum term of five years, with automatic renewal after the five-year term unless the city issues a notice of revocation per section 122.18 of this chapter.

**Section 15.** Section 122.17 REVOCATION of the said Chapter 122 is hereby amended by renumbering the section as:

**122.18 REVOCATION**

**Section 16.** Section 122.18 REVOCATION of the said Chapter 122 is hereby amended by renumbering the section as:

**122.19 REVOCATION**

**Section 17.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 18.** This ordinance shall be in full force and effect after its passage, approval and publication as provided by law.

**PASSED** at Ankeny, Iowa, this **15<sup>th</sup>** day of **April** 2019.

\_\_\_\_\_  
Gary Lorenz, Mayor

**ATTEST:**

\_\_\_\_\_  
Debra M. Arend, Interim City Clerk

**PUBLISHED IN THE  
DES MOINES REGISTER  
ON THE 19<sup>TH</sup> DAY OF APRIL, 2019**

**1<sup>st</sup> Con 04/15/19  
2<sup>nd</sup> Con 04/15/19  
3<sup>rd</sup> Con 04/15/19**