



City of Keller

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Legislation Text

File #: 19-428, **Version:** 1

To: Mark Hafner, City Manager

From: Julie Smith, Community Development Director

Subject:

PUBLIC HEARING: Consider an ordinance approving an amendment to the City of Keller Unified Development Code, adopted by Ordinance No. 1746 dated July 7, 2015, by amending Article 4 - Development Procedures and Requirements for Application Submittals; Article 5 - Subdivision Design and Improvement Requirements; and Article 8 - Zoning-Districts, Development Standards, Tree Preservation to amend utility easement requirements related to trees in rights-of-way; authorizing publication; provide for penalties; and establishing an effective date. City of Keller, applicant. (UDC-19-0012)

Background:

The current Unified Development Code (UDC) regulations were adopted in 2015 as a part of the UDC update. The City has a franchise agreement with Atmos Energy which states that they will abide by our UDC. The UDC has conflicting guidelines as to how utility companies maintain their easements. The proposed amendment would resolve and clarify easement maintenance requirements, particularly as they relate to tree preservation and tree planting.

Analysis:

Recent development was hindered by conflicting requirements between Atmos Energy easement maintenance policy and the UDC tree planting requirements. Staff worked with the Lloyd, Gosselink law firm to identify how best to plant trees along the edges of utility easements (like the Atmos easement) to comply both with our UDC (maintaining our status as a Tree City USA and Scenic City) and address safety concerns for utilities. (The UDC does not permit trees planted closer than 5' from utility lines.) The UDC currently contains some inconsistent language regarding tree planting in rights-of-way and easements. Atmos Energy is relying on this inconsistency to claim they do not have to comply with UDC landscaping requirements at all in their easements. By eliminating this inconsistency, the UDC will clearly state what is required with respect to landscape requirements within utility easements.

-Article 4, Sections 4.07, 4.08, 4.12, and 4.15 (C)(2) regarding Owner's Certificates and Utility Plans: currently include language that allows carte blanche treatment of easements for purposes of constructing, reconstructing, inspecting, patrolling, maintenance or efficiency.

-Article 5, Sections 5.11(B), 5.11(E), 5.11(G) regarding Easements: currently allow easements to be established in accordance with utility companies' guidelines and could be read to excuse them from the City of Keller's tree preservation and planting requirements.

-Article 8, Sections 8.03 (P)(4)(f) regarding landscaping requirements: currently does not clarify

requirements for landscaping within utility easements.

Proposed Changes:

The proposed changes are going to

- Clarify language; and
- Provide that utility easements are subject to all UDC requirements; and
- Clarify planting requirements and spacing along utility lines and easements.

Citizen Input:

An amendment to the text of the UDC requires a public hearing notice to be published in the local newspaper fifteen (15) days prior to the scheduled City Council meeting date. The notice for the City Council public hearing was published in the September 1, 2019 edition of the Fort Worth Star-Telegram.

As of September 11, 2019, Staff has received no responses from the public on this UDC text amendment request.

Planning and Zoning Recommendation:

On August 12, 2019, the Planning and Zoning Commission recommended to approve Article 4 and 5 by a vote of 6-0.

Due to an oversight, Staff did not publish Article 8 in the notifications prior to the August 12, 2019, Planning and Zoning Meeting. Consequently, Staff noticed for the proposed changes to Article 8 and on September 9, 2019, the Planning and Zoning Commission recommended to approve the changes to Article 8 by a vote of 7-0.

Alternatives:

The City Council has the following options when considering an amendment to the text of the UDC:

- Approve as submitted.
- Approve with modifications or additional amendments(s).
- Table the agenda item to a specific date with clarification of intent and purpose.
- Deny.