



# Council Communication

Office of the City Manager

Date

June 9, 2008

Agenda Item No. 62  
Roll Call No. 08-  
Communication No. 08-356  
Submitted by: Larry Hulse, Community  
Development Director

## AGENDA HEADING:

Third reading on request from Qwest Communications, represented by Michael Sadler (Director of Policy and Law), for text amendments to the Zoning Ordinance revising Section 134-1296 to provide standards for public franchise and telecommunication utility cabinets located within a front yard.

## SYNOPSIS:

Recommend Council approve third reading on request from Qwest Communications for text amendments to the Zoning Ordinance revising Section 134-1296 to provide standards for public franchise utility cabinets and communication systems, as defined by Municipal Code Sec. 110-86, located within a front yard. Staff has reviewed the requests expressed by Qwest at the City Council meeting of May 5, 2008, and their recommendations may be found in the "Additional Information" section of this communication.

## FISCAL IMPACT:

Amount: Indeterminate. Qwest must negotiate easements to locate on private property and are subject to the right-of-way management program if located in public right-of-way.

Funding Source: N/A.

## ADDITIONAL INFORMATION:

On May 5, 2008 the City Council approved first reading of the ordinance and requested that staff prepare revisions to the ordinance to address concerns expressed by Qwest Communications.

Revisions requested by Qwest are as follows and staff recommendations follow:

- *Delete Section 134-1296[j][1][b] requiring cabinets to be placed within a maximum area of 4-feet (parallel to the front lot line) x 8-feet (perpendicular to the front lot line).*

Staff recommends that the section be amended to state: "The applicant must demonstrate to the satisfaction of the Zoning Enforcement Officer that the area of the installation is the minimum size necessary to maintain an orderly and functional arrangement."

- *Amend Section 134-1296[j][1][e] to state: "No utility cabinet or box installed in the front yard shall exceed seventy (70) inches in any dimension (excluding any required electric meter). An increase above this maximum height shall be allowed only by variance approved by the board of*

*adjustment pursuant to Section 134-64(2).”*

The Plan and Zoning Commission’s recommendation to allow a maximum of 55-inches in any dimension accommodated four of the seven standard cabinets that Qwest utilizes for such installations. The other three cabinets (up to 70 inches in height) would be allowed if installed outside of the required front yard.

Council may choose to increase the maximum dimension allowed in the front yard to 70-inches. However, staff does not recommend elimination of the text prohibiting the Board of Adjustment from granting an exception to this dimensional requirement as it would allow a cabinet of up to 105-inches (nearly 9 feet) in any dimension if the applicant demonstrates the presence of “practical difficulty” to the Board of Adjustment instead of demonstrating the presence of a “hardship” (no economic use of the property).

- *Delete Section 134-1296[j][1][g] requiring all utility cabinets or boxes on a single property to be the same color as approved by the Zoning Enforcement Officer.*

Staff recommends that the section be revised to state: “New utility cabinets shall be of neutral colors, such as tan, green or silver.”

Qwest has requested the text amendments to allow utility cabinets and boxes or groupings of utility cabinets and boxes within the required front yard. Based upon the current definition of a “yard” in the Zoning Ordinance, such cabinets must be 36 inches or less in height. This regulation has historically been interpreted such that no single dimension of the utility cabinet (height, width, or depth) may exceed 36 inches.

On April 3, 2008, the Plan and Zoning Commission reviewed the request from Qwest and recommended amendments to Section 134-1296 of the Zoning Ordinance to exempt public franchise utilities and communication systems (as defined in Section 110-86) in a front yard from the 36 inch dimensional limitation, subject to the following restrictions:

- The exemption is applicable in Residential and Commercial zoning districts, or a portion of a PUD district or PBP district designated for residential or commercial uses, but excludes properties that are located in the R-HD District, a designated local historic district or on any property designated as a local landmark.
- No dimension of an individual cabinet may exceed 55 inches, excluding any required utility meters.
- The maximum outer dimension of any area or pad containing a grouping of utility cabinets on a single property shall not exceed a dimension of 4 feet wide (parallel to the front lot line) by 8 feet deep (perpendicular to the front lot line).
- Cabinet groupings on the same block face must be separated by at least 300 feet in Residential districts and 100 feet in Commercial districts.
- Cabinets must be setback at least 5 feet from any lot line and any public right-of-way.
- Any grouping of cabinets or boxes on a single property must be placed in an orderly and sequential arrangement as approved by the Zoning Enforcement Officer.
- All utility cabinets and boxes on a single property must have a common color as approved by the Zoning Enforcement Officer.
- Any utility meter mounted to the exterior of a cabinet or box shall be screened from public view as approved by the Zoning Enforcement Officer.
- Any cabinet with a dimension greater than 55 inches is subject to the obtainment of a “Variance” from the Zoning Board of Adjustment.

At their May 19, 2008 meeting, Council requested that Qwest notify adjacent property owners if Qwest was requesting a permit to install “oversize” utility cabinets in the City right-of-way. Qwest, or any other utility company desiring to install facilities in the right-of-way, must first obtain a permit issued under the conditions established by the City Engineer. The City Engineer will include a requirement for the utility company to notify adjacent property owners for any utility cabinet greater than 36 inches in dimension which is proposed to be installed in the City right-of-way, including reporting of any property owner response, for consideration by the City prior to issuing a right-of-way permit.

**PREVIOUS COUNCIL ACTION(S):**

Date: May 19, 2008.

Roll Call Number: [08-897](#)

Action: On zoning text amendment revising Section 134-1296 to provide standards for public franchise utility cabinets and communication systems located in the front yard. (Council Communication No. 08-309) Moved by Vlassis that this ordinance be considered and given second vote for passage; refer to the City Manager to review and make recommendation for the language contained in notification to property owners. Motion Carried 4-3. Nays: Mahaffey, Kiernan and Cownie.

Date: May 5, 2008.

Roll Call Number: [08-817](#)

Action: On request from Qwest Communications for a zoning text amendment revising Section 134-1296 to provide standards for public franchise utility cabinets located in the front yard. (Council Communication No. 08-267) Moved by Meyer to refer to the City Manager to work with Qwest on three amendments to the ordinance regarding: 1) Cabinet height. 2) Placement at the curb. 3) Common color. Motion Carried 5-1-1. Nays: Mahaffey Absent: Hensley

Date: April 21, 2008.

Roll Call Number: [08-668](#)

Action: On request from Qwest Communications for a zoning text amendment revising Section 134-1296 to provide standards for public franchise utility cabinets located in the front yard, (5-5-08). Moved by Vlassis to adopt. Motion Carried 7-0.

**BOARD/COMMISSION ACTION(S):**

Date: April 3, 2008

Roll Call: N/A

Action: Plan and Zoning Commission recommended approval of the proposed ordinance by a vote of 12-2.

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

Final consideration of the ordinance.

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