
MEMORANDUM

DATE: FEBRUARY 2, 2010

SUBJECT: Ordinance Amendment – Telecommunications Right of Way Permits
Salt Lake City Code – 14.32.425 (See Attachment for Full Ordinance) – Proposed amendment relates to Section 1, Subsection D (Annual Charge Imposed)

STAFF REPORT BY: Karen Halladay, Budget and Public Policy Analyst

AFFECTED COUNCIL DISTRICTS: ALL

BUDGET IMPACT: The goal of the ordinance amendment is to encourage on-time filing and payment of telecommunication right of way permits.

NOTICE REQUIREMENTS: Public Hearing – Set date for February 2, 2010

POTENTIAL MOTIONS:

1. ["I move that the Council"] Amend Section 14.32.425, Subsection D, Salt Lake City Code, relating to the imposition of penalties and interest for non-payment of telecommunications right of way rental fees.

OR

2. ["I move that the Council"] Not amend Section 14.32.425, Subsection D, Salt Lake City Code, relating to the imposition of penalties and interest for non-payment of telecommunications right of way rental fees.

The following information had been provided for the Council briefing on January 19th.

Recommendation from Administration

The Administration is asking the Council to amend the Telecommunication Right of Way Permits ordinance, 14.32.425 of Salt Lake City Code. There are two proposed amendments to the ordinance. They include the following:

- Changing the due date of the annual payment to January 31 of each calendar year.
- Charging penalties and interest for 1) late filing of information and 2) failure to make timely payments as provided for in Utah Code Annotated Sections 59-1-401.
 - Late filing or late payment penalty - The penalty is equal to ten (10) percent of the amount due if the report is not filed and the corresponding payment is not made by January 31st each year.
 - Interest penalty - An interest penalty of 2% will compound on the unpaid tax, interest, and penalties for each calendar month after the due date of January 31st. Interest will accrue until the amount due is paid in full.

According to information provided by the Administration, the goal of the ordinance amendments is to encourage on-time filing and payment. The Administration does not expect to collect a lot of penalty and interest revenues from these proposed changes to the ordinance.

Background Information

Ordinance 14.32.425, Telecommunication Right of Way Permits, allows the City to collect a fee from each conduit or cable owner. The fee is \$1.00 per linear footage of conduit, conduit equivalent and cable owned by such conduit or

cable owner. A copy of the Telecommunications Right of Way Permits Ordinance is attached for your convenience. The proposed amendments to ordinance 14.32.425 relate to Section 1, Subsection D (Annual Charge Imposed) of the Salt Lake City Code.

In FY 2009, \$118,753 was collected from the conduit, conduit equivalent, and cable owners. According to the Administration, the amount of this tax to be collected in FY2010 is budgeted at \$255,000. In addition, the Administration is currently in negotiations for collection of past due amounts with a couple of the large conduit and cable owners. The Administration indicates that the proposed ordinance changes which provide the ability to charge a penalty and interest should encourage timely filing and payment of the annual telecommunications right of way permit charge.

Public Process

The Administration presented Ordinance 14.32.425 proposed changes to the Small Business Advisory Board at their December 9, 2009 meeting. According to the Administration, the Board did not have a problem with the amendments and indicated that the changes were standard business practice.

The Administration sent a letter to the businesses affected by the proposed ordinance changes. The notification letter will include the public hearing date of February 2, 2010 and provide an email address to submit comments or concerns about the proposed changes.

Matters the Council May Wish to Consider

1. Over the past couple of years, the collection of the telecommunications right of way permit charges has been pursued by the Administration, but with limited success, and in certain cases, legal action has been taken. Additionally, according to the Administration, several of the smaller conduit and cable companies have been acquired by larger companies. *The Council may wish to ask the Administration for an update on the negotiations, potential annual revenue, and plans for collecting this annual charge in the future.*

SALT LAKE CITY CORPORATION

DEPARTMENT OF ADMINISTRATIVE SERVICES
FINANCE DIVISION

SCANNED TO: Mayor
SCANNED BY: ST
DATE: 12/8

CITY COUNCIL TRANSMITTAL



David Everitt, Chief of Staff

Date Received: 12/08/2009
Date sent to Council: 12/09/2009

TO: Salt Lake City Council
Carlton Christensen, Chair

DATE: Dec 4, 2009

FROM: Gordon Hoskins
Deputy Director/Finance Director
Administrative Services

SUBJECT: Amending Ordinance 14.32.425, Salt Lake City Code,
Telecommunication Right of Way Permits

STAFF CONTACT: Mary Beth Thompson
801- 535-6403

DOCUMENT TYPE: Ordinance

RECOMMENDATION: That the City Council set a public hearing date to discuss the amendment of Ordinance 14.32.425.

BUDGET IMPACT: General Fund – minimal impact. The goal of the penalty and interest is to encourage on-time filing and payments.

BACKGROUND/DISCUSSION:

Telecommunication Right of Way Permits ordinance 14.32.425 is being amended to set the due date for the annual payment to January 31 of each calendar year and add a provision for a penalty and interest.

Currently no interest or penalties are charged for late filing or payments. Adopting this provision would allow the City to charge a late filing penalty equal to 10% of the amount owed, if the payment is not received by the due date. In addition, the provision allows for interest of 2% compounded monthly to be charged on the unpaid amount due for each calendar month past the due date that the payment is late.

PUBLIC PROCESS: Public Hearing

Ordinance No. ___ of 2010
(Telecommunications Right of Way Permit Late Payment Penalty and Interest)

An ordinance amending Section 14.32.425, Subsection D, *Salt Lake City Code*, relating to the imposition of penalties and interest for non-payment of telecommunications right of way rental fees.

WHEREAS, the City charges an annual rental fee for a permit allowing the placement and maintenance of telecommunications facilities within the City-owned right of way; and

WHEREAS, the Ordinance setting forth the rental fee does not currently impose any penalty or interest for late or non-payment; and

WHEREAS, after a public hearing on this matter the City Council has determined that the following amendment is in the City's best interests,

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. That Section 14.32.425, Subsection D, *Salt Lake City Code*, pertaining to telecommunications right of way permit rental fees be, and the same hereby is, amended to read as follows:

D. Annual Charge Imposed: There is hereby imposed and assessed upon: 1) each conduit owner, 2) each owner of cable which is not situated within a conduit, and 3) each person authorized to use a cable under the circumstances described in subsection F of this section, as a rental payment and compensation to the city for such owner's use of a portion of the right of way, an annual charge equal to the greater of: 1) the linear foot charge or 2) the minimum charge. The charge hereby imposed and assessed shall be effective on and after July 1, 2004; provided that the charge may not apply to certain

owners, or with respect to certain conduits or cables, until a later date, as provided herein. Such charge shall be payable on a calendar year basis; provided that: 1) the charge payable July 1, 2004, shall be prorated over the remaining six (6) months of calendar year 2004, and 2) the charge shall be prorated on a monthly basis for new construction effective the date of commencement of construction, and otherwise for owners effective as of and including the month in which the charge becomes effective as to such owners or such owners' conduit or cable. Any rental payments paid by an owner to the city under an existing agreement shall be prorated over calendar year 2004, and applied as a credit against the charge hereby imposed on such owner. Payments under this subsection D shall be paid to the city by January 31st each year. If payment is not received by January 31st, a penalty is imposed equal to 10% of the amount due. In addition, for each calendar month that a payment is late, compound interest equal to 2% per month will accrue.


SECTION 2. This ordinance shall take effect on _____, 2010.

Passed by the City Council of Salt Lake City, Utah this _____ day of _____, 2010.

CHAIRPERSON

ATTEST:

CITY RECORDER

APPROVED
Salt Lake City Mayor's Office
Date 12-2-09
By 

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

ATTEST:

CHIEF DEPUTY CITY RECORDER

(SEAL)

Bill No. _____ of 2010.

Published: _____.