



Roll Call Number

Agenda Item Number

62

Date June 9, 2008

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 14,154 passed October 21, 2002, and Ordinance No. 14,450 passed May 23, 2005 by adding a new paragraph (j) to Section 134-1296, to provide standards for public franchise utility cabinets and communication systems located within a front yard",

which was considered and voted upon for the first time under Roll Call No. 08- 818 of May 5, 2008, and considered and voted upon for the second time under Roll Call No. 08- 897 of May 19, 2008, again presented.

(Council Communication No. 08-356)

Moved by _____ that this ordinance do now pass.

ORDINANCE NO. _____

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED

Mayor

City Clerk

May 7, 2008

The Honorable Frank Cownie
The Honorable Members of the Des Moines City Council
400 Robert D. Ray Drive
Des Moines, Iowa 50309

Re: Code Amendments concerning size and location of public franchise utility cabinets.

Mr. Mayor and Members of the Council:

The purpose of this letter is to express the Des Moines Plan and Zoning Commission's heightened concerns related to the proposed changes to the P&Z recommendations as delineated in Council Communication 08-267.

The Commission and its Regulation and Ordinances (R&O) Committee are committed to encouraging business growth in the city. We are eager to assist corporate citizens like Qwest to be competitive and to deliver the highest quality of services to the businesses and residences in Des Moines. At the same time, we are all dedicated to preservation of scenic corridors in our city by reducing the level of visual intrusions in the public right of ways and in our residential neighborhoods.

We are also concerned that just as overhead utility lines have become an eyesore over time, other utility cabinets and hardware placed for the convenience of the utility but in full public view will become that same eyesore, and because Des Moines has older utility installations than it's newer suburban neighbors will be yet again considered second class in the eyes of some.

The Commission and the R&O Committee spent many hours negotiating in good faith with the Qwest representatives. We believe the R&O Committee's recommendations are based on agreements reached between the representatives from Qwest Communications and the R&O Committee. We believe further that the Qwest representatives agreed to the Commission's final recommendations during our committee meetings and during their testimony before the Commission.

We are disappointed that the utility's representatives have petitioned the City Council to amend our recommendations to allow nearly six-



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ARMORY BUILDING
602 ROBERT D. RAY DRIVE
DES MOINES, IOWA 50309 -1881
(515) 283-4182

ALL-AMERICA CITY
1949, 1976, 1981
2003

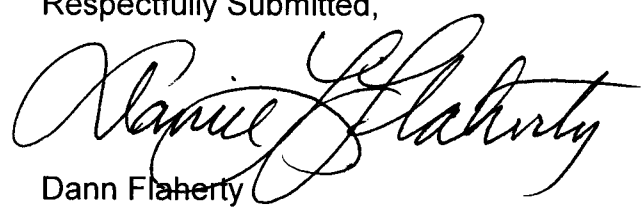
44
62

foot high cabinets to be installed in the public right-of-way as a matter of "right" and to expand the cabinet pad to twelve linear feet.

The utility's representatives assured us that there would be very few locations where the larger cabinets were needed. They agreed with our finding that relief could be granted by the Board of Adjustment in those few cases.

We do not believe that there is a compelling argument for amending our recommendations. The recommendations of the P&Z are sound and the council should adopt them as presented. The Council should not allow any public utility to install the larger cabinets without the oversight and approval of the Board of Adjustment.

Respectfully Submitted,



Dann Flaherty
Chair on behalf of the Planning and Zoning Commission

ORDINANCE NO. _____

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 14,154 passed October 21, 2002, and Ordinance No. 14,450 passed May 23, 2005 by adding a new paragraph (j) to Section 134-1296, to provide standards for public franchise utility cabinets and communication systems located within a front yard.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 14,154 passed October 21, 2002, and Ordinance No. 14,450 passed May 23, 2005 is hereby amended by adding a new paragraph (j) to Section 134-1296, to provide standards for public franchise utility cabinets and communication systems located within a front yard, as follows:

Sec. 134-1296. Permitted.

(a) Scope. The regulations specified in this chapter shall be subject to the exceptions and interpretations of this section.

(j) Height restrictions for public franchise utilities and communication systems in front yards.

(1) In any R residential district and C commercial district, or portion of the PUD district of PBP district designated for residential or support commercial uses, but excluding property within the R-HD district or any designated local historic district, the following shall apply:

(a) All public franchise utility and communication system cabinets and boxes, including but not limited to DSL cabinets, cross connect cabinets and power transfer cabinets, if placed in the front yard must be setback a minimum of five feet (5') from any public sidewalk or right-of-way boundary or lot line; and must comply with all district vision clearance requirements.

(b) 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.
- (c) In any R residential district no utility cabinet or box or grouping of utility cabinets and boxes in a front yard may be installed within three hundred feet (300') of another utility cabinet or box or grouping of utility cabinets installed in the front yard along the same side of the same street.
- (d) In any C commercial district no utility cabinet or box or grouping of utility cabinets installed in the front yard may be installed within one hundred feet (100') of another utility cabinet or box or grouping installed in the front yard along the same side of the same street.
- (e) 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).
- (f) Any grouping of utility cabinets and boxes on a single property shall be placed in an orderly and sequential manner as approved by the Zoning Enforcement Officer.
- (g) New utility cabinets shall be of neutral colors such as tan, green or silver.
- (h) Any utility meter on a utility cabinet or box shall be screened from public view as approved by the Zoning Enforcement Officer.

Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Michael F. Kelley
Assistant City Attorney



Roll Call Number

08-897

62

Agenda Item Number

44

Date May 19, 2008

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 14,154 passed October 21, 2002, and Ordinance No. 14,450 passed May 23, 2005 by adding a new paragraph (j) to Section 134-1296, to provide standards for public franchise utility cabinets and communication systems located within a front yard",

which was considered and voted upon under Roll Call No. 08- 818 of May 5, 2008; again presented.

Moved by Vlassis that this ordinance be considered and given second vote for passage, refer to City Manager to review and make recommendation for the language contained in (Council Communication No. 08-309) notification to property owners.

(Second of three required readings)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE		✓		
COLEMAN	✓			
HENSLEY	✓			
KIERNAN		✓		
MAHAFFEY		✓		
MEYER	✓			
VLASSIS	✓			
TOTAL	4	3		

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED
T. M. Franklin Mayor

Diane Rauh City Clerk

44
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May 7, 2008

The Honorable Frank Cownie
The Honorable Members of the Des Moines City Council
400 Robert D. Ray Drive
Des Moines, Iowa 50309

Re: Code Amendments concerning size and location of public franchise utility cabinets.

Mr. Mayor and Members of the Council:

The purpose of this letter is to express the Des Moines Plan and Zoning Commission's heightened concerns related to the proposed changes to the P&Z recommendations as delineated in Council Communication 08-267.

The Commission and its Regulation and Ordinances (R&O) Committee are committed to encouraging business growth in the city. We are eager to assist corporate citizens like Qwest to be competitive and to deliver the highest quality services to the businesses and residences in Des Moines. At the same time, we are all dedicated to preservation of scenic corridors in our city by reducing the level of visual intrusions in the public right of ways and in our residential neighborhoods.

We are also concerned that just as overhead utility lines have become an eyesore over time, other utility cabinets and hardware placed for the convenience of the utility but in full public view will become that same eyesore, and because Des Moines has older utility installations than it's newer suburban neighbors will be yet again considered second class in the eyes of some.

The Commission and the R&O Committee spent many hours negotiating in good faith with the Qwest representatives. We believe the R&O Committee's recommendations are based on agreements reached between the representatives from Qwest Communications and the R&O Committee. We believe further that the Qwest representatives agreed to the Commission's final recommendations during our committee meetings and during their testimony before the Commission.



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We are disappointed that the utility's representatives have petitioned the City Council to amend our recommendations to allow nearly six-foot high cabinets to be installed in the public right-of-way as a matter of "right" and to expand the cabinet pad to twelve linear feet.

The utility's representatives assured us that there would be very few locations where the larger cabinets were needed. They agreed with our finding that relief could be granted by the Board of Adjustment in those few cases.

We do not believe that there is a compelling argument for amending our recommendations. The recommendations of the P&Z are sound and the council should adopt them as presented. The Council should not allow any public utility to install the larger cabinets without the oversight and approval of the Board of Adjustment.

Respectfully Submitted,

Dann Flaherty, Chair

★ Roll Call Number

08-817

Agenda Item Number

File.
5/19/08
44
43

Date May 5, 2008

WHEREAS, on April 21, 2008 by Roll Call No. 08-668 it was duly resolved by the City Council that the City Plan and Zoning Commission's recommendation for approval of amendments to Municipal Code of the City of Des Moines Section 134-1296 to provide standards for public utility cabinets located within a front yard, be set down for hearing on May 5, 2008 at 5:00 p.m. in the Council Chambers, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, due notice of the hearing was published in the Des Moines Register as provided by law on April 24, 2008; and

WHEREAS, in accordance with the notice, those interested in the proposal amendments, for and against, have been given the opportunity to be heard with respect thereto and have presented their views to the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council for the City of Des Moines, Iowa:

That upon consideration of the facts, statements of interested persons and arguments of Council, the objections to the proposed amendments to Section 134-1296 of the Municipal Code are hereby overruled, and the hearing is closed.

Moved by Meyer to refer to the City Manager to work with Qwest on three amendments to the ordinance regarding:

APPROVED AS TO FORM:

- 1) Cabinet Height
- 2) Placement at the curb
- 3) Common color

Michael F. Kelley
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
HENSLEY				✓
KIERNAN	✓			
MAHAFFEY		✓		
MEYER	✓			
VLASSIS	✓			
TOTAL	5	1		1

MOTION CARRIED

APPROVED

T. M. Franklin Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

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Diane Rauh City Clerk