

City of San Angelo

Design Manual for the Installation and Construction of Network Nodes and Node Support Poles in the Public Right-of-Way



Prepared By:

The Department of Public Works

Engineering Services Division

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I. Purpose

1.1 Purpose

- A. The standards and procedures provided in this *Design Manual for the Installation and Construction of Network Nodes and Node Support Poles in the Public Right-of-Way (Design Manual)* are adopted to protect the health, safety, and welfare of the public by minimizing and reducing impacts to public safety within the City's Right-of-Way and to minimize and reduce impacts to the City, its residents and visitors; and for the general health and welfare of the public.
- B. This Design Manual is applicable to all public service providers including Wireless Service Providers or Network Providers (collectively, "Providers") as defined by Chapter 284 of the Texas Local Government Code.
- C. In addition, the City has adopted this Design Manual to provide technical criteria and details necessary for Providers seeking to install and construct network nodes and node support poles in the City's Right-of-Way.
- D. To the extent of any conflict with other Public Right-of-Way permitting requirements, this Design Manual shall control with regard to a Provider.

II. Definitions

For the purposes of this Design Manual terms used herein shall be defined in the City of San Angelo's Code of Ordinances ("City Code") pertaining to Wireless Communication Facilities.

III. Permitting

3.1 Permit Required

Prior to installation or modification of a network node or node support pole, the applicant shall submit an application on a City approved form to the Engineering Department that is substantially similar to the Application for Location Review that is attached to this Design Manual as "Exhibit A" (the "Permit Application"). The Permit Application must satisfy the requirements of this Design Manual and include all required attachments. A Permit Application shall be rejected if all attachments are not included at the time of submittal. If approved, the permit authorizes the Provider the use of the City's Right of Way, but neither the permit nor this Design Manual authorize the Provider to use private property, State property, or City property located outside of the City's Right of Way. The Provider shall complete and submit the Permit Application along with standard required documents and the following criteria:

- A. **Permit fee.** The City of San Angelo's Engineering Department shall administer all Permit Application fees according to Section 4.08.250 of the City Code. All fees must be paid in full at the time the Permit Application is submitted, and before any permit shall be issued by the City. Permit Application fees are for permit processing and issuance only and are in addition to any other applicable fee or any separate payments that may be required for rent of City infrastructure and/or right-of-way use.
- B. **Attachments Required for Existing Poles.** Unless otherwise required by the City, the Provider shall submit attachments to the Permit Application that relate to the following:
1. Documentation that the Provider shall not locate, or cause to be located, more than five (5) network nodes on any pole unless otherwise approved by the City in writing;
 2. An aerial map showing the specific location of the existing pole to which the network node is proposed to be attached, and a street view image, with such map being in XY Grid coordinates or latitude and longitude coordinates;
 3. Documentation showing that the Provider pole shall not be within three hundred feet (300') of another Provider-owned wireless communication facility (WCF), to include a Node Support pole or other pole with an attached Network Node, unless otherwise approved by the City in writing. For purposes of clarification, the 300 foot limitation is only applicable to facilities including WCF or Network Nodes owned by the same Provider;
 4. Plans and drawings prepared by a professional engineer licensed in the State of Texas that can confirm that the existing pole or infrastructure has the structural stability to carry proposed network nodes, can bear the local wind load without pole modification, and whether the installation will require pole reinforcement; and, if pole reinforcement is necessary, then the Provider shall provide engineering design and specification drawings for the proposed alteration to the existing pole;
 5. Scaled dimensioned drawings or pictures, including a before-and-after image of the pole and all proposed attachments and standalone equipment, of the proposed attachments of the network node to the existing poles or structures as well as any other proposed equipment, which indicates the spacing from existing curb, driveways, sidewalk, and other existing light poles and any other poles or appurtenances;

6. Scaled dimensioned construction plans indicating the current Right-of- Way line and showing the proposed underground conduit and equipment, and its spacing from existing utilities, with such construction plans showing a sectional profile of the Right-of-Way and identifying all existing utilities and existing utility conflicts;
 7. Analysis that the proposed network node shall not cause any interference with City public safety radio system, traffic signal light system, or other communications components;
 8. A traffic control plan, a SWPPP, and a trench safety plan if requested by the City Engineer;
 9. Documentation showing that facilities above ground or on a pole or structure shall be concealed or enclosed to the maximum extent practicable in an equipment box, cabinet, or other unit that may include ventilation openings, and that there shall be no external cable or wire on any pole or structure, and no aerial wire or cable extending from the pole or structure;
 10. Documentation showing that all projecting pole attachments, any equipment, or appurtenance mounted on the ground, shall comply with the Texas Accessibility Standards, American Disabilities Act as amended and shall not obstruct an existing or planned sidewalk or walkway;
 11. Documentation showing that all proposed projecting pole attachments shall provide a minimum vertical clearance of eight feet (8');
 12. Documentation showing that the color of the network node shall match the existing pole color such that the network node blends with the color of the pole to the maximum extent practicable; and
 13. Any other documentation or analysis that the City Engineer shall require that does not conflict with any applicable law.
 14. All proposed electric meters shall be placed on the pole supporting the wireless communication facility and in accordance with the electric provider and/or electrical permit. A separate structure for the electric meter will not be permitted.
- C. **Attachments Required for Installation of New Poles.** Unless otherwise required by the City, the Provider shall submit attachments to the Permit Application that relate to the following:

1. Documentation that the Provider shall not locate, or cause to be located, more than five (5) network nodes on any pole unless otherwise approved by the City in writing;
2. A scaled site plan, a sealed elevation view, supporting drawings, calculations, and other documentation, signed and sealed by appropriate professional engineers licensed in the State of Texas, showing the location and dimensions of all improvements, including information concerning topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information necessary to ensure compliance with this Design Manual;
3. An aerial map showing the specific location of the new pole to which the network node is proposed to be attached, and a street view image, with such map being in XY Grid coordinates or latitude and longitude coordinates;
4. Documentation showing that the Provider pole shall not be within three hundred feet (300') of another Provider-owned wireless communication facility (WCF), to include a Node Support pole or other pole with an attached Network Node, unless otherwise approved by the City in writing. For purposes of clarification, the 300 foot limitation is only applicable to facilities including WCF or Network Nodes owned by the same Provider;
5. Plans and drawings prepared by a professional engineer licensed in the State of Texas showing that the new network pole has the structural stability to carry proposed network nodes and can bear the local wind loads;
6. Scaled dimensioned drawings or pictures, including a before-and-after image of the pole and all proposed attachments and standalone equipment, of the proposed attachments of the network node to the existing poles or structures as well as any other proposed equipment, which indicates the spacing from existing curb, driveways, sidewalk, and other existing light poles and any other poles or appurtenances;
7. Scaled dimensioned construction plans indicating the current Right-of-Way line and showing the proposed underground conduit and equipment, and its spacing from existing utilities, with such construction plans showing a sectional profile of the Right-of-Way and identifying all existing utilities and existing utility conflicts;
8. A traffic control plan, a SWPPP, and a trench safety plan if requested by the City Engineer;

9. Analysis that the proposed network node shall not cause any interference with City public safety radio system, traffic signal light system, or other communications components;
10. Plans and drawings showing that a proposed pole is set back a distance equal to the height of the pole from any off-site residential structure;
11. Documentation showing that facilities above ground or on a pole or structure shall be concealed or enclosed to the maximum extent practicable in an equipment box, cabinet, or other unit that may include ventilation openings, and that there shall be no external cable or wire on any pole or structure, and no aerial wire or cable extending from the pole or structure;
12. Documentation showing that all projecting pole attachments, any equipment, or appurtenance mounted on the ground, shall comply with the Texas Accessibility Standards, American Disabilities Act as amended and shall not obstruct an existing or planned sidewalk or walkway;
13. Documentation showing that all proposed projecting pole attachments shall provide a minimum vertical clearance of eight feet (8');
14. Documentation showing that the proposed poles are wooden or metal and what's similar to the area. If mixed use poles exist in the area defer to metal poles;
15. Documentation showing that the color of the network node shall match the existing pole color such that the network node blends with the color of the pole to the maximum extent practicable; and
16. Any other documentation or analysis that the City Engineer shall require that does not conflict with any applicable law.
17. All proposed electric meters shall be placed on the pole supporting the wireless communication facility and in accordance with the electric provider and/or electrical permit. A separate structure for the electric meter will not be permitted.

3.3 Electrical Permit

The Provider shall be responsible for coordinating with the appropriate electrical utility to ensure compliance with any rules or regulations affecting a node or pole.

IV. Network Node and Node Support Pole Requirements

4.1 Installation

The Provider shall, at its own cost and expense, install, operate, maintain, repair, modify, and/or replace all network nodes and node support poles in a good and workmanlike

manner and in accordance with the requirements promulgated by this Design Manual, and all other applicable laws, ordinances, codes, rules, and regulations of the City, the State, and the United States, as such may be amended from time to time. As provided by this Design Manual and all applicable laws, the Provider's work shall be subject to the regulation, control, and direction of the City.

4.2 Inspections

The City may perform visual inspections of any network nodes and node support poles located in the Right-of-Way, as the City deems appropriate without notice. If the inspection requires physical contact with the network nodes or node support poles, the City shall provide written notice to the Provider within five (5) business days of the planned inspection. The Provider may have a representative present during such inspection.

In the event of an emergency situation, the City may, but is not required to, notify the Provider of an inspection. The City may take action necessary to remediate the emergency situation and the City shall notify the Provider as soon as practically possible after remediation is complete.

4.3 Placement

- A. *Parks.* The placement of network nodes and node support poles in any parks, park roads, sidewalk, or property is prohibited unless such falls within the definition of Public Right-of-Way in Chapter 284 of the Texas Local Government Code and the placement complies with applicable Laws, private deed restrictions, and other public or private restrictions on the use of the Park.
- B. *City Infrastructure.* The Provider shall neither allow nor install network nodes or node support poles on any City property that falls outside the definition of Public Right-of-Way in Chapter 284 of the Texas Local Government Code.
- C. *Residential Streets.* The Provider shall neither allow nor install network nodes or node support poles in Right-of-Way that is adjacent to a street or thoroughfare that is not more than fifty (50) feet wide and adjacent to single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions, unless otherwise approved by the City in writing. If in a residential area the pole can only be in the alley.
- D. *Historic District.* The Provider shall neither allow nor install network nodes or node support poles in Right-of-Way that is within a Historic District as defined by Chapter 284 of the Texas Local Government Code, unless approved by the City in writing. This City has the authority to designate new Historic and/or Design Districts at a future date.
- E. *Decorative Poles.* The Provider shall neither allow nor install network nodes on

a Decorative Pole as defined by Chapter 284 of the Texas Local Government Code, unless approved by the City in writing. This standard shall be applicable to all the new decorative poles. The City will only entertain proposals, if they use camouflage techniques that are reviewed and approved by the City. See examples below.



- F. *Poles.* Wireless Facilities on node support poles shall be installed at least eight (8) feet above the ground.
- G. *Right-of-Way.* Unless otherwise approved in writing by the City, node support poles and ground equipment shall be placed, as much as possible, near the outer edge of the Right of Way line, but in no case within twenty-four (24) inches to the back of curb. Node support poles and ground equipment or network nodes shall not impede pedestrian or vehicular traffic in the Right-of-Way. If a node support pole and ground equipment or network node is installed in a location that is not in accordance with the plans approved by the City and impedes pedestrian or vehicular traffic or does not comply or otherwise renders the Right-of-Way non-compliant with applicable Laws, including the American Disabilities Act, then Provider shall remove the node support poles, ground equipment and/or network nodes.

4.4 Fiber Connection

The Provider shall be responsible for obtaining access and connection to fiber optic lines or other backhaul solutions that may be required for its node support poles or network nodes.

4.5 Generators

The Provider shall not allow or install generators or back-up generators in the Right-of-Way, other than emergency situations caused by weather or Acts of God, without prior notice to City.

4.6 Equipment Dimensions

The Provider's node support poles and network nodes shall comply with the dimensions set forth in Chapter 284 of the Texas Local Government Code. The Provider shall provide the Chapter, Section (that the Provider is complying with) and detailed dimensions proposed for each of the node support poles and network nodes.

4.7 Tree Maintenance

The Provider and its contractors and agents shall obtain written permission from the City before trimming trees hanging over its node support poles and network nodes to prevent branches of such trees from contacting node support poles and network nodes. When directed by the City, however, the Provider shall trim under the supervision and direction of the Parks Director. The City shall not be liable for any damages, injuries, or claims arising from the Provider's actions under this section.

4.8 Signage

- A. The Provider shall post its name, location, identifying information, and emergency telephone number in an area on the node support pole and network node that is visible to the public. Such signage required under this section shall not exceed four inches by six inches (4" x 6") unless otherwise required by law or the City.
- B. Except as required by law or by the utility pole owner, the Provider shall not post any other signage or advertising on any node support pole, network node, or utility pole.

4.9 Overhead Lines Prohibited

The Provider shall neither allow nor install any overhead lines connecting to a node support pole. All overhead lines connecting to the node support pole where other overhead telecommunications or utility lines are or planned to be buried below ground as part of a project shall be buried below ground.

4.10 Graffiti Abatement

As soon as practical, but not later than ten (10) days from the date Provider receives notice thereof, the Provider shall remove all graffiti on any of its node support poles and

network nodes located in the Right of Way.

4.11 Signal Interference with City's Communications Infrastructure Prohibited

- A. No interference. In the event that Provider's network nodes interferes with the City's traffic signal system, public safety radio system, or other City communications infrastructure operating on spectrum where the City is legally authorized to operate, then the Provider shall promptly cease operation of the network nodes causing said interference upon receiving notice from the City and refrain from operating. The Provider shall respond to the City's request to address the source of the interference as soon as practicable, but in no event later than twenty-four (24) hours of receiving notice.
- B. Protocol for Responding to Event of Interference. The protocol for responding to events of interference will require the Provider to provide the City an Interference Remediation Report that includes the following items:
1. A remediation plan that outlines a plan to stop the event of inference;
 2. A time frame for execution that provides the expected time frame for execution of the remediation plan; and
 3. Any additional information that is relevant to the execution of the remediation plan.

In the event that interference with City facilities cannot be eliminated, Provider shall shut down the network nodes and remove or relocate the network node that is the source of the interference as soon as possible to a suitable alternative location as approved by City. A separate permit fee may apply.

4.12 Locating Existing Utilities

The Provider shall be responsible for coordinating the location of all existing above and underground utilities before any excavating shall occur.

4.13 General Limitation on Height of Poles

The Provider shall be ensure that each new, modified or replacement pole or node support pole installed in the public right of way shall meet the height requirements set in Chapter 284 of the Texas Local Government Code (i.e. Section 284.103; 10 feet in height above the tallest existing utility pole located within 500 linear feet of the new pole in the same public right-of-way; 55 feet above ground level; or the latest version of Chapter 284).

Exhibit A – Application for Location Review

CITY OF
SAN ANGELO, TX

72 W. College Ave.
San Angelo, TX 76903
PHONE: 325-657-4201
<http://www.cosatx.us/home>

APPLICATION FOR LOCATION REVIEW

Non-Transferable

DATE OF APPROVAL:

PERMIT NUMBER:

NOTICE: AS AUTHORIZED BY CHAPTER 284 OF THE TEXAS LOCAL GOVERNMENT CODE, A NETWORK PROVIDER SHALL OBTAIN A PERMIT OR PERMITS FROM THE CITY TO INSTALL A NETWORK NODE, NODE SUPPORT POLE OR TRANSPORT FACILITY IN A CITY OF SAN ANGELO PUBLIC RIGHT-OF-WAY

Owner: _____ | Owner Phone #:(____) _____

Owner Mailing Address: _____

City: _____ State: _____ Zip: _____

Contractor: _____ Cont. Phone #:(____) _____

Contractor Mailing Address: _____

City: _____ | State: _____ | Zip: _____

Job Site Addresses:

Description of work:

Is any network node being installed in a City municipal park? _____

Is any network node being installed in a residential area? _____

The permit applicant must submit the following information with this application:

1. Applicable construction and engineering drawings of the facilities to be installed.
2. Any additional information to confirm that the applicant will comply with the City's Design Manual and City Code of Ordinances.
3. A certificate that the proposed Network Node(s) comply with applicable Federal Communications Commission regulations.
4. A certificate that the proposed Network Nodes will be placed into active commercial service not later than the 60th day after the date of construction and final testing of each Network Node.
5. A certificate of insurance confirming that the Owner and Contractor each have the minimum coverage required by the City's Risk Management Department.

PERMIT APPLICATION FEES AND ANNUAL RENTAL RATES FOR WIRELESS NETWORK FACILITIES PLACED IN CITY RIGHTS-OF-WAY SHALL BE CALCULATED IN ACCORDANCE WITH CHAPTER 284 OF THE TEXAS LOCAL GOVERNEMENT CODE AND CITY CODE.

APPLICANT HEREBY ACKNOWLEDGES THAT IT HAS READ AND WILL COMPLY:

- 1. WITH THE CITY DESIGN MANUAL FOR THE INSTALLATION OF NETWORK NODES AND NODE SUPPORT POLES, AND***
- 2. WITH THE CITY CODE OF ORDINANCES.***

I hereby certify that I have read and examined this application and know the same to be true & correct. All provisions of law and ordinances governing this type of work will be complied with whether or not specified herein. The granting of this permit does not presume to give authority to violate or cancel the provisions of any state law or local ordinance regulating the installation of wireless telecommunication network nodes, node support poles, and transfer facilities.

Name of Applicant: _____ Applicant Signature: _____

Title: _____

Date: _____

OFFICE USE ONLY

Date Delivered: _____ Accepted By: _____

Application Fees for _____ Network Nodes: \$ _____

Application Fees for _____ Node Support Poles: \$ _____

Application Fees for _____ Transport Facilities: \$ _____

Annual Rental Rate for _____ Network Nodes: \$ _____

Annual Rental Rate for _____ Transport Facilities: \$ _____

Annual Rental Rate for Collocation of Network Nodes on _____ City Service Poles: \$ _____

PERMIT FEES AND ANNUAL RATE TOTAL: \$ _____

**Exhibit B – Copy of Code of Ordinances pertaining to Installation and Construction of
Network Nodes and Node Support Poles in the Public Right-of-Way**
(This exhibit is attached for convenience to the customer and the official code of ordinances will govern)

ORDINANCE NO. 2017-11-152

ADOPTION OF A PUBLIC RIGHT-OF-WAY MANAGEMENT ORDINANCE BY THE CITY OF SAN ANGELO, TEXAS, AMENDING CHAPTER 4 “BUILDING AND CONSTRUCTION”, ARTICLE 4.08 “STREETS, SIDEWALKS, AND CURB CUTS”, BY CREATING DIVISION 5. “USE OF PUBLIC RIGHT-OF-WAY”; REGULATING THE PHYSICAL USE, OCCUPANCY AND MAINTENANCE OF CITY RIGHTS-OF-WAY BY WIRELESS NETWORK PROVIDERS; DESCRIBING THE PURPOSE; PROVIDING DEFINITIONS; REQUIRING COMPLIANCE WITH THE CITY DESIGN MANUAL AND APPLICABLE CODES FOR THE INSTALLATION OF NETWORK NODES AND NODE SUPPORT POLES PURSUANT TO CHAPTER 284 OF THE TEXAS LOCAL GOVERNMENT CODE; PROVIDING CITY PROCEDURES FOR APPLICATIONS FOR PERMITS; ESTABLISHING TIME PERIODS FOR APPROVAL OF PERMIT APPLICATIONS; PROVIDING APPLICATION FEES AND ANNUAL PUBLIC RIGHT-OF-WAY RENTAL RATES; PROVIDING RESTRICTIONS ON PLACEMENT OF NETWORK NODES AND NODE SUPPORT POLES IN MUNICIPAL PARKS, RESIDENTIAL AREAS, HISTORIC DISTRICTS AND DESIGN DISTRICTS; PROVIDING INDEMNITY FOR THE CITY; PROVIDING REPEALING AND SAVINGS CLAUSES; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of San Angelo, Texas (“City”) recognizes that the State of Texas has delegated to the City the fiduciary duty, as a trustee, to manage the public right-of-way for the health, safety, and welfare of the public to Texas municipalities; and

WHEREAS, Chapter 284 of the Texas Local Government Code (“the Code”) allows certain wireless network providers to install in the City’s public rights-of-way their wireless facilities, described and defined in Section 284.002 of the Code as “Micro Network Nodes”, “Network Nodes”, and “Node Support Poles;” and

WHEREAS, the City Council desires to regulate the installation of Network Nodes and Network Node Support Poles pursuant to Chapter 284 of the Code in a way that is fair, reasonable and nondiscriminatory.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF SAN ANGELO, TEXAS:

SECTION 1: THAT Chapter 4, Article 4.08, of the Code of Ordinances, City of San Angelo, Texas, is hereby amended by creating Division 5. “Use of Public Right-of-Way” as follows:

“Division 5. Use of Public Right-of-Way

Sec. 4.08.239 Purpose.

The purpose of this division is to:

- (a) Assist the City in the competitively neutral and nondiscriminatory management of the physical use, occupancy and maintenance of its public rights-of-way by wireless network providers;
- (b) Secure fair and reasonable compensation for the physical use and occupancy of the public rights-of-way by wireless network providers in a nondiscriminatory and competitively neutral manner; and
- (c) Assist the City in protecting the public health, safety, and welfare.

Sec. 4.08.240 Governing Law.

This division shall be construed in accordance with Chapter 284 of the Texas Local Government Code (“the Code”) to the extent not in conflict with the Constitution and laws of the United States or of the State of Texas.

Sec. 4.08.241 Definitions.

The following definitions shall apply to this Right-of-Way Management Ordinance:

Applicable codes means:

- (A) the City uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; and
- (B) local amendments to those codes to the extent not inconsistent with Chapter 284.

Chapter 284 means Texas Local Government Code, Chapter 284.

Code means the Texas Local Government Code.

Collocate and *collocation* mean the installation, mounting, maintenance, modification, operation, or replacement of Network Nodes in a public right-of-way on or adjacent to a pole.

Decorative pole means a streetlight pole specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than specially designed informational or directional signage or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory City codes and ordinances.

Design District means an area that is zoned, or otherwise designated by municipal code, and for which the City maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis.

Design Manual means the *Design Manual for the Installation and Construction of Network Nodes and Node Support Poles in the Public Right-of-Way* adopted by the City Council, and maintained by the City Engineering Department.

Easement means and shall include any public easement or other compatible use created by dedication, or by other means, to the City for public utility purposes or any other purpose whatsoever. "Easement" shall include a private easement used for the provision of utilities.

Federal Communications Commission or FCC means the Federal Administrative Agency, or lawful successor, authorized to oversee cable television and other multi-channel regulation on a national level.

Highway right-of-way means right-of-way adjacent to a state or federal highway.

Historic district means an area that is zoned or otherwise designated as a historic district under municipal, state, or federal law.

Law means common law or a federal, state, or local law, statute, code, rule, regulation, order, or ordinance.

Local means within the geographical boundaries of the City.

Location means the City-approved and lawfully permitted location for the Network Node.

Mayor means the mayor of the City of San Angelo, Texas, or designee.

Micro network node means a Network Node that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height, and that has an exterior antenna, if any, not longer than 11 inches.

Municipal park means an area that is zoned or otherwise designated by the City as a public park for the purpose of recreational activity.

Network node means equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term:

(A) includes:

- (i) equipment associated with wireless communications;
- (ii) a radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; and
- (iii) coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation; and

(B) does not include:

- (i) an electric generator;
- (ii) a pole; or
- (iii) a macro tower

Network provider means:

(A) a wireless service provider; or

(B) a person that does not provide wireless services and that is not an electric utility but builds or installs on behalf of a wireless service provider:

- (i) Network Nodes; or
- (ii) Node Support Poles or any other structure that supports or is capable of supporting a network node.

Node support pole means a pole installed by a network provider for the primary purpose of supporting a Network Node.

Permit means a written authorization for the use of the public right-of-way or collocation on a service pole required from the City before a network provider may perform an action or initiate, continue, or complete a project over which the municipality has police power authority.

Pole means a service pole, City-owned utility pole, node support pole, or utility pole.

Private easement means an easement or other real property right that is only for the benefit of the grantor and grantee and their successors and assigns.

Provider has the same meaning as “Network Provider.”

Public right-of-way means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the City has an interest. The term does not include:

- (A) a private easement; or
- (B) the airwaves above a public right-of-way with regard to wireless telecommunications.

Service pole means a pole, other than a City-owned utility pole, owned or operated by the City and located in a public right-of-way, including:

- (A) a pole that supports traffic control functions;
- (B) a structure for signage;
- (C) a pole that supports lighting, other than a decorative pole; and
- (D) a pole or similar structure owned or operated by a municipality and supporting only network nodes.

Traffic Signal means any device, whether manually, electrically, or mechanically operated by which traffic is alternately directed to stop and to proceed.

Transport facility means each transmission path physically within a public right-of-way, extending with a physical line from a Network Node directly to the network, for the purpose of providing backhaul for network nodes.

User means a person or organization which conducts a business over facilities occupying the whole or a part of a public street or right-of-way, depending on the context.

Utility pole means a pole that provides:

- (A) electric distribution with a voltage rating of not more than 34.5 kilovolts; or
- (B) services of a telecommunications provider, as defined by Chapter 284, Section 51.002, Utilities Code.

Wireless service means any service, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using a Network Node.

Wireless service provider means a person that provides wireless service to the public.

Wireless facilities mean “Micro Network Nodes,” “Network Nodes,” and “Node Support Poles” as defined in Texas Local Government Code, Chapter 284.

Sec. 4.08.242 Use And Occupancy Of Public Rights-Of-Way.

(a) Pursuant to this division and subject to the Design Manual and the Code, a wireless network provider has the nonexclusive right to use and occupy the public rights-of-way in the City for the purpose of constructing, maintaining, and operating its facilities used in the provision of Wireless facilities.

(b) The terms of this division shall apply to all wireless network providers’ facilities used, in whole or part, in the provision of wireless services throughout the City, including any annexed areas upon the effective date of annexation or the date the City provides the company written notice, whichever date occurs later.

Sec. 4.08.243 Compliance With Design Manual And Applicable Codes.

All wireless network providers shall comply with the terms of this right-of-way management ordinance, City applicable codes, and the terms and conditions of the City’s Design Manual.

Sec. 4.08.244 General Construction And Maintenance Requirements.

A network provider shall construct and maintain Network Nodes and Network Node Support Poles described in the Code in a manner that does not:

- (a) Obstruct, impede, or hinder the usual travel or public safety on a public right-of-way;
- (b) Obstruct the legal use of a public right-of-way by other utility providers;
- (c) Violate nondiscriminatory applicable codes;
- (d) Violate or conflict with the City’s publicly disclosed public right-of-way design specifications; or
- (e) Violate the federal Americans with Disabilities Act of 1990 (ADA).

Sec. 4.08.245 Permit Applications.

(a) Except as otherwise provided in Chapter 284 of the Code, a network provider shall obtain a permit or permits from the City to install a Network Node, Node Support Pole, or Transport Facility in a City public right-of-way.

(b) As required by Chapter 284 of the Code, the City shall not require a network provider to perform services for the City for which the permit is sought.

(c) A network provider that wants to install or collocate multiple Network Nodes inside the municipal limits of the City is entitled to file a consolidated permit application with the City for not more than 30 Network Nodes and upon payment of the applicable fee(s), receive a permit or permits for the installation or collocation of those Network Nodes.

(d) The network provider shall provide the following information in its permit applications:

- (1) Applicable construction and engineering drawings and information to confirm that the applicant will comply with the City's Design Manual and applicable codes;
- (2) Any additional information reasonably related to the network provider's use of the public rights-of-way to ensure compliance with the Design Manual and this division;
- (3) A certificate that the Network Node(s) complies with applicable regulations of the Federal Communications Commission; and certification that the proposed Network Node(s) will be placed into active commercial service by or for the network provider not later than the 60th day after the date of construction and final testing of each Network Node is completed.
- (4) A certificate of insurance that provides that the Network Provider and its contractor each have the minimum coverage required by the City's Risk Management Department.

(e) **Exception:** As provided in Section 284.157 of the Code, a network provider is not required to apply, obtain a permit, or pay a rate to the City for:

- (1) Routine maintenance that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way;
- (2) Replacing or upgrading a Network Node or Network Pole with a node or pole that is substantially similar in size or smaller and that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way; or
- (3) The installation, placement, maintenance, operation, or replacement of Micro Network Nodes that are strung on cables between existing poles or Node Support Poles in compliance with the National Electrical Safety Code;
- (4) Notwithstanding Subdivision (e) above, the network provider or its contractors shall notify the City at least 24 hours in advance of work described in this Subdivision (e).

Sec. 4.08.246 Installation In Historic Districts Or Design Districts

A network provider must obtain advance written consent from the City Council before collocating new Network Nodes or installing new Node Support Poles in an area of the City that has been zoned or otherwise designated as a historic district or as a design district if the district

has decorative poles. The City has the authority to designate new historic districts and design districts at a future date.

Sec. 4.08.247 Installation In Municipal Parks And Residential Areas

A network provider may not install a new Node Support Pole in a public right-of-way without the City Council's discretionary, nondiscriminatory and written consent if the public right-of-way:

- (a) Is in a municipal park; or
- (b) Is adjacent to a street or thoroughfare that is:
 - (1) Not more than 50 feet wide; and
 - (2) Adjacent to single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions.
- (c) In addition to the above, a network provider installing a Network Node or Node Support Pole in a public right-of way shall comply with private deed restrictions and other private restrictions in the area that apply to those facilities.
- (d) The network provider shall be further required to comply with guidelines set out in the City's Design Manual.

Sec. 4.08.248 Municipal Review Process By The City.

- (a) Determination of Application Completeness: The City shall determine whether the permit application is complete and notify the applicant of that determination:
 - (1) For Network Nodes and Node Support Poles: no later than 30 days after the date the City receives the permit application.
 - (2) For a Transport Facility: no later than 10 days after the date the City receives the permit application.
- (b) **Approval or Denial of Application:** The City shall approve or deny a completed application after the date it is submitted to the City:
 - (1) For Network Nodes: No later than 60 days after the date the City receives the complete application.
 - (2) For Network Support Poles: No later than 150 days after the date the City receives the complete application.

(3) For Transport Facilities: No later than 21 days after the City receives the complete application.

(c) **Basis for Denial of Application:** If an application is denied by the City, it shall document the basis for the denial, including the specific applicable City code provisions or other City rules, regulations, or other law on which the denial is based. The documentation for the denial must be sent by electronic mail to the applicant on or before the date that the City denies the application.

(d) **Resubmission of Denied Application:** The applicant may cure the deficiencies identified in the denial application.

(1) The applicant has 30 days from the date the City denies the completed application to cure the deficiencies identified in the denial documentation without paying an additional application fee, other than any fee for actual costs incurred by the City.

(2) The City shall approve or deny the revised completed application after a denial not later than the 90th day after the City receives the revised completed application. The City's review shall be limited to the deficiencies cited in the denial documentation.

(e) **Nondiscriminatory Review:** Each completed application shall be processed by the City on a nondiscriminatory basis.

Sec. 4.08.249 Time Of Installation.

A network provider shall begin installation for which a permit is granted not later than six months after final approval of the application and shall diligently pursue installation to completion. The City Manager may in his/her sole discretion grant reasonable extensions of time as requested by the network provider.

Sec. 4.08.250 Applicable Fees And Rental Rates To The City.

(a) As compensation for the network provider's use and occupancy of the City public rights-of-way, the network provider shall pay application fees and annual public right-of-way rental rates as set forth below, which shall be in lieu of any lawful tax, license, charge, right-of-way permit, use, construction, street cut or inspection fee; or other right-of-way related charge or fee, whether charged to the network provider or its contractor(s) within the City, except the usual general ad valorem taxes, special assessments and sales tax levied in accordance with state law and equally applicable to all general businesses in the City.

(b) Network Nodes:

(1) **Application Fee:** \$500 per application covering up to five Network Nodes, and \$250 for each additional Network Node per application.

- (2) **Annual Public Right-of-Way Rate Fee:** The annual public right-of-way rate shall be \$250.00 per Network Node installed in the City public rights-of-way. At the City's discretion, the City may charge the Provider a lower fee or rate if the lower fee or rate is:
- i. nondiscriminatory;
 - ii. related to the use of the public right-of-way; and
 - iii. not a prohibited gift of public property.

- (3) **Public Right-of-Way Rate Adjustment:** As provided in Section 284.054 of the Code, the City may adjust the amount of the annual public right-of-way rate not more than annually by an amount equal to one-half the annual change, if any, in the Consumer Price Index (CPI). The City shall provide written notice to each network provider of the new rate; and the rate shall apply to the first payment due to the City on or after the 60th day following the written notice.

- (c) **Node Support Poles:** The application fee for each Network Support Pole shall be \$1,000.00.

(d) **Transport Facilities:**

- (1) The application fee for each Transport Facility shall be \$100.00.

- (2) The annual Transport Facility rental rate shall be \$28.00 monthly for each Network Node site located in a public right-of-way. However, no rate is required if the network provider is already paying the City an amount equal to or greater than the amount of other City right-of-way fees for access lines under Chapter 283 of the Code or cable franchise fees under Chapter 66 of the Texas Utility Code.

- (e) **Micro Network Nodes:** No application fee is required for a Micro Network Node if the installation is attached on lines between poles or node support poles.

- (f) **Collocation of Network Nodes on Service Poles.** Subject to an agreement with the City, the collocation of Network Nodes on City service poles shall be at a rate of \$20.00 per year per service pole.

- (g) **City-Owned Municipal Utility Poles.** A network provider shall pay an annual pole attachment rate for the collocation of a Network Node supported by or installed on a City-owned utility pole based upon the pole attachment rate consistent with Section 54.024 of the Texas Utilities Code, applied on a per-foot basis.

- (h) The City shall not seek or accept in-kind services in lieu of or as additional payment or consideration from any user of the public rights-of-way for use of the public rights-of-way.

Sec. 4.08.251 Indemnity.

As provided in Section 284.302 of the Code, a wireless Network Provider shall indemnify, defend, and hold the City harmless from and against all liability, damages, cost, and expense,

including reasonable attorney's fees, arising from injury to person or property proximately caused by the negligent act or omission of the Network Provider. The City shall promptly notify the Network Provider of any claims, demands, or actions ("claims") covered by this indemnity after which the Network Provider shall defend the claims. The Network Provider shall have the right to defend and compromise the claims. The City shall cooperate in the defense of the claims. The foregoing indemnity obligations shall not apply to claims arising solely from the negligence of City; however, they shall apply in the case of all claims which arise from the joint negligence of the Network Provider and the City; provided that in such cases, the amount of the claims for which the City shall be entitled to indemnification shall be limited to that portion attributable to the Network Provider. Nothing in this section shall be construed as waiving any governmental immunity available to the City under state law or waiving any defenses of the parties under state law.

Sec. 4.08.252 Effect On Other Utilities And Telecommunication Providers.


Nothing in this Right-of-Way Management Ordinance shall govern attachment of Network Nodes on poles and other structures owned or operated by investor-owned electric utilities, electric cooperatives, telephone cooperatives, or telecommunication providers.”

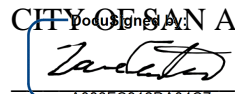
SECTION 2. THAT all other ordinances or parts of ordinances inconsistent or in conflict herewith, or to the extent of such inconsistency or conflict are hereby repealed.

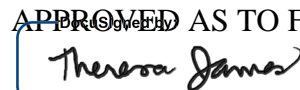
SECTION 3. THAT if any section, subsection, paragraph, sentence, clause, phrase, work or portion of this Ordinance is declared invalid, or unconstitutional, by a court of competent jurisdiction, that, in such event that it would have passed and ordained any and all remaining portions of this Ordinance without the inclusion of that portion or portions which may be so found to be unconstitutional or invalid, and declare that its intent is to make no portion of this Ordinance dependent upon the validity of any portion thereof, and that all said remaining portions shall continue in full force and effect.

SECTION 4. THAT this Ordinance shall take effect and be in full force and effect from and after the date of its passage and publication as required by law.

INTRODUCED on the 19th day of September, 2017, and finally **PASSED, APPROVED** and **ADOPTED** on this the 3rd day of October, 2017.

ATTEST
DocuSigned by:

EE8995EDAE1475...
Bryan Kendrick, City Secretary

CITY OF SAN ANGELO TEXAS
DocuSigned by:

A088FC9T2DA04C7...
Lane Carter, Mayor Pro Tem

APPROVED AS TO FORM:
DocuSigned by:

E822428D610A4D4...
Theresa James, City Attorney

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