

**ORDINANCE NO. 2017-O-105**

**AMENDING CHAPTER 28, ARTICLE IX ENTITLED "PUBLIC RIGHT-OF-WAY MANAGEMENT" OF THE LAREDO CODE OF ORDINANCES BY ADDING DIVISION 12, SECTION 28-243 THROUGH 28-253 REGARDING THE SITING WIRELESS COMMUNICATIONS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY**

**WHEREAS**, the City is charged with maintaining control of and access to the public rights-of-way in order to protect the health, safety and welfare of its citizens; and

**WHEREAS**, the 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 ("Chapter 284"), which was recently added by the State Legislature and signed into law by the Governor, allows certain wireless Network Providers to install their wireless facilities in the public rights-of-way, described and defined in Texas Local Government Code, Chapter 284, Sec. 284.002 as "Micro Network Nodes", "Network Nodes", and "Node Support Poles"; and

**WHEREAS**, as expressly allowed by Texas Local Government Code, Chapter 284, Section 284.108, and pursuant to its police power authority reserved in Section 284.301, the City enacts this Ordinance in order to meet its fiduciary duty to the citizens of the City, and to give assistance and guidance to wireless telecommunications providers the timely, efficient, safe and aesthetically pleasing installation of technologically competitive equipment; and

**WHEREAS**, this Ordinance is for siting and criteria for the installation Wireless Facilities, including Micro Network Nodes, Network Nodes, Node Support Poles and related ground equipment being installed pursuant to Chapter 284; and

**WHEREAS**, this Ordinance shall apply to any siting, installations, collocations in, on, over or under the public rights-of-way of Network Nodes, Node Support Poles, Micro Network Nodes, Distributed Antenna Systems, microwave communications or other Wireless Facilities, by whatever nomenclature, whether they are installed pursuant to Chapter 284, or installed pursuant to an agreement as agreed to and consented to by the City in its discretion, or installed as may otherwise be allowed by state law; and

**WHEREAS**, a Network Provider shall comply with the City's rights-of-way management ordinance (Ordinance No. 2009-0-045) except where in conflict with this Ordinance or Chapter 284; and

**WHEREAS**, it is the City's responsibility to update its Code to be consistent with that of the Texas Local Government Code and to exercise the maximum authority preserved to local governments following the creation of Chapter 284 while at the same time to craft fair and reasonable rules for the use of the City's public rights-of-way by entities not falling under the protection of Chapter 283 and Chapter 284; and

**WHEREAS**, this Ordinance is intended to promote compliance with the Texas Utilities Code.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAREDO THAT:**

**Section 1.** Section 28-165 (Definitions) of Chapter 28, Article IX of the Laredo Code of Ordinances is hereby amended to read as follows:

**Sec. 28-165. - Definitions.**

The following definitions apply in this article of the City Code. The terms, phrases, words, abbreviations, and their derivations shall have the same meanings herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number, and words in the singular include the plural. The word "shall" is mandatory and not merely permissive.

*Abandon and its derivatives ~~Abandoned facilities~~* means facilities no longer in service or physically disconnected from the operation facilities, or from any other facilities that are in use or that still carry service for a consecutive period of time in excess of two (2) years unless, within the aforesaid two-year period, the city receives written confirmation and reasonable evidence that the ROW user intends to use the facilities.

*Above ground utility structure or AGUS* means any utility structure that extends higher than the surrounding grade.

*Administrative fee* means the fee charged by the city to recover its costs incurred for right-of-way management including, but not limited to, costs associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration improvements; determining the adequacy of right-of-way restoration; revoking right-of-way permits and other costs the city may incur in implementing the provisions of this article.

*Antenna* means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

*Applicable codes* means: (a) uniform building, fire, electrical, plumbing, or mechanical codes as adopted by the City and adopted by a recognized national code organization; and (b) any local amendments to those codes to the extent not inconsistent with Chapter 284.

*Applicant* means an owner or authorized agent of an owner, who submits an application for a permit under these provisions of the City Code.

*Area of influence* means that area around a utility excavation where the pavement and subgrade are impacted by the excavation and is subject to more rapid deterioration due to the trench excavation.

*Big project* means a capital improvements project that requires street closure or lane closure of more than forty-eight (48) hours to complete.

*Certified telecommunications provider* or *CTP* means a person who has been issued a certificate of convenience and necessity, certificate of operating authority, or service provider certificate of operating authority by the Public Utility Commission of Texas or "PUCT" to offer local exchange telephone service as defined by V.T.C.A., Local Government Code § 283 or "the Act."

*Chapter 284 means Chapter 284 of Subtitle A, Title 9 of the Texas Local Government Code.*

*City* means the City of Laredo.

*City Manager shall mean City Manager or his or her designee.*

*City's rights-of-way management ordinance means Chapter 28, Article IX, Divisions 1 to 11 of the City's Code of Ordinances.*

*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.*

*Concealment or Camouflaged means any Wireless Facility or Pole that is covered, blended, painted, disguised, camouflaged or otherwise concealed such that the Wireless Facility blends into the surrounding environment and is visually unobtrusive as allowed as a condition for City advance approval under Chapter 284, Sec. 284.105 in Historic or Design Districts. A Concealed or Camouflaged Wireless Facility or Pole also includes any Wireless Facility or Pole conforming to the surrounding area in which the Wireless Facility or Pole is located and may include, but is not limited to hidden beneath a façade, blended with surrounding area design, painted to match the supporting area, or disguised with artificial tree branches.*

*Contractor* means any public or private person or organization other than the city.

*Day*, unless stated otherwise, means a business day, which excludes Saturdays, Sundays and holidays recognized by federal or state government or the city.

*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 municipal codes.*

*Department* means the building development services department or a successor department that is responsible for management of the right-of-way and roadway infrastructure.

*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.*

*Director* means the director of the city building development services or his or her designee.

Disaster emergency or disaster or emergency means an imminent, impending, or actual natural or humanly induced situation wherein the health, safety, or welfare of the residents of the city is threatened, and includes, but is not limited to any declaration of emergency by city, state or federal governmental authorities.

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.

~~Emergency~~ or Emergency operations means those operations and repairs necessary to prevent damage or injury to the health or safety of the public or any person and the work necessary to address a service interruption. Upgrading of facilities, new service installation and neighborhood improvement projects are not emergency operations.

Excavation means an activity that removes or otherwise disturbs soil, pavement, driveways, curbs, or sidewalks in the right-of-way and does include irrigation activity of the right-of-way.

Facilities means the plant, equipment, and property, including, but not limited to, lines, poles, mains, pipes, conduits, ducts, cables, and wires located under, on, or above the surface of the ground within the right-of-way and valves and related facilities and equipment used or useful for the provision of utility services.

FCC means The Federal Communications Commission.

Governing body means the mayor and the city council of the City of Laredo, Texas.

Governmental entity means any county, township, city, town, village, school district, library district, road district, drainage or levee district, sewer district, water district, fire district, or other municipal corporation, quasi-municipal corporation or political subdivision of the State of Texas or of any other state of the United States and any agency or instrumentality of the State of Texas or of any other state of the United States or of the United States.

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 corporate boundaries of the City.

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

Macro tower means a guyed or self-supported pole or monopole greater than the height parameters prescribed by Chapter 284, Section 284.103 and that supports or is capable of supporting antennas.

Mayor means the Mayor for the City.

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.

Minor encroachment license means the legal document outlining the rights and obligation of a non-CTP owner of a wire telecommunication system to be in the rights-of-way of the city.

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

Municipally owned utility pole means a utility pole owned or operated by a municipally owned utility, as defined by Section 11.003 of the Texas Utilities Code, and located in a public right-of-way.

MUTCD means Manual of Uniform Traffic Control Devices.

Network node means equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term includes: (a) equipment associated with wireless communications; (b) a radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; (c) coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation; and (d) a distributed antenna system or DAS. The term does not include: (a) an electric generator; (b) a pole; or (c) a macro tower. Small cell shall be included as a type of "Network Node."

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: (1) network nodes; or (2) node support poles or any other structure that supports or is capable of supporting a network node. Provider has the same meaning as "Network Provider."

New street means the paved portion of the right-of-way that has been constructed reconstructed, or resurfaced with an asphalt overlay, hot in place recycling, full-length reclamation, reconstruction or other structural Street maintenance treatment. "New street" includes all concrete paved streets, streets constructed or structurally resurfaced during the preceding seven (7) years, for a collector or arterial street or during the preceding five (5) years for a residential street or alley.

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

Permit means a permit issued under this article authorizing excavation in the right-of-way or 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 City has police power authority.

*Permittee* means any person or right-of-way user (including its authorized agents and representatives) to whom a permit is issued to excavate a right-of-way.

*Person* means any person, company, partnership, agency or other public or private entity including its authorized agents and representatives) except the city.

*Pole means a service pole, municipally 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.*

*Registration* means the application process of an ROW user to use any portion of the Right-of-way.

*Repair* means the temporary or permanent construction work necessary to make the right-of-way useable.

*Repair area* means that area around an excavation where the pavement and subgrade are impacted by an excavation.

*Restoration* means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition, or better, than existed before the commencement of the work.

*Resurfacing* means any repaving; overlay; seal or reconstruction which creates a new pavement surface over the entire width of the street, excluding crack seals and localized base and pavement repairs.

*Right-of-way or public right-of-way* means the surface of, and the space above and below, any street, road, highway, freeway, lane, path, drainage way, channel, fee interest, public way or place, sidewalk, alley, boulevard, parkway, drive, or other easement now or hereafter held by the city or over which the city exercises any rights of management or control and shall include but not be limited to all easements now held, or hereafter held, by the city but shall specifically exclude private property and the airwaves above a public right-of-way with regard to wireless telecommunications.

*Right-of-way (ROW) user* means a person, its successors and assigns, that uses the right-of-way for purposes of work, excavation, provision of services, or to install, construct, maintain and repair facilities thereon, including, but not limited to, land owners and service providers.

*Routine service operation* means a work activity that makes no material change to the facilities and does not disrupt traffic.

*Service* means a commodity provided to a person by means of a delivery system that is comprised of facilities located or to be located in the right-of-way including but not limited to gas, telephone, cable television, internet services, open video systems, alarm systems, steam, electric delivery, water, telegraph, data transmission, petroleum pipelines or sanitary sewage.

*Service pole means a pole, other than a municipally 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.

Street means only the paved portion and sub-grade of the right-of-way used for vehicular travel, being the area between the inside of the curb to the inside of the opposite curb, or the area between the two parallel edges of the paved roadway for vehicular travel where there is no curb. A "Street" is generally part of, but smaller in width than the width of the entire right-of-way, while a right-of-way may include sidewalks and utility easements, a "Street" does not. A "street" does not include the curb or the sidewalk, if either are present at the time of a permit application or if added later. the pavement and sub-grade of a city residential, collector or arterial roadway.

Supplementary application means an application made to excavate or obstruct more of the right-of-way than allowed in or to extend a permit that has already been issued.

TMUTCD means the Texas Manual on Uniform Traffic Control Devices, latest edition.

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.

Underground requirement area means an area where poles, overhead wires, and associated overhead or above ground structures have been removed and buried or have been approved for burial underground pursuant to municipal ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way.

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 means any privately or publicly owned entity which uses the public right-of-way to furnish to the public any general public service, including, without limitation, sanitary sewer, gas, electricity, water, telephone, petroleum products, telegraph, heat, steam or chilled water, together with the equipment, structures, and appurtenances belonging to such entity and located within and near the right-of-way. Poles are regulated herein only as specifically set forth in this article.

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 Section 51.002 of the Texas Utilities Code.

Utility structure means any structure, cabinet, or any other appurtenance other than a pole or device attached to a pole which is owned or used by a utility company, cable company, or telecommunications provider to provide service. The phrase does not include devices or structures used to control or direct pedestrian or vehicular traffic on an adjacent roadway or infrastructure that provides water used for fire suppression.

*Video service* has the same meaning as that set out in Section 66.002 of the Texas Utilities Code or as may be amended.

*Video service provider* has the same meaning as that set out in Section 66.002 of the Texas Utilities Code or as may be amended.

*White lining* means marking the excavation site with white washable marking paint or flags prior to requesting a utility locate in order to further identify the site.

*Wire telecommunication system* means a tangible closed facility for the transmission of voice, video or data services, including all instrumentalities, facilities and apparatus incidental to such transmission.

*Wireless facilities mean "Micro Network Nodes," "Network Nodes," and "Node Support Poles" as defined in Chapter 284 of the Texas Local Government 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.*

**Section 2.** Section 28-215 (Fees) of Chapter 28, Article IX of the Laredo Code of Ordinances is hereby amended to read as follows:

**Sec. 28-215. - Fees.**

(a) *Permit application fee.* There is a permit application fee of fifty dollars (\$50.00). Permits shall be issued or denied within five (5) days. *The application fee and other related fees for network providers are set forth in Division 12 of this article.* There is an expedited application fee of two hundred fifty dollars (\$250.00) for permits which shall be issued or denied within two (2) days. The fees are paid by an applicant when a permit is requested. The fees are charged for administration and input of permit data. An expedited permit may be requested upon a showing of good cause, including, but not limited to, a pending order for service that cannot be met by means of existing facilities of the ROW user. In such event an expedited permit may be requested and shall be issued or denied within two (2) days of application.

**Section 3.** Chapter 28, Article IX of the Laredo Code of Ordinances is hereby amended by adding the following Division 12:

**DIVISION 12 – WIRELESS FACILITIES**

**Sec. 28-243. – Applicability.**

*A network provider shall comply with the City's right-of-way management ordinance, except where in conflict with this division or Chapter 284.*

**Sec. 28-244. Prohibited and Preferred Locations of Micro Network Node, Network Node, Node Support Pole and related ground equipment.**



(a) Prohibited or Restricted Areas for Certain Wireless facilities, except with Separate City Agreement or Subject to Concealment Conditions.

(1) Municipal Parks and Residential Areas. In accordance with Chapter 284, Sec. 284.104(a), a Network Provider may not install a Node Support Pole in a public right-of-way without the City's discretionary, nondiscriminatory, and written consent if the public right-of-way is in a Municipal park or is adjacent to a street or thoroughfare that is:

(i) not more than 50 feet wide of paved street surface, being the area measured as the shortest distance between the inside of the curb to the inside of the opposite curb, or the area measured as the shortest distance between the two parallel edges of the paved roadway for vehicular travel where there is no curb; and

(ii) adjacent to single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions.

In accordance with Chapter 284, Sec. 284.104(b), a Network Provider installing a Network Node or Node Support Pole in a public right-of-way described above shall comply with private deed restrictions and other private restrictions in the area that apply to those facilities.

Each permit application shall disclose if it is within a Municipal Park or within a Residential Area as described above.

(2) Historic District and Design Districts. In accordance with Chapter 284, Sec. 284.105, a Network Provider must obtain advance written approval from the City before collocating Network Nodes or installing Node Support Poles in a Design District with Decorative Poles or in an area of the City zoned or otherwise designated as a Design District or Historic District.

(i) As a condition for approval of Network Nodes or Node Support Poles in Design Districts with Decorative Poles or in a Historic District, the City shall require reasonable design or Concealment measures for the Network Nodes or Node Support Poles. Therefore, any request for installations in a Design District with Decorative Poles or in a Historic District, must be accompanied with proposed Concealment measures in the permit applications.

(ii) The City request that a Network Provider explore the feasibility of using Camouflage measures to improve the aesthetics of the Network Nodes, Node Support Poles, or related ground equipment, or any portion of the nodes, poles, or equipment, to minimize the impact to the aesthetics in Design Districts or in an Historic District.

(iii) Network Provider shall comply with and observe all applicable City, State, and federal historic preservation laws and requirements.

(iv) Each permit application shall disclose if it is within a Design District with Decorative Poles or in an area of the City zoned or otherwise designated as a Design District or Historic District.

(3) Historic Landmarks. A Network Provider is discouraged from installing a Network Node or Node Support Pole within 300 feet of a historic site or structure or Historic Landmark recognized by the City, state or federal government (see, for example, and not limited to Section 442.001(3) of the Texas Government Code, and 16 U.S.C. § 470), as of the date of the submission of the permit. Each permit application shall disclose if it is within 300 feet of such a structure.

(4) Compliance with Undergrounding Requirements. In accordance with Chapter 284, Sec. 284.107, a Network Provider shall comply with nondiscriminatory undergrounding requirements, including municipal ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way without first obtaining zoning or land use approval.

(i) Areas may be designated from time to time by the City as Underground Requirement Areas in accordance with filed plats, and or conversions of overhead to underground areas, as may be allowed by law.

(ii) Each permit application shall disclose if it is within an area that has undergrounding requirements.

(b) Least preferable locations.

(1) Residential Areas and Parks. A Network Provider is discouraged from installing a Network Node on an existing pole in a public right-of-way without written consent from the City Council if the public right-of-way is located in or adjacent to a street or thoroughfare that is adjacent to a municipal park or single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions.

(i) In accordance with Chapter 284, Sec. 284.104(b), a Network Provider installing a Network Node or a 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.

(2) Historic Districts and Design Districts. A Network Provider is discouraged from installing a Network Node or a Node Support Pole in the public right-of-way in any area designated by the City as a Design District or in an area of the City zoned or otherwise designated as a Historic District unless such a Network Node or a new Node Support Pole is camouflaged.

(c) Most preferable locations.

(1) Industrial areas if not adjacent to a Municipal Park, Residential area, Historic District or Design District.

(2) Highway Rights-of-Way areas if not adjacent to a Municipal Park, Residential area, Historic District or Design District.

(3) Retail and Commercial areas if not adjacent to a Municipal Park, Residential area, Historic District or Design District.

(d) Designated Areas.

(1) The City Council may designate an area as a Historic District or a Design District under Chapter 284, Section 284.105 at any time.

(2) Currently designated Historic Districts are:

(i) Historic District Number 1 is the area referred to as St. Peter's Historic District. Its boundaries were established by Council in Ordinance No. 85-0-72.

(ii) Historic District Number 2 is the area referred to as San Agustin De Laredo Historic District. Its boundaries were established by Council in Ordinance No. 85-0-72.

(iii) Historic District Number 3 is the area referred to as Old Mercado Historic District. Its boundaries were established by Council in Ordinance No. 85-0-72.

(3) Currently there are no designated Design District areas within City.

(4) The failure to designate an area in this division shall not mean that such an area is not within a defined district, if so designated by the City Council. Future areas may be designated as one of these Districts at any time. Such a designation does not require a zoning case.

(5) While not required under Chapter 284 to designate Underground Requirement Areas to prohibit above ground Wireless facilities, the City may also, from time to time, also designate Underground Requirement Areas.

(e) Exceptions

The City by its discretionary consent and agreement may grant exception to the above prohibited locations and sizes, but only in a non-exclusive, and non-discriminatory manner, as allowed or required by Chapter 284, Sec. 284.109 and Sec. 284.110.

(f) Order of Preference regarding Network Node attachment to existing facilities and New Node Support Poles.

(1) Existing telephone or electrical lines between existing utility poles. Micro Network Nodes shall only be lashed on existing telephone or electrical lines between existing utility poles (electric poles or telephones poles), with notice to the pole owner as required by the Federal Pole Attachment Act, and not placed on Utility Poles, Node Support Poles or Service Poles.

(2) Existing Utility Poles (electric poles or telephones poles), shall be the preferred support facility for Network Nodes and related ground equipment.

(3) Municipal Service Poles:

(i) Non-decorative street lights with a height of more than 20 feet.

(ii) Traffic signal structures when such installation will not interfere with the integrity of the facility and will not interfere with the safety of public and in accordance with an agreement as allowed by Chapter 284, Sec. 284.056 and Sec. 284.101(a)(3), and (b).

(iii) Street signage shall be a low priority use for attachment of a Network Node.

(iv) Other municipal Service pole use is discouraged.

(4) New node support poles shall be the least preferred type of allowed facility for attachment of Network Nodes.

(5) Ground equipment should be minimal and the least intrusive.

#### Sec. 28-245. Fees.

(a) All fees for permit applications and all rents for use of the public rights-of-way by network providers shall conform to the provisions set forth in Chapter 284.

(b) **Application Fees:** Because the City requires the payment of the fee for similar types of commercial development inside the City's territorial jurisdiction, other than a type for which application or permit fees are not allowed by law, the City is eligible to charge an applications fee for deployments, including Transport facilities, under this Chapter.

Unless there is a change in law, the fees shall be assessed on the number of poles and or Network Nodes contained in an application for installation or for a Transport facility at the following rates:

(1) Five Hundred Dollars (\$500) per application.

(i) This amount will cover applications covering up to five network nodes.

(2) For applications with more than five network nodes, there shall be an additional Two hundred and Fifty Dollars (\$250) fee for each additional network node per application; and

(3) One Thousand Dollars (\$1,000) per application for each pole.

(c) Adoption of the above fees shall not be seen as a finding by the City that the fees are greater than or equal to the actual, direct, and reasonable costs the City determines are incurred in granting or processing an application that are reasonably related in time to the time the costs of granting or processing an application are incurred.

(d) Rent from Network Providers:

(1) Nodes: The Annual Network Node site rental rate as set in Chapter 284 Sec. 284.053 shall be \$250 per Network Node site, with annual CPI adjustment as provided for in Chapter 284, Sec. 284.054.

(2) Poles: Chapter 284, Sec. 284.053 does not provide a separate rate for poles.

(3) Transport facility: The Annual Transport Facility rental rate as set in Chapter 284 Sec. 284.055. shall be \$28 monthly for each Network Node site, unless an equal or greater amount is paid the city, e.g., under Chapter 283, Tex. Loc. Gov. Code or Chapter 66, Tex. Util. Code.

#### **Sec. 28-246. Guidelines on Placement.**

(a) Generally.

In accordance with Chapter 284, Section 284.102, a Network Provider shall construct and maintain Network Nodes and Node Support Poles in a manner that does not:

(1) obstruct, impede, or hinder the usual travel or public safety on a public right-of-way;

(2) obstruct the legal use of a public right-of-way by other utility providers;

(3) violate nondiscriminatory applicable codes;

(4) violate or conflict with the City's rights-of-way management ordinance or this division.

(5) violate the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

Failure to comply with subparagraphs 1 to 4 above shall be subject to all remedies available under law and subject to application of the penalties outlined in Section (b)(4)(ii) of this section.

(b) General Requirements and Information:

(1) Size Limits. Network Providers shall provide detailed drawings, with calculations to show strict conformity to the size limitations as set forth in Chapter 284, in accordance with, but not limited to Chapter 284, Sec. 284.002, size of a Micro Network Node, Sec. 284.003, Size of Network Nodes, and Sec. 284.103, Max. pole height, with each application and with each request for a permit for each location.

(2) State and Federal Rights-of-way permit. If the project lies within a Highway Right-of-Way, the applicant must provide evidence of a permit from the State or Federal Government.

(3) Confirmation of non-interference with City Safety Communication Networks.

(i) The Network Provider shall provide analysis that the proposed network node shall not cause any interference with City public safety radio system, traffic signal light system, or other city safety communications components in accordance with Chapter 284, Sec. 284.304.

(ii) It shall be the responsibility of the Network Provider to evaluate, prior to making application for permit, the compatibility between the existing City infrastructure and Provider's proposed Network Node. A Network Node shall not be installed in a location that causes any interference. Network Nodes shall not be allowed on City's public safety radio infrastructure.

(iii) Failure to comply with subparagraphs (i) and (ii) above shall be subject to all remedies available under law and subject to application of the penalties outlined in Section (b)(4)(ii) of this section.

(4) Improperly Located Network Node facilities, Node Support Poles and related ground equipment.

(i) Improperly Located Network Node facilities, Node Support Poles and related ground equipment shall not impede pedestrian or vehicular traffic in the Right-of-Way. If any Network Node facilities, Node Support Poles or ground equipment is installed in a location that is not in accordance with the plans approved by the City Manager 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 Network Provider shall promptly remove the Network Node facilities, Node Support Poles or ground equipment.

(ii) Notice to Remove unauthorized facilities and relocate and penalty. After 30 days' notice to remove of Network Node facilities, Node Support Poles or ground equipment that is located in the incorrect permitted location, if not relocated the Network Provider shall be subject to a penalty of one thousand dollars (\$1,000.00) per day penalty until the Network Node facilities, Node Support Poles or ground

equipment is relocated to the correct area within the permitted Location, regardless of whether or not the Network Provider's contractor, subcontractor, or vendor installed the Network Node facilities, Node Support Poles or ground equipment in strict conformity with the City's rights-of-way management ordinance, and other applicable ordinances concerning improperly located facilities in the rights-of-way.

(c) Underground Requirement Areas.

(1) In accordance with Chapter 284, Section 284.107, a Network Provider shall, in relation to installation for which the City approved a permit application, comply with nondiscriminatory undergrounding requirements, including municipal ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way without first obtaining zoning or land use approval.

(2) If a location is designated by the City to be an Underground Requirement Area, then a Network Provider's permit for the location of the Micro Network Node, Network Node, Node Support Pole, and related ground equipment at such location will be revoked 90 days after the designation, with removal of said the Micro Network Node, Network Node, Node Support Pole, and related ground equipment at such location within 90 days of such designation, or as otherwise reasonably allowed by the City for the transition of other overhead facilities.

(d) Network Node facilities placement:

(1) Right-of-Way. Network Node facilities, Node Support Poles and related ground equipment shall be placed, as much as possible, within two (2) feet of the outer edge of the Right-of-Way line to minimize any obstruction, impediment, or hindrance to the usual travel or public safety on a public right-of-way.

(2) Height above ground. Network Node attachments to a pole shall be installed at least eight (8) feet above the ground in accordance with Chapter 284, Section 284.108, and if a Network Node attachment is projecting toward the street, for the safety and protection of the public and vehicular traffic, the attachment shall be installed no less than sixteen (16) feet above the ground. As the most heavily truck trafficked community in America, the Council finds this higher height necessary for public safety.

(3) Protrusions. In accordance with Chapter 284, Sec. 284.003(a)(1)(C), Sec. 284.003(a)(2)(C) and Sec. 284.003-(a)(3)(B) no protrusion from the outer circumference of the existing structure or pole shall be more than two (2) feet.

(4) Limit on number of Network Nodes per Site. There shall be no more than one Network Node on any one Pole.

(e) New Node Support Poles.

(1) New Node Support Poles Spacing. New node support poles shall be spaced apart from existing utility poles or Node Support poles at the same as the spacing between utility poles in the immediate proximity, but no less than at a minimum 300 feet from a utility pole or another Node Support Pole to minimize the hazard of poles adjacent to road ways and to minimize effect on property values and aesthetics on the area.

(2) Height of Node Support Poles or modified Utility Pole. In accordance with Chapter 284, Sec. 284.103 a Node support pole or modified Utility Pole may not exceed the lesser of:

(i) 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; or

(ii) 55 feet above ground level.

(f) Ground Equipment.

(1) Ground Equipment near street corners and intersections. Ground equipment should be minimal and the least intrusive. In accordance with Chapter 284, Section 284.102(1), to minimize any obstruction, impediment, or hindrance to the usual travel or public safety on a public right-of-way, and in order to maximize the line of sight required to add to safe travel of vehicular and pedestrian traffic, and in order to maximize that line of sight at street corners and intersections and to minimize hazards at those locations, ground equipment may not be installed within 250 feet of a street corner or a street intersection.

(2) Ground Equipment near Municipal Parks. For the safety of Municipal park patrons, particularly small children, and to allow full line of sights near Municipal park property, the Network Provider shall not install Ground Equipment in a Right-of-Way that is within a Park or within 250 feet of the boundary line of a Park, unless approved by the City Manager and Director of the Parks and Leisure Department in writing.

(g) Municipal Service Poles.

(1) Installations on all Service Poles shall be in accordance with an agreement as allowed by Chapter 284, Sec. 284.056 and Sec. 284.101(a)(3), and (b).

(2) Required industry standard pole load analysis. Installations on all Service Poles shall have an industry standard pole load analysis completed and submitted to the City with each permit application indicating that the Service Pole to which the Network Node is to be attached will safely support the load, in accordance with Chapter 284, Section 284.108.

(3) Height of attachments. All attachments on all Service Poles shall be at least eight (8) feet above grade, in accordance with Chapter 284, Sec. 284.108(a)(1)-(2), and if a Network Node attachment is projecting toward the street, for the safety and protection of the public and vehicular traffic, the attachment shall be installed no less than sixteen (16) feet above the ground.



(4) Installations on Traffic Signal. Installations on all Traffic signal structures must not interfere with the integrity of the facility in any way that may compromise the safety of the public and must be in accordance with an agreement as allowed by Chapter 284, Sec. 284.056 and Sec. 284.101(a)(3) and (b). Installation of Network Node facilities on any traffic signal structures shall:

(i) Be encased in a separate conduit than the traffic light electronics;

(ii) Have a separate electric power connection than the traffic signal structure; and

(iii) Have a separate access point than the traffic signal structure.

(5) Installations on Street signage: Installations on all street signage structures must not interfere with the integrity of the facility in any way that may compromise the safety of the public. Installation of Network Node facilities on any street signage structures that has electrics shall:

(i) Be encased in a separate conduit than any City signage electronics;

(ii) Have a separate electric power connection than the signage structure;

(iii) Have a separate access point than the signage structure.

#### **Sec. 28-247. General Aesthetic Requirements**

##### (a) Concealment.

(1) Concealment of Network Nodes and Node support poles shall be required by the City in Design Districts with Decorative Poles and in Historic Districts pursuant to Chapter 284, Section 284.105.

(2) It is also the City's preference that all new node support poles be camouflaged, except those located in an area zoned or predominantly industrial area. Companies shall submit their proposal for camouflage with the permit application.

##### (b) New Node Support Pole Spacing.

New node support poles shall be at a minimum 300 feet from a utility pole or another Node Support Pole to minimize the hazard of poles adjacent to road ways and to minimize effect on property values and aesthetics on the area.

##### (c) Allowed Colors.

Colors in Historic Districts and Design Districts must be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

**Sec. 28-248. Electrical Supply**

(a) Network Provider shall be responsible for obtaining any required electrical power service to the Micro Network Node, Network Node facilities, Node Support Poles and ground equipment. The City shall not be liable to the Network Provider for any stoppages or shortages of electrical power furnished to the Micro Network Node, Network Node facilities, Node Support Poles or ground equipment, including without limitation, stoppages or shortages caused by any act, omission, or requirement of the public utility serving the structure or the act or omission of any other tenant or Network Provider of the structure, or for any other cause beyond the control of the City.

(b) Network Provider shall not allow or install generators or back-up generators in the Right-of-Way in accordance with Chapter 284, Sec. 284.002(12)(B)(1).

**Sec. 28-249. Insurance, Indemnity, Bonding and Security Deposits.**

(a) Insurance, bonding and security deposits shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

(b) Indemnity shall be in accordance with Chapter 284, Sec. 284.302, as provided for in Chapter 283, Sec. 283.057(a) and (b) of the Texas Local Government Code.

**Sec. 28-250. Requirements in Regard to Removal, Replacement, Replacement, Maintenance and Repair**

(a) Removal or Relocation by Network Provider

Removal and relocation by the Network provider of its Micro Network Node, Network Node facilities, Node Support Pole or related ground equipment at its own discretion, shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

(b) Removal or Relocation Required for City Project

Removal and Relocation of Network Provider's Micro Network Node, Network Node, Node Support Pole or related ground equipment, or portion thereof required for a City project shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284, Sec. 284.107, except as provided in existing state and federal law.

**Sec. 28-251. Installation and Inspections**

*(a) Network Provider shall, at its own cost and expense, install the Micro Network Node, Network Node facilities, Node Support Poles and related ground equipment in a good and workmanlike manner in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.*

*(b) The City Manager, or designee, may perform inspections of any Micro Network Node, Network Node, Node Support Pole or related ground equipment located in the Right-of-Way shall be allowed in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.*

**Sec. 28-252. Requirements Upon Abandonment of Obsolete Network Node, Network Node, Node Support Pole and Related Ground Equipment.**

*Abandoned or obsolete Micro Network Node, Network Node, Node Support Pole and related ground equipment shall be removed in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.*

**Sec. 28-253. General Provisions.**

*(a) Network Provider's as built maps and records shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.*

*(b) Courtesy and Proper Performance of Network provider's personnel, and contractors shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.*

*(c) Ownership of Network Node and related equipment shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.*

*(d) Tree maintenance shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.*

*(e) Signage shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.*

*(f) Graffiti abatement shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.*

*(g) Network Provider shall restore and repair the Rights-of-Way from any damage to the Right-of-Way, or any facilities located within the Right-of-Way, and the property of any third party resulting from Network Provider's removal or relocation activities (or any other of Network*

Provider's activities hereunder) in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

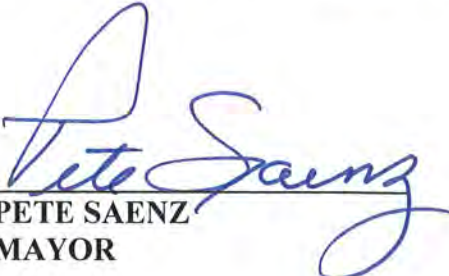
(h) Network Provider shall be responsible and liable for the acts and omissions of Network Provider's employees, temporary employees, officers, directors, consultants, agents, Affiliates, subsidiaries, sub-Network Provider's and subcontractors in connection with the installations of any Micro Network Node, Network Node, Node Support Pole and related ground equipment, as if such acts or omissions were Network Provider's acts or omissions in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

**Section 4.** This Ordinance shall be published in a manner provided by Section 2.09(D) of the Charter of the City of Laredo.

**Section 5.** This Ordinance shall become effective as and from the date of publication specified in Section 4.

**Section 6.** Severability. If any provision, section subsection, sentence, clauses, or phrase of this Ordinance, or the application of the same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of another portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR ON THIS 5<sup>th</sup> DAY OF September 2017.


  
PETE SAENZ  
MAYOR

ATTEST:

  
JOSE A. VALDEZ, JR.  
CITY SECRETARY



**APPROVED AS TO FORM:  
KRISTINA LAUREL HALE**

BY:   
\_\_\_\_\_  
**CRISTIAN-ROSAS GRILLET  
ASSISTANT CITY ATTORNEY**