

## **ORDINANCE NO. 876 (17)**

AN ORDINANCE AMENDING PART 14, CHAPTER 3, BY ADDING ARTICLE B DESIGN AND CONSTRUCTION OF WIRELESS FACILITIES REGULATING WIRELESS FACILITIES WITHIN THE CITY RIGHT-OF-WAY; ESTABLISHING PERMITTING AND NETWORK NODE INSTALLATION REQUIREMENTS; PROHIBITING WIRELESS FACILITY INTERFERENCE WITH MUNICIPAL COMMUNICATIONS INFRASTRUCTURE; ESTABLISHING RELOCATION AND REMOVAL PROCEDURES; PROVIDING FOR SERVERABILITY; AND REPEALING ANY INCONSISTENT ORDINANCES OF THE CITY OF MOORE, STATE OF OKLAHOMA.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOORE, OKLAHOMA THAT PART 14, CHAPTER 3, IS HEREBY AMENDED TO READ AS FOLLOWS:

### **ARTICLE B- DESIGN AND CONSTRUCTION OF WIRELESS FACILITIES**

#### **SECTION 14-401 – DEFINITIONS**

For purposes of this chapter, the following terms shall have the following meanings.

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

B. “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.

C. “Decorative pole” means a streetlight or traffic signal pole specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than specially designed informational, directional signage, temporary holiday or special event attachments, may be placed.

D. “Macro tower” means a guyed or self-supported pole or monopole greater than the height parameters of:

1. Ten (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
2. Fifty-Five (55) feet above ground level; or
3. Supports or is capable of supporting antennas.

E. “Micro network node” means a network node that is not larger in dimension than Twenty-Four (24) inches in length, Fifteen (15) inches in width, and Twelve (12) inches in height, and that has an exterior antenna, if any, not longer than 11 inches.

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

1. Equipment associated with wireless communications;
2. A radio transceiver, an antenna, a battery-only backup power supply, and

comparable equipment, regardless of technological configuration; and  
3. electrical, coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation and is not to exceed Fifty (50) feet; and

The term does not include:

1. An electric generator;
2. A pole; or
3. A macro tower.

G. "Network provider" or "provider" means:

1. A wireless service provider; or
2. 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:
  - a. Network nodes; or
  - b. node support poles or any other structure that supports or is capable of supporting a network node.

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

I. "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:

1. A pole that supports traffic control functions;
2. A structure for signage;
3. A pole that supports lighting, other than a decorative pole; and
4. A pole or similar structure owned or operated by the City and supporting only network nodes

J. "Small cell" shall be included as a type of "network node."

K. "Utility pole" means a pole that provides:

1. Electric distribution with a voltage rating of not more than 34.5 kilovolts; or
2. Services a telecommunications provider.

L. "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.

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

N. "Wireless facilities" mean "micro network nodes," "network nodes," and "node support poles," as those terms are defined in this section, and related ground equipment.

## **SECTION 14-402 APPLICABILITY**

A. Providers shall adhere to the requirements found in this chapter for the installation, operation, maintenance, repair, modification, and replacement of wireless facilities within the City's public

right-of-way or on City owned property.

B. Wireless facility installations or collocations, installed other than in city owned rights-of-way, shall be installed in accordance with all of the provisions of this code, including the City of Moore Land Development Code, Part 12, Chapter 2, 3, and 4, Article H.

C. This chapter governs location and criteria for the installation of wireless facilities, including: micro network nodes, network nodes, node support poles, and related ground equipment, being installed. This Chapter shall apply to all locations, installations, and collocations in, on, over or under the public rights-of-way or City owned property of such wireless facilities, installed pursuant to an agreement with the City in its discretion.

## **SECTION 14-403 PERMITTING**

A. Attachments to Existing Poles or Structures. A Provider shall not install, modify or relocate a network node on an existing pole or structure within the public right-of-way without first obtaining an approved Wireless Facility ROW Permit from the City. Prior to installation, modification or relocation of a network node on an existing pole or structure, Provider shall complete and submit to the City a complete Wireless Facility ROW Permit application and a commercial electrical permit application, by a qualified electrical contractor in the form provided by the City, along with standard required documents. Up to five (5) separate network nodes may be submitted under one (1) permit application. Each permit application shall include the following items:

1. Payment of the permit application fee as established in the current fee schedule and all other fees required by the City, including but not limited to annual fees set forth in a franchise agreement or other similar approved agreements for use of the City-owned right-of-way, as such fees may be adjusted from time to time pursuant to the agreement.
2. An aerial map showing the location of the existing pole or structure to which the network node is proposed to be attached, and a street view image of the same;
3. Stamped construction and engineering drawings prepared by a professional engineer licensed in the State of Oklahoma, and for wireless facilities proposed to be attached to a service pole or other City-owned or -controlled structure, a certification from the engineer that the existing pole or structure and its foundations have sufficient structural stability to support the proposed network node and can bear the wind load without pole modification. Such construction and engineering drawings must also address the design of the connection of any item to the pole;
4. Geographic Information System (GIS) data for the location of each proposed wireless facility in the form required by the City;
5. Detailed drawings, with calculations, showing strict conformity to the size limitations as set forth in this chapter;

6. Documentation identifying the frequency on which the proposed network node will operate and a certification that the proposed network node shall not cause any interference with the City's traffic signal system, public safety radio system, private police cell system, or other City communications infrastructure;

7. The names and telephone numbers of at least two persons serving as emergency contacts for the Provider who can be reached by telephone Twenty-Four (24) hours a day, seven (7) days a week, in the event of an emergency;

8. Stamped engineering drawings for the electrical service providing power to the proposed network node, which must include the conduit size, circuit size, calculations for amp, proposed voltage, and distances running. The City is entitled to disconnect power to the network node or other wireless facilities in emergency situations;

9. Scaled dimensional drawings or pictures of the proposed attachments of the network node to the existing poles or structures as well as any other proposed wireless facility, indicating the horizontal and vertical spacing from existing curbs, driveways, sidewalks, and other existing poles. This shall include a before-and-after image of the pole and all proposed attachments thereto and associated standalone equipment;

10. Scaled dimensional construction and engineering drawings indicating the current public right-of-way line and showing any proposed underground conduit and equipment. Such drawings shall also show a sectional profile of the public right-of-way and identify all existing utilities and existing utility conflicts;

11. Where required by the City based on the proposed scope of work, Provider shall submit a traffic control plan, storm water pollution prevention plan, and/or trench safety plan;

12. If the location of the proposed wireless facility lies within state or federal right-of-way, the Provider must provide evidence of a permit from the state or federal government; and

13. Certification that the new network node is spaced apart from existing, approved or proposed new network nodes a distance of at least one-thousand (1000) feet; and

14. The information required to be submitted for construction in rights-of-way by Article A of this chapter.

**B. Installation of Network Nodes on New Poles.** A Provider shall not install or relocate a new node support pole or a network node on a new node support pole within the public right-of-way.

#### **C. Electrical Supply**

1. Provider shall be responsible for obtaining any required electrical power service to the Provider's wireless facilities. Provider's electrical supply shall be separately metered from the City and must match City infrastructure voltage. The City shall not be liable to the Provider for any stoppages or shortages of electrical power furnished to the

wireless facilities, including without limitation, stoppages or shortages caused by any act, omission, or requirement of the public utility serving the wireless facility structure or the act or omission of any other tenant or Provider of the wireless facility structure, or for any other cause beyond the control of the City;

2. All electrical power service is to be designed and installed according to Part 5, Chapter 4 of the City Code of Ordinances, including the currently adopted version of the NEC;

3. A commercial electrical permit is required for all electrical power service work.

## **SECTION 14-404 NETWORK NODE AND NODE SUPPORT POLE REQUIREMENTS**

### **A. Installation**

Provider shall, at its own cost and expense, install all wireless facilities in a quality and workmanlike manner and in accordance with the requirements of this section, other provisions of this chapter, and all other applicable laws and ordinances. All work done in connection with the installation, operation, maintenance, repair, modification, and/or replacement of wireless facilities shall be in compliance with all applicable Laws. The following requirements apply to the installation, operation, maintenance, repair, modification, and/or replacement of wireless facilities:

1. Wireless facilities shall be concealed or enclosed as much as possible in an equipment box, cabinet or other enclosure that may include ventilation openings. External cables and wires hanging off a pole shall be sheathed or enclosed in a conduit, so that wires are protected and not visible or visually minimized to the extent possible;

2. No wireless facility shall be located or placed in a manner that encroaches on existing or proposed City corner sight triangles or sight line triangles, as defined by Section 12-553 of the City Code of Ordinances;

3. Electrical meters shall not be mounted on a service pole or other City- owned or controlled structure without prior approval from the Community Development Director or their designee. Standalone electrical meters shall be located on or within a pad-mounted pedestal that shall be powder coated a neutral color that harmonizes with the surrounding area in which it is located. All electrical meters serving network nodes must display the Provider's name and contact information;

4. All power to a network node located on or attached to a service pole or other City owned or controlled structure must be able to be disconnected to provide a safe working environment;

5. Use of City conduits for a Provider's wireless facilities is prohibited;

6. Network node attachments to a pole shall be installed at least eight (8) feet above the ground;

7. No protrusion from the outer circumference of the existing structure or pole to which a network node is attached shall be more than two (2) feet;

8. The color of network nodes shall match the color of the poles or structures to which they are attached such that the network nodes blend with the color of the poles or structures and surrounding area structures;

9. Before beginning excavation in any public right-of-way, Provider shall be responsible for complying with all Laws relating to verifying the location of existing utility lines and facilities and avoiding encroachment thereon, including the requirements of this chapter;

#### B. Inspections

1. The City may perform visual inspections of any wireless facilities located in the public right-of-way as the City deems appropriate without notice.

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

3. The city shall perform electrical inspections to the electrical supply systems as required by Part 5, Chapter 4 of the City Code of Ordinances.

#### C. Placement

1. Design Conditions. As a condition for approval of wireless facilities, the City can require reasonable design or concealment measures for the wireless facilities. Therefore, any installation that requires design or concealment measures must have these measures submitted with the permit application. The City requests that a Provider explore the feasibility of using camouflage measures to improve the aesthetics of the wireless facilities, or any portion thereof, to minimize the impact to the aesthetics in these installations.

2. Decorative Poles. Provider shall neither allow the installation of, nor install wireless facilities on a decorative pole.

3. Public right-of-way. Wireless facilities shall not obstruct, impede, or hinder pedestrian or vehicular traffic in the public right-of-way or obstruct or interfere with the legal use of a public right-of-way by other utility providers. Provider shall promptly remove wireless facilities that are installed in a location that is not in accordance with the plans approved by the City, that do not comply with the provisions of this chapter, or that otherwise render the public right-of-way non-compliant with applicable Laws, including but not limited to the Americans with Disabilities Act.

4. Notice to remove unauthorized wireless facilities and penalty. If a provider fails to

remove any unauthorized wireless facility or any wireless facility that is located in an improper location within thirty (30) days after receiving written notice or the date required by the City, the Provider shall be subject to a penalty of up to Five-hundred dollars (\$500.00) per day until the wireless facility is removed or relocated to the correct area within the permitted location, regardless of whether the Provider's contractor, subcontractor, or vendor installed the wireless facility in strict conformity with this chapter.

#### F. Generators

Provider shall not allow or install generators or back-up generators in the public right-of-way.

#### G. Equipment Dimensions

1. Each antenna that does not have exposed elements and is attached to an existing structure or pole must:
  - a. be located inside an enclosure of not more than six (6) cubic feet in volume;
  - b. not exceed a height of three (3) feet above the existing structure or pole; and
  - c. not protrude from the outer circumference of the existing structure or pole by more than two (2) feet.
2. If an antenna has exposed elements and is attached to an existing structure or pole, the antenna and all of the antenna's exposed elements must:
  - a. fit within an imaginary enclosure of not more than six (6) cubic feet;
  - b. not exceed a height of three (3) feet above the existing structure or pole; and
  - c. not protrude from the outer circumference of the existing structure or pole by more than two (2) feet.
3. The cumulative size of other wireless equipment associated with the network node attached to the existing structure or pole may not:
  - a. be more than twenty-eight (28) cubic feet in volume; or
  - b. protrude from the outer circumference of the existing structure or pole by more than two (2) feet.
4. Ground based enclosures, separate from the pole, housing any equipment related to the network node, may not be higher than three-feet six-inches from grade, wider than three-feet six-inches, or deeper than three-feet six-inches.
5. Equipment attached to a utility pole must be installed in accordance to the provisions of this chapter, the National Electric Safety Code, the National Electric Code, and the utility pole owner's construction standards.

#### H. Signage

1. Provider shall post its name, location identifying information, and emergency telephone number in an area on the cabinet of the node support poles and network nodes that is visible to the public. Signage required under this section shall not exceed Four-

by-Six inches (4" x 6"), unless otherwise required by law or the City.

2. Provider shall not post any other signage or advertising on the node support poles and network nodes, or utility pole.

#### **I. Ground Equipment**

1. Ground Equipment near street corners and intersections. Ground equipment shall be minimal and the least intrusive. Ground equipment must remain out of the sight triangle as described by Section 12-533 of this Code of Ordinances.

2. Ground equipment density. To enhance the safety requirements of line of sight of pedestrians, particularly small children, the City may deny a request for a proposed location.

#### **J. Maintenance**

1. Repair. Whenever the installation, placement, attachment, repair, modification, removal, operation, use, or relocation of wireless facilities, or any portion thereof, is required and such installation, placement, attachment, repair, modification, removal, operation, use, or relocation causes any property of the City to be damaged or to have been altered in such a manner as to make it unusable, unsafe, or in violation of any Laws, Provider, at its sole cost and expense, shall promptly repair and return such property to its original condition. If Provider does not repair such property or perform such work as described in this section, then the City shall have the option to perform or cause to be performed such reasonable and necessary work on behalf of the Provider and to charge the Provider for the reasonable and actual costs incurred by the City. Provider shall promptly reimburse the City for the costs.

2. Graffiti Abatement. Provider shall remove all graffiti on any of its wireless facilities located in the public right-of-way as soon as practical, but not later than ten (10) days from the date Provider receives notice thereof.

3. Tree Maintenance. Provider and/or its contractors or agents shall obtain written permission from the City before trimming trees hanging over the Provider's wireless facilities to prevent branches of such trees from contacting the Provider's wireless facilities. When directed by the City, Provider shall trim such trees under the supervision and direction of the City. The Provider shall make all reasonable efforts to promote the health and well-being of any such trees, and shall not at any time trim trees in a manner that causes unsightly conditions to arise. The City shall not be liable for any damages, injuries, or claims arising from Provider's actions under this section.

### **SECTION 14-405 INVENTORY OF NETWORK NODE AND NODE SUPPORT POLES**

A. Provider shall maintain a list of its wireless facilities located in the City and the utility as-builts for associated underground appurtenances and shall provide the City an inventory of the

location and/or as-built of each such wireless facility and appurtenances upon request from the City. Upon the City's written request, Provider shall provide the information within thirty (30) days of City's request. The inventory of wireless facilities shall include GIS coordinates, date of installation, City pole ID number (if applicable), type of pole used for installation, pole owner, and description/type of installation for each wireless facility. With respect to wireless facilities that become inactive, the inventory shall include the same information as active installations in addition to the date the wireless facility was deactivated and the date the wireless facility was removed from the public right-of-way. City may compare the inventory to its records to identify any discrepancies.

B. In the event Provider's contact information changes and differs from the information provided on a permit application, Provider shall promptly provide updated contact information to the City for emergency purposes.

#### **SECTION 14-406 INSTALLATIONS ON TRAFFIC SIGNALS, STREET SIGNAGE, OTHER TRAFFIC CONTROL STRUCTURES AND LIGHTING STRUCTURES**

A. Installations of wireless facilities on a traffic signal structure or lighting structure must not interfere with the integrity of the structure in any way that may compromise the safety of the public and must be in strict conformance with an agreement applicable to each such installation and the provisions of this chapter.

B. Installation of wireless facilities on any traffic signal structure shall:

1. Be encased in a separate conduit than the traffic signal or lighting electronics;
2. Have a separate electric power connection than the traffic signal or lighting structure; and
3. Have a separate access point than the traffic signal or lighting structure;

C. The City shall have the ability to temporarily cut-off electricity to the wireless facilities for the safety of maintenance personnel. In the event of failure of components of the traffic signal system for whatever reason, including damage resulting from vehicular collisions, weather-related events, or malicious attacks, City will respond to restore traffic signal operations as a matter of public safety. Should the events that result in damage or failure of the traffic signal system also affect Provider's wireless facilities, Provider shall have the sole responsibility to repair or replace its wireless facilities and shall coordinate its own emergency efforts with the City.

#### **SECTION 14-407 RESERVATION OF RIGHTS**

A. The City reserves the right to install, and permit others to install, utility facilities in the public right-of-way. In permitting such work to be done by others, the City shall not be liable to Provider for any damage caused by those persons or entities.

B. The City reserves the right to locate, operate, maintain, and remove City traffic signal poles in the manner that best enables the operation of its traffic signal system and protects public

safety.

C. The City reserves the right to locate, operate, maintain, and remove any City pole or structure located within the public right-of-way in the manner that best enables the City's operations and protects public safety.

#### **SECTION 14-408 INTERFERENCE WITH OPERATIONS AND LIABILITY**

A. The City shall not be liable to a Provider for any damage caused by other Providers with facilities sharing the same pole or for failure of Provider's wireless facilities for whatever reason, including damage resulting from vehicular collisions, weather-related events, or malicious attacks.

B. The City shall not be liable to a Provider by reason of inconvenience, annoyance, or injury to the Provider's wireless facilities or activities conducted by Provider related thereto, arising from the necessity of repairing any portion of the public right-of-way, or from the making of any necessary alterations or improvements in, or to, any portion of the public right-of-way or in, or to, City's fixtures, appurtenances, or equipment. The City will use reasonable efforts not to cause material interference to Provider's operation of its wireless facilities.

#### **SECTION 14-409 SIGNAL INTERFERENCE WITH CITY'S COMMUNICATIONS INFRASTRUCTURE PROHIBITED**

A. No interference. In the event that Provider's wireless facilities interfere with the City's traffic signal system, public safety radio system, private police cell system, or other City communications infrastructure, the Provider shall promptly cease operation of the wireless facility causing such interference upon receiving notice from the City and refrain from operating such wireless facility in the future. Provider shall respond to the City's notice 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 shall be in strict conformance with the agreement applicable to each such installation and the provisions of this chapter.

1. Additionally, the provider shall include any additional information relevant to the execution of the remediation plan.

2. In the event that interference with City facilities, services, or operations cannot be eliminated, Provider shall shut down the interfering wireless facility and remove or relocate the wireless facility that is the source of the interference as soon as possible to a suitable alternative location approved by City.

C. Following installation or modification of a network node, the City may require Provider to test the network node's radio frequency and other functions to confirm it does not interfere with the City's facilities, services, or operations.

## **SECTION 14-410 ABANDONMENT OF WIRELESS FACILITIES**

A. Provider shall remove wireless facilities when such facilities are abandoned regardless of whether Provider receives notice from the City. The removal of wireless facilities shall be completed in accordance with the provisions of an agreement with the City and all of the provisions of this chapter.

## **SECTION 14-411 RELOCATION AND REMOVAL AT PROVIDER'S EXPENSE**

A. Provider shall remove and relocate a wireless facility at its own expense to an alternative location in accordance to an agreement with the city, but in no case later than one-hundred twenty (120) days after receiving written notice that removal, relocation, and/or alteration of the wireless facility is necessary.

B. Provider's duty to remove and relocate its wireless facility at its expense is not contingent on the availability of an alternative location acceptable for relocation. City may make reasonable efforts to provide an alternative location within the public right- of-way for relocation, but regardless of the availability of an alternative site acceptable to Provider, Provider shall comply with the notice to remove its wireless facility as instructed.

C. The City may remove the wireless facility if Provider does not remove the wireless facility within one hundred twenty (120) days. In such event, Provider shall reimburse City for the City's actual cost of removal of Provider's wireless facility within thirty (30) days of receiving an invoice from the City.

## **SECTION 14-412 REMOVAL OR RELOCATION BY PROVIDER**

A. If the Provider removes or relocates a wireless facility at its own discretion, it shall notify the City in writing not less than ten (10) days prior to removal or relocation. Provider shall obtain all permits required for relocation or removal of its wireless facilities prior to relocation or removal.

B. The City shall not issue any refunds for any amounts paid by Provider for wireless facilities that have been removed.

## **SECTION 14-413 RESTORATION OF WIRELESS FACILITIES**

A. Provider shall repair any damage to the public right-of-way and the property of any third party resulting from Provider's removal or relocation activities or any other of Provider's activities within ten (10) days following the date of such removal, relocation, or activity, at Provider's sole cost and expense, including restoration of the public right-of-way and such other property to

substantially the same condition as it was immediately before the date Provider was granted a permit for the applicable location, including restoration or replacement of any damaged trees, shrubs, or other vegetation. Such repair, restoration and replacement shall be subject to the sole approval of the City and according to the provisions of this chapter.

#### SECTION 14-414 PROVIDER RESPONSIBILITY

A. Provider shall be responsible and liable for the acts and omissions of Provider's employees, temporary employees, officers, directors, consultants, agents, affiliates, subsidiaries, and subcontractors in connection with the performance of activities within the City's public right-of-way, as if such acts or omissions were Provider's acts or omissions.

#### SECTION 14-415 VIOLATION AND PENALTY

A. Any person found in violation of the provisions of this chapter, or fail to do anything required by this part or by any part of any code adopted by this part, or who shall violate any lawful regulation or order made by any of the officers provided for in this part, shall be guilty of an offense, and upon conviction thereof, shall be subject to punishment as provided by Section 1-108 of this code.

**Severability:** If any of the provisions of this ordinance are determined to be unconstitutional or unlawful by any court of competent jurisdiction, the remainder shall be several and unaffected.

**Repealer:** Any ordinance or parts thereof in conflict with this section are hereby repealed.

PASSED AND APPROVED this 18<sup>th</sup> day of December, 2017.

ATTEST: (Seal)

  
LINDA STEWART, City Clerk, OKLAHOMA



  
GLENN LEWIS, Mayor

APPROVED AS TO FORM & LEGALITY:

  
RANDY BRINK, City Attorney