

CITY OF ROCKWALL

ORDINANCE NO. 17-46

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF ROCKWALL, AS HERETOFORE AMENDED, BY AMENDING CHAPTER 42, *TELECOMMUNICATIONS*, FOR THE PURPOSE OF 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 FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the City of Rockwall, 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; and,

**WHEREAS**, the newly adopted Chapter 284, *Deployment of Network Nodes in Public Right-of-Way*, 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**, as expressly allowed by Section 284.108 of *the Code* and pursuant to its police power authority reserved in Section 284.301 of *the Code*, the *City* has enacted a *Design Manual* for the Installation of *Micro Network Nodes*, *Network Nodes* and *Node Support Poles* (*the Design Manual*) in order to meet its fiduciary duty to the citizens of the *City*, and to give assistance and guidance to wireless telecommunications network providers to assist such companies in the timely, efficient, safe and aesthetically pleasing installation of technologically competitive equipment; and

**WHEREAS**, the City Council desires to regulate the installation of *Micro Network Nodes*, *Network Nodes* and *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 COUNCIL OF THE CITY OF ROCKWALL, TEXAS:**

**Section 1.** That Article III, *Right-of-Way Network Node Regulations*, consisting of Sections 42-92 through 42-102 be added to Chapter 42, *Telecommunications*, of the Municipal Code of Ordinances

of the City of Rockwall for the purpose of incorporating language that addresses the adoption of Chapter 284, *Deployment of Network Nodes in Public Right-of-Way*, of the Texas Local Government Code, and that these sections shall be specifically as described in *Exhibit 'A'* of this ordinance;

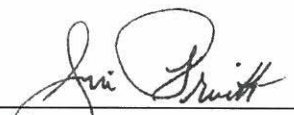
**Section 2.** That the installation of any *Micro Network Nodes*, *Network Nodes* and *Node Support Poles* shall be in conformance with the Design Manual contained in *Exhibit 'B'* of this ordinance;

**Section 3.** That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a penalty of fine not to exceed the sum of *Two Thousand Dollars* (\$2,000.00) for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense;

**Section 4.** That if any section, paragraph, or provision of this ordinance or the application of that section, paragraph, or provision to any person, firm, corporation or situation is for any reason judged invalid, the adjudication shall not affect any other section, paragraph, or provision of this ordinance or the application of any other section, paragraph or provision to any other person, firm, corporation or situation, nor shall adjudication affect any other section, paragraph, or provision of the Unified Development Code, and the City Council declares that it would have adopted the valid portions and applications of the ordinance without the invalid parts and to this end the provisions for this ordinance are declared to be severable;

**Section 5.** That this ordinance shall take effect immediately from and after its passage and the publication of the caption of said ordinance as the law in such cases provides;

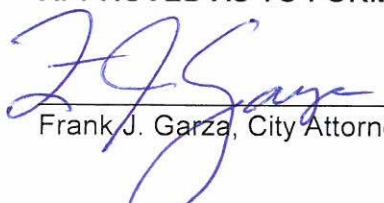
**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS,  
THIS THE 5<sup>TH</sup> DAY OF SEPTEMBER, 2017.**

  
\_\_\_\_\_  
Jim Pruitt, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Kristy Cole, City Secretary

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Frank J. Garza, City Attorney



1<sup>st</sup> Reading: 08/25/17

2<sup>nd</sup> Reading: 09/05/17

**Exhibit 'A'**  
*Chapter 42, Telecommunications,  
Municipal Code of Ordinances*

Article III, *Right-of-Way Network Node Regulations.*

Section 42-92. Purpose and Scope.

- (A) *Purpose.* The purpose of this Chapter is to establish policies and procedures for the placement of node support poles in the right-of-way and network nodes in the public right-of-way and on service poles within the City's jurisdiction, which will provide public benefits and will be consistent with the preservation of the integrity, safe usage, and visual qualities of the City public right-of-way and the City as a whole.
- (B) *Intent.* In enacting this Chapter, the City is establishing uniform standards to address issues presented by network nodes, including without limitation, ensuring that network nodes or node support poles do not adversely affect:
  - (1) use of streets, sidewalks, alleys, parkways and other public ways and places;
  - (2) vehicular and pedestrian traffic;
  - (3) the operation of facilities lawfully located in public right-of-way or public property;
  - (4) the ability of the City to protect the environment, including the prevention of damage to trees;
  - (5) the character of residential and historic areas, and city parks, in which network nodes may be installed; and
  - (6) the rapid deployment of network nodes to provide the benefits of wireless services.
- (C) *Conflicts with Other Chapters.* This Chapter supersedes all Chapters, parts of Chapters or rules adopted prior hereto that are in conflict herewith, to the extent of such conflict.

Section 42-93. Definitions.

All terms used in this Chapter, not specifically defined herein, have the meaning provided in Chapter 284 of the Texas Local Government Code.

- (A) "City Code" means those ordinance provisions relevant to use of the public right-of-way where compliant with applicable law.
- (B) "Applicable Law" means Chapter 284 of the Texas Local Government Code.
- (C) "Applicant" means any person who submits an application and is a network provider.
- (D) "Application" means a request submitted by an applicant (i) for a permit to collocate network nodes; or (ii) to install a transport facility; or (iii) approve the installation, replacement or modification of a pole.
- (E) "Day" means calendar day.
- (F) "Person" means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the City.
- (G) "Routine Maintenance" means (i) work in the public right-of-way that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way; (ii) replacing or upgrading a network node or 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 (iii) the installation, placement, maintenance, operation, or replacement of micro network nodes that are strung on cables between existing poles or node support poles, in the public right-of-way.
- (H) "Technical Grounds" means, in light of prevailing industry and engineering standards, reasons of insufficiency of capacity, safety, reliability and/or generally applicable engineering purposes consistent with applicable law and City Code.

**Exhibit 'A'**  
*Chapter 42, Telecommunications,  
Municipal Code of Ordinances*

**Section 42-94. Permitted Use; Application and Fees.**

- (A) **Permitted Use.** Collocation of network nodes and the placement of node support poles, meeting the parameters set forth in Section 5 below and in applicable law, shall be a permitted use. No zoning or land use review shall apply, subject to the requirements in Section 5.
- (B) **Permit Required.** No person shall place a network node, transport facility or node support pole in the public right-of-way, without first filing a permit application and obtaining a permit therefore, except as otherwise provided in this Chapter.
- (C) **Permit Application.** All permit applications filed pursuant to this Chapter shall be on a form, paper or electronic, provided by the City. The Applicant may designate portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each page of such materials accordingly.
- (D) **Application Requirements.** The permit application shall be made by the network provider or its duly authorized representative and shall contain the following:
  - (1) The Applicant's name, address, telephone number, and e-mail address.
  - (2) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the Applicant with respect to the filing of the application.
  - (3) Construction and engineering drawings and information confirming that the construction will be consistent with City Code.
- (E) **Routine Maintenance and Replacement.** A permit application shall not be required for: (i) routine maintenance; or for (ii) the replacement of a node with another node that is substantially similar.
- (F) **Information Updates.** Any amendment to information contained in a permit application shall be submitted in writing to the City within 30 days after the change necessitating the amendment.
- (G) **Application Fees.** All applications for permits pursuant to this Chapter shall be accompanied by a fee of \$500 for up to five network nodes addressed in the same application, \$250 for each additional node in the same application; and a fee of \$1000 for each node support pole.

**Section 42-95. Action on Permit Applications.**

- (A) **Review of Applications.** The City shall review applications for network nodes, node support poles and transport facilities in light of their conformity with applicable law and City Code and shall issue such permits on nondiscriminatory terms and conditions subject to the following requirements:
  - (1) Within 30 days of receiving an application for a network node or node support pole, or 10 days for a transport facility, the City shall determine and notify the Applicant whether the application is complete; or if incomplete, the City must specifically identify the missing information in such notification. There shall be no fee charged for completion and resubmittal of an application.
  - (2) The City shall make its final decision to approve or deny a complete application no later than (i) 21 days after receipt of a complete application for a transport facility, (ii) 60 days after receipt of a complete application for a network node; and (iii) 150 days after receipt of a completed application for a new node support pole.
  - (3) The City shall advise the Applicant in writing of its final decision, and, if denied, the basis for that denial, including specific provisions of City Code or applicable law on which the denial was based, and send the documentation to the Applicant on or before the day the City denies the application. The Applicant may cure the deficiencies identified by the City and resubmit the application within 30 days of the denial without paying an additional application fee. The City shall approve or deny the revised application within 90 days of receipt of the amended application. The subsequent review by the City shall be limited to the deficiencies cited in the



**Exhibit 'A'**  
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original denial.

- (4) If the City fails to act on an application within the review period specified in this Section 4, the application shall be deemed approved.
- (5) An applicant seeking to collocate network nodes may, at the Applicant's discretion, file a consolidated application and receive permits for up to 30 network nodes. Provided however, the City's denial of any node within a single application shall not affect other nodes submitted in the same application. The City shall grant permits for any and all nodes in a single application that it does not deny, subject to the requirements of this Section.

- (B) Review of Eligible Facilities Requests. Notwithstanding any other provision of this Chapter, the City shall approve and may not deny applications for eligible facilities requests within sixty (60) days according to the procedures established under 47 CFR 1.40001(c).

**Section 42-96. Network Nodes in the Public right-of-way; Maximum Height; Other Requirements.**

- (A) Maximum Size of Permitted Use. Collocation of permitted use network nodes in the public right-of-way shall be subject to the size limitations specified in Chapter 284.003 of the Local Government Code.
  - ☒ Undergrounding Provisions. A network provider shall comply with nondiscriminatory undergrounding requirements, including Code sections 41-141(e) Electrical, telephone and other lines, Ch. 41, Exhibit A, Sec. 12(D)(2) Plum Creek PUD, Sec. 38-111. - Installation, repair of towers, posts, etc.; permit required, 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. This requirement or restriction shall not be interpreted to prohibit a network provider from replacing an existing structure.
- (B) Historic Areas and Design Districts. Subject to the permit application approval time frames in Section 4, a network provider must obtain advance approval from the City before collocating new network nodes or installing new node support poles in any areas zoned or designated as a historic district or as a design district if the district has decorative poles. Such installations shall be subject to the design and aesthetic standards of such areas.
- (C) 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's discretionary, nondiscriminatory, written consent of the Building Department if the public right-of-way is located in a municipal park or 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. A network provider shall comply with private deed restrictions and other private restrictions when installing network nodes in parks and residential areas.
- (D) Zoning. A network provider seeking to construct, replace or modify a pole or node in the public right-of-way that exceeds the height or size limits contained in this section, shall be subject to applicable zoning requirements.

**Section 42-97. Effect of Permit.**

- (A) Authority Granted. A permit from the City authorizes an applicant to undertake only certain activities in accordance with this Chapter, and does not create a property right or grant authority to the Applicant to impinge upon the rights of others who may already have an interest in the public right-of-way.
- (B) Time of Installation. A network provider shall begin the installation for which a permit is granted not

**Exhibit 'A'**  
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later than six months after final approval and shall diligently pursue the installation to completion. Provided, however, the City may place a longer time limit on completion or grant reasonable extensions of time as requested by the network provider.

- (C) Right to Occupy. Once a network provider has collocated a network node or placed a node support pole pursuant to a permit, the provider shall be permitted to continue to maintain such collocation or such pole unless required to remove or relocate under the terms of this Chapter.
- (D) Interference with network nodes. City will not grant a permit to any Person to install any network node or other wireless facility if the City knows or has reason to know that such Person's use of such network node or other wireless facility may in any way adversely affect or interfere with the use and operation of an existing and operational network node for which the City has previously issued a permit.

**Section 42-98. Removal, Relocation or Modification of Network Nodes in the ROW.**

- (A) Notice. Within 90 days following written notice from the City, a network provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any network node or node support pole within the public right-of-way whenever the City has determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the public right-of-way.
- (B) Emergency Removal or Relocation of Facilities. The City retains the right and privilege to disconnect or move any network node located within the public right-of-way of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the City shall notify the network provider and allow the network provider an opportunity to move its own facilities prior to the City disconnecting or removing a facility and shall notify the network provider after disconnecting or removing a network node or node support pole.
- (C) Abandonment of Facilities. Upon abandonment of a network node or node support pole within the public right-of-way, the network provider shall notify the City within 90 days. Following receipt of such notice, the City may direct the network provider to remove all or any portion of a network node or node support pole if the City, or any of its departments, determines, subject to City Code, that such removal is necessary to protect public health, safety and welfare.

**Section 42-99. Public Right-of-Way Rate.**

- (A) Annual Rate. Once a network provider has installed and made operational a network node in the public right-of-way, network provider shall pay to the City compensation for use of the public right-of-way in the amount of \$250.00 annually per node in the City public right-of-way as authorized by state law. If fee is increased by state law, this fee shall be adjusted to reflect state law.
- (B) Cease Payment. A network provider is authorized to remove its facilities at any time from the public right-of-way and cease paying the City compensation for use of the public right-of-way following removal and notification to the City of such removal.

**Section 42-100. Attachment to Service Poles in the Public Right-of-Way.**

A network provider shall be permitted to attach network nodes to city-owned service poles, consistent with applicable law and City Code and subject to the requirements specified herein.

- (A) Permits. A network provider shall obtain a permit, pursuant to the terms of this Chapter, prior to collocating network nodes on service poles.

**Exhibit 'A'**  
*Chapter 42, Telecommunications,  
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- (B) **Make Ready.** Network Provider shall be responsible for costs for make ready work on City service poles to which provider seeks to place a network node.
- (C) **Technical Limitations.** In the event the City determines, based upon technical grounds, that inadequate space exists on a service pole to accommodate the proposed network node, such pole may be replaced by network provider, at the network provider's expense, with a service pole with adequate space to accommodate the proposed network node.
- (D) **Facilities Rearrangements.** If another provider would have to rearrange or adjust any of its facilities to accommodate a new network node, the City shall use reasonable efforts to work with the affected providers to coordinate such activity. All make ready work shall comply with NESC, and other applicable codes. The Applicant shall not be responsible for any third-party costs, including those of other network providers, to adjust existing attachments that are non-compliant with the NESC and other applicable codes at the time of the application.
- (C) **Service Pole Attachment Fee.** The rate to collocate a network node on a service pole in the public right-of-way shall be \$20 per pole per year. Subject to the provisions of Section 10, such compensation together with the application fee and the public right-of-way rate specified in Section 8 shall be the sole compensation that the network provider shall be required to pay to the City.
- (D) **Cease Payment.** A network provider is authorized to remove its facilities at any time from a service pole in the public right-of-way and cease paying the attachment fee to the City upon notification to the City that the facilities have been removed.

**Section 42-101. Transport Facilities.**

Installation of transport facilities, including applicable compensation to the City for such facilities, shall be governed by Chapter 284.055 of the Texas Local Government Code.

**Section 42-102. Design Manual.**

A network provider shall comply with the City's design manual, if any, in place on the date a permit application is filed in relation to work for which the City has approved a permit application. The City's design manual may not conflict with applicable law and must be competitively neutral.

**Exhibit 'B'**  
*Design Manual: Installation of Network Nodes and Node Support Poles*

**Design Manual: Installation of Network Nodes and Node Support Poles**  
*Pursuant to Chapter 284 of the Texas Local Government Code*



CITY OF ROCKWALL, TEXAS

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**Exhibit 'B'**  
**Design Manual: Installation of Network Nodes and Node Support Poles**

**SECTION 1: PURPOSE AND APPLICABILITY**

The City of Rockwall, 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.

**PURPOSE**

Chapter 284 of the *Texas Local Government Code* allows certain wireless *Network Providers* to install in the public rights-of-way their wireless facilities, described and defined in *Section 284.002 of Chapter 284 of the Texas Local Government Code* as *Micro Network Nodes*, *Network Nodes*, and *Node Support Poles*.

As expressly allowed by *Section 284.009 of Chapter 284 of the Texas Local Government Code*, and pursuant to its police power authority reserved in *Sec. 284.301<sup>1</sup>*, the City enacts these Design Guidelines in order to meet its fiduciary duty to the citizens of the City, and to give assistance and guidance to wireless telecommunications providers to assist such companies in the timely, efficient, safe and aesthetically pleasing installation of technologically competitive equipment.

**APPLICABILITY**

This Design Manual 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 *Texas Local Government Code, Chapter 284*.

This Design Manual 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.

*City Rights of Way Management Ordinance*. A *Network Provider* shall comply with the City's *Rights of Way Management Ordinance* except where in conflict with this *Design Manual* or *Subchapter C of Chapter 284*.

**SECTION 2: DEFINITIONS**

The definitions as used in *Section 284.002 of Chapter 284 of the Texas Local Government Code* shall be used in this *Design Manual*, unless otherwise noted in this *Section 2*, below.<sup>2</sup>

<i>Abandon.</i>	Abandon and its derivatives means the facilities installed in the right-of-way (including by way of example but not limited to: poles, wires, conduit, manholes, hand-holes, cuts, network nodes and node support poles, or portion thereof) that have been left by Provider in an unused or non-functioning condition for more than 120 consecutive calendar days unless, after notice to Provider, Provider has established to the reasonable satisfaction of the City that the applicable facilities, or portion thereof, is still in active use.
<i>Antenna.</i>	Communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.
<i>Applicable Codes.</i>	In this case, the following are the applicable codes:  (A) 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.
<i>City.</i>	The City of Rockwall, Texas or its lawful successor.
<i>City Council.</i>	The municipal governing body of the City of Rockwall, Texas.

<sup>1</sup> *SECTION 284.301. LOCAL POLICE POWER BASED REGULATIONS.*

(a) Subject to this chapter and applicable federal and state law, a municipality may continue to exercise zoning, land use, planning, and permitting authority in the municipality's boundaries, including with respect to utility poles.

(b) A municipality may exercise that authority to impose police power-based regulations for the management of the public right-of-way that apply to all persons subject to the municipality.

(c) A municipality may impose police power-based regulations in the management of the activities of network providers in the public right-of-way only to the extent that the regulations are reasonably necessary to protect the health, safety, and welfare of the public.

<sup>2</sup> The definitions defined in *Sec. 284.002 of Chapter 284 of the Texas Local Government Code* shall be used in this *Design Manual*.

**Exhibit 'B'**  
**Design Manual: Installation of Network Nodes and Node Support Poles**

<i>City Manager.</i>	The City Manager or his/her designee.
<i>Chapter 284.</i>	Chapter 284 of the Texas Local Government Code.
<i>Collocate</i>	<i>Collocate</i> and <i>Collocation</i> means the installation, mounting, maintenance, modification, operation, or replacement of network nodes in a public right-of-way on or adjacent to a pole.
<i>Concealment.</i>	<i>Concealment</i> or <i>Camouflaged</i> 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 Section 284.105 of Chapter 284 in Historic or Overlay 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.
<i>Decorative Pole.</i>	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.
<i>Disaster Emergency.</i>	<i>Disaster Emergency</i> , <i>Disaster</i> , or <i>Emergency</i> 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.
<i>Distributed Antenna System.</i>	<i>Distributed Antenna System (DAS)</i> shall be included as a type of <i>Network Node</i> .
<i>Easement</i>	<i>Easement</i> 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. <i>Easement</i> shall include a private easement used for the provision of utilities.
<i>Federal Communications Commission (FCC).</i>	The Federal Administrative Agency, or lawful successor, authorized to oversee cable television and other multi-channel regulation on a national level.
<i>Highway Right-of-Way.</i>	<i>Right-of-Way</i> adjacent to a state or federal highway.
<i>Historic District.</i>	An area that is zoned or otherwise designated as a historic district under municipal, state, or federal law (i.e. Old Town Rockwall Historic District and Planned Development District 50 [PD-50]).
<i>Law.</i>	A common law or a federal, state, or local law, statute, code, rule, regulation, order, or ordinance.
<i>Local.</i>	Within the geographical boundaries of the City.
<i>Location.</i>	The City approved and lawfully permitted location for the Network Node.
<i>Macro Tower.</i>	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.
<i>Mayor.</i>	The Mayor for the City of Rockwall, Texas, or designee.
<i>Micro Network Node.</i>	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.
<i>Municipal Park</i>	An area that is zoned or otherwise designated by municipal code as a public park for the purpose of recreational activity.
<i>Municipality Owned Utility Pole.</i>	A utility pole owned or operated by a municipally owned utility, as defined by Section 11.003, Utilities Code, and located in a public right-of-way.
<i>MUTCD.</i>	Manual of Uniform Traffic Control Devices.
<i>Network Node.</i>	Equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term

**Exhibit 'B'**  
**Design Manual: Installation of Network Nodes and Node Support Poles**

	<p>(A) includes:</p> <ul style="list-style-type: none"><li>(i) Equipment associated with wireless communications; and</li><li>(ii) A radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; and</li><li>(iii) Coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation; and</li></ul> <p>(B) does not include:</p> <ul style="list-style-type: none"><li>(i) An electric generator;</li><li>(ii) A pole; or</li><li>(iii) A macro tower</li></ul>
<i>Network Provider.</i>	<p>Means:</p> <p>(A) a wireless service provider; or</p> <p>(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:</p> <ul style="list-style-type: none"><li>(i) Network nodes; or</li><li>(ii) Node support poles or any other structure that supports or is capable of supporting a network node.</li></ul>
<i>Node Support Pole.</i>	A pole installed by a network provider for the primary purpose of supporting a network node.
<i>Overlay District.</i>	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 non-discriminatory basis.
<i>Permit.</i>	A written authorization for the use of the public right-of-way or collocation on a service pole required from a municipality before a network provider may perform an action or initiate, continue, or complete a project over which the municipality has police power authority.
<i>Pole.</i>	A service pole, municipally owned utility pole, node support pole, or utility pole.
<i>Private Easement.</i>	An easement or other real property right that is only for the benefit of the grantor and grantee and their successors and assigns.
<i>Provider.</i>	Has the same meaning as <i>Network Provider</i> .
<i>Public Right-of-Way.</i>	<p>The area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest. The term does not include:</p> <ul style="list-style-type: none"><li>(A) A private easement; or</li><li>(B) The airwaves above a public right-of-way with regard to wireless telecommunications.</li></ul>
<i>Public Right-of-Way Management Ordinance.</i>	An ordinance that complies with Subsection C of Chapter 284 (i.e. <i>Chapter 42, Telecommunications, of the Municipal Code of Ordinances</i> ).
<i>Service Pole.</i>	<p>A pole, other than a municipally owned utility pole, owned or operated by a municipality and located in a public right-of-way, including:</p> <ul style="list-style-type: none"><li>(A) A pole that supports traffic control functions;</li><li>(B) A structure for signage;</li><li>(C) A pole that supports lighting, other than a decorative pole; and</li><li>(D) A pole or similar structure owned or operated by a municipality and supporting only network nodes.</li></ul>
<i>Small Cell.</i>	Shall be included as a type of <i>Network Node</i> .
<i>Street.</i>	<i>Street</i> or <i>public way</i> or <i>public right-of-way</i> or <i>public rights-of-way</i> or <i>rights-of-way</i> or <i>right-of-way</i> means the surface of, and the space above and below a public street, road, highway, freeway, land, path, public way or place, alley, court, boulevard, parkway, drive, or other easement now or hereafter held by or under the control of the city, to which the city holds the property rights in regard to the use for utilities, excluding easements not intended for public works or public utility facilities but shall not include property of city which is not a dedicated public right-of-way, street, highway, or alley. Neither the

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inclusion of this definition nor the provisions hereof shall be construed to grant any right or privilege to utilize or occupy the city rights-of-way absent an expressed agreement of the city or by authority expressly granted by state law.

<i>SWPPP</i>	Storm Water Pollution Prevention Plan.
<i>TAS</i>	Texas Accessibility Standards
<i>Traffic Signal</i>	Any device, whether manually, electrically, or mechanically operated by which traffic is alternately directed to stop and to proceed.
<i>Transport Facility</i>	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.
<i>Underground Requirement Area</i>	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.
<i>User</i>	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.
<i>Utility Pole</i>	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.
<i>Wireless Service</i>	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.
<i>Wireless Service Provider</i>	A person that provides wireless service to the public.
<i>Wireless Facilities</i>	Micro Network Nodes, Network Nodes, and Node Support Poles as defined in Chapter 284 of the Texas Local Government Code.

**SECTION 3: 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: (a) 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 (b) adjacent to single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions.
  - 1.1 In accordance with Sec. 284.104 (b) of Chapter 284 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.
  - 1.2 Each permit application shall disclose if it is within a Municipal Park and Residential Areas as described above.
2. ***Historic District and Overlay Districts.*** In accordance with Sec. 284.105 of Chapter 284 a *Network Provider* must obtain advance written approval from the City before collocating Network Nodes or installing Node Support Poles in an Overlay District with Decorative Poles or in an area of the City zoned or otherwise designated as an Overlay District or Historic District.
  - 2.1 As a condition for approval of *Network Nodes* or *Node Support Poles* in Overlay 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 an Overlay District with *Decorative Poles* or in a Historic District, must be accompanied with proposed *Concealment* measures in the permit applications.



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- 2.2. 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 Overlay Districts or in an Historic District.
  - 2.3. A *Network Provider* shall comply with and observe all applicable City, State, and federal historic preservation laws and requirements.
  - 2.4. Each permit application shall disclose if it is within an Overlay District with Decorative Poles or in an area of the City zoned or otherwise designated as an Overlay District or Historic District.
  3. **Historic or Local 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 or Local Landmark recognized by the City, state or federal government (*see, for example, and not limited to* §442.001(3) of the Texas Government Code, and 16 U.S.C. §470), as of the date of the submission of the permit. It is recommended that each permit application disclose if it is with 300-feet of such a structure.
  4. **Compliance with Undergrounding Requirements.** In accordance with Sec. 284.107 of Chapter 284 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.
    - 4.1. 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.
    - 4.2. 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.

In accordance with Sec. 284.104 (b) of Chapter 284 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 Overlay 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 an Overlay Districts 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 Overlay District.
  2. *Highway Rights-of-Way areas* if not adjacent to a Municipal Park, Residential area, Historic District or Overlay District.
  3. *Retail and Commercial areas* if not adjacent to a Municipal Park, Residential area, Historic District or Overlay District.
- D. Designated Areas.**
1. The City Council may designate an area as a Historic District or an Overlay District under Chapter 284.105 at any time.
  2. The failure to designate an area in this Chapter 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.
- E. Exceptions**
- The City by its discretionary consent and agreement may grant exceptions to the above prohibited locations and sizes, but only in a non-exclusive, and non-discriminatory manner, as allowed or required by Sec. 284.109 and Sec. 284.110 of Chapter 284.
- 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*;

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- a. *Non decorative street lights* with a height of more than 20-feet.
- b. *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 Sec. 285.058 and Sec. 284.101 (a) (3), and (b) of Chapter 284.
- c. *Street signage* shall be a low priority use for attachment of a *Network Node*.
- d. *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*. Ground equipment should be minimal and the least intrusive.

**SECTION 4: GUIDELINES ON PLACEMENT**

**A. Generally.**

In accordance with Chapter 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 publicly disclosed public right-of-way management ordinance or this Design Manual;
5. Violate the federal Americans with Disabilities Act of 1990 (*42 U.S.C. Section 12101 et seq.*).

**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 Sec. 284.002 of Chapter 284 size of a *Micro Network Node*, Sec. 284.003. Size of *Network Nodes*, and Sec. 284.103, maximum pole height, with each application and with each request for a permit for each location.<sup>2</sup>
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*.
  - a. The Network Provider needs to 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 Sec. 234.304 of Chapter 284.

<sup>2</sup> **SECTION 284.002. DEFINITIONS.**

*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 external antenna, if any, not longer than 11 inches.

**SECTION 284.003. LIMITATION ON SIZE OF NETWORK NODES**

- (a) Except as provided by Section 284.109, a network node to which this chapter applies must conform to the following conditions:
- (1) each antenna that does not have exposed elements and is attached to an existing structure or pole:
    - (A) must be located inside an enclosure of not more than six cubic feet in volume;
    - (B) may not exceed a height of three-feet above the existing structure or pole; and
    - (C) may not protrude from the outer circumference of the existing structure or pole by more than two-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:
    - (A) must fit within an imaginary enclosure of not more than six cubic feet;
    - (B) may not exceed a height of three-feet above the existing structure or pole; and
    - (C) may not protrude from the outer circumference of the existing structure or pole by more than two-feet;
  - (3) the cumulative size of other wireless equipment associated with the network node attached to an existing structure or pole may not:
    - (A) be more than 28 cubic-feet in volume; or
    - (B) protrude from the outer circumference of the existing structure or a node support pole by more than two-feet;
  - (4) ground-based enclosures, separate from the pole, may not be higher than three-feet six-inches from grade, wider than three-feet six-inches, or deeper than three-feet six-inches; and
  - (5) pole-mounted enclosures may not be taller than five-feet.
- (b) The following types of associated ancillary equipment are not included in the calculation of equipment volume under Subsection (a):
- (1) electric meters;
  - (2) concealment elements;
  - (3) telecommunications demarcation boxes;
  - (4) grounding equipment;
  - (5) power transfer switches;
  - (6) cut-off switches; and
  - (7) vertical cable runs for the connection of power and other services.
- (c) Equipment attached to node support poles may not protrude from the outer edge of the node support pole by more than two-feet.
- (d) Equipment attached to a utility pole must be installed in accordance with the National Electrical Safety Code, subject to applicable codes, and the utility pole owner's construction standards.

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- b. 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.
- 4. *Improperly Located Network Node facilities, Node Support Poles and related ground equipment.*
  - a. 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 Administrator 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.
  - b. 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 \$500.00 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 Rights-of-way management ord., and other applicable ordinances concerning improperly located facilities in the rights-of-way.
- C. **Underground Requirement Areas.**
  - 1. In accordance with Chapter 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 transits 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.
  - 3. Before commencing underground installation, 811 Dig Toss must be called so that the area can be flagged for underground utilities.
- 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 Sec. 284.108 of Chapter 284, 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 16-feet above the ground.
  - 3. *Protrusions:* In accordance with Sec. 284.003 (a) (1) (C), Sec. 284.003 (a) (2) (C) and Sec. 284.003 (a) (3) (B) of Chapter 284 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 Sec. 284.103 of Chapter 284, a Node support pole or modified Utility Pole may not exceed the lesser of
    - a. 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
    - b. 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 284.102 (1), to minimize any obstruction, impediment, or hindrance to the usual travel or public safety on a public right-of-way the maximum 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

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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 in writing.
3. *Minimize Ground equipment density.* In accordance with Sec. 284.102 (1) of Chapter 284, to enhance the safety requirements of line of sight of pedestrians, particularly small children, the City Manager, or designee, may deny a request for a proposed Location if the Network Provider installs Network Node ground equipment where existing ground equipment within 300-feet already occupies a footprint of 25 SF or more.
4. *Blocking streets, roads, alleys or lanes:* Texas Department of Transportation (TxDOT) standards must be followed for work zone areas that will block streets, roads, alleys or lanes. A traffic plan must be submitted to the City prior to construction.

**G. Municipal Service Poles:**

1. *In accordance with Agreement.* Installations on all Service Poles shall be in accordance with an agreement as allowed by Sec. 285.056 and Sec. 284.101 (a) (3), and (c) of Chapter 284.
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 municipality 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 284.106.
3. *Height of attachments:* All attachments on all Service Poles shall be at least eight (8) feet above grade, in accordance with Sec. 285.108 (a) (1) - (2) of Chapter 284, 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 16-feet above the ground.
4. *Installations on Traffic Signals:* 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 Sec. 285.056 and Sec. 284.101 (a) (3), and (b) of Chapter 284. Installation of *Network Node* facilities on any traffic signal structures shall:
  - a. Be encased in a separate conduit than the traffic light electronics.
  - b. Have a separate electric power connection than the traffic signal structure.
  - c. 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 electronics shall:
  - a. Be encased in a separate conduit than any City signage electronics.
  - b. Have a separate electric power connection than the signage structure.
  - c. Have a separate access point than the signage structure.
6. *Restoration of City facilities and private property:* The *Network Provider* shall be responsible for repairing any damage to any street, street right-of-way, ditch or any structure to its original condition immediately upon completing the installation. Any change to the slope of the land must be remedied, and there must be replacement of top soil and grass to its original condition.

**SECTION 5: GENERAL AESTHETIC REQUIREMENTS**

**A. Concealment.**

1. Concealment of *Network Nodes* and *Node Support Poles* shall be required by the City in Overlay Districts with Decorative Poles and in Historic Districts pursuant to Chapter 284.105.
2. It is also the City's preference that all new node support poles be camouflaged. Companies shall submit their proposal for camouflage with the permit application.
3. The *Network Node* facilities shall be concealed or enclosed as much as reasonably possible in an equipment box, cabinet, or other unit 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 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.
4. The *Network Node* facilities shall be concealed or enclosed as much as possible in an equipment box, cabinet, or other unit 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, except to the extent not consistent with Chapter 284.

**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. Minimize Ground Equipment Concentration.**



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In order to minimize negative visual impacts to the surrounding area, and in accordance with Sec. 284.102 (1) of Chapter 284 to enhance the safety requirements of line of sight of pedestrians, particularly small children, the City's designee may deny a request for a proposed location if the *Network Provider* installs *Network Node* ground equipment where existing ground equipment within 300-feet already occupies a footprint of 25 SF or more to minimize effect on property values and aesthetics on the area.

D. **Allowed Colors.**

1. Colors in Historic Districts and Overlay 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
2. Colors in Historic Districts and Overlay Districts must be approved by the City Manager from a palette of approved colors. Unless otherwise provided, all colors shall be earth tones or shall match the background of any structure the facilities are located upon and all efforts shall be made for the colors to be inconspicuous. Colors in areas other than in Historic Districts and Overlay Districts shall conform to colors of other installations of telecommunication providers in the immediately adjacent areas.

**SECTION 6: ELECTRICAL SUPPLY**

- A. *Provider Responsible for Electricity.* 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. *Generators Prohibited.* Network Provider shall not allow or install generators or back-up generators in the Public Right-of-Way in accordance with Chapter 284, Sec. 284.002 (12) (B) (1).

**SECTION 7: 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 Sec. 284.302 of Chapter 284 as provided for in Sec. 283.057 (a) and (b) of Chapter 283 of the Texas Local Government Code.

**SECTION 8: REQUIREMENTS IN REGARD TO REMOVAL, REPLACEMENT, REPLACEMENT, MAINTENANCE AND REPAIR**

A. **REMOVAL OR RELOCATION BY NETWORK PROVIDER.**

1. 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 Chapter 42, *Telecommunications*, of Rockwall's Municipal Code of Ordinances, and other applicable ordinances, except to the extent not consistent with Chapter 284
2. If the *Network Provider* removes or relocates a *Micro Network Node*, *Network Node* facilities, *Node Support Pole* or related ground equipment at its own discretion, it shall notify the City Manager in writing not less than ten (10) business days prior to removal or relocation. *Network Provider* shall obtain all permits required for relocation or removal of its *Micro Network Node*, *Network Node* facilities, *Node Support Poles* and related ground equipment prior to relocation or removal.
3. The City shall not issue any refunds for any amounts paid by *Network Provider* for *Micro Network Node*, *Network Node* facilities, *Node Support Poles* or related ground equipment that have been removed.

B. **REMOVAL OR RELOCATION REQUIRED FOR CITY PROJECT.**

1. 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.
2. In accordance with Sec. 284.107 of Chapter 284 except as provided in existing state and federal law, a *Network Provider* shall relocate or adjust *Micro Network Node*, *Network Node*, *Node Support Pole* and related ground equipment in a public right-of-way in a timely manner and without cost to the City managing the public right-of-way
3. *Network Provider* understands and acknowledges that the City may require *Network Provider* to remove or relocate its *Micro Network Node*, *Network Node*, *Node Support Pole* and related ground equipment, or any portion thereof from the *Right-of-Way* for City construction projects as allowed by state and federal law, including the common-law.
4. *Network Provider* shall, at the City Manager's direction, remove or relocate the same at *Network Provider's* sole cost and expense, except as otherwise provided in existing state and federal law, whenever the City Manager reasonably determines that the relocation or removal is needed for any of the following purposes: Required for the construction, completion, repair, widening, relocation, or maintenance of, or use in connection with, any City construction or maintenance project of a street or public right-of-way to enhance the traveling public's use for travel and transportation.

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5. If *Network Provider* fails to remove or relocate the *Micro Network Node*, *Network Node*, *Node Support Pole* or related ground equipment, or portion thereof as requested by the City Manager within 90 days of *Network Provider*'s receipt of the request, then the City shall be entitled to remove the *Micro Network Node*, *Network Node*, *Node Support Pole* or related ground equipment, or portion thereof at *Network Provider*'s sole cost and expense, without further notice to *Network Provider*.
6. *Network Provider* shall, within 30 days following issuance of invoice for the same, reimburse the City for its reasonable expenses incurred in the removal (including, without limitation, overhead and storage expenses) of the *Micro Network Node*, *Network Node*, *Node Support Pole* or related ground equipment, or portion thereof.

**C. REMOVAL REQUIRED BY CITY FOR SAFETY AND IMMINENT DANGER REASONS.**

1. *Network Provider* shall, at its sole cost and expense, promptly disconnect, remove, or relocate the applicable *Micro Network Node*, *Network Node*, *Node Support Pole* and related ground equipment within the time frame and in the manner required by the City Manager if the City Manager reasonably determines that the disconnection, removal, or relocation of any part of a *Micro Network Node*, *Network Node*, *Node Support Pole* and related ground equipment (a) is necessary to protect the public health, safety, welfare, or City property, (b) the *Micro Network Node*, *Network Node*, *Node Support Pole* and related ground equipment, or portion thereof, is adversely affecting proper operation of streetlights or City property, or (c) *Network Provider* fails to obtain all applicable licenses, permits, and certifications required by Law for its *Micro Network Node*, *Network Node*, *Node Support Pole* and related ground equipment, or use of any location under applicable law in strict accordance with Chapter 42, *Telecommunications*, of Rockwall's Municipal Code of Ordinances, and other applicable ordinances, except to the extent not consistent with Chapter 284.
2. If the City Manager reasonably determines that there is imminent danger to the public, then the City may immediately disconnect, remove, or relocate the applicable *Micro Network Node*, *Network Node*, *Node Support Pole* and related ground equipment at the *Network Provider*'s sole cost and expense in strict accordance with Chapter 42, *Telecommunications*, of Rockwall's Municipal Code of Ordinances, and other applicable ordinances, except to the extent not consistent with Chapter 284.
3. The *Network Provider* shall, at its sole cost and expense, promptly disconnect, remove, or relocate the applicable *Micro Network Node*, *Network Node*, *Node Support Pole* and related ground equipment within the time frame and in the manner required by the City Manager if the City Manager reasonably determines that the disconnection, removal, or relocation of any part of a *Micro Network Node*, *Network Node*, *Node Support Pole* and related ground equipment (a) is necessary to protect the public health, safety, welfare, or City property, (b) the *Micro Network Node*, *Network Node*, *Node Support Pole* and related ground equipment, or portion thereof, is adversely affecting proper operation of streetlights or City property, or (c) *Network Provider* fails to obtain all applicable licenses, permits, and certifications required by Law for its *Micro Network Node*, *Network Node*, *Node Support Pole* and related ground equipment, or use of any location under applicable law. If the City Manager reasonably determines that there is imminent danger to the public, then the City may immediately disconnect, remove, or relocate the applicable *Micro Network Node*, *Network Node*, *Node Support Pole* and related ground equipment at the *Network Provider*'s sole cost and expense.
4. The City Manager shall provide 90 days written notice to the *Network Provider* before removing a *Micro Network Node*, *Network Node*, *Node Support Pole* and related ground equipment under this section, unless there is imminent danger to the public health, safety, and welfare.
5. *Network Provider* shall reimburse the City for the City's actual cost of removal of *Micro Network Node*, *Network Node*, *Node Support Pole* and related ground equipment within 30 days of receiving the invoice from the City.

**SECTION 9. INSTALLATION AND INSPECTIONS**

**A. INSTALLATION.**

1. *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 Chapter 42, *Telecommunications*, of Rockwall's Municipal Code of Ordinances, and other applicable codes/ordinances, except to the extent not consistent with Chapter 284.
2. *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 and in accordance with the requirements promulgated by the City Manager, as such may be amended from time to time. *Network Provider*'s work shall be subject to the regulation, control and direction of the City Manager. All work done in connection with the installation, operation, maintenance, repair, modification, and/or replacement of the *Micro Network Node*, *Network Node* facilities, *Node Support Poles* and related ground equipment shall be in compliance with all applicable laws, ordinances, codes, rules and regulations of the City, applicable county, the state, and the United States (Laws).

**B. INSPECTIONS.**

1. The City Manager, or designee, may perform visual 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.
2. The City Manager, or designee, may perform visual inspections of any *Micro Network Node*, *Network Node*, *Node Support Pole* or related ground equipment located in the *Right-of-Way* as the City Manager deems appropriate without notice. If the inspection requires physical contact with the *Micro Network Node*, *Network Node*, *Node Support Poles* or related ground equipment, the City Manager shall provide

**Exhibit 'B'**  
**Design Manual: Installation of Network Nodes and Node Support Poles**

written notice to the *Network Provider* within five business days of the planned inspection. *Network Provider* may have a representative present during such inspection.

**SECTION 10: REQUIREMENTS UPON ABANDONMENT OF OBSOLETE MICRO NETWORK NODE, NETWORK NODE, NODE SUPPORT POLE AND RELATED GROUND EQUIPMENT**

- A. 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.
- B. *Network Provider* shall remove *Micro Network Node, Network Node, Node Support Pole* and related ground equipment when such facilities are abandoned regardless of whether or not it receives notice from the City. Unless the City sends notice that removal must be completed immediately to ensure public health, safety, and welfare, the removal must be completed within the earlier of 90 days of the *Micro Network Node, Network Node, Node Support Pole* and related ground equipment being abandoned or within 90 days of receipt of written notice from the City. When *Network Provider* removes, or abandons permanent structures in the *Right-of-Way*, the *Network Provider* shall notify the City Manager in writing of such removal or abandonment and shall file with the City Manager the location and description of each *Micro Network Node, Network Node, Node Support Pole* and related ground equipment removed or abandoned. The City Manager may require the *Network Provider* to complete additional remedial measures necessary for public safety and the integrity of the *Right-of-Way*.

**SECTION 11: GENERAL PROVISIONS**

1. As Built Maps and Records. *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.
  - 1.1 A *Network Provider* shall maintain accurate maps and other appropriate records of its *Network Node* facilities, *Node Support Poles* and related ground equipment as they are actually constructed in the *Right-of-Way*, including, upon request, the use of Auto CAD/GIS digital format. *Network Provider* will provide additional maps to the City upon request.
2. Courtesy and Proper Performance. 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.
  - 2.1 A *Network Provider* shall make citizen satisfaction a priority in using the *Right-of-Way*. *Network Provider* shall train its employees to be customer service-oriented and to positively and politely interact with citizens when dealing with issues pertaining to its *Micro Network Node, Network Node, Node Support Pole* and related ground equipment in the *Right-of-Way*. *Network Provider's* employees shall be clean, courteous, efficient, and neat in appearance and committed to offering the highest quality of interaction with the public. If, in the opinion of the City Manager or designee, *Network Provider* is not interacting in a positive and polite manner with citizens, he or she shall request *Network Provider* to take all remedial steps to conform to these standards.
4. ALLOCATION OF FUNDS FOR REMOVAL AND STORAGE. The City Council has currently appropriated no funds to pay for the cost of any removal or storage of *Micro Network Node, Network Node, Node Support Pole* and related ground equipment, as authorized under the law.
5. OWNERSHIP. Ownership of *Network Node* and related equipment shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable codes and ordinances, except to the extent not consistent with Chapter 284.
  - 5.1 No part of a *Micro Network Node, Network Node, Node Support Pole* and related ground equipment erected or placed on the *Right-of-Way* by *Network Provider* will become, or be considered by the City as being affixed to or a part of, the *Right-of-Way*. All portions of the *Micro Network Node, Network Node, Node Support Pole* and related ground equipment constructed, modified, erected, or placed by *Network Provider* on the *Right-of-Way* will be and remain the property of *Network Provider* and may be removed by *Network Provider* at any time, provided the *Network Provider* shall notify the City Manager prior to any work in the *Right-of-Way*.
6. Tree Maintenance. 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.
  - 6.1 A *Network Provider*, its contractors, and agents shall obtain written permission from the City Manager before trimming trees hanging over its *Micro Network Node, Network Node, or Node Support Pole*, to prevent branches of such trees from contacting attached *Micro Network Node, Network Node, or Node Support Pole*. When directed by the City Manager, *Network Provider* shall trim under the supervision and direction of the City Manager. The City shall not be liable for any damages, injuries, or claims arising from *Network Provider's* actions under this section.
7. Signage. 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.

**Exhibit 'B'**  
**Design Manual: Installation of Network Nodes and Node Support Poles**

- 7.1 Network Provider shall post its name, location identifying information, and emergency telephone number in an area on the cabinet of the *Network Node* facility that is visible to the public. Signage required under this section shall not exceed four (4) inches by six (6) inches, unless otherwise required by law or the City Manager.
- 7.2 Except as required by law or by the *Utility Pole* owner, a *Network Provider* shall not post any other signage or advertising on the *Micro Network Node*, *Network Node*, *Node Support Pole*, *Service Pole* or *Utility Pole*.
8. Restoration.
- 8.1 A *Network Provider* shall restore and repair of the public 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.
- 8.2 A *Network Provider* shall repair 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) within ten (10) calendar days following the date of such removal or relocation, at *Network Provider's* sole cost and expense, including restoration of the *Right-of-Way* and such property to substantially the same condition as it was immediately before the date *Network Provider* was granted a Permit for the applicable Location or did the work at such Location (even if *Network Provider* did not first obtain a Permit), including restoration or replacement of any damaged trees, shrubs or other vegetation. Such repair, restoration and replacement shall be subject to the sole, reasonable approval of the City Manager.
9. Network provider's responsibility.
- 9.1 A *Network Provider* shall be responsible and liable for the acts and omissions of the *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.
- 9.2 A *Network Provider* shall be responsible and liable for the acts and omissions of the *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*, *Transport Facility* and related ground equipment, as if such acts or omissions were *Network Provider's* acts or omissions.

**SECTION 12: SPECIAL EXCEPTIONS**

Should the *Network Provider* desire to deviate from any of the design standards set forth in this Design Manual, the *Network Provider* may request a special exception from the City Council. The process and criteria for a special exception request shall follow the process established by Section 8.5, *Criteria for Granting Special Exceptions*, of Article II, *Authority and Administrative Procedures*, of the Unified Development Code.

**SECTION 13: DESIGN MANUAL UPDATES**

Placement or modification of *Micro Network Node*, *Network Node*, *Node Support Pole*, *Transport Facility*, and related ground equipment shall comply with the City's Design Manual at the time the permit for installation or modification is approved and as amended from time-to-time.