

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JANUARY 2, 2019 AGENDA

Subject:	Type:	Submitted By:
DESIGN GUIDELINES FOR THE INSTALLATION OF WIRELESS FACILITIES IN PUBLIC RIGHT-OF-WAY	◆ RESOLUTION ◆ ORDINANCE ◆ RECEIVE/FILE	TOMMY PROUHET ASSISTANT TO THE CITY ADMINISTRATOR

SYNOPSIS

An ordinance has been prepared for Council to consider adoption of *Design Guidelines for the Installation of Wireless Facilities in Public Right-of-Way*.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

Increased demand for the limited space within the City's right-of-way requires that the City of La Vista address the visual impact, space requirements, and safety of utility and communications equipment located along roadways and on other City-owned property. After reviewing best practices of other cities across the country, and with guidance from local government organizations and the City Attorney, staff drafted and recommends approval of the attached, *Design Guidelines for the Installation of Wireless Facilities in Public Right-of-Way*.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, TO ADOPT DESIGN GUIDELINES FOR THE INSTALLATION OF WIRELESS FACILITIES IN PUBLIC RIGHT-OF-WAY; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA

Section 1. Design Guidelines for the Installation of Wireless Facilities in Public Right-of-Way Adopted. A certain document, as on file in the Office of the City Clerk of the City of La Vista and being marked and designated as the *Design Guidelines for the Installation of Wireless Facilities in Public Right-of-Way*, is hereby adopted as the official Design Guidelines for the Installation of Wireless Facilities in Public Right-of-Way of the City of La Vista to regulate and provide certain design criteria and specifications for the collocation or installation of wireless facilities, including but not limited to network nodes and node support poles, and related use of or work in right of way, within the corporate boundaries or extraterritorial jurisdiction of the City of La Vista; and each and all of the regulations, provisions, conditions and terms of such *Design Guidelines for the Installation of Wireless Facilities in Public Right-of-Way* and specified appendices, are hereby referred to, adopted, incorporated, and made a part hereof as if fully set out herein. Such design criteria and specifications shall be effective with respect to all collocations and installations, and all applications or proposals for collocation or installation, of wireless facilities including but not limited to network nodes or node support poles, and related use of or work in right of way, on or after January 1, 2019, unless a different date is specified from time to time by the Mayor and City Council.

Section 2. Repeal of Conflicting Provisions. Any conflicting provision of any previously enacted ordinance is hereby repealed.

Section 3. Severability. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 4. Effective Date. This ordinance shall be in full force and effect from and after its passage, approval and publication in accordance with applicable law.

PASSED AND APPROVED THIS 2ND DAY OF JANUARY, 2019.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

Design Guidelines

for the

Installation of Wireless Facilities in Public Right-of-Way

City of La Vista, Nebraska

January 2, 2019

Table of Contents

SECTION 1. PURPOSE AND APPLICABILITY.....	3
SECTION 2. DEFINITIONS.....	3
SECTION 3. PROHIBITED AND PREFERRED LOCATIONS OF MICRO NETWORK NODE, NETWORK NODE, NODE SUPPORT POLE AND RELATED GROUND EQUIPMENT.....	7
SECTION 4. GUIDELINES ON PLACEMENT.....	10
SECTION 5. GENERAL AESTHETIC REQUIREMENTS	13
SECTION 6. ELECTRICAL SUPPLY	14
SECTION 7. INSURANCE, INDEMNITY, BONDING AND SECURITY DEPOSITS.....	14
SECTION 8. REQUIREMENTS IN REGARD TO REMOVAL, REPLACEMENT, REPLACEMENT, MAINTENANCE AND REPAIR.....	15
SECTION 9. INSTALLATION AND INSPECTIONS.....	16
SECTION 10. REQUIREMENTS UPON ABANDONMENT OF OBSOLETE MICRO NETWORK NODE, NETWORK NODE, NODE SUPPORT POLE AND RELATED GROUND EQUIPMENT.....	17
SECTION 11. GENERAL PROVISIONS.....	17
SECTION 12. ADMINISTRATIVE HEARING – REQUEST FOR EXEMPTION.....	19
SECTION 13-19 RESERVED	20
SECTION 20. DESIGN MANUAL - UPDATES.....	20

SECTION 1. PURPOSE AND APPLICABILITY.

The City of La Vista (“City”) has the duty to manage the public right-of-way for the health, safety, and welfare of the City and public.

Purpose: The City enacts these Design Guidelines in order to meet its duty to the citizens of the City, and to give standards to wireless telecommunications providers for the timely, efficient, safe and aesthetically pleasing installation of technologically competitive equipment.

Applicability: These Design Guidelines are for siting and criteria for the installation wireless facilities, including micro network nodes, network nodes, node support poles and related ground equipment being installed in the public right-of-way.

These Design Guidelines shall apply to all sitings, 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, collocated or installed and related access and work. All installations or other work in right-of-ways shall require an agreement with and be consented to by the City in its discretion in addition to any required permit or approval.

SECTION 2. DEFINITIONS.

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, handholes, 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.

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

Applicable Codes means:

- (A) uniform building, fire, electrical, plumbing, or mechanical codes as adopted or amended by a recognized national code organization and the City from time to time; and
- (B) local amendments to those codes from time to time.

City means the City of La Vista, Nebraska or its lawful successor.

City Administrator shall mean City Administrator of the City of La Vista or the City Administrator’s designee.

Collocate and *Collocation* means the installation, mounting, maintenance, modification, operation, or replacement of network nodes in a public right-of-way on or adjacent to a pole.

Concealment or Camouflaged means any wireless facility or pole that is covered, blended, painted, disguised, camouflaged or otherwise concealed such that the wireless facility blends into the surrounding environment and is visually unobtrusive. 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.

Decorative Pole means a streetlight or other 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 municipal codes or other Law.

Design District means an area that is zoned, or otherwise designated by municipal code or other Law, and for which the city maintains and enforces unique design or aesthetic standards, including without limitation, zoning overlay districts and Historic Districts.

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

Distributed Antenna System or DAS shall be included as a type of “Network Node.”

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

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

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

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

Law means all common laws, and all federal, state, or municipal laws, statutes, codes, rules, regulations, orders, policies, resolutions, or ordinances as enacted or amended from time to time.

Local means within the geographical boundaries of the City, which shall include the corporate boundaries of the City and the extraterritorial jurisdiction of the City, as modified from time to time.

Location means a City approved and lawfully permitted location for the network node.

Macro Tower means a guyed or self-supported pole or monopole greater than the height parameters prescribed that supports or is capable of supporting antennas.

Mayor means the Mayor of the City.

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

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

Municipally owned utility pole means a utility pole owned or operated by a municipally owned utility or a municipality and located in a public right-of-way.

MUTCD means Manual of Uniform Traffic Control Devices.

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

- (A) includes:
 - (i) equipment associated with wireless communications;
 - (ii) a radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; and
 - (iii) coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation; and
- (B) does not include:
 - (i) an electric generator;
 - (ii) a pole; or
 - (iii) a macro tower.

Network Provider means:

- (A) a wireless service provider; or
- (B) a person that does not provide wireless services and that is not an electric utility but builds or installs on behalf or for use of a wireless service provider:
 - (i) network nodes; or
 - (ii) node support poles or any other structure that supports or is capable of supporting a network node.

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

Permit means all written authorizations, agreements, and instruments issued, approved or executed by the City for the use of, or work in, 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. Notwithstanding any other provision of these Guidelines to the contrary, use of public right of way by Providers shall require permits in form and content satisfactory to the City. Providers shall be required to submit applications for permits on such forms and including such content and information as specified by the City from time to time. Providers shall be required to

commence work within sixty days after an applicable permit is issued and diligently proceed to completion of approved collocations or installations. Any failure to commence or proceed with such work automatically shall render the permit null and void without any further action required of City.

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

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

Provider has the same meaning as “Network Provider.”

Public Right-of-Way means the area on, within, below, adjacent to, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has any interest. The term does not include:

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

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

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

Small Cell shall be included as a type of “Network Node.”

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

SWPPP shall mean Storm Water Pollution Prevention Plan.

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

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

Underground Requirement Area shall mean means an area where poles, overhead wires, and associated overhead or above ground structures have been removed and buried or have been

approved for burial underground pursuant to municipal ordinances, zoning regulations, state law, other Law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way.

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

Utility Pole means a pole that provides:

- (A) electric distribution with a voltage rating of not more than 34.5 kilovolts; or
- (B) services of a telecommunications provider

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

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

Wireless Facilities mean “Micro Network Nodes,” “Network Nodes,” and “Node Support Poles”.

SECTION 3. PROHIBITED AND PREFERRED LOCATIONS OF MICRO NETWORK NODE, NETWORK NODE, NODE SUPPORT POLE AND RELATED GROUND EQUIPMENT.

A. Restricted Areas .

1. Municipal Parks and Residential Areas. A Network Provider may not collocate any network nodes on an existing pole, or install any network nodes or node support poles in a public right-of-way, without the City's prior written consent and all required permits, if the public right-of-way is in or adjacent to a municipal park or is adjacent to a street or thoroughfare that is:

(1) 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

(2) adjacent to single-family residential lots or other multi-family residences or undeveloped land that is designated for residential use by zoning or deed restrictions (“Residential Area”).

1.1. A Network Provider collocating or installing a network node or node support pole in a public right-of-way described above also shall comply with private deed restrictions and other private restrictions in the area that apply to those facilities. Each permit application shall disclose if it is within a Municipal Park or Residential Area as described above.

2. Design Districts. A Network Provider must obtain advance written approval and a permit from the City before collocating network nodes or installing node support poles in a

Design District with decorative poles or in an area of the City zoned or otherwise designated as a Design District.

2.1 Each Permit application shall disclose if it is within a Design District with decorative poles or in an area of the City zoned or otherwise designated as a Design District or Historic District.

3. Camouflage and Concealment. As a condition for approval of network nodes or node support poles described in subsection 1 or 2 above, the City shall require reasonable camouflage and concealment measures, including without limitation, reasonable spacing, design, size, and color requirements for the network nodes or node support poles. Therefore, any request for such collocations or installations must include proposed camouflage and concealment measures in the permit applications.

3.1. Not in limitation of the foregoing, the City requests that each Network Provider explore the feasibility of new and creative methods of using camouflage and concealment 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 such areas.

4. All Network Providers shall comply with and observe all applicable City, State, and federal historic preservation and other Laws and requirements.

5. Historic Landmarks. A Network Provider may not install a network node or node support pole within 300 feet of a historic site or structure or historic landmark recognized by the City, state or federal government as of the date of the submission of the permit. Each permit application must disclose if it is with 300 feet of such a structure.

6. Compliance with Undergrounding Requirements. A Network Provider shall comply with any applicable undergrounding requirements, including without limitation, those specified in municipal ordinances, zoning regulations, state law, other Law, private deed restrictions, and other public or private restrictions, that prohibit, limit, regulate, or restrict installing aboveground structures in a public right-of-way.

6.1 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 specified in accordance with applicable Law.

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

B. Most preferable locations

1. *Industrial Areas* if not within or adjacent to a municipal park, residential area, or Design District.

2. *Highway Rights-of-Way Areas* if not within or adjacent to a municipal park, residential area, or Design District.

3. *Retail and Commercial Areas* if not within or adjacent to a municipal park, residential area, or design district.

D. Designated Areas.

1. Currently designated *Residential Areas* are any areas zoned for single family or multi-family residential use.

2. Currently designated *Design District* areas are:

- (a) Special Corridor
- (b) Gateway Corridor
- (c) City Centre

3. Future residential areas or Design Districts may be designated by the City Council from time to time in accordance with applicable Law, and they shall be deemed to be included in these Guidelines without any further action required of the City.

4. While not required to designate Underground Compliance Areas to prohibit above ground wireless facilities, the City may, from time to time, also designate Underground Compliance Areas.

E. Exceptions

The City, upon demonstration of necessity to the satisfaction of the City Council or its designee, by its consent and agreement may grant exception to the above prohibited locations and sizes, in accordance with applicable Law.

F. Order of Preference Regarding Network Node Attachment to Existing Facilities and New Node Support Poles. Not in limitation of any other requirements of these Guidelines:

1. *Existing Utility Poles* (electric poles or telephones poles), shall be the preferred support facility for network nodes and related ground equipment.

2. *Municipal Service Poles*:

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.

c. *Street signage* shall be a low priority use for attachment of a Network Node.

d. *Other municipal service pole* use is the lowest priority and prohibited unless the only option.

3. *New node support poles* shall be the least preferred type of allowed facility for attachment of network nodes.

4. *Ground Equipment.* Ground equipment shall be minimal and the least intrusive.

SECTION 4. REQUIREMENTS ON PLACEMENT.

Not in limitation of any other requirements of these Guidelines, the following provisions of this Section 4 shall apply.

A. Generally.

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 or in connection with a public right-of-way;
2. obstruct, impede, or hinder the legal use of a public right-of-way by other utility providers;
3. violate applicable codes;
4. violate or conflict with any applicable public right-of-way management ordinance or these Design Guidelines.
5. violate the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.) or any other applicable Law.

B. General Requirements and Information:

1. *Size Limits.* Network Providers shall provide detailed drawings, with calculations to show strict conformity to the size limitations and other requirements as set forth in Appendix A of this document, incorporated into this document by reference with each application and with each request for a permit for each location.

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

3. *Confirmation of Non-interference with City Safety Communication Networks.*

a. The Network Provider needs to provide analysis satisfactory to the City Administrator or her designee that the proposed network nodes shall not cause any interference with City public safety radio system, traffic signal light system, or other public safety or communications components.

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, obstruct, or hinder 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 or her designee and impedes, obstructs, or hinders pedestrian or vehicular traffic or does not comply or otherwise renders the right-of-way non-compliant with applicable Laws, including without limitation the American Disabilities Act, then Network Provider shall promptly remove the network node facilities, node support poles or ground equipment.
- b. Notice to remove and relocate unauthorized facilities; fine or penalty: After 30 days' notice to remove any network node, node support poles or ground equipment that is located in the incorrect location, if not relocated, the Network Provider shall be subject to such penalties or fines as prescribed for violations of the City Code, or as otherwise specified in the City's Master Fee Ordinance 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.

B. Underground Requirement Areas.

1. 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, other Law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way without first obtaining zoning or land use approval.
2. If a location is designated by the City to be an underground requirement area, then a Network Provider's permit for the location of the micro network node, network node, node support pole, and related ground equipment at such location will be revoked 90 days after the designation, with removal of said 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.

C. Network Node facilities placement:

1. *Right-of-Way:* Network node facilities, node support poles and related ground equipment shall be placed within two 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, and if a network node attachment is projecting

toward the street, for the safety and protection of the public and vehicular traffic, the attachment shall be installed no less than sixteen (16) feet above the ground.

3. *Protrusions.* 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.

D. 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 spacing as the spacing between utility poles in the immediate proximity, but no less than 300 feet from any utility pole or any other 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.* Node support pole or modified utility pole may not exceed the lesser of:

- (1) 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) 55 feet above ground level.

E. Ground Equipment.

1. *Ground Equipment Near Street Corners and Intersections:* Ground equipment shall be minimal and the least intrusive. 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 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 Administrator or her designee in writing.

3. Minimize Ground Equipment Density:

To enhance the safety requirements of line of sight of pedestrians, particularly small children, the City Administrator or her 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 sq. ft. or more.

F. Service Poles:

1. *In Accordance with Agreement:* Installations on all service poles shall be in accordance with an agreement.

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, to the satisfaction of the City Administrator or her designee, with each permit application indicating that the service pole to which the network node is to be attached will safely support the load.

3. *Height of Attachments:* All attachments on all service poles shall be at least 8 feet above grade, and if a network node attachment is projecting toward the street, for the safety and protection of the public and vehicular traffic, the attachment shall be installed no less than sixteen (16) feet above the ground.

4. *Installations on Traffic 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. Installation of network node facilities on any traffic signal structures shall:

- i. Be encased in a separate conduit than the traffic light electronics;
- ii. Have a separate electric power connection than the traffic signal structure; and
- iii. Have a separate access point than the traffic signal structure.

5. *Installations on Street Signage:* Installations on all street signage structures must not interfere with the integrity of the facility in any way that may compromise the safety of the public. Installation of network node facilities on any street signage structures that has electrics shall:

- i. Be encased in a separate conduit than any City signage electronics;
- ii. Have a separate electric power connection than the signage structure; and
- iii. Have a separate access point than the signage structure.

SECTION 5. GENERAL AESTHETIC REQUIREMENTS

Not in limitation of any other requirements of these Guidelines, the following provisions of this Section 5 shall apply.

A. Concealment.

1. Concealment of network nodes and node support poles shall be required by the City in Design Districts with decorative poles.
2. All new node support poles shall be camouflaged, except those located in an area zoned or predominantly industrial area. Companies shall submit their proposal for camouflage with the permit application.
3. The network node facilities shall be concealed or enclosed 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.

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.

In order to minimize negative visual impact to the surrounding area, and to enhance the safety requirements of line of sight of pedestrians, particularly small children, the City Administrator or her 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 sq. ft. or more to minimize effect on property values and aesthetics on the area.

D. Allowed Colors.

Colors in Design Districts must be in strict accordance with the City's applicable ordinances or other Law.

Colors in Design Districts must be approved by the City Administrator or her designee 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 Design Districts shall conform to colors of other installations of telecommunication providers in the immediately adjacent areas.

SECTION 6. ELECTRICAL SUPPLY

Not in limitation of any other requirements of these Guidelines, the following provisions of this Section 6 shall apply.

A. Network Provider shall be responsible for obtaining any required electrical power service to the micro network node, network node facilities, Node support poles and ground equipment. The City shall not be liable to the Network Provider for any stoppages or shortages of electrical power furnished to the micro network node, network node facilities, node support poles or ground equipment, including without limitation, stoppages or shortages caused by any act, omission, or requirement of the public utility serving the structure or the act or omission of any other tenant or Network Provider of the structure.

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

SECTION 7. INSURANCE, INDEMNITY, BONDING AND SECURITY DEPOSITS.

1. Insurance, bonding and security deposits shall be in strict accordance with the City's applicable ordinances or other Law.

2. Indemnity shall be in strict accordance with the City's applicable ordinances or other Law.

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 City's applicable ordinances or other Law.

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 Administrator or her designee in writing not less than 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 applicable ordinances or other Law.

2. 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 municipality managing the public right-of-way

3. Network Provider understands and acknowledges that the City may require Network Provider at its sole cost and expense 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 in accordance with municipal, state, or federal Law, including the common-law.

4. Network Provider shall, at the City Administrator's direction, remove or relocate the same at Network Provider's sole cost and expense, except as otherwise provided in existing municipal, state and federal Law, whenever the City Administrator 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 rights-of-way to enhance the traveling public's use for travel and transportation.

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 Administrator 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 costs and 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 Administrator if the City Administrator 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 or equipment, (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.

2. If the City Administrator 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.

3. The City Administrator 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.

4. Network Provider shall reimburse 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.

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 Administrator or her designee, 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 Administrator or her designee. 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.

B. INSPECTIONS.

The City Administrator, or designee, may perform inspections of any micro network node, network node, node support pole or related ground equipment located in the right-of-way.

If the inspection requires physical contact with the micro network node, network node, node support poles or related ground equipment, the City Administrator shall provide 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.

Abandoned or obsolete micro network node, network node, node support pole and related ground equipment shall be removed by Provider at its sole cost and expense.

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 Administrator in writing of such removal or abandonment and shall file with the City Administrator the location and description of each micro network node, network node, node support pole and related ground equipment removed or abandoned. The City Administrator or her designee 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 applicable Law.

Network Provider shall maintain and provide the City Engineer copies of 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 rights-of-way, including without limitation, Auto CAD/GIS digital and other formats requested by the City Engineer. Network Provider will provide additional maps to the City upon request.

2. Courtesy and Proper Performance. Courtesy and proper performance of work in the right of way by Network Provider's personnel and contractors shall be in strict accordance with applicable Law ,

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 Administrator or her designee, Network Provider is not performing in accordance with this subsection 2, Network Provider shall take all remedial steps to conform to these standards.

3. Drug Policy. Drug policy of Network Provider's personnel, and contractors in the rights-of-way shall be in strict accordance with applicable Law.

It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by Network Provider's employees, contractors, subcontractors, sub-Network Provider's, or vendors while on City rights-of-way is prohibited.

4. Allocation of Funds for Removal and Storage. The City has appropriated \$0 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 this article, and no other funds are allocated.

5. Ownership. Ownership of network node and related equipment.

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 Administrator or her designee prior to any work in the Right-of-Way.

6. Tree Maintenance. Tree maintenance shall be in strict accordance with applicable Law.

Network Provider, its contractors, and agents shall obtain written permission from the City Administrator or her designee 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 Administrator or her designee, Network Provider shall trim under the supervision and direction of the Public Works Director or his designee. 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 applicable Law,

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 4" x 6", unless otherwise required by Law (e.g. RF ground notification signs) or the City Administrator or her designee.

Except as required by Law or by the utility pole owner, 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. Graffiti Abatement. Graffiti abatement.

As soon as possible, but not later than seven (7) calendar days from the date Network Provider receives notice thereof, Network Provider shall remove all graffiti on any of its micro network node, network node, node support pole, and related ground equipment located in the right-of-way. The foregoing shall not relieve the Network Provider from complying with any City graffiti or visual blight Law.

9. Restoration.

Network Provider shall restore and repair of the rights-of-way from any damage to the right-of-way, or any facilities located within the right-of-way, and the property of any third party resulting from Network Provider's installation, collocation, removal or relocation activities (or any other of Network Provider's activities hereunder) in strict accordance with applicable Law.

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 10 calendar days following the date of such removal or relocation (or any other of Network Provider's activities hereunder), 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 approval of the City Administrator or her designee.

10. Network provider's responsibility.

Network Provider shall be responsible and liable for the acts and omissions of Network Provider's employees, temporary employees, officers, directors, consultants, agents, Affiliates, subsidiaries, sub-Network Provider's and subcontractors in connection with the collocation or installations of any micro network node, network node, node support pole or related ground equipment, or any other work or activity in the right-of-way, as if such acts or omissions were Network Provider's acts or omissions.

SECTION 12. ADMINISTRATIVE HEARING – REQUEST FOR EXEMPTION

Should the Network Provider desire to deviate from any of the standards set forth in the Design Guidelines, the Network Provider may request an Administrative Hearing before a Board of Appeals. The Zoning Board of Adjustment shall act as the Board of Appeals for a Request for Exemption.

The process for an application, hearing and vote shall follow the process set out for a variance.

SECTION 13-19 RESERVED

SECTION 20. DESIGN MANUAL - UPDATES

Placement or modification of micro network node, network node, node support pole and related ground equipment shall comply with the City's Design Guidelines at the time the permit for installation or modification is approved and as amended from time to time.

APPENDIX A

Requirements for Installation of Small Cell Network Nodes

A network node to which this chapter applies must conform to the following conditions:

I. Collocations on Existing Utility Poles and Municipal Service Poles

General:

(A) Only the antenna, concealing shroud and associated wiring may be located on the support structure.

(B) Cabling which services the Network Node shall enter at the base of the support structure and fully enclosed in conduit of a minimal size and number.

(C) Related ground equipment, except for electrical meter, shall be housed in a single cabinet of minimal size at a location subject to City approval.

(D) All wiring routed between ground equipment and pole is to be fully concealed from view.

Antennae:

(A) Each antenna shall be located entirely within a shroud enclosure of not more than 6 cubic feet in volume and may not exceed a height of three feet above the existing structure or pole.

(B) The diameter of the antenna or antenna enclosure should not exceed the diameter of the top of the pole, and to the extent practical, should appear as a seamless vertical extension of the structure.

(C) The maximum diameter of the shroud shall be no wider than 1.5 times the diameter of the top of the structure.

(D) Where the maximum shroud diameter exceeds the diameter of the top of the pole or structure, the shroud shall be tapered to meet the top of the structure.

(E) Unless otherwise approved, all antennas shall be mounted to the top of the wireless support structure, aligned with the centerline of the structure.

(F) Antennas shall generally be cylindrical in shape and completely housed within a cylindrical shroud that is capable of accepting paint to match the pole structure.

(G) Color for all antennas and shrouds shall be selected by the City Administrator or her designee in order to match the context and nature of the surrounding area.

II. New Wireless Structures with Small Cell Network Nodes

General:

- (A) All new wireless structures shall be constructed of solid hot-dipped galvanized steel, be round in shape with a smooth pole shaft.*
- (B) New Wireless Structures should be stealth in design, with all equipment integrated in the pole or contained in a cabinet away from the pole.*
- (C) Wireless support structures incorporating pole mounted small cell facilities shall be tapered in diameter from the base to the top, with a maximum diameter of 12 inches at the base and a maximum diameter of 8 inches at the top.*
- (D) Wireless support structures must be supported by a reinforced concrete base in dimensions approved by a Professional Engineer licensed in the State of Nebraska, and reviewed and approved by the City Engineer.*
- (E) All anchor bolts must be concealed from view with an appropriate boot or cover coated or painted to match the pole.*
- (F) Pole owners must allow collocation of other provider equipment on all poles.*

Antennae:

- (A) Each antenna shall be located entirely within a shroud enclosure of not more than 6 cubic feet in volume and may not exceed a height of three feet above the existing structure or pole.*
- (B) The diameter of the antenna or antenna enclosure should not exceed the diameter of the top of the pole, and to the extent practical, should appear as a seamless vertical extension of the structure.*
- (D) Where the maximum shroud diameter exceeds the diameter of the top of the pole or structure, the shroud shall be tapered to meet the top of the structure.*
- (E) Unless otherwise approved, all antennas shall be mounted to the top of the wireless support structure, aligned with the centerline of the structure.*
- (F) Antennas shall generally be cylindrical in shape and completely housed within a cylindrical shroud that matches the color of the wireless structure.*