

ORDINANCE NO. 2020-

AN ORDINANCE AMENDING CHAPTER 98 OF THE CODE OF ORDINANCES OF THE CITY OF LEAGUE CITY ENTITLED "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES" BY AMENDING ARTICLE VII ENTITLED, "NETWORK PROVIDERS IN THE PUBLIC RIGHT-OF-WAY" TO UPDATE VARIOUS PROVISIONS RELATED TO FEES AND PERMITTING; PROVIDING FOR CODIFICATION, PUBLICATION, AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEAGUE CITY, TEXAS, as follows:

**Section 1.** That the Code of Ordinances is hereby amended to AMEND Chapter 98 of the Code of Ordinances of the City of League City entitled "*Streets, Sidewalks and Other Public Places*" by deleting Article VII entitled, "*Network Providers in the Public Right-Of-Way*" in its entirety and replacing it the language found in Exhibit A.

**Section 2.** Savings. All rights and remedies which have accrued in favor of the City under this Ordinance and amendments thereto shall be and are preserved for the benefit of the City.

**Section 3.** Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid, unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**Section 4.** Repealer. All other ordinances and parts of ordinances in conflict herewith are hereby repealed but only to the extent of such conflict.

**Section 5.** Codification. It is the intent of the City Council of the City of League City, Texas, that the provisions of this Ordinance shall be codified in the City's official Code of Ordinances as provided hereinabove.

**Section 6.** Publication and Effective Date. The City Secretary shall cause this Ordinance, or its caption, to be published in the official newspaper of the City of League City, upon passage of such Ordinance. The Ordinance shall become effective upon passage.

PASSED first reading the \_\_\_\_ day of \_\_\_\_\_, 2020.

PASSED second reading the \_\_\_\_ day of \_\_\_\_\_, 2020.

PASSED AND ADOPTED the \_\_\_\_ day of \_\_\_\_\_, 2020.

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PAT HALLISEY  
Mayor

ATTEST:

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DIANA M. STAPP  
City Secretary

APPROVED AS TO FORM:

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NGHIEM V. DOAN  
City Attorney

## **Exhibit A**

### **Article VII – Network Providers in the Public Right-of-Way**

#### **Sec. 98-180. - Definitions.**

(a) As used in this article, the following terms shall have their respective definitions as provided in V.T.C.A., Local Government Code Chapter 284: collocate, micro network node, network node, network provider, node support pole, public right-of-way, service pole, and transport facility.

(b) Design manual shall mean the design manual adopted by section 98-183 and amended from time to time.

#### **Sec. 98-181. - Right of access.**

Subject to the provisions of V.T.C.A., Local Government Code Chapter 284, this article, the design manual, and other applicable ordinances, a network provider may use the public rights-of-way to:

- (1) Construct, modify, maintain, operate, relocate and remove a network node or node support pole;
- (2) Modify or replace a utility pole or node support pole; and
- (3) Collocate on a pole.

#### **Sec. 98-182. - Insurance requirements.**

Any person required under this article to obtain the city's consent to make use of the public right-of-way or any person required by this chapter to obtain a permit to perform construction in the public right-of-way must, during the period of the use or work, obtain and keep in effect insurance against claims for injuries to persons or damages to property arising from or in connection with the performance of the work, comprehensive general liability and property damage insurance with minimum limits of \$1,000,000.00 for each occurrence, for the injury or the death of any person or damage to or destruction of property.

#### **Sec. 98-183. - Compliance with design manual.**

(a) The city council hereby adopts the City of League City Design Manual for the Installation of Network Nodes and Node Support Poles pursuant to V.T.C.A., Local Government Code Chapter 284. A copy of the design manual shall be available in the city secretary's office and on the city's website.

(b) A network provider must comply with all applicable provisions of the design manual as a condition of approval of any application, permit, or other approval required under this Code.

(c) The city manager or his designee may from time to time add to, delete from or revise the requirements set forth in the design manual without council action if such revision does not conflict with a provision of state law or another city ordinance.

(d) In the event of conflict between the design manual and the requirements of article V of chapter 98, the design manual shall control.

Sec. 98-184. - Transport facilities.

A network provider that wants to connect a network node to the network using the public right-of-way may install its own transport facilities if it obtains a permit under this article and pays the appropriate public right-of-way rates in compliance with state law.

Sec. 98-185. – Permits.

(a) The network provider must obtain all other permits required by applicable codes and pay the fees established in this Code, except in the following situations:

(1) A network provider's routine maintenance of micro network nodes, network nodes, node support poles and related ground equipment that does not require excavation or closing of sidewalk or vehicular lanes in a public right-of-way; or

(2) Replacing or upgrading a network node or pole with a node or pole that is substantially similar in size or smaller that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way, but only if:

a. The replacement or upgrade does not include replacement of an existing node support pole; and

b. The replacement or upgrade does not defeat existing concealment elements of a node support pole.

(b) The network provider may file a consolidated application for the installation or collocation of not more than 30 network nodes and receive a single permit for a permit required by this article or an applicable code. As examples, a network provider may receive one right-of-way work permit for the installation or collocation of not more than 30 network nodes and, if an electrical permit is required, also, a network provider may receive one electrical permit for the installation or collocation of not more than 30 network nodes.

(c) A permit will be issued if its application complies with the provisions of V.T.C.A., Local Government Code Chapter 284, this article, applicable codes and the design manual.

Sec. 98-186. - Permit application review.

The review process for a permit application for installation of a transport facility, micro network node, network node, node support pole, and related ground equipment shall conform to the requirements and timelines set forth in state law.

Sec. 98-187. - Application fees and rates.

(a) Application fees for network providers.

(1) The application fee for installation of a network provider's network nodes shall be the lesser of actual, direct, and reasonable costs incurred by the city or \$500.00 for first five nodes and \$250.00 for each additional node.

(2) The application fee for the installation for node support poles shall be the lesser of actual, direct, and reasonable costs incurred by the city or \$1,000.00 per pole.

(b) Right-of-way rates for network providers.

(1) Public right-of-way rate. The rate to use the public right-of-way shall be \$250.00 multiplied by the number of network nodes in the public rights-of-way within the city's corporate boundaries. This rate shall be increased by one-half the annual change to the Consumer Price Index for All Urban Consumers for Texas, as published by the Federal Bureau of Labor Statistics as published in February for the preceding 12 months. The increase shall be effective 60 days after the city provides notice of the new rate to each network provider.

(2) Public right-of-way rate for transport facilities rate. In addition to the public right-of-way rate set forth in subsection (1), network providers shall pay to the city a monthly public right-of-way rate for transport facilities in the amount equal to \$28.00 per node per month unless an equal or greater amount is paid under V.T.C.A., Local Government Code Chapter 283 or V.T.C.A., Utilities Code Chapter 66.

Fee Chart:

<u>Equipment Type</u>	<u>Construction Permit Fee</u>	<u>Right-Of-Way Fee</u>
Transport Facilities	N/A	\$28 per month per node
Nodes	\$500 per node for first 5 nodes, \$250 for each additional node	\$250 per year per node \$20 per year if collocated
Node Support Poles	\$1,000 per Pole	N/A

(c) Collocation rate. The rate to collocate a network node on a service pole shall be \$20.00 per year per service pole.

Sec. 98-188. - Penalty for violation; proof of mental state not required.

(a) Any person, firm, corporation or business entity violating any provision of this article or the design manual shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not to exceed the sum of \$500.00, unless the violation relates to fire safety or public health and sanitation, including dumping and refuse, in which [case] the fine shall not exceed the sum of \$2,000.00. Each continuing day's violation under this article shall constitute a separate offense. The penal provisions imposed under this article shall not preclude the city from filing suit to enjoin the violation. The city retains all legal rights and remedies available to it pursuant to local, state and federal law.

(b) It is the intent of the city council in adopting this article that a violation of this article shall be a strict liability offense; in the prosecution of an offense under this article, no pleading or proof of a culpable mental state shall be required to establish the guilt of an accused.