



CITY COUNCIL MEMORANDUM FOR ORDINANCE

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Approval: Yousry Zakhary

Construction and Wireless Facilities in the ROW Ordinance

DESCRIPTION:

Consideration and approval of an ordinance amending Chapter 19 of the Code of Ordinances by adding Article V and Article VI regulating construction and wireless facilities in the public rights-of-way. **Third and Final Reading**

BACKGROUND:

This item proposes the adoption of a comprehensive ordinance adding **Article V: Construction in Public Rights-of-Way** and **Article VI: Small Wireless Facility Siting Ordinance** to Chapter 19 of the City of Bellmead Code of Ordinances. Together, these provisions regulate all construction and utility placements within the City's public rights-of-way (ROW) and address the deployment of wireless infrastructure.

The ordinance establishes clear permitting requirements, construction standards, and administrative procedures to ensure the responsible use and preservation of City infrastructure.

The need for this ordinance is driven by the following concerns:

- Utility providers and contractors have performed work within the ROW without prior notice or approval;
- Existing franchise agreements do not adequately address inspection rights, coordination requirements, or damage responsibilities;
- The City needs stronger authority to manage and protect public infrastructure from unpermitted or improperly restored work.

Article V – Construction in Public Rights-of-Way

Establishes a framework for managing all infrastructure activity in the ROW, including:

- Requiring permits for installation, maintenance, and alteration of facilities;
- Setting construction and restoration standards aligned with the City of Waco Design Manual;
- Authorizing the Director of Public Works to enforce compliance and issue stop-work orders;
- Enabling coordinated trenching and utility work to minimize street cuts and surface

degradation.

Article VI – Small Wireless Facility Siting Ordinance

Implements requirements in accordance with Chapter 284 of the Texas Local Government Code, and includes:

- Permit timelines, application standards, and design criteria for wireless network nodes and poles;
- Restrictions on installations in municipal parks and residential areas;
- Fee structures for node placement, attachment to City-owned service poles, and annual ROW use;

The adoption of this ordinance is especially timely as the City prepares to renew its franchise agreement with Oncor and seeks stronger protections and controls over both traditional utilities and modern telecommunications operations in the ROW. This ordinance provides the necessary tools to preserve the long-term integrity of City infrastructure, reduce maintenance liabilities, and ensure access to public space.

FISCAL IMPACT:

- Enables recovery of administrative and infrastructure restoration costs through permit fees;
- Establishes annual compensation for wireless network node usage of the ROW per state law;
- Reduces City liability and maintenance costs from poorly managed ROW activities.

RECOMMENDED MOTION:

Staff recommends approval of ordinance amending Chapter 19 of the Code of Ordinances by adding Article V and Article VI regulating construction and wireless facilities in the public rights-of-way.

ATTACHMENT(S):

Ordinance 2025-006

ORDINANCE NO. 2025-006

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLMEAD, TEXAS, ADDING ARTICLE V, "CONSTRUCTION IN PUBLIC RIGHTS-OF-WAY," AND ARTICLE VI, "SMALL WIRELESS FACILITY SITING ORDINANCE," TO CHAPTER 19 OF THE CITY OF BELLMEAD CODE OF ORDINANCES; ESTABLISHING COMPREHENSIVE REGULATIONS FOR THE USE, MAINTENANCE, AND OCCUPANCY OF PUBLIC RIGHTS-OF-WAY, INCLUDING PERMITTING AND DEPLOYMENT OF SMALL WIRELESS FACILITIES; PROVIDING FOR ENFORCEMENT, PENALTIES, FEES, SEVERABILITY, REPEALER, SAVINGS CLAUSE, EFFECTIVE DATE, AND OPEN MEETINGS COMPLIANCE; AND PROVIDING FOR THREE READINGS.

WHEREAS, the City of Bellmead, Texas ("City") is a home rule municipality authorized by state law, including Chapters 283 and 284 of the Texas Local Government Code, to regulate construction and wireless infrastructure placement within public rights-of-way to protect the health, safety, and welfare of its citizens; and

WHEREAS, the City Council finds it necessary to regulate the placement, construction, maintenance, and use of all types of facilities within the rights-of-way to ensure safety, prevent congestion and unauthorized use, preserve public infrastructure, and coordinate access with existing utilities and city projects; and

WHEREAS, the proliferation of wireless network nodes and supporting poles within rights-of-way presents additional challenges requiring design standards, permit procedures, and oversight to protect the character of neighborhoods and ensure equitable access to public space; and

WHEREAS, the City Council finds that the adoption of these ordinances is in the best interest of the citizens of Bellmead and consistent with the City's duty to maintain control over public property and infrastructure;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLMEAD, TEXAS:

SECTION 1 ARTICLE V.

Sec. 19-70. Findings and purpose.

The purpose of this article is to:

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- (a) Assist in the management of facilities placed in, on or over the public rights-of-way to minimize the congestion, inconvenience, deterioration, visual impact and other adverse effects, and the costs to the citizens resulting from the placement of facilities within the public rights-of-way;
 - (b) Govern the use and occupancy of the public rights-of-way;
 - (c) Assist the city in its efforts to protect the public health, safety and welfare;
 - (d) Conserve the limited physical capacity of the public rights-of-way held in public trust by the city;
 - (e) Preserve the physical integrity of the streets and highways;
 - (f) Control the orderly flow of vehicles and pedestrians;
 - (g) Keep track of the different entities using the public rights-of-way to prevent interference between them;
 - (h) Assist on scheduling common trenching and street cuts; and
 - (i) Protect the safety, security, appearance and condition of the public rights-of-way.

This article may be referred to as the "Construction in the Public Rights-of-Way Ordinance."

Sec. 19-71. Authority; scope.

This article applies to all persons that place facilities in, on or over public rights-of-way.

Sec. 19-72. Definitions.

In this article:

Affiliate means a person who controls, is controlled by, or is under common control with a provider.

Certificated telecommunications provider means the same as in V.T.C.A., Local Government Code § 283.002(2): "A person that has been issued a certificate of convenience and necessity, certificate of operating authority, or service provider certificate of operating authority by the Texas Public Utility Commission to offer local exchange telephone service or provide voice service."

City means the City of Bellmead, Texas. As used throughout, the term City also includes the designated agent of the city.

City manager means the city manager of the city or the city manager's designee.

Direction of the city means all ordinances, laws, rules, resolutions, and regulations of the city that are not in consistence with this article and that are now in force or may hereafter be passed and adopted.

Director of public works or *director* means the city's director of public works or such director's designee.

Facilities means any and all of the wires, pipes, cables, fibers, duct spaces, manholes, poles, conduits, underground and overhead passageways and other equipment, structures, sidewalks, landscaping, light poles, temporary construction fencing, barricades or cones, materials such as piles of soil, gravel, temporary storage of construction material, etc., wireless network infrastructure including but not limited to nodes, transfer facilities, and poles, and all associated appurtenances and physical equipment placed in, on, above or below the public rights-of-way. Mailboxes, cluster boxes, temporary stormwater runoff controls, and irrigation systems are not considered a facility. Driveways are permitted by a separate ordinance.

Person means a natural person (an individual), corporation, company, association, partnership, firm, limited liability company, joint venture, joint stock company or association, or other entity, including franchise utilities.

Public rights-of-way means the same as in the V.T.C.A., Local Government Code, § 283.002(6), "The area in, 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 the airwaves above a public rights-of-way with regard to wireless telecommunications."

Refer to the City of Waco Design Manual and City of Bellmead Small Wireless Facility Siting Ordinance for additional definitions and references.

Sec. 19-73. Municipal authorization required.

- (a) Any person seeking to place, reconstruct, demolish, remove, relocate, repair, maintain, or alter any facilities in, on, above or below the public rights-of-way, shall first file an application for a rights-of-way construction permit with the city, receive approval from the director, and shall abide by the terms and provisions of this article concerning use of the public rights-of-way. Maintenance to landscaping within the rights-of-way is excluded from the permitting process. However, if significant alteration or additions are proposed to the landscaping, an approved permit is required.
- (b) Any person with a current, unexpired consent, franchise, agreement or other authorization from the city or state (grant) to use the public rights-of-way that is in effect at the time this article takes effect shall continue to operate under and comply with that grant until the grant expires or until it is terminated by mutual agreement of the city and the person, or terminated as otherwise provided for in law.
- (c) Wireless network providers and wireless network facility providers shall adhere to the city's small wireless facility siting ordinance, the requirements of V.T.C.A., Local Government Code ch. 284 and the City of Waco design manual.
- (d) Unless otherwise approved by the director and otherwise addressed in the person's existing franchise agreement or required by V.T.C.A., Local Government Code ch. 284, no non-city owned or maintained facilities shall be located in the rights-of-way.
- (e) All proposed street cuts or excavation within the rights-of-way shall be reviewed and approved by the director.

Sec. 19-74. Administration and enforcement.

- (a) The director shall administer and enforce compliance with this article.
- (b) A person shall report information related to the use of the public rights-of-way in the form and manner reasonably prescribed by the director.
- (c) The city manager shall report to the city council upon the determination that a person has failed to comply with this article.
- (d) Any person, firm, corporation, or any entity violating any of the provisions or terms of this article shall be guilty of a misdemeanor and upon conviction in the Municipal Court of Bellmead, Texas, shall be subjected to a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense, except where a different penalty has been established by state law for such offense, and for any violation of any provision which governs public health or sanitation, which 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 violation is continued shall be deemed to constitute a separate offense.

Sec. 19-75. Construction obligations.

A person is subject to reasonable police power regulation of the city to manage its public rights-of-way in connection with the construction, expansion, reconstruction, maintenance or repair of facilities in the public

rights-of-way, pursuant to the city's rights as a custodian of public property, based upon the city's historic rights under state and federal laws. Such regulations include, but are not limited to, the following:

- (a) At the city's request and with the permit application, a person shall furnish the city accurate and complete information as described in this article relating to the construction, reconstruction, removal, maintenance, operation and repair of facilities performed by the person in the public rights-of-way.
- (b) A person may be required to place certain facilities within the public rights-of-way underground according to applicable city requirements absent a compelling demonstration by the person that, in any specific instance, this requirement is not reasonable or feasible nor is it equally applicable to other similar users of the public rights-of-way.
- (c) A traffic control plan may be required by the director with the permit application.
- (d) All persons shall perform operations, excavations and other construction in the public rights-of-way in accordance with all applicable city requirements, standards, specifications, and City of Waco design manual, including the obligation to use trenchless technology whenever commercially economical, practical and consistent with obligations on other similar users of the public rights-of-way. The city shall waive the requirement of trenchless technology if it determines that the field conditions warrant the waiver, based upon information provided to the city by the person. All excavations and other construction in the public rights-of-way shall be conducted to minimize interference with the use of public and private property. A person shall follow all reasonable construction directions given by the city to minimize any such interference.
- (e) A person must obtain a permit, as reasonably required by applicable City codes, at least three (3) business days prior to any excavation, construction, installation, expansion, repair, removal, relocation or maintenance of the person's facilities. Once a permit is issued, the person shall give to the city a minimum of forty-eight (48) hours' notice (which could be at the time of the issuance of the permit) prior to undertaking any of the above listed activities on its network placed in, on, above or below the public rights-of-way. The failure of the person to request and obtain a permit from the city prior to performing any of the above listed activities placed in, on, above or below any public rights-of-way, except in an emergency as provided for in subsection (k) below, will subject the person to a stop work order from the city and enforcement action pursuant to the city's Code of Ordinances. If the person fails to act upon any permit within ninety (90) calendar days of issuance, the permit shall become invalid and the person will be required to obtain another permit.
- (f) When a person completes construction, expansion, reconstruction, removal, excavation or other work, the person shall promptly restore the public rights-of-way in accordance with applicable current city requirements. If the person is required by law to construct, embed, or encase in conflict with the city's current design manuals and standards, the person shall present the proposed details to the director in the permitting application. A person shall replace and properly relay and repair the surface, base, irrigation system and landscape treatment of any public rights-of-way that may be excavated or damaged due to the erection, construction, maintenance or repair of the person's facilities within thirty (30) calendar days after completion of the work in accordance with existing standards of the city in effect at the time of the work and at or better than the pre-construction condition to the satisfaction of the director.
- (g) Upon failure of a person to perform any such repair or replacement work, and five (5) days after written notice has been given by the city to the person, the city may repair that portion of the public rights-of-way as may have been disturbed by the person, its contractors or agents. Upon receipt of an invoice from the city, the person will reimburse the city for the costs so incurred within thirty (30) calendar days from the date of the city invoice.
- (h) Should the city reasonably determine, within two (2) years from the date of the completion of the repair work, that the curbs, drainage systems, surface, base, irrigation system, landscape treatment or other city facilities and infrastructure requires additional restoration work to meet existing standards

of the city, a person shall perform such additional restoration, replacement, or repair work to the satisfaction of the city, subject to all city remedies as provided herein.

- (i) Notwithstanding the foregoing, if the city determines that the failure of a person to properly repair or restore the public rights-of-way constitutes a safety hazard to the public, the city may undertake emergency repairs and restoration efforts. A person shall promptly reimburse the city for all costs incurred by the city within thirty (30) calendar days from the date of the city invoice.
- (j) A person shall furnish the city with construction plans and maps, in a format viewable by the director such as a PDF or hard-copy, showing the location and proposed routing of new construction or reconstruction at least three (3) business days before beginning construction or reconstruction that involves an alteration to the surface or subsurface of the public rights-of-way. A person may not begin construction until the location of new facilities and proposed routing of the new construction or reconstruction and all required plans and drawings have been approved in writing by the city, which approval will not be unreasonably withheld, taking due consideration of the surrounding area and alternative locations for the facilities and routing.
- (k) If the city manager declares an emergency with regard to the health and safety of the citizens and requests by written notice the removal or abatement of facilities, a person shall remove or abate the person's facilities by the deadline provided in the city manager's request. The person and the city shall cooperate to the extent possible to assure continuity of service. If the person, after notice, fails or refuses to act, the city may remove or abate the facility, at the sole cost and expense of the person, without paying compensation to the person and without the city incurring liability for damages.
- (l) Except in the case of customer service interruptions and imminent harm to property or person (emergency conditions), a person may not excavate the pavement of a street or public rights-of-way without first complying with city requirements. The director shall be notified immediately regarding work performed under such emergency conditions, and the person shall comply with the requirements of the city standards for the restoration of the public rights-of-way. The person shall apply for a permit for such emergency work on the first working day, after the work has been completed.
- (m) Within sixty (60) days of completion of each permitted section of a person's facilities, the person shall supply the city with a complete set of "as-built" drawings for the segment in a format used in the ordinary course of the person's business and as reasonably prescribed by the city, and as allowed by law. The person shall notify the city if any drawings or information is considered confidential or proprietary.
- (n) The City may require reasonable bonding requirements of a person, as are required of other entities that place facilities in the public rights-of-way.
- (o) Unless otherwise approved by the city, all facilities placed in the rights-of-way shall be done [at] the person's own cost and expense. All facilities placed in the rights-of-way shall be placed in a good and workmanlike manner.
- (p) The city, or designee, may perform visual inspections of any facilities placed, maintained, or operated in the rights-of-way.
- (q) 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 a person's employees, contractors, subcontractors, or vendors while on city rights-of-way is prohibited.
- (r) Facilities placed in a park may be prohibited or, at minimum, be required to be black powdered coated and/or be reasonably camouflaged to match the surrounding environment and aesthetics. This also applies to auxiliary equipment such as electric meter boxes, conduit, etc.

Sec. 19-76. Conditions of public rights-of-way occupancy.

- (a) In the exercise of governmental functions, the city has first priority over all other uses of the public rights-of-way. The city reserves the right to lay sewer, gas, water and other pipe lines, cables and conduits, and to do underground and overhead work, and attachments, restructuring or changes in aerial facilities in, across, along, over or under a public street, alley or public rights-of-way occupied by a person, and to change the curb, sidewalks or the grade of streets.
- (b) The city shall assign the location in or over the public rights-of-way among users of the public rights-of-way with due consideration to the public health and safety considerations of each user type, and to the extent the city can demonstrate that there is limited space available for additional users, may limit new users, as allowed under state or federal law. Unless otherwise approved by the director, addressed in V.T.C.A, Local Government Code ch. 284, and/or otherwise addressed in the person's existing franchise agreement, no non-city owned or maintained facilities shall be located in the rights-of-way. As the city limits of Bellmead expands and/or additional rights-of-way are obtained or acquired, existing utilities located in new rights-of-way may be required to be relocated at the direction of the director.
- (c) If the city authorizes abutting landowners to occupy space under the surface of any public street, alley or public rights-of-way, the grant to an abutting landowner shall be subject to the rights of the previously authorized user of the public rights-of-way. If the city closes or abandons a public rights-of-way that contains a portion of a person's facilities, the city shall close or abandon such public rights-of-way subject to the rights of the person.
- (d) If the city gives written notice, a person shall, at its own expense, temporarily or permanently, remove, relocate, change or alter the position of the person's facilities that are in the public rights-of-way within one hundred twenty (120) days, except in circumstances that require additional time as reasonably determined by the city based upon information provided by the person. For projects expected to take longer than one hundred twenty (120) days to remove, change or relocate, the city shall confer with the person before determining the alterations to be required and the timing thereof. The city shall give notice whenever the city has determined that removal, relocation, change or alteration is reasonably necessary for the construction, operation, repair, maintenance or installation of a city or other governmental public improvement in the public rights-of-way. This section shall not be construed to prevent a person's recovery of the cost of relocation or removal from private third parties who initiate the request for relocation or removal, nor shall it be required if improvements are solely for beautification purposes without prior joint deliberation and agreement with the person.
- (e) If the person fails to relocate facilities in the time allowed by the city in this section, the person may be subject to liability to the city for such delay and as set forth in the city Code of Ordinances now or hereafter enacted.
- (f) Notwithstanding anything in this subsection (d), the director and a person may agree in writing to different time frames than those provided above if circumstances reasonably warrant such a change.
- (g) Removal and relocation of person's facilities shall be in accordance with this article except to the extent not consistent with V.T.C.A, Local Government Code § 284.107, except as provided in existing state and federal law.
- (h) No part of a person's facility shall become, or be considered by the city as being affixed to or a part of, the right-of-way. All portions of the facilities and related equipment constructed, modified, erected, or placed by a person in the right-of-way will be and remain the property of the person and may be removed by the person at any time provided the person shall notify the city prior to any work in the right-of-way.
- (i) During the term of its municipal consent, a person may trim trees or other vegetation in or over the public rights-of-way for the safe and reliable operation, use and maintenance of its facilities with advance approval by the city. Advance approval is not required if directed to trim or remove vegetation by the city's code enforcement officials. All tree trimming shall be performed in accordance with standards promulgated by the

city. Should the person, its contractor or agent, fail to remove such trimmings within twenty-four (24) hours, the city may remove the trimmings or have them removed, and upon receipt of a bill from the city, the person shall promptly reimburse the city for all costs incurred within thirty (30) working days. Individual property owners are excepted from this requirement. The city shall not be liable for any damages, injuries, or claims arising from the person's actions under this section.

- (j) Persons shall temporarily remove, raise or lower its aerial facilities to permit the moving of houses or other bulky structures, if the city gives written notice of no less than forty-eight (48) hours. The expense of these temporary rearrangements shall be paid by the party or parties requesting and benefitting from the temporary rearrangements. The person may require prepayment or prior posting of a bond from the party requesting temporary move.
- (k) Abandonment of facilities. For cases of abandonment of facilities within the public right-of-way, the facility's owner shall notify the city within ninety (90) days of the proposed abandonment. The person shall remove all of the person's facilities within ninety (90) days of the abandonment regardless of whether or not it receives notice to do so from the city. The city shall not issue any refunds for any amounts paid by the facilities' owner related to the item(s) that have been removed. The city may require the person to complete additional remedial measures necessary for public safety and the integrity of the right-of-way.
- (l) Signage must be in accordance with the MUTCD and approved by the City. Signage, however, may be required of the person to be placed on or near the person's facilities. The person may be required to post its name, location identifying information, and emergency telephone number in an area 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 (e.g. RF ground notification signs) or the city. Except as required by laws or by a utility pole owner, a person shall not post any other signage or advertising in the right-of-way.
- (m) All facilities placed in the right-of-way and specifically in sidewalks or pathways must be placed so as to not violate any code or requirement of the Americans with Disabilities Act.
- (n) As soon as practical, but not later than fourteen (14) calendar days from the date the person receives notice thereof, the person shall remove all graffiti on any of its facilities and related ground equipment located in the right-of-way. The foregoing shall not relieve the person from complying with any city graffiti or visual blight ordinance or regulation.
- (o) The person 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 the person's removal or relocation activities (or any other of person's activities hereunder) within ten (10) calendar days following the date of such removal or relocation, at the person'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 the person was granted a permit for the applicable location or did the work at such location (even if the person 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.
- (p) The person shall be responsible and liable for the acts and omissions of the person's employees, temporary employees, officers, directors, consultants, agents, affiliates, subsidiaries, and subcontractors in connection with the installations of any person's facilities and related ground equipment, as if such acts or omissions were the person's acts or omissions.

Sec. 19-77. Insurance requirements.

- (a) Unless addressed in a current franchise agreement or addressed in V.T.C.A, Local Government Code ch. 284, a person shall obtain and maintain the necessary and reasonable amount of insurance with an insurance company licensed to do business in the State of Texas acceptable to the city throughout the term of a municipal consent conveyed under this article. A person shall furnish the city with proof of insurance at the time of the request for permits or as requested. The city reserves the right to review the insurance requirements and to reasonably adjust insurance coverage and limits when the city manager determines that

changes in statutory law, court decisions, or the claims history of the industry or the person require adjustment of the coverage. For the purposes of this section, the city will accept certificates of self-insurance issued by the State of Texas or letters written by the person in those instances where the state does not issue such letters, which provide the same coverage as required herein. However, for the city to accept such letters the person must demonstrate by written information that it has adequate financial resources to be a self-insured entity as reasonably determined by the city, based on financial information requested by and furnished to the city. The city's current insurance requirements are described as follows:

Coverage	Limits of Liability
Workman's compensation with waiver of subrogation on behalf of City of Bellmead.	Statutory
Employer's liability	\$500,000.00
Bodily injury liability except automobile	\$500,000.00 each occurrence
	\$1,000,000.00 aggregate
Property damage liability except automobile	\$500,000.00 each occurrence
	\$500,000.00 aggregate
Automobile bodily injury liability	\$500,000.00 each person
	\$1,000,000.00 each occurrence
Owner's protective liability	\$1,000,000.00 each combined single limit
Excess umbrella liability	\$5,000,000.00 each occurrence

- (b) A person shall furnish, at no cost to the city, copies of certificates of insurance evidencing the coverage required by this section to the city. The city may request the deletion, revision or modification of particular policy terms, conditions, limitations or exclusions, unless the policy provisions are established by a law or regulation binding the city, the person, or the underwriter. If the city requests a deletion, revision or modification, a person shall exercise reasonable efforts to pay for and to accomplish the change.
- (c) An insurance certificate shall contain the following required provisions:
 - (1) Name the City of Bellmead and its officers, employees, board members and elected representatives as additional insured for all applicable coverage;
 - (2) Provide for thirty (30) days' notice to the city for cancellation, nonrenewal, or material change; and
 - (3) Provide that notice of claims shall be provided to the director by certified mail.
- (d) A person shall file and maintain proof of insurance with the director. An insurance certificate obtained in compliance with this section is subject to city approval. The city may require the certificate to be changed to reflect changing liability limits. A person shall immediately advise the city attorney of actual or potential litigation that may develop or may affect an existing carrier's obligation to defend and indemnify.
- (e) An insurer has no right of recovery against the city. The required insurance policies shall protect the person and the city. The insurance shall be primary coverage for losses covered by the policies.
- (f) The policy clause "other insurance" shall not apply to the city if the city is insured under the policy.
- (g) The person shall pay premiums and assessments. A company which issued an insurance policy has no recourse against the city for payment of a premium or assessment. Insurance policies obtained by a person must provide that the issuing company waives all right of recovery by way of subrogation against the city in connection with damage covered by the policy.

Sec. 19-78. Indemnity.

- (a) Except as to certificated telecommunications utilities, or as addressed in V.T.C.A, Local Government Code ch. 284, and/or unless addressed in current franchise agreement, each person placing facilities in the public

rights-of-way shall agree to promptly defend, indemnify and hold the City harmless from and against all damages, costs, losses or expenses:

- (1) For the repair, replacement or restoration of city property, equipment, materials, structures and facilities which are damaged, destroyed or defective as a result of the person's acts or omissions;
 - (2) From and against any and all claims, demands, suits, causes of action and judgments for:
 - a. Damage to or loss of the property of any person (including, but not limited to the person, its agents, officers, employees and subcontractors, city's agents, officers and employees and third parties); and/or
 - b. Death, bodily injury, illness, disease, loss of services, or loss of income or wages to any person (including, but not limited to the agents, officers and employees of the person, the person's subcontractors, the city, and third parties) arising out of, incident to, concerning or resulting from the negligent or willful act or omissions for the person, its agents, employees, and/or subcontractors, in the performance of activities pursuant to this article.
- (b) This indemnity provision shall not apply to any liability resulting from the negligence of the city, its officers, employees, agents, contractors or subcontractors.
- (c) The provisions of this indemnity are solely for the benefit of the city and is not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

Sec. 19-79. Unauthorized use of public rights-of-way.

The city may institute all appropriate legal action to prohibit any person from knowingly using the public rights-of-way unless the person has complied with the terms of this article.

Sec. 19-79 through 19-84. RESERVED.

SECTION 2. ARTICLE VI

Sec. 19-85. 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 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.

Sec. 19-86. Definitions.

All terms used in this chapter, not specifically defined herein, have the meaning provided in V.T.C.A, Local Government Code ch. 284.

City Code means those ordinance provisions relevant to use of the public right-of-way where compliant with applicable law.

Applicable law means V.T.C.A, Local Government Code ch. 284.

Applicant means any person who submits an application and is a network provider.

Application means a request submitted by an applicant:

- (1) For a permit to collocate network nodes; or
- (2) To install a transport facility; or
- (3) Approve the installation, replacement or modification of a pole.

Day means calendar day.

Person means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the city.

Routine Maintenance means:

- (1) 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;
- (2) 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
- (3) 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.

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.

Sec. 19-87. Permitted use and application.

- (a) *Permitted use.* Collocation of network nodes and the placement of node support poles, meeting the parameters set forth in section 19-89 below and in applicable law, shall be a permitted use. No zoning or land use review shall apply, subject to the requirements in section 19-89.
- (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.
- (4) Information on electric service and electric meter location.
- (e) Routine maintenance and replacement. A permit application shall not be required for: (1) routine maintenance; or for (2) the replacement of a node with another node that is substantially similar. A permit application is required for any work requiring excavation or closing of a sidewalk or vehicle lane.
- (f) *Information updates.* Any amendment to information contained in a permit application shall be submitted in writing to the city within thirty (30) days after the change necessitating the amendment.

Sec. 19-88. 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 thirty (30) days of receiving an application for a network node or node support pole, or ten (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: (a) twenty-one (21) days after receipt of a complete application for a transport facility, (b) sixty (60) days after receipt of a complete application for a network node; and (c) one hundred fifty (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 thirty (30) days of the denial without paying an additional application fee, if an application fee is required. The city shall approve or deny the revised application within ninety (90) days of receipt of the amended application. The subsequent review by the city shall be limited to the deficiencies cited in the original denial.
 - (4) If the city fails to act on an application within the review period specified in this section, 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 thirty 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.

Sec. 19-89. 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 V.T.C.A, Local Government Code § 284.003.
- (b) *Undergrounding provisions.* A network provider shall comply with nondiscriminatory undergrounding requirements, including the city's subdivision ordinance, design manual, design standards, 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.

- (c) Subject to the permit application approval time frames in section 19-88, 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 design districts if the district has decorative poles. Such installations shall be subject to the design and aesthetic standards of such areas.
- (d) *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 city 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 fifty (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.
- (e) *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.
- (f) All facilities proposed in state right-of-way shall be reviewed and approved by the state. The network provider shall notify the city of any facilities approved by the state.
- (g) Network infrastructure is not allowed on decorative poles, unless authorized [by] the city and with approved stealth or camouflaging.

Sec. 19-90. 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 later than six (6) 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.

Sec. 19-91. Removal, relocation or modification of network nodes in the ROW.

- (a) *Notice.* Within ninety (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 ninety (90) days. Following receipt of such notice, the network provider shall remove all or any portion of a network node or node support pole within ninety (90) days of the notice.

Sec. 19-92. Public right-of-way rate.

- (a) *Public right-of-way fees.* All applications for permits pursuant to this chapter shall be accompanied by the rights-of-way construction permit fee, as stated in the city's current fee schedule. Also, all applications for permits pursuant to this chapter shall be accompanied by a fee for each network node per year, a transfer facility fee, a fee to collocate a network node on a service pole in the public right-of-way, and a fee for each node support pole, as set forth in Appendix B (Master Fee Schedule) of the City of Bellmead Code of Ordinances..
- (b) *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 as set forth in Appendix B (Master Fee Schedule) of the City of Bellmead Code of Ordinances.
- (c) *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 and verification of the city of such removal.

Sec. 19-93. 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.
- (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.
- (e) *Service pole attachment fee.* The rate to collocate a network node on a service pole in the public right-of-way shall as set forth in Appendix B (Master Fee Schedule) of the City of Bellmead Code of Ordinances. Subject to the provisions of section 19-94 such compensation together with the application fee, if applicable, and the public right-of-way rate specified in section 19-92 shall be the sole compensation that the network provider shall be required to pay to the city.

- (f) *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 and verification from the city that the facilities have been removed.

Sec. 19-94. Transport facilities.

Installation of transport facilities, including applicable compensation to the city for such facilities, shall be governed by V.T.C.A, Local Government Code § 284.055.

Sec. 19-95. Design manual.

A network provider shall comply with the City of Waco Design Manual, as adopted by the City of Bellmead, in place on the date a permit application is filed.

Section 3. Cumulative Repealer Clause.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict. The remainder of such ordinances not in conflict herewith shall remain in full force and effect.

Section 4. Severability Clause.

If any sentence, paragraph, subdivision, clause, phrase, or section of this Ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal, or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

Section 5. Savings Clause.

That an offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Code of Ordinance, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

Section 6. Effective Date.

This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

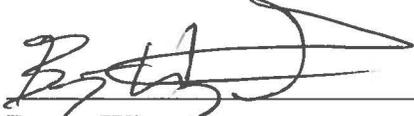
Section 7. Open Meetings Compliance.

It is officially found and determined that the meeting at which this ordinance was passed was open to the public as required by Chapter 551, Texas Government Code, and that public notice of the time, place, and subject of said meeting was given as required by law.

PASSED AND APPROVED ON FIRST READING May 13, 2025.

PASSED AND APPROVED ON SECOND READING May 13, 2025.

PASSED AND APPROVED ON THIRD READING June 10, 2025.

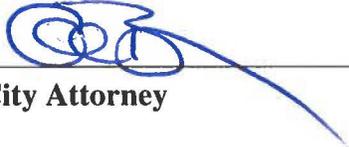

Bryan Winget
Mayor



ATTEST:

City Secretary
Shannon Garcia

APPROVED AS TO FORM & LEGALITY:


City Attorney