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**ORDINANCE NO.**

**AN ORDINANCE AMENDING SECTIONS 14-11-173, 14-11-192, AND 14-11-193 OF THE CITY CODE RELATING TO PERMITTING USE OF PUBLIC RIGHTS OF WAY AND AUTHORIZING ATTACHMENTS TO CITY-OWNED POLES IN THE PUBLIC RIGHTS OF WAY**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** Subsection (E) of Section 14-11-173 (*Application for a Permit*) of the City Code is repealed.

**PART 2.** Section 14-11-192 (*Permit Eligibility and Application*) of the City Code is amended as follows:

**§14-11-192. PERMIT ELIGIBILITY AND APPLICATION.**

- (A) Before filing an application for a permit for installing a network node, node support pole, or transport facility, a network provider proposing to apply for a permit shall:
- (1) provide the director copies of:
- (a) all of the owner's valid federal licenses and authorizations necessary to install, operate, or maintain facilities as a wireless service provider; or
- (b) if the owner is not a wireless service provider, an agreement between the owner as agent and a wireless service provider as principal showing that the owner is an authorized agent of the principal for building or installing facilities on behalf of the principal along with a copy of the principal's valid federal licenses and authorizations;
- (2) provide the director a schedule of projected facility installations and a network node deployment plan for the coming calendar year, and for as long as the owner holds a permit, update every calendar quarter a schedule previously provided, stating the number, type and estimated date for projected installations;

- 34 (3) provide and maintain accurate contact information of the owner's  
35 designated primary authorized representative and, at a minimum, a  
36 current regulatory contact person, complaint contact person, primary  
37 and secondary emergency contact, operation and policy migration  
38 contact, business physical and mailing address, primary business  
39 telephone number, toll-free customer service number, and primary  
40 email address, or any other contact information that the director  
41 determines is necessary submitted in a form and manner established  
42 by the director;
- 43 (4) obtain from the City a pre-application site-specific assessment for  
44 suitability, safety, and conflicts from the City that includes a site walk  
45 and interview with the director's representative and review of  
46 preliminary architectural and engineering design drawings;
- 47 (5) demonstrate to the director that the network provider has given written  
48 notice adequate to inform the affected public of the impact to public  
49 right-of-way related to installation of a network node or node support  
50 pole. Notice is presumed to be adequate public notice if at a minimum  
51 it:
- 52 (a) includes a description of the location, dimensions, and types of  
53 facilities proposed for installation;
- 54 (b) states the estimated duration of the facility installation in the  
55 public right-of-way; and
- 56 (c) is provided in writing to all owners of real property abutting the  
57 sideline of right-of-way nearest to the proposed network node  
58 or node support pole and extending a distance of 150 feet along  
59 that sideline of right-of-way in either direction [~~within 300 feet~~  
60 ~~of a proposed network node or node support pole~~];
- 61 (6) obtain advance approval from the director for a network node or node  
62 support pole proposed to be sited in a design district or a historic  
63 district; [~~and~~]
- 64 (7) obtain a certificate of appropriateness from the Historic Landmark  
65 Commission for a network node or node support pole that is proposed  
66 to be located in a public right-of-way adjacent to:

- 67 (a) a National Register Historic District;
- 68 (b) a historic structure approved by the City's historic preservation
- 69 officer;
- 70 (c) a building, structure or site individually listed in the National
- 71 Register of Historic Places;
- 72 (d) a building, structure, or site designated as a Recorded Texas
- 73 Historic Landmark, a State Archeological Landmark, or a
- 74 National Historic Landmark;
- 75 (e) a building, structure, or site designated as a historic landmark
- 76 (H) combining district;
- 77 (f) a historic area (HD) combining district; or
- 78 (g) a building, structure, or site determined by the historic
- 79 preservation officer to have potential for designation as a
- 80 historic landmark; and

81 (8) demonstrate to the director that no part of a proposed facility will

82 encroach beyond right-of-way into a municipal park by providing

83 information that the director determines is necessary, including a

84 sealed survey by a professional registered surveyor, clearly showing

85 that the proposed facility does not encroach beyond the public right-

86 of-way line into the municipal park as that line is shown of public

87 record by deed or plat.

88 ~~[(B)—In accordance with Section 14-11-173(E) of this code, a network provider~~

89 ~~may file permit applications for multiple network nodes, provided the~~

90 ~~network provider has no more than 30 network node permits under~~

91 ~~consideration by the director at any one time. If the network nodes have~~

92 ~~similar design and specifications, a network provider may consolidate its~~

93 ~~request for up to 30 network node permits into a single application.]~~

94 (B)~~(C)~~ If a network provider proposes to perform an activity for which the

95 network provider intends to claim an exemption ~~[exception]~~ from permitting

96 under Section 284.157 of the Texas Local Government Code, the network

97 provider shall comply with the pre-application requirements of Subsection

98 (A) of this section and provide written proof in a form satisfactory to the

99 director demonstrating that the activity qualifies for the permitting  
100 exemption [~~exception~~] at least 30 days prior to performing the activity.

101 **PART 3.** Subsection (F) of Section 14-11-193 (*Placement Requirements*) of the City  
102 Code is amended as follows:

103 (F) A network provider may not install all or part of a network node or node support  
104 pole in [a] public right-of-way in ~~or adjacent to~~ a municipal park unless the  
105 director determines that the proposed facility meets or exceeds all design and  
106 aesthetic standards applicable to rights-of-way in municipal parks, and provides,  
107 with the favorable recommendation from the Director of the City's Parks and  
108 Recreation Department, advance written consent for a new node support pole,  
109 including a pole replacing an existing pole for the purpose of accommodating a  
110 network provider's request to attach one or more network nodes. The following  
111 areas are designated as "municipal parks": [For the purposes of this subsection,]  
112 any area held, maintained, or managed by the City as a public park for the purpose  
113 of recreational activity, and any area within the City that the state or other political  
114 subdivision of the state holds, maintains, or manages as a public park for the  
115 purpose of recreation [~~is a municipal park~~]. The City's municipal parks are  
116 identified on an inventory list and depicted on a map, as may be updated from time  
117 to time, made available to the public by the director of the City's Parks and  
118 Recreation Department, such inventory and map being incorporated into this code  
119 by reference. ~~Any area within the City that the state or other political subdivision~~  
120 ~~of the state holds, maintains, or manages as a public park for the purpose of~~  
121 ~~recreation is a municipal park.~~

122 **PART 4.** This ordinance takes effect on \_\_\_\_\_, 2018.

123 **PASSED AND APPROVED**

124  
125 §  
126 §  
127 \_\_\_\_\_, 2018 § \_\_\_\_\_  
128 Steve Adler  
129 Mayor

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132 APPROVED: \_\_\_\_\_ ATTEST: \_\_\_\_\_  
133 Anne L. Morgan Jannette S. Goodall  
134 City Attorney City Clerk