

The City of Jenks Oklahoma

Sec. 23-2-1. - Communication Facilities.

(F)Small Cell Facilities.

(1)Permitted Use. Co-location of a small wireless facility, a new or modified utility pole or wireless support structure for the co-location of a small cell facility shall be a permitted use subject to the provisions of this section. However, any wireless provider that seeks to construct or modify a utility pole, wireless support structure or wireless facility that exceeds the height or size limits contained in this section shall be subject to applicable zoning requirements and codes.

(2)Permit Required. No person or entity shall place a small wireless facility in the right-of-way without first filing a small wireless facility right-of-way permit application and obtaining approval.

(3)Right-of-Way Permit Applications.

a.The right-of-way permit application for the small wireless facility shall be made by the wireless provider or its duly authorized representative and shall include the following:

- 1.The applicant's name, address, telephone number and email 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.A location map depicting the location of proposed sites for small wireless facilities and related construction and engineering drawings for each location sufficient to demonstrate compliance with the provisions herein. Small cell facilities on existing poles, new poles or modified poles shall not interfere with vehicular access to adjacent property nor shall they be placed in a location that would interfere with an existing individual tree's canopy. For applications to co-locate on an existing pole, the applicant should provide an engineering analysis that demonstrates conformance with applicable codes, construction drawings stamped by a professional engineer licensed in Oklahoma and a description of any make-ready work required, including any modification or replacement of the pole. Up to 25 proposed small cell facilities can be covered by one application;
- 4.If a small wireless facility is proposed to replace an existing pole or be located on an existing pole, then the application shall indicate the owner of said pole;
- 5.A statement of compliance with all applicable codes from a licensed engineer;
- 6.Applications to Co-locate Facilities. Application fees for small wireless facilities are in the amount set forth in the Master Fee Schedule;

7.Applications for Installation, Modification or Replacement of a Utility Pole and Associated Co-location. Application fees are in the amount set forth in the Master Fee Schedule.

b.Within 20 days of receiving an application, the city will determine and notify the applicant in writing whether the application is complete. If an application is incomplete, the city will specifically identify the missing information in its written communication to the applicant. The processing deadlines set forth herein will be tolled from the time the city sends the notice of incompleteness to the time the applicant provides the missing information. The processing deadline may also be tolled by agreement of the applicant and the city.

c.An application shall not be required for routine maintenance; the replacement of a small wireless facility with another small wireless facility that is substantially similar or smaller in size, weight and height or for installation, placement, maintenance, operation or replacement of micro-wireless facilities that are strung on cables between existing utility poles in compliance with the National Electric Safety Code.

d.Review Time for Applications to Co-locate Facilities. The city will issue a written decision in response to an application to co-locate small cell facilities within 60 days of receipt of the application. If the written decision is to deny the application, reasons for such denial shall be included in the written communication to the applicant. If the city does not issue a written decision within the prescribed timeframe, the application will be deemed approved.

e.Review Time for Applications for Installation, Modification or Replacement of a Utility Pole and Association Co-location. The city will issue a written decision in response to an application to install, modify or replace a utility pole and any associated co-location within 75 days of receipt of the application. If the written decision is to deny the application, reasons for such denials shall be included in the written communication to the applicant. If the city does not issue a written decision within the prescribed timeframe, the application will be deemed approved.

f.Appeals from the Denial of a Right-of-Way Permit Application. Upon receipt of a notice of the city's written decision to deny all or part of a Right-of-Way Permit Application, the applicant may choose to cure the deficiencies in the application or appeal the denial. If the applicant chooses to cure the deficiencies identified by the city, the application must be resubmitted within 30 days of the denial and will not require payment of an additional application fee. Upon receipt of a revised application, the city shall have an additional 30 days to approve or deny the revised application. If the applicant chooses to appeal the denial, the applicant may do so in accordance with Section 1350 of the Zoning Code.

(4)Height of Small Wireless Facilities and Associated Poles and Support Structures.

a.Small wireless facilities and new or modified utility poles and wireless support structures for the co-location of small wireless facilities may be placed in the right-of-way as a permitted use subject to the following requirements:

1. Each new or modified utility pole installed in the right-of-way shall not exceed the greater height of either (1) ten feet above the tallest utility pole existing as of December 9, 2019 and located within 500 feet of the new pole in the same right-of-way or (2) 50 feet. 2. Each new small wireless facility in the right-of-way shall not exceed ten feet above an existing utility pole in the same vicinity. Small wireless facilities on a new utility pole shall not exceed the height permitted for a new utility pole as determined by ordinance or franchise agreement.

b. Small wireless facilities may be placed on property owned, leased or otherwise controlled by the city pursuant to a commercial lease approved by the City Council.

(5) Small Cell Facility Standards.

a. All small wireless facilities with exterior exposure affixed to a utility pole shall be as close to the color of the utility pole as is commercially available to the wireless provider.

b. The design and maintenance of all small wireless facilities, cables, wires, appurtenances and utility poles shall include the use of materials, colors, textures, screening and landscaping that will blend the small wireless facilities, appurtenances and utility poles to the natural setting or the built environment of the primary use.

c. All small wireless facilities affixed to a decorative light pole must be installed in such a way that the cables, wires, appurtenances and facilities are concealed within the pole to the maximum extent possible.

d. **Spacing Requirements. No small cell facility shall be approved for placement on a new pole if the new pole is proposed to be located within a 500-foot radius of an existing pole.**

(6) Relocation or Modification of Small Cell Facilities. Whenever the city has determined that the removal, relocation, change or alteration of any small wireless facility is reasonably necessary for the construction, repair, maintenance or installation of any city improvement or for the operations of the city, including interference with traffic control devices or emergency communications, the city shall provide the wireless provider a written notice. Within 60 days following the written notice, the wireless provider shall at its own expense protect, support temporarily or permanently disconnect, remove, relocate, change or alter the position of any small wireless facilities within the right-of-way.

(7) Emergency Removal or Relocation of Small Cell Facilities. In the event of a public health or safety emergency and as the city determines to be necessary, the city retains the right and privilege to cut or move any small wireless facility located within the rights-of-way of the city. If circumstances permit, the city shall notify the wireless provider and provide the wireless provider an opportunity to move its own facilities prior to cutting or removing a facility. The city shall notify the wireless provider after cutting or removing a small wireless facility.

(8) Abandonment of Facilities. A small wireless facility that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of the facility must remove

the small wireless facility within 90 days after receipt of written notice from the city notifying the owner of the abandonment.

(9)Damage to the Right-of-Way. A wireless provider shall repair all damage to the right-of-way directly caused by the activities of the wireless provider in the right of-way and return the right-of-way to its functional equivalence before the damage. If the wireless provider fails to make the necessary repairs within two weeks of written notice, the city may make the repairs and charge the wireless provider the reasonable, documented cost of such repairs. A wireless provider shall be required to comply with right-of-way and vegetation management practices adopted by the city.

(10)City reserves the right to install public emergency or operational equipment to poles upon approval from the wireless provider. The location of said equipment will be at wireless provider's discretion and will not interfere with the wireless provider's operation.

(G)Nothing in this section concerning the regulations of what is legally permissible or legally forbidden interferes with the proprietary right of the city to control the property held in the city's name or in the name of any of its trusts as either a corporate owner or as public trustee.

(Ord. No. 1499 , § II, 12-16-2019; Ord. No. 1520 , § I.68, 6-2-2020)