

Aurora, Nebraska
August 27, 2019

A meeting of the Mayor and Council of the City of Aurora, Nebraska, was convened in open and public session at 7:30 p.m. on August 27, 2019 at the City Hall. Present were Councilors: Paul Lackore, Wayne Roblee, Daniel Bartling, Dorothy Anderson, Dick Phillips and Nancy Lohrmeyer. Mayor Marlin Seeman conducted the meeting. City Officials present were City Administrator Eric Melcher, City Attorney Ross Luzum, Police Officer John Johnston, Utilities Superintendent Adam Darbro and Clerk/Treasurer Barbra Mikkelsen.

Notice of said meeting was given by publication in the Aurora News Register on August 21, 2019. Notice of meeting was simultaneously given to the Mayor and all members of the Council and a copy of their acknowledgment of receipt of notice and the agenda is attached to these minutes. Availability of the agenda of this meeting was communicated in the advance notice and in the notice to the Mayor and Council. All proceedings hereafter shown were taken while the convened meeting was open to the attendance of the public.

Mayor Seeman stated "AS PERSCRIBED BY LAW A COPY OF THE NEBRASKA OPEN MEETINGS ACT IS POSTED BY THE DOUBLE DOORS IN THE COUNCIL CHAMBERS."

MINUTES:

Councilor Lackore moved to approve the minutes from the July 23, 2019 meeting. Councilor Lohrmeyer seconded the motion. Voting Aye: Roblee, Bartling, Anderson, Phillips, Lohrmeyer and Lackore. Nay: None. The motion carried.

PETITIONS, COMPLAINTS, COMMUNICATIONS:

City Attorney Luzum read Ordinance No. 1096:
AN ORDINANCE TO AMEND TITLE XI BUSINESS REGULATIONS, ADOPTING A NEW CHAPTER 122 ENTITLED "SMALL WIRELESS FACILITIES REGULATIONS FOR THE RIGHT-OF-WAY", OF THE MUNICIPAL CODE OF THE CITY OF AURORA, NEBRASKA; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; TO ORDER THE ORDINANCE PUBLISHED IN PAMPHLET FORM; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Jeff Armour from Verizon Wireless spoke about Verizon's small cell implementation plan.

Councilor Phillips moved to bring Ordinance No. 1096 including language from Nebraska State Statute LB 184 Section 41 lines 20-26 before the council and to suspend the statutory three reading rule for consideration of this Ordinance. Councilor Roblee seconded the motion. Voting Aye: Bartling, Anderson, Phillips, Lohrmeyer, Lackore and Roblee. Nay: None. The motion carried.

Councilor Phillips moved for final adoption of Ordinance No. 1096 including language from Nebraska State Statute LB 184 Section 41 lines 20-26. Councilor Roblee seconded the motion. The Mayor then stated the question, "Shall Ordinance No. 1096 including language from Nebraska State Statute LB 184 Section 41 lines 20-26 be passed and adopted?" Upon roll call vote, the following Councilors voted Aye: Anderson, Phillips, Lohrmeyer, Lackore, Roblee and Bartling. Nay: None.

The passage and adoption of said Ordinance having been concurred in by a majority of all members elected to the Council was by the Mayor declared passed and adopted and the Mayor signed and approved said Ordinance and the Clerk attested the passage and approval of same and affixed her signature thereto. Said Ordinance shall be preserved and kept in a separate and distinct volume known as the Ordinance Record of the City of Aurora, Nebraska and same be incorporated herein by reference.

Councilor Roblee moved to approve Resolution 19-11 including language from Nebraska State Statute LB 184 Section 41 lines 20-26. Councilor Anderson seconded the motion. Voting Aye: Phillips, Lohrmeyer, Lackore, Roblee, Bartling and Anderson. The motion carried and the following resolution was declared passed and adopted.

Resolution 19-11

WHEREAS, federal laws and regulations that govern local zoning standards and procedures for wireless communication facilities have substantially changed; and

WHEREAS, the City of Aurora, Nebraska, hereinafter "Municipality", desires to update its local standards and procedures to reasonably regulate wireless communication facilities aesthetics, to protect and promote the Municipality's unique character in a manner consistent with state and federal laws and regulations; and

WHEREAS, the Municipality intends to fully comply with state and federal law; and

WHEREAS, federal laws and regulations, wireless technology and consumer usage have reshaped the environment within which wireless communication facilities are permitted and regulated.

NOW THEREFORE BE IT RESOLVED by the City of Aurora, Nebraska, that the following recommended Small Cell Infrastructure Design Guidelines are hereby adopted:

Purpose and Intent.

To establish guidelines for the installation of small cell equipment and poles in the Municipal rights-of-way. Applicants must comply with the requirements of these Guidelines. This guide does not apply to small cells installed on private property or Municipal property outside of the right-of-way.

Overall Policy and Desired Options.

New small cells shall match existing, adjacent streetscape character. When proposed in a "Special" District or neighborhood that maintains unique streetlight aesthetics, the applicant must consider and propose infrastructure that most closely matches adjacent themed infrastructure to the maximum extent feasible.

Where small cells already exist, applicants shall use the same small cell pole aesthetics for a uniform appearance. Four different options of small cell infrastructure installations are permitted within rights-of-way.

These options include:

Option 1 – small cell attachments to existing utility poles and utility lines

Option 2 – small cell attachments to existing wooden streetlight poles

Option 3 – combination small cell and new metal streetlights

Option 4 – new freestanding small cell infrastructure (new poles to be installed by the applicant)

In all instances, as set forth below, the Applicant must demonstrate the structural ability of the poles (existing or new) to accommodate small cell facilities.

Conformance with Special District requirements

A Special District is an area within the Municipality with a Municipal Code designation for which unique design, development and aesthetic standards may be applied uniformly.

General Luminaries Criteria

Street lighting luminaries shall comply with lighting specifications for the Municipality. Construction of small cell infrastructure shall have no impact on the street lights operational performance.

General Code Guidelines

Small Cell facilities shall be constructed, operated, maintained, repaired, removed, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Municipality, State, or United States, including but not limited to the most recent editions of the ANSI Code, National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to, are codes that include, but are not limited to, construction, building, structural, transportation, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply. A public power supplier shall not be required to allow the collocation of small wireless facilities on utility poles owned, operated, or managed by a public power supplier except pursuant to a negotiated pole attachment agreement containing reasonable and nondiscriminatory terms and conditions, including, but not limited to, applicable rates, and the permit, operational, and safety requirements of the public power supplier.

General Existing Pole Guidelines

The Applicant is responsible for documenting the existing supporting pole(s) are capable of supporting the additional small cell equipment loadings for Option 1 and 2. If not structurally capable, it is expected that the Applicant will be responsible for replacing any existing pole.

New Pole Placement Guidelines

All proposed Freestanding Small Cell Infrastructure shall be located:

1. in a manner or location that does not: obstruct, impede, or hinder the usual pedestrian or vehicular travel, adversely affect public safety or impair the legal access and use of the public right-of-way. The small cells must be constructed per applicable law and with public ROW design standards, specifications, or design requirements and not violate the federal Americans With Disabilities Act of 1990, or in any way create a risk to public health, safety, or welfare.
2. in a manner that does not significantly create a new obstruction to primary and inherently valuable sightline(s) of an adjacent property.
3. in alignment with existing trees, utility poles, and streetlights and placed to avoid disturbance within the critical root zone of any tree.
4. in the right-of-way, but placed within the extended side yard setback zones of the adjacent property, (See Figure).
5. with a recommended separation of a minimum of two hundred fifty feet (250') from any other Small Cell facility to the extent allowed by law.
6. other than along the frontage of properties designated as Federal, State or Local Historic Landmarks unless otherwise approved by the Municipality.
7. with separation from any low-pressure natural gas line, intermediate or high-pressure natural gas line and with appropriate clearance as approved from all existing utilities.
8. so as not to impact any existing bridges, culverts or retaining walls.
9. outside of all AASHTO clear zones and outside of clear sight triangles (at a minimum) as follows:
 - 5-foot leg pedestrian sight triangle at each residential driveway,
 - 10-foot leg pedestrian sight triangle at each driveway and alley,
 - 30-foot leg corner sight triangle,
 - Roadway sight triangles shall be based on AASHTO standards for each driveway, alley, and intersection.
10. in a manner that does not impede, obstruct, or hinder operation of any emergency service, nor the usual pedestrian or vehicular access or travel including to or from private properties.

Design Rules

All proposed Freestanding Small Cell Infrastructure shall be designed to comply with the current version of the Municipal Small Cell Infrastructure Design Guidelines, as follows;

- A) to camouflage and conceal to the maximum extent feasible all proposed equipment within proposed freestanding antenna pole(s) as applicable without use of faux trees, faux landscaping, or other faux decorative items, and consolidate any remaining equipment within approved singular enclosures, and;
- B) to meet the following size limitations of equipment:

1. Any new freestanding antenna pole shall be consistent in height with poles in the vicinity plus an additional five (5) feet, with a maximum height of 50' unless otherwise approved by Public Works.
2. All antenna and all of the antenna's exposed elements and/ or shroud transitions shall be mounted at the top of the proposed pole with the following criteria:
 - a. The antenna shall be enclosed within a single cylindrical antenna shroud with a color that matches the pole. The maximum permitted diameter of this shroud shall be fourteen (14) inches. Once transitioned from the pole shaft, the antenna shroud diameter shall remain uniform.
 - b. All contents, wires, and cables shall be visually concealed.
 - c. The antenna shroud may not exceed a height of five (5) feet.
4. All remaining equipment to be located at the pole including radios not mounted at the top of the pole, electric meters, grounding equipment, cut-off switches, etc. shall be placed below grade to the maximum extent technically feasible and when it is not feasible to place below grade, shall be fully enclosed within a base shroud that:
 - a. Is structural to fully support the pole while maximizing equipment volume.
 - b. Is cylindrical and is as small as feasible with a maximum consistent diameter of thirty (30) inches.
 - c. Does not exceed a height of six (6) feet from mounting surface.
 - d. Matches pole color, finish, and be as solid as feasible to visually conceal and lock all contents and/ or wiring.
5. Any equipment attached to support poles must be mounted so that all parts are at least seven (7) feet or higher above adjacent surface grade and be the least visually intrusive as feasible.
6. If relief is granted to allow above ground mounted enclosures, they may not be greater than three feet six inches (3'-6") in any dimension, and;
 - D) no generators will be required to support power demands for proposed infrastructure, and;
 - E) no advertising signage or banners will be located upon the poles or antennas, and;
 - F) all utilities, wires and cables shall be enclosed and placed underground. No overhead lines or support cables are allowed. One possible exception, Option 1 may connect to aerial transport facilities for which an attachment right has been granted for attachment to the utility pole by the utility pole owner, and;
 - G) provide identifying information, and an emergency telephone number for the owner of each facility on an imprinted/etched on 4"x6" metallic sign permanently mounted on the small cell pole at approximately 4 to 6 feet from ground level so as to be visible to the public and onto any associated ground mounted equipment, in addition to any other signage required by law (e.g. RF ground notification signs), and;
 - H) the small cell will cause no interference to the Municipality's radio and emergency radio frequencies, and will be in compliance with FCC interference requirements. Applicant shall document the proposed frequency or frequencies at the site.

Permit Submittal Requirements

- o Small Cell Permit application form. (Municipality)
- o Complete Construction plans for proposed infrastructure bundled into a single PDF file, formatted to 11"x17" (The Municipality recommends each pole has a separate set of plans within the overall file, in order that if any single pole is removed from the application, the remaining plan set remains valid); including:
 - A cover sheet with pole title, name, address(es), information containing a scaled Municipal map including all pole locations included in the subject application, a list of each pole location including the GPS coordinate and a legend for all sheets.
- o Each pole plan set shall include the following:
 - Labeled and dimensioned site plan and elevation plan, including the following when applicable:
 - o Key symbols, ROW lines, property lines, etc.
 - o Street information and topographic information, including existing and proposed utilities both public and private.
- o Identification of immediately adjacent property owner(s) and/ or easements

- o Structural Plans for pole and associated foundations that reference structural calculations and include geotechnical reports, depth, diameter, grounding, reinforcing, 4,000 psi concrete, etc.
- o Pole dimensions and heights along with the construction materials, type, color and finish.
- o All dimensions of any pole attachments.
- o Proposed voltage, maximum transmission wattage, radio frequency and Microwave expulsion for all equipment associated with each pole, as allowed under FCC regulations along with documentation of compliance for RF emissions.
- o All detail required to clarify the proposed fiber, communication and electrical construction to be completed.
- o Appropriate pole and foundation structural calculations, signed and stamped by a Licensed Professional Engineer (PE) in Nebraska, to the most stringent of the following design standard(s):
 - AASHTO Standard Specifications for Structural Supports for Highway Signs, Luminaires, and Traffic Signals (AASHTO LTS), 6th Edition, with 2015 Interim Revisions
 - Design and wind speed to comply with TIA-222 as adopted by the Municipality (IBC).
- o Small Cell Program Proposed Pole Location Map with street names and other key guideline concerns (i.e., historical and other areas of interest, waterways, etc.).
- o Address of each pole in the submittal and the approximate location of each pole referenced from official Municipal Street surface features and latitude and longitude GPS coordinates.
- o Copy of all required insurance and indemnification certificates.
- o Radio Frequency Emission Certification documenting FCC compliance for RF Emissions for each proposed network node signed by a Telecommunications Engineer certified by the International Association for Radio, Telecommunications and Electromagnetics (iNARTE) or similarly recognized certifying body with experience regarding radio frequency transmissions.

Maintenance, Repair, Removal and/ or Replacement of Small Cells

As a condition for placement, the applicant shall:

- inspect per TIA 222 as required and maintain all equipment and appurtenances in a timely and responsible manner
- remove all graffiti placed on any of its network nodes, transport facilities, poles, or other property or equipment located in the public ROW
- promptly repair any damage resulting from the installation, repair, modification, removal, operation, and use at a small cell facility to its original condition. The Municipality may opt to perform the repair and charge the permit holder if the permit holder fails to respond to a notice requiring repair, or when the public is in imminent danger
- remove all non-operational small cell antennas, support poles, transport facilities, and associated equipment within twelve months after abandonment of the facility
- applicant shall notify Public Works in writing not less than 30 business days prior to removal of a small cell if removed at applicant's own discretion. The permit holder shall obtain all permits required for relocation or removal prior to relocation or removal.

RF Modification

“RF Modification” means any equipment modification during the life of operation of the facility that changes the RF emissions generated from a small cell location. This shall require the applicant to provide the Municipality with a new Radio Frequency Emission Certification and supporting documentation of compliance with FCC requirements.

Insurance

A holder of a Permit for Wireless Telecommunications Facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Permit in amounts as set forth below:

Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate;

Automobile Coverage: \$1,000,000 per occurrence/ \$2,000,000 aggregate;
Workers Compensation and Disability: Statutory amounts
For a Wireless Telecommunications Facility on Municipal property, the Commercial General Liability insurance policy shall specifically include the Municipality and its officers, Councils, employees, committee members, attorneys, agents and consultants as additional insureds.

The insurance policies shall contain an endorsement obligating the insurance company to furnish the Municipality with at least thirty-(30) days prior written notice in advance of the cancellation or reduction of the insurance.

Renewal or replacement policies or certificates shall be delivered to the Municipality at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.

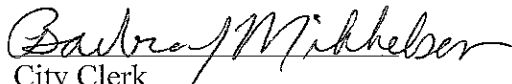
Relief.

Any Applicant desiring relief, waiver or exemption from any aspect or requirement may request such, provided that the relief, waiver or exemption is contained in the submitted Application. The burden of proving the need for the requested relief, waiver or exemption is solely on the Applicant. No such relief, waiver or exemption shall be approved unless the Applicant demonstrates by clear and convincing evidence that, if granted the relief, waiver or exemption will have no significant effect on the health, safety and welfare of the Municipality, its residents and other service providers.

Passed and adopted this 27th day of August, 2019.


Mayor

ATTEST:


City Clerk



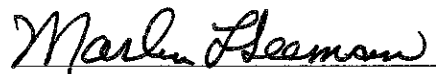
Councilor Lackore moved to authorize the Mayor to enter into an agreement with FireFox for the lease/purchase of emergency vehicles. Councilor Anderson seconded the motion. Voting Aye: Lohrmeyer, Lackore, Roblee, Bartling, Anderson and Phillips. Nay: None. The motion carried.

A brief discussion was held on the budget.


MISCELLANEOUS:

ADJOURNMENT:

Having completed all items on the agenda, and there being no further business to conduct, Mayor Seaman declared the meeting adjourned at 7:58p.m.


Mayor

ATTEST:


City Clerk

