

ORDINANCE NO. 2017-5

**AN ORDINANCE BY THE CITY OF JACINTO CITY, TEXAS, APPROVING A DESIGN MANUAL FOR THE INSTALLATION OF NETWORK NODES AND NODE SUPPORT POLES; AND APPROVING A POLE ATTACHMENT AGREEMENT REGULATING THE INSTALLATION OF NETWORK NODES ON CITY SERVICE POLES AND UTILITY POLES; DECLARING GOVERNING LAW; PROVIDING REPEALING AND SAVINGS CLAUSES; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING AN EFFECTIVE DATE OF SEPTEMBER 1, 2017.**

**WHEREAS**, the City of JACINTO CITY, Texas (“City”) recognizes that the State of Texas has delegated to the City the fiduciary duty, as a trustee, to manage the public right-of-way for the health, safety, and welfare of the public to Texas municipalities; and

**WHEREAS**, Chapter 284 of the Texas Local Government Code (“the Code”) allows certain wireless network providers to install in the public rights-of-way their wireless facilities, described and defined in Section 284.002 of the Code as “Micro Network Nodes”, “Network Nodes”, and “Node Support Poles;” and

**WHEREAS**, as expressly allowed by Section 284.108 of the Code and pursuant to its police power authority reserved in Sec. 284.301 of the Code, the City desires to enact a *Design Manual by the City of JACINTO CITY, Texas for the Installation of Network Nodes and Node Support Poles* (“the Design Manual”) in order to meet its fiduciary duty to the citizens of the City, and to give assistance and guidance to wireless telecommunications network providers to assist such companies in the timely, efficient, safe and aesthetically pleasing installation of technologically competitive equipment; and

**WHEREAS**, the City Council desires to approve a *Pole Attachment Agreement* by which wireless telecommunication network providers may attach and collocate their network nodes on city service and utility poles subject to the Code, the Design Manual, and the City Right-of-Way Management Ordinance.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF JACINTO CITY, TEXAS THAT:**

**SECTION I  
FINDINGS OF FACT**

The forgoing recitals are incorporated into this Ordinance as true and correct findings of fact.

**SECTION II.  
APPROVING DESIGN MANUAL**

The City Council hereby approves the *Design Manual by the City of JACINTO CITY, Texas for the Installation of Network Nodes and Node Support Poles*, which is attached here as Exhibit “A.”

**SECTION III.  
APPROVING POLE ATTACHMENT AGREEMENT**

The City Council hereby approves the *Pole Attachment Agreement*, which is attached here as Exhibit “B.”

**SECTION IV.**

**GOVERNING LAW**

This Ordinance shall be construed in accordance with Chapter 284 of the Texas Local Government Code (“the Code”) to the extent not in conflict with the Constitution and laws of the United States or of the State of Texas.

**SECTION V.  
REPEALING ALL ORDINANCES IN CONFLICT**

All other ordinances or parts of ordinances inconsistent or in conflict herewith, or to the extent of such inconsistency or conflict are hereby repealed.

**SECTION VI.**  
**SAVINGS CLAUSE**

This City Council of the City of JACINTO CITY, Texas does hereby declares that if any section, subsection, paragraph, sentence, clause, phrase, work or portion of this Ordinance is declared invalid, or unconstitutional, by a court of competent jurisdiction, that, in such event that it would have passed and ordained any and all remaining portions of this Ordinance without the inclusion of that portion or portions which may be so found to be unconstitutional or invalid, and declare that its intent is to make no portion of this Ordinance dependent upon the validity of any portion thereof, and that all said remaining portions shall continue in full force and effect.

**SECTION V.**  
**COMPLIANCE WITH OPEN MEETINGS ACT**

It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**SECTION VI.**  
**EFFECTIVE DATE.**

This Ordinance shall become effective on September 14, 2017.

**PASSED AND APPROVED ON THIS THE 14 DAY OF SEPTEMBER 2017.**

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Ana Diaz, Mayor

ATTEST:

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Joyce Raines, City Secretary

PASSED AND ADOPTED ON THE SECOND AND FINAL READING HEREOF THIS THE  
14<sup>TH</sup> DAY OF SEPTEMBER, 2017.

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Ana Diaz, Mayor

ATTEST:

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Joyce Raines, City Secretary

APPROVED:

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Jim L. DeFoyd, City Attorney