



City of Conway, Arkansas
Ordinance No. O-18-80

AN ORDINANCE ADOPTING REGULATIONS TO GOVERN THE CONSTRUCTION, INSTALLATION, MAINTENANCE AND REMOVAL OF SMALL WIRELESS COMMUNICATION FACILITIES IN THE RIGHT-OF-WAY; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

Whereas, pursuant to Arkansas law, the City Council of Conway, Arkansas ("City") is authorized to adopt regulations by reference (Ark. Code Ann. §14-55-207); and

Whereas, certain Wireless Service Providers propose to occupy public rights-of-way owned, held in trust and maintained by the City, in order to install and maintain small wireless communication facilities that will enhance data connectivity through wireless communication services; and

Whereas, the City recognizes the economic and social value of data connectivity and desires to encourage wireless infrastructure investment by providing a fair and predictable process for the deployment of small wireless communication facilities within the public rights-of-way in a manner that is: (1) safe; (2) compatible with and complementary to the provision of services by the City and others lawfully using the rights-of-way; and (3) consistent with the aesthetic standards of the City; and

Whereas, the Conway Corporation owns and operates a municipal utility ("Conway Corp") that among other services, performs the essential public service of distributing electric power and providing light and other important services; and

Whereas, Conway Corporation is responsible for safeguarding its employees and the integrity of its electric system, obtaining fair compensation for the use of its infrastructure through collection of fees and other charges, ensuring compliance with all applicable federal, state and local laws, rules and regulations, ordinances and standards and policies, and permitting fair and reasonable access to available capacity on Conway Corporation's infrastructure; and

Whereas, Conway Corporation is willing, when it may lawfully do so, to issue one or more Permits authorizing the placement or installation of Wireless Communication Facilities on Conway Corporation's Poles and/or Streetlights; and

Whereas, City is willing to permit Wireless Service Providers to occupy City's public rights-of-way for the placement or installation of Wireless Support Structures and Wireless Attachments, to include installation on Traffic Poles; and

Whereas, the City and Conway Corporation preserve the rights to own, operate, and manage property in a proprietary manner while fairly governing the conduct of business and access to public rights-of-way.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS:

Section 1: That the **Small Wireless Communication Facility Regulation of the City of Conway**, attached hereto as Exhibit "A" and incorporated herein by reference, is hereby adopted in its entirety.

Section 2: That three (3) copies of this ordinance shall be filed with the Office of the City Clerk and on the Conway Corporation web site for inspection and view by the public prior to adoption.

Section 3: That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

Section 4: That the provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall be declared or held invalid, such invalidity shall not affect the remainder of the sections, phrases or provisions.

Section 5: That any person who violates this ordinance shall be subject to a fine of no less than \$100 nor more than \$1,000 per offense, except that when an offense is, in its nature, continuous in respect to time, the person in violation shall be subject to a fine of no less than \$50 nor more than \$500 per day.

Section 6: It is hereby found and determined that improved data connectivity would improve the Conway economy and enhance the ability of Conway citizens to share information and that adoption of a new regulation governing the installation, maintenance, and removal of small wireless communication facilities in the City's rights-of-way is necessary to achieve these benefits in a manner that is consistent with broad City interests including the proper and orderly growth of the City of Conway, Arkansas, and being necessary for the immediate preservation of the public health, safety and welfare; THEREFORE, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED this 14th day of August, 2018.

Approved:

A handwritten signature in black ink, appearing to read 'Bart Castleberry', written over a horizontal line.

Mayor Bart Castleberry

Attest:

A handwritten signature in black ink, appearing to read 'Michael O. Garrett', written over a horizontal line.

Michael O. Garrett
City Clerk/Treasurer