



City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: City Manager's Office

CM/ DCM/ ACM: Mario Canizares

DATE: August 22, 2017

SUBJECT

Consider adoption of an ordinance of the City of Denton authorizing the City Attorney to negotiate and draft municipally owned utility pole wireless network node collocation attachment license agreement with network providers as needed; authorizing the City Manager or designee to execute an effective date.

BACKGROUND

In the 85th Legislative Session, the Texas Legislature passed and Governor Abbott signed into law, Senate Bill 1004 (small cellular antennas or nodes). The new law goes into effect statewide on September 1, 2017. It is also a mandate for cities on the requirements and methodology to allow wireless telecommunication companies to install small cellular nodes on new and existing utility poles within the City's right-of-way. The new law erodes the City's ability to manage its right-of-way by establishing the maximum fees cities can charge, the timing in which permits must be reviewed and approved, and prohibits the ability to deny requests or place moratoriums on additional device installations.

According to the cellular industry the nodes are necessary as consumers continue to migrate towards solely using cellular communications in their homes and businesses. To that end, the need for additional coverage is necessary due to public demand. This is also a strategy for the telecom industry as it begins to rollout the new 5G technology.

Based on the impending timing of the new law, cities across the state are working to establish the requisite ordinances, design manuals, application forms, and internal review processes to be in compliance by September 1.

The following are highlights of the new law:

- Mandates that network nodes and their support poles to be installed in the City's right-of-way
 - Includes the use of existing utility poles, traffic signal poles, and the installation of new poles
 - Restricts the installation of nodes on existing decorative poles
 - Allows for some restrictions in historic and design districts (i.e. install decorative poles, reasonable design and concealment restrictions)
 - Sets height at a 55-foot maximum
- Establishes permit requirements
 - Generally required for a node, support pole, and transfer facility
 - Up to 30 network nodes are allowed per permit

- Prohibits cities from issuing permits for routine maintenance, replacing or upgrading the existing node
- Establishes time line (shot clock) on City's permit approval process and Telecom's installation
 - Network node permit request: 30 days for the City to determine completeness; 60 days to approve or deny, and if not acted upon in this timeframe the permit is granted
 - Node support pole permit: 30 days for the City to determine completeness; 150 days to approve or deny, and if not acted upon in this timeframe the permit is granted
 - Transfer facility: 10 days for the City to determine completeness; 21 days to approve or deny, and if not acted upon in this timeframe the permit is granted
 - If a permit is denied for being incomplete the applicant may resubmit a completed application within 30 days; the City has 90 days to act on resubmitted applications
- Establishes the fee structure:
 - Network Nodes:
 - Application fee: \$500 for up to five network nodes, \$250 for each addition network node on a permit
 - Annual node site rental rate: \$250 per node site, annual CPI adjustment is allowed
 - Node Support Poles:
 - Application fee: \$1,000 each pole
 - Annual pole rental rate: \$250 per pole site
- Defines the restriction of node and pole installations by zoning districts
 - Municipal parks that meet certain criteria
 - Residential areas that meet certain criteria
 - Historical districts that meet certain criteria
 - Design districts that meet certain criteria
- Allows for cities to establish a design manual
 - The adopted design manual would establish the City's design guidelines regarding the aesthetics of the nodes, the support poles, the nodes enclosure, and the camouflaging of the electrical supply

Several City departments have been working together over the last several weeks to determine the best course of action. Based on the recommendations of staff a series of ordinances have been drafted to guide the implementation of this new legislation. This includes the fee ordinance, design manual and its enabling ordinance, service pole license agreement, and municipality owned utility license agreement and its enabling ordinance.

OPTIONS

This new law is an unfunded mandate established by the Texas Legislature and is set to go into effect September 1, 2017. Unfortunately, there are minimal options available to consider.

RECOMMENDATION

Consider approval of several ordinance related to SB 1004:

- Fee ordinance,
- Design manual and its enabling ordinance;
- Service pole license agreement;

- Municipality owned utility license agreement and its enabling ordinance

ESTIMATED SCHEDULE OF PROJECT

Not applicable for this item

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

The information related to SB 1004 has been discussed and reviewed in work session for input with the following City Boards and Commissions:

- Planning & Zoning Commission: August 9, 2017
- Public Utility Board: August 14, 2017
- Historical Landmark Committee: August 14, 2017

FISCAL INFORMATION

At this early stage of the implementation for Senate Bill 1004 it is difficult to calculate the fiscal impact to the City. The fees are set by the new state law. The revenues generated and expenditures incurred are all contingent on the number of applications made by the cellular provider.

BID INFORMATION

Not applicable for this item.

STRATEGIC PLAN RELATIONSHIP

The City of Denton's Strategic Plan is an action-oriented road map that will help the City achieve its vision. The foundation for the plan is the five long-term Key Focus Areas (KFA): Organizational Excellence; Public Infrastructure; Economic Development; Safe, Livable, and Family-Friendly Community; and Sustainability and Environmental Stewardship. While individual items may support multiple KFAs, this specific City Council agenda item contributes most directly to the following KFA and goal:

Related Key Focus Area: Public Infrastructure

Related Goal: 1.1 Manage financial resources in a responsible manner

EXHIBITS

1. Agenda Information Sheet
2. Ordinance

Respectfully submitted:
Mario Canizares
Assistant City Manager