



Legislation Text

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Planning Report

Small Cellular Network Nodes

Planning & Zoning Commission

August 9, 2017

REQUEST:

Receive a report and hold a discussion regarding Senate Bill 1004, a bill related to the installation of small cellular network nodes. (Munal Mauladad)

BACKGROUND:

The purpose of this item is to inform the Planning and Zoning Commission regarding information related to Senate Bill 1004. The next step is to draft an ordinance and prepare a design manual in response to the bill to be presented and considered at the August 22, 2017, City Council meeting.

In the 85th Legislative Session, the Texas Legislature passed and Governor Abbott signed into law, Senate Bill 1004 (small cellular network 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 network 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, 2017.

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 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

This new law is an unfunded mandate established by the Texas Legislature and is set to go into effect September 1, 2017. At this time there are minimal options available to consider. However, the City of McAllen, Texas, is compiling a list of cities that may be interested in forming a group to sue the State of Texas to call into question the constitutionality of the law. This effort may delay the implementation of the new law and allow cities additional time in evaluating the law's impact. Nevertheless, the City is pursuing the effort for this law going into effect on September 1, 2017.

EXHIBITS:

- Senate Bill 1004 Legislation

Respectfully prepared and submitted:
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Director of Development Services