



City of San Antonio

Agenda Memorandum

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Agenda Item Number: 17.

Agenda Date: 8/31/2017

In Control: City Council A Session

DEPARTMENT: Transportation & Capital Improvements

DEPARTMENT HEAD: Mike Frisbie, P.E.

COUNCIL DISTRICT(S) IMPACTED: City Wide

SUBJECT:

Amendments to Chapters 29 and 37 of the City's Municipal Code

SUMMARY:

An ordinance authorizing amendments to Chapters 29 and 37 of the City's Municipal Code to provide framework for the deployment of small cell network nodes and node support poles in the public right-of-way, authorized by SB 1004, which added Chapter 284 to the Texas Local Government Code; approving a design manual in accordance with SB 1004; and amending Chapter 29 to include San Antonio Water System's (SAWS) utility locate contact information.

BACKGROUND INFORMATION:

Small cell network nodes are wireless communications equipment, such as a radio transceiver, an antenna, a battery-only backup power supply, and coaxial or fiber-optic cable that is associated with a particular small cell network node site. These nodes can cover a radius up to 1500 feet and provide an enhanced voice and data service by increasing network capacity which allows faster downloads and improved call quality within its coverage area. Small cell network nodes help to bring the wireless network "closer" to its users to deliver increased data capacity, faster connectivity speeds and overall better wireless experience.

Since 2015, due to the lack of State or Federal law granting wireless providers access to municipal right-of-way, the City's Information Technology Services Department (ITSD) negotiated three small cell antenna license agreements to regulate wireless providers' access to City right-of-way. These agreements established terms and conditions for installing small cell network nodes on traffic light signal poles, CPS Energy poles, and proprietary poles owned by third parties that are installed in the right-of-way in accordance with state law. The three executed agreements include:

- Verizon Wireless via Ordinance 2015-06-18-0573
- Mobilitie, LLC (on behalf of Sprint) via Ordinance 2016-10-20-0824
- Mobilitie Management, LLC (on behalf of T-Mobile) via Ordinance 2016-10-20-0825

However, SB 1004, passed during the Regular Session of the 85th Legislature, will grant wireless providers access to municipal rights-of-way on a state-wide basis once Chapter 284 goes into effect on September 1, 2017. Consequently, the City will in a future action amend the three existing agreements to conform to all rates, terms, and conditions established by the Chapter 284 requirements. These amendments must be completed by the six-month anniversary of SB 1004’s effective date, March 1, 2018.

SB 1004, more specifically, grants network providers’ access to City right-of-way and further grants network providers the authority to construct, install, and operate network nodes on municipally owned utility poles, City light poles, City traffic light signal poles, and City traffic sign poles. Network providers are also allowed to install their own proprietary poles for the primary purpose of supporting a network node(s). SB 1004 also regulates the type of information a municipality may require as part of the permitting process, establishes a fee structure, and sets deadlines that municipalities must follow as part of the permit process. Therefore, ITSD’s existing rates of \$1,500 annual fee per sublicense (per pole installation), and a \$700 administrative fee per sublicense to review application requests must be revised. The table below represents the fee structure and baseline permit review timelines mandated by SB 1004.

	One-Time Application Fees	Recurring ROW Fees	Permit Review Timeline
Proprietary Pole Municipal Service Pole	\$1,000 per new proprietary pole N/A	N/A *\$20 per pole per year	30 days to determine permit completeness & 150 days to approve or deny
Network Nodes	\$500 for up to 5 nodes \$250 per additional node per application	\$250 per node per year	30 days to determine permit completeness & 60 days to approve or deny
Fiber Transport Facilities	N/A	\$28 per node per month	10 days to determine permit completeness & 21 days to approve or deny
Fee Escalation	N/A	Allows ½ CPI per year	N/A
*Note: There is an additional \$20 fee, per year/per pole, if a node is installed on a municipally owned service pole.			

These new guidelines will require upfront coordination between ITSD and TCI to ensure that network node and node support pole applications are reviewed and approved in the timelines set out in the table above which are prescribed by SB 1004. Effective September 1, 2017 when Chapter 284 goes into effect, Staff proposes that network providers file network node and node support pole applications directly with the City’s Right-of-Way Office to obtain permits, with the Right-of-Way Office immediately circulating filed applications to ITSD and affected City departments to ensure review within the established timeframes.

Additionally, because SAWS is not part of the state-wide 811 “one call” utility locate program, staff recommends adding language into Chapter 29 which would require anyone excavating in City right-of-way to contact their utility locate service before work begins. Failure to contact SAWS’ utility locate service could lead to suspension or revocation of right-of-way permit(s).

ISSUE:

This ordinance authorizes amendments to Chapters 29 and 37 of the City’s Municipal Code to provide framework for the deployment of small cell network nodes and node support poles in the public right-of-way, approves a design manual in accordance with SB 1004 and Chapter 284 of the Texas Local Government Code,

and amends Chapter 29 to include San Antonio Water System's (SAWS) utility locate contact information.

Chapter 29 will be amended to identify network providers as eligible right-of-way users with the authority to install small cell network nodes and node support poles in the right-of-way. Additionally, Chapter 29 will add language regarding SAWS' utility locates service; failure to comply with the revised utility relocate requirements could lead to a suspension or revocation of permit(s) for failure to contact and coordinate with SAWS before excavation begins.

Chapter 37 will be amended to add network providers as eligible right-of-way users; add the application fees and annual right-of-way rate set out in SB 1004; add terms and conditions to address network node and node support pole installations in the right-of-way; and include a design manual that adopts limitations on the size of network nodes, including general design requirements, and pole height limitations in accordance with SB 1004 and Chapter 284.

ALTERNATIVES:

City Council could choose not to approve this item; however, the City's Municipal Code and small cell antenna license agreements would not be in compliance with Texas State Law. As a result, legal disputes could occur between the City and wireless network providers.

FISCAL IMPACT:

SB 1004 establishes provisions for right-of-way application fees and recurring monthly/annual right-of-way and city infrastructure use rates (as noted in the table above). Staff anticipates FY 2018 revenues to be \$117,000.00, of which, \$67,000.00 will be deposited in the General Fund and \$50,000.00 to the Right-of-Way Fund.

RECOMMENDATION:

Staff recommends approval of this ordinance to amend Chapters 29 and 37 of the City's Municipal Code, approval of a design manual that complies with SB 1004 and Chapter 284, and approval to amend Chapter 29 to include San Antonio Water System's utility locate contact information.