

AGENDA



Recommendation for Council Action

AUSTIN CITY COUNCIL

Regular Meeting: December 13, 2018

Item Number: **041**

Telecommunications and Regulatory Affairs

Approve an ordinance amending City Code Chapter 14-11 related to permitting placement of cellular nodes on City-owned poles in City rights-of-way as well as new node poles in City rights-of-way.

Lead Department	Telecommunications & Regulatory Affairs.
Fiscal Note	This item has no fiscal impact.
Prior Council Action	On August 17, 2017, Council approved Ordinance 20170817-045 amending Chapter 14-11 and 15-7 and repealing Chapter 15-8 of the City Code relating to permitting use of public rights-of-way and authorization for attaching to City-owned poles in the public rights-of-way and declaring an emergency.
For More Information	Rondella M. Hawkins, TARA Officer, 512-974-2422.

Additional Backup Information:

The 85th Texas Legislature adopted Chapter 284 of the Texas Local Government Code, effective September 1, 2017, obligating Texas municipalities to permit wireless companies to use municipal rights-of-way for placement of wireless network poles and to use municipal poles in rights-of-way for attaching wireless equipment. Chapter 284 limits municipal discretion over permitting the right-of-way placed wireless facilities to its police powers as well as limited municipal discretion over design and concealment elements, while preserving municipal discretion over terms for attaching to

municipally-owned electric distribution poles. Among other things, Chapter 284:

- Caps municipal fees for processing permits and collecting compensation for use of City right-of-way and poles;
- Places time limits on considering permits that, if not processed by the time a shot clock expires, are deemed approved;
- Excludes requests to attach to municipally-owned electric distribution poles from the permit fee cap and review shot clock;
- Allows municipal discretion to develop and apply design standards and concealment measures for design districts and historic districts; and
- Allows municipal discretion over permitting stand-alone node support poles in municipal park right-of-way or in right-of-way adjacent to residential areas.

To conform to the law and exercise the City's discretion as allowed by the law, City Council amended Chapters 14-11 and 15-7 of the City Code in August 2017. City departments have had just over a year since Chapter 284 took effect implementing local adjustments to comply. City staff propose four revisions to the applicable City Code to improve the City's implementation of Chapter 284 requirements and to facilitate permitting of cellular nodes and poles in City rights-of-way. The substantive proposed Code amendments:

- repeal the limit currently allowing a wireless applicant only 30 node attachments or node pole permits to be filed and pending determination at any one time,
- revise the notice requirement to require applicants to notice owners of property within 150 feet, rather than 300 feet, and clarifying notice is to only those on the same side of the street of a proposed pole or node location, and
- makes available locations for wireless nodes and new poles in rights-of-way in City parks subject to design criteria prescribed by the Austin Transportation Department, in coordination with the Parks and Recreation Department, and
- clarifies that to avoid encroaching in City parks, the applicant must survey the line separating parkland from ROW.