

# Memorandum



CITY OF DALLAS

DATE August 15, 2017

TO The Honorable Members of the Economic Development and Housing Committee:  
Tennell Atkins (Chair), Rickey D. Callahan (Vice-Chair), Lee M. Kleinman, Scott  
Griggs, Casey Thomas, II, B. Adam McGough, Mark Clayton, Kevin Felder, and Omar  
Narvaez

SUBJECT **Revisions to the Right-of-Way Management Ordinance for Wireless Providers**

On Monday, August 21, 2017, the Committee will be briefed on proposed changes to Chapter 43, Article VIII, of the Dallas City Code necessary to comply with SB1004, which was passed by the State Legislature and goes into effect on September 1, 2017. The briefing material is attached for your review.

Please contact me or David Cossum if you have any questions or need additional information.

A handwritten signature in blue ink, appearing to read 'Majed Al-Ghafry'.

Majed Al-Ghafry  
Assistant City Manager

c: The Honorable Mayor and Members of the City Council  
T.C. Broadnax, City Manager  
Larry Casto, City Attorney  
Craig D. Kinton, City Auditor  
Rosa A. Rios, City Secretary  
Daniel F. Solis, Administrative Judge  
Kimberly Bijor Tolbert, Chief of Staff to the City Manager  
Raquel Favela, Chief of Economic Development & Neighborhood Services

Jo M. (Jody) Puckett, P.E., Assistant City Manager (Interim)  
Jon Fortune, Assistant City Manager  
Joey Zapata, Assistant City Manager  
M. Elizabeth Reich, Chief Financial Officer  
Nadia Chandler Hardy, Chief of Community Services  
Theresa O'Donnell, Chief of Resilience  
Directors and Assistant Directors

# Revisions to the Right-of-Way Management Ordinance for Wireless Providers

Implementing SB1004

Economic Development  
& Housing Committee

August 21, 2017

Don Knight, Senior Assistant City Attorney  
Rick Galceran, Director, Mobility and Street  
Services

David Cossum, Director, Sustainable  
Development and Construction



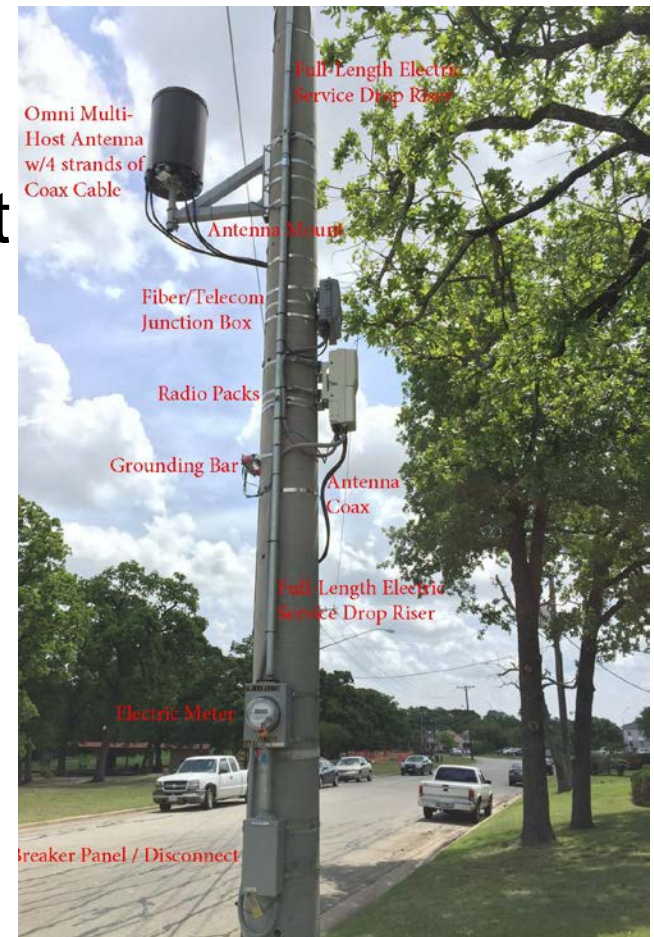
**City of Dallas**

# Background

- Historically small cells have been treated as other private uses of right-of-way and subject to license provisions of Chapter 43
- Senate Bill 1004 was approved in the last legislative session which:
  - Requires that cities allow wireless providers in public right-of-way
  - Establishes maximum fees that cities can charge for wireless related installations in public right-of-way
  - Establishes certain processes and standards for wireless related installations that cities must comply with
- Senate Bill 1004 provisions go into effect on September 1, 2017

# SB 1004/Chapter 284 Local Govt Code - Terms

- “Network node” – an antenna and related wireless equipment but does not include fiber connecting “Transfer Facilities” or the “Pole, which are separately defined.



# SB 1004/Chapter 284 Local Govt Code - Terms

- "Node support pole" - is a new pole installed just to support a network node facility.



# SB 1004/Chapter 284 Local Govt Code - Terms

“Network provider” - is very broad, as it includes a “wireless provider” as well as wireless infrastructure providers.

## CMRS PROVIDERS

- AT&T Mobility
- Verizon Wireless
- Sprint
- T-Mobile

## WIRELESS INFRASTRUCTURE PROVIDERS

- Crown Castle
- Extenet
- Mobilitie
- Zayo
- and others...

# SB 1004/Chapter 284 Local Govt Code - Terms

“Pole” - includes three other defined term items:

- “Node support pole” - is a new pole installed just to support a network node facility
- “Service pole” - includes city traffic signal poles, non-decorative street lights, street signs
- “Utility pole” - means a pole that provides:
  - (A) electric distribution with a voltage rating of not more than 34.5 kilovolts (i.e. ONCOR); or
  - (B) services of a telecommunications provider, as defined by Section 51.002, Utilities Code (i.e. AT&T).

# SB 1004/Chapter 284 Local Govt Code - Provisions

- Grants access to municipal ROW for network providers to install network nodes and related transport facilities (fiber)
- Limits compensation to City for that use to \$250 annually per network node and \$28 per month per transport facility
- City retains authority to regulate placement and design in accordance with Chapter 284
- Allows enhanced protections in areas designated by the City as Design Districts, Historic Districts, and underground districts
- New node support poles do not have to be allowed in municipal parks and adjacent to residential areas



# SB 1004/Chapter 284 Local Govt Code - Provisions

- Maximum height for a support pole under Chapter 284 is 55 feet in height
- Network node may not exceed 6 cubic feet in volume.
- Related equipment may not exceed 27 cubic feet in volume.
- Enhanced protections can be apply to designated districts:
  - Design Districts
  - Historic Districts
  - Underground Districts

# SB 1004/Chapter 284 Local Govt Code - Provisions

- Provides for filing applications for up to 30 network nodes at a time
- Provides a “Shot clock”
  - **Network nodes**—30 days to determine completeness; 60 days to approve or deny, or if not acted on by that time permit is deemed approved.
  - **Node Support poles**-30 days to determine completeness; 150 days to approve or deny, or if not acted on by that time permit is deemed approved
  - **Transfer facility [fiber]**-10 days to determine completeness; 21 days to approve or deny, or if not acted on by that time permit is deemed approved

# Right-of-Way Management Ordinance

## Chapter 43, Article VIII, Proposed Revisions

- Designates all TIF's, PID's, and areas zoned as Planned Development districts or Form districts as Design Districts
- Designates areas with underground utilities as underground districts
- Authorizes staff to publish a Design Manual with the specific regulations governing the placement and installation and repair of Network nodes, node support poles and related equipment
- Authorizes Director to require that facilities be installed without street excavation in a Design District or an area of high vehicular traffic unless permittee can show no existing facilities are available to serve its current needs, whether owned by the permittee or others

# Right-of-Way Management Ordinance

## Chapter 43, Article VIII, Proposed Revisions

- Limit the number of pending applications for each applicant to 30 at a time
- Provide that incomplete applications will be denied if not supplemented in the time allowed by the statute
- Prohibit new node support poles in parks and in residential areas as allowed by Chapter 284.
- Design Manual developed by staff will provide detailed regulations for the placement, installation and repair of network nodes, node support poles, and transport facilities.

# Elements of Design Manual

- Submittal requirements for permit
- Pole spacing requirements
- Placement of equipment and fixtures on pole to not impact pedestrian or vehicular traffic
- Placement of free standing equipment to not impact visibility or pedestrian or vehicular traffic.

# Challenges and Observations

- Short time period to implement Chapter 284 has made it difficult to engage in typical stakeholder meetings on revisions
- Staff is committed to listening to industry and the community going forward to determine what fine tuning may be required to the ordinance or regulations based on experiences
- If needed changes to the ordinance are identified, proposed amendments will be brought back to Council for consideration
- Changes to the Design Manual may be made at the staff level

# Next Steps

- City Council consideration of proposed amendments on August 23, 2017 agenda