

ORDINANCE NO. 20181213-041

AN ORDINANCE AMENDING SECTIONS 14-11-173, 14-11-192, AND 14-11-193 OF THE CITY CODE RELATING TO PERMITTING USE OF PUBLIC RIGHTS OF WAY AND AUTHORIZING ATTACHMENTS TO CITY-OWNED POLES IN THE PUBLIC RIGHTS OF WAY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Subsection (E) of Section 14-11-173 (*Application for a Permit*) of the City Code is repealed.

PART 2. Section 14-11-192 (*Permit Eligibility and Application*) of the City Code is amended as follows:

§14-11-192. PERMIT ELIGIBILITY AND APPLICATION.

- (A) Before filing an application for a permit for installing a network node, node support pole, or transport facility, a network provider proposing to apply for a permit shall:
 - (1) provide the director copies of:
 - (a) all of the owner's valid federal licenses and authorizations necessary to install, operate, or maintain facilities as a wireless service provider; or
 - (b) if the owner is not a wireless service provider, an agreement between the owner as agent and a wireless service provider as principal showing that the owner is an authorized agent of the principal for building or installing facilities on behalf of the principal along with a copy of the principal's valid federal licenses and authorizations;
 - (2) provide the director a schedule of projected facility installations and a network node deployment plan for the coming calendar year, and for as long as the owner holds a permit, update every calendar quarter a schedule previously provided, stating the number, type and estimated date for projected installations;

- (3) provide and maintain accurate contact information of the owner's designated primary authorized representative and, at a minimum, a current regulatory contact person, complaint contact person, primary and secondary emergency contact, operation and policy migration contact, business physical and mailing address, primary business telephone number, toll-free customer service number, and primary email address, or any other contact information that the director determines is necessary submitted in a form and manner established by the director;
- (4) obtain from the City a pre-application site-specific assessment for suitability, safety, and conflicts from the City that includes a site walk and interview with the director's representative and review of preliminary architectural and engineering design drawings;
- (5) demonstrate to the director that the network provider has given written notice adequate to inform the affected public of the impact to public right-of-way related to installation of a network node or node support pole. Notice is presumed to be adequate public notice if at a minimum it:
 - (a) includes a description of the location, dimensions, and types of facilities proposed for installation;
 - (b) states the estimated duration of the facility installation in the public right-of-way; and
 - (c) is provided in writing to all owners of real property abutting the sideline of right-of-way nearest to the proposed network node or node support pole and extending a distance of 150 feet along that sideline of right-of-way in either direction [~~within 300 feet of a proposed network node or node support pole~~];
- (6) obtain advance approval from the director for a network node or node support pole proposed to be sited in a design district or a historic district; [and]
- (7) obtain a certificate of appropriateness from the Historic Landmark Commission for a network node or node support pole that is proposed to be located in a public right-of-way adjacent to:
 - (a) a National Register Historic District;

- (b) a historic structure approved by the City's historic preservation officer;
 - (c) a building, structure or site individually listed in the National Register of Historic Places;
 - (d) a building, structure, or site designated as a Recorded Texas Historic Landmark, a State Archeological Landmark, or a National Historic Landmark;
 - (e) a building, structure, or site designated as a historic landmark (H) combining district;
 - (f) a historic area (HD) combining district; or
 - (g) a building, structure, or site determined by the historic preservation officer to have potential for designation as a historic landmark; and
- (8) demonstrate to the director that no part of a proposed facility will encroach beyond right-of-way into a municipal park by providing information that the director determines is necessary, including a sealed survey by a professional registered surveyor, clearly showing that the proposed facility does not encroach beyond the public right-of-way line into the municipal park as that line is shown of public record by deed or plat.

~~[(B) — In accordance with Section 14-11-173(E) of this code, a network provider may file permit applications for multiple network nodes, provided the network provider has no more than 30 network node permits under consideration by the director at any one time. If the network nodes have similar design and specifications, a network provider may consolidate its request for up to 30 network node permits into a single application.]~~

(B)~~[(C)]~~ If a network provider proposes to perform an activity for which the network provider intends to claim an exemption ~~[exception]~~ from permitting under Section 284.157 of the Texas Local Government Code, the network provider shall comply with the pre-application requirements of Subsection (A) of this section and provide written proof in a form satisfactory to the director demonstrating that the activity qualifies for the permitting exemption ~~[exception]~~ at least 30 days prior to performing the activity.

PART 3. Subsection (F) of Section 14-11-193 (*Placement Requirements*) of the City Code is amended as follows:

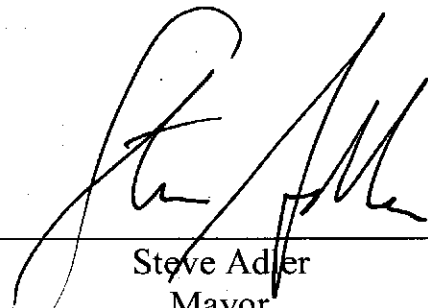
- (F) A network provider may not install all or part of a network node or node support pole in [a] public right-of-way in or adjacent to a municipal park unless the director determines that the proposed facility meets or exceeds all design and aesthetic standards applicable to rights-of-way in municipal parks, and provides, with the favorable recommendation from the Director of the City's Parks and Recreation Department, advance written consent for a new node support pole, including a pole replacing an existing pole for the purpose of accommodating a network provider's request to attach one or more network nodes. The following areas are designated as "municipal parks": [For the purposes of this subsection,] any area held, maintained, or managed by the City as a public park for the purpose of recreational activity, and any area within the City that the state or other political subdivision of the state holds, maintains, or manages as a public park for the purpose of recreation [is a municipal park]. The City's municipal parks are identified on an inventory list and depicted on a map, as may be updated from time to time, made available to the public by the director of the City's Parks and Recreation Department, such inventory and map being incorporated into this code by reference. ~~Any area within the City that the state or other political subdivision of the state holds, maintains, or manages as a public park for the purpose of recreation is a municipal park.~~

PART 4. This ordinance takes effect on December 24, 2018.

PASSED AND APPROVED


_____, December 13, 2018

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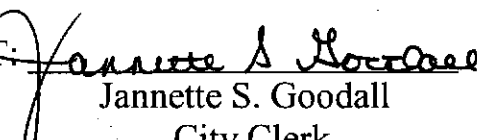
Steve Adler
Mayor

APPROVED:



Anne L. Morgan
City Attorney

ATTEST:



Jannette S. Goodall
City Clerk