



PLANNING AND ZONING COMMISSION MEMORANDUM

FROM: The Office of the City Manager **DATE:** August 17, 2017

SUBJECT: TR 2017-05 Public hearing to consider amendments to Sections 118-631, Table of Permitted Uses, and 118-633, Special land use regulations, of the North Richland Hills Zoning Ordinance regarding network nodes as a utility, accessory, and incidental use.

PRESENTER: Clayton Husband, Principal Planner

SUMMARY:

A revision is proposed to the Zoning Ordinance related to Section 118-631 Table of Permitted Uses, and Section 118-633 Special land use regulations. The revision would add "Network nodes, Small cell antennas" as a permitted use by right in all districts.

GENERAL DESCRIPTION:

The 2017 assembly of the Texas Legislature has adopted Senate Bill 1004, which becomes effective September 1, 2017. The bill creates a new chapter in the Texas Local Government Code: Chapter 284, Deployment of Network Nodes. This new law is a state pre-emption of local authority to negotiate the use of municipal rights-of-way for cell phone providers to install "network nodes" or cell phone signal boosters on City infrastructure such as light poles, traffic signs and street light poles. Also known as "small cell antennas," network nodes enable wireless providers the ability to provide wider coverage and increased capacity for voice and data download speeds than the typical macro site cell tower signals.

In mandating that wireless infrastructure and service providers be allowed access to public rights-of-way to install wireless facilities, Chapter 284 sets out certain limitations on the City that are intended to expedite the process on reasonable and nondiscriminatory terms. For example, Chapter 284 limits the City's timeline to review permit applications, caps application and annual fees, and requires co-location on City poles. Chapter 284 also limits the City's police power but allows additional restrictions on placement and characteristics of network nodes and node support poles when they are proposed to be located in municipal parks, residential areas, historic districts, and design districts.

Chapter 284 also permits the City to adopt a design manual governing the installation and construction of network nodes and new node support poles in the public rights-of-



way that includes additional installation and construction details that do not conflict with Chapter 284, provided that the design manual is in place at the time the permit applications are first submitted. City staff is working on a comprehensive design manual that will apply to sitings; installations; and co-locations in, on, over, or under the public rights-of-way of, among other things, network nodes, node support poles, and micro network nodes.

Through these discussions, the need for revisions to the zoning ordinance were identified to clarify that network nodes are considered a utility, accessory, and incidental use. The table of permitted uses would be amended to add the use as shown below. In addition, the special land use regulations would be amended to add a cross-reference to Chapter 70 of the City Code of Ordinances, which in part regulates the use of and construction in the public rights-of-way. Staff plans to present a proposed ordinance and design manual to City Council on August 28, 2017 to add a section to Chapter 70 of the City Code of Ordinances to implement Chapter 284 of the Texas Local Government Code.

Section 118-631 Table of Permitted Uses

For clarity, the table is divided into two sections.

| B. UTILITY, ACCESSORY & INCIDENTAL USES | | | | | | | | | |
|---|-----|----|----|----|-----|-----|------|----|----|
| | R1S | R1 | R2 | R3 | R4D | R6T | R7MF | O1 | LR |
| Network nodes, Small cell antennas | P | P | P | P | P | P | P | P | P |

| B. UTILITY, ACCESSORY & INCIDENTAL USES | | | | | | | | | | | | |
|---|----|----|----|----|----|---|----|-------------|---|---|---|----|
| | C1 | C2 | OC | I1 | I2 | U | AG | Town Center | | | | FC |
| Network nodes, Small cell antennas | P | P | P | P | P | P | P | P | P | P | P | B |

Section 118-633 Special land use regulations

(27) Refer to Chapter 70 of the Code of Ordinances for special requirements for network nodes and small cell antennas.

CITY COUNCIL: The City Council will consider this request at the August 28, 2017 meeting following a recommendation by the Planning and Zoning Commission.

RECOMMENDATION:

Approve TR 2017-05.