

Deployment of Network Nodes in Public Right-of-Way (ROW)

Q: What are network nodes?

A: Network nodes also called wireless network nodes are part of a wireless network system that supports or enhances data capacity used by wireless communication devices such as smart phones. The node is the antenna. The other parts of the system are the pole, meter, radio, backup battery, amplifier, switches, and other devices. Instead of building more large unsightly Cell towers to deal with increased network and capacity demand, wireless network providers are using wireless network systems that are significantly smaller, denser, and less visible. DAS and small cells are the two common types of wireless network systems.

Q: What is DAS?

A: DAS stands for distributed antenna system.

Q: What do wireless networks like DAS and small cells have to do with the City of West University Place?

A: Wireless networks require antennas, also known as network nodes, to be within every few hundred feet of each other to operate. These antennas sometimes require installation of poles to support them and other equipment. The most economical and efficient way to deploy these network nodes is in the public right-of-way because network providers have access to a continuous piece of land and deal with only one landlord.

Q: Can the City refuse to allow use of its public right-of-way?

A: No, refusing access is not an effective, long-term solution. On September 1, 2017, Senate Bill 1004 (SB 1004 codified as Chapter 284, Tex. Loc. Gov't Code) went into effect, preventing any Texas City from denying wireless network providers use of its public right-of-way. Furthermore, there have been and continue to be efforts at the Federal Communications Commission ("FCC") to promote wireless network deployment throughout the country by issuing or considering rules that address this issue.

In March 2021, the City restricted any new pole sites on streets that have less than a fifty (50') feet wide or less of pavement. Preferred locations are to be collocated on existing poles.



Q: What is SB 1004?

A: SB 1004 is legislation that was recently approved by the Texas Legislature authorizing wireless network providers to use municipal public right-of-way with certain restrictions.

Q: What is the impact of SB 1004 on cities?

A: SB 1004 is not a full preemption, but takes considerable control over the right-of-way away from cities. After September 1, 2017, SB 1004 superseded any agreement that cities have with wireless providers for use of their right-of-way.

Q: How does the FCC affect decisions on deployment of small cell nodes?

In September of 2018, the FCC adopted the Declaratory Ruling and Third Report and Order, known as FCC 18-133. The Order outlines the extent to which local agencies may or may not regulate the installation of small wireless facilities within the public rights-of-way and the use of existing public infrastructure.

Q: How does the City control the use of locations in the right of way under its current agreement?

A: Each location must be approved by the Public Works Department and comply with the permit requirements before the nodes can be installed in the right-of-way. All installers must adhere to the design standards and submit a complete permit application for any proposed sites

