

	<div data-bbox="1235 218 1474 457"> <p>District Impacted</p> <p><input type="checkbox"/> 1 = Wolosin</p> <p><input type="checkbox"/> 2 = Woolard</p> <p><input type="checkbox"/> 3 = Tye</p> <p><input type="checkbox"/> 4 = Cisneros</p> <p><input type="checkbox"/> 5 = Handren</p> <p><input checked="" type="checkbox"/> All</p> </div> <p style="text-align: center;">AGENDA ITEM SUMMARY</p>
AGENDA DATE	January 8, 2019
DESCRIPTION	<p>CONSIDER ON FIRST READING ORDINANCE NO. 2019-___ AMENDING ORDINANCE NO. 2017-75 ESTABLISHING STANDARDS FOR NETWORK NODES AND NODE SUPPORT POLES IN THE PUBLIC RIGHT-OF-WAY IN THE CITY OF BOERNE; SAVINGS CLAUSE, REPLEALER; AND SETTING AN EFFECTIVE DATE.</p>
STAFF'S RECOMMENDED ACTION (be specific)	<p>APPROVE ON FIRST READING ORDINANCE NO. 2019-___ AMENDING ORDINANCE NO. 2017-75 ESTABLISHING STANDARDS FOR NETWORK NODES AND NODE SUPPORT POLES IN THE PUBLIC RIGHT-OF-WAY IN THE CITY OF BOERNE; SAVINGS CLAUSE, REPLEALER; AND SETTING AN EFFECTIVE DATE.</p>
CONTACT PERSON	Molly G. Solis
SUMMARY	<p>In September of 2018 the Federal Communications Commission (FCC) issued an order which specifies the maximum amount for certain fees that can be charged relating to wireless/nodal communications systems. Some of the specified charges differ from Senate Bill 1004, which was passed in the last legislative session (2017) and incorporated into the City of Boerne ordinance establishing standards for network nodes and node support poles in public right of way. The key differences in the FCC order are as follows:</p> <ol style="list-style-type: none"> 1. Limits application fees for all small wireless facilities to \$500 for up to five sites, and \$100 per site for each site thereafter. The \$500 charge matches the existing fee, but the subsequent charge per site is presently \$250 and will be reduced to \$100. 2. Limits recurring fees for small cells in the right-of-way, such as right-of-way access fees or lease fees, to a “reasonable approximation” of the city’s “objectively reasonable costs” for maintaining the right-of-way or a structure within the right-of-way, which must be no higher than fees for similar actors. The FCC finds a presumptively reasonable recurring fee to be \$270 per site, per year. The current fee is set at \$250. <p>Cities are expressly prohibited from recovering any cost not directly related to right-of way maintenance, charging fees above cost recovery, or recovering “unreasonable” costs, such</p>

	<p>as excessive contractor or consultant fees. The FCC finds gross revenue fees to be presumptively unreasonable, and existing agreements are not grandfathered.</p> <p>(Note: The \$270 is similar to the amount in the Texas small cell legislation (\$250), but the Texas cap is currently in litigation.) It is recommended by TML that cities bring their ordinance into compliance with the FCC Order by January 14, pending ruling by the 10th Circuit Court.</p>
COST	None
SOURCE OF FUNDS	N/A
ADDITIONAL INFORMATION	ORDINANCE

This summary is not meant to be all inclusive. Supporting documentation is attached.