

City of Sacramento

Legislation Text

File #: 2020-00228, **Version:** 1

Title:

(Pass for Publication) Ordinance Deleting Section 3.76.050 and Adding Chapter 12.14 to the City Code, Relating to Telecommunications Facilities

End

File ID: 2019-00228

Location: Citywide

Recommendation:

1) Review an ordinance deleting section 3.76.050 of the Sacramento City Code and adding Chapter 12.14 relating to telecommunications facilities; and 2) pass for publication the ordinance title per Sacramento City Charter 32(c) for City Council consideration on March 24, 2020.

Contact: Maria MacGunigal, Chief Information Officer, 916-808-7998, Information Technology Department; Ryan Moore, Public Works Director, 916-808-6629, Department of Public Works

Presenter: None

Attachments:

- 1-Description/Analysis
- 2-Ordinance (redlined)
- 3-Ordinance (clean)
- 4-Design & Deployment Standards
- 5-Master License Agreement

Description/Analysis

Issue Detail: The City of Sacramento has been working in partnership with wireless telecommunications service providers to modernize infrastructure throughout the City. A modern wireless infrastructure can improve the City's ability to deliver effective services to the community, help carriers meet the demands of their cellular and internet customers, and spur economic development by attracting people and companies that rely on advancements in wireless telecommunications technology. New wireless technologies such as 4G and 5G can offer a significant

improvement in capacity and speed that can be utilized to deliver the internet of things, telemedicine, virtual education, digital literacy and inclusion as well as advanced computing, intelligent transportation, autonomous vehicles, and smart city technologies.

While the City's authority over the development of wireless facilities is limited, staff have been actively engaged in a comprehensive review of the City's ordinances, policies, and practices regarding the deployment of small cell technology for delivering 4G and 5G. Though federal laws and regulations issued by the Federal Communications Commission (FCC) and state laws and regulations mostly preempt local authority, the City does play an important role in ensuring compliance with the law and meeting the needs of the community and businesses.

In order to fully inform the items to be considered by the City Council in accordance with federal, state, and local laws, staff has taken the following actions:

- Reviewed the City's legal authority to regulate wireless development - September 2019
- Researched and reviewed actions taken by other Cities to regulate wireless facilities - September/October 2019
- Conducted a pilot study in the Pocket/Greenhaven area to test installed devices for FCC compliance requirements - September 2019
- Received and reviewed expert analysis of City site permits, site measurements, and results - October 2019
- Conducted a comprehensive review of wireless development processes in consideration of best practices and in alignment with the City Councils objectives - October- November 2019
- Numerous meetings with stakeholders October 2019 - January 2020
- Staff provided Draft Ordinance and Standards & Guidelines documents for review and comment by members of the public and the telecommunications industry
- Reviewed and analyzed numerous inputs from stakeholders
- Item heard at Law and Legislation Committee on February 4, 2020

A wide variety of perspectives have been presented to staff from stakeholders on many items. Staff have taken into careful consideration a wide range of viewpoints and comments received in the development of the proposed ordinance and the Design & Deployment Standards and Small Cell Master License Agreement.

A brief summary of the key best practices for wireless development contained within the ordinance and related documents are:

- Enhanced notification to residents
- Rigorous aesthetics requirements for site design and placement
- Verification of post construction compliance with FCC emissions law
- Clear guidance on preferred placement locations

Cities are preempted from regulating various aspects of telecommunications facilities under state and federal law, such as radio frequency (RF) emissions (other than to confirm compliance with the FCC's RF emissions regulations).

However, as recognized by the FCC in its 2018 Declaratory Ruling and Third Report and Order (*In re Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79, FCC 18-133) local agencies do retain the ability to regulate on the basis of aesthetics and public safety grounds, so long as the aesthetic requirements are: (1) reasonable; (2) no more burdensome than those applied to other types of deployments; and (3) objective and published in advance.

The proposed ordinance and design guidelines do not regulate RF emissions or impose unreasonable or burdensome aesthetic requirements. Rather they clearly establish the permitting process for telecommunications facilities and objective placement, camouflage and concealment standards for such facilities. These standards are necessary to protect and promote public health, safety, and welfare and balance the benefits that flow from robust wireless services with the City's local values, which include the aesthetic character of the City and its neighborhoods.

As described in more detail in the ordinance and Design & Deployment Standards, the purpose and intent of the proposed regulations is to promote the development of telecommunications facilities while also protecting the City's visual character from potentially adverse impacts or visual blight associated with the over-concentration of telecommunications facilities.

Policy Considerations: Over the last few years, with the proliferation of small cell wireless technology, the City has seen an increased interest in the installation of wireless facilities within the public right of way. The City entered into a Strategic Joint Development Agreement with Verizon on June 6, 2017, to achieve a public-private partnership (PPP) to implement smart cities technologies and facilitate the installation of fiber optic and wireless infrastructure throughout the City. With the increase in wireless facility requests from Verizon and other wireless telecommunications carriers operating the City, the City has a need to better define its processes and procedures to balance the benefits of new technology for businesses and residents with the need to preserve local aesthetics and promote the health, safety, and general welfare of residents and visitors.

Economic Impacts: None.

Environmental Considerations: The proposed ordinance would update the City's current ordinance which regulates the development of macro-cell telecommunications facilities to also address small cell telecommunications facilities. It specifies the types of permits and agreements required for the construction of telecommunications facilities. No significant environmental impacts could result from the approval, as the approval of permits for small cell facilities is exempt pursuant to section 15303 of the CEQA Guidelines.

Sustainability: Not applicable.

Commission/Committee Action: The proposed ordinance was considered by the Law and Legislation Committee on February 4, 2020 and forwarded to Council for consideration.

Rationale for Recommendation: Wireless development is a critical component of the City's broader strategies to grow a diverse economic base, improve quality of life and provide access to the latest technologies for our community. This report reflects best practices for cities based on the extensive research and input from a wide range of perspectives on these issues.

Financial Considerations: None.

Local Business Enterprise (LBE): Not applicable.