

**Wireless Resolutions and Standards- City Council - 8 Jan 2019 - D. Grethen**

The following comments are submitted for your consideration based on review of the Staff report, proposed resolution/ordinance, and proposed design standards. Please consider whether these comments identify any substantive shortcomings in the code/standards, or the effectiveness with which they are being specified.

The comments are organized mainly by topic area rather than by document, with associated proposed documentation for each topic cited within each section.

**Public Health and Safety**

The Staff report seems to emphasize interpretation of the law in a way that restricts the City's regulatory powers to aesthetics and use of the public right-of-way (ROW). Health and safety considerations (e.g. radiation) are deferred to higher levels of government (e.g. FCC rules). I highlight this due to the likelihood of public health and safety concerns (e.g. about radiation emissions), and associated correspondence or oral input you may receive.

In anticipation of potential discussion of this subject, I would like to share an observation about the Staff report analysis of the law. It is curious how the cited CPUC codes 7901 and 2902 may appear to be in potential conflict since Code 2902 seems to bestow some responsibility or authority to the City.

Proposed Code 12.18.080 a) 1) i) states an approval condition that the City must find that the proposed facility "is not detrimental to public health, safety...". In trying to reconcile this with City regulatory limitations, and understand the extent to which the City is able to make such a finding, it seems like a primary vehicle would be enforcement of proposed Code 12.19.090 17) for testing to meet FCC emissions rules.

Note that certain design standards might also indirectly provide some degree of assurance as well, e.g., proximity of facility locations and heights relative to building windows, even if those standards are primarily driven by aesthetics.

**Facility Height Constraints**

The proposed Design Standards include maximum height limits. Please consider whether there is a need to specify any minimum limits as well. This might be needed under conditions where it is desired to assure that a facility is not placed near a second-

or third-story window of a residence or other building, where the solution may be to assure the facility is placed above window level.

This notion and concern is touched upon in the proposed Design Standards, with respect to alleys in 2b, and there is discussion of adjacency to buildings in 2c. Walk streets are also identified as a special case. However, these standards may need to be augmented or strengthened more to more generally address residences/buildings in all City locations, with inclusion of potential height minimums as applicable.

### Design Standard Specificity

Many of the proposed Design Standards seem rather subjective, e.g. “shall be as small, short, and unobtrusive as possible”. Perhaps this is intentional, striving to provide flexibility while effectively communicating desired guidelines. But if there are opportunities to be more specific or quantitative in the code, without requiring excessive analysis, I would encourage such code enhancements.

### Pole Availability

Flexibility to meet wireless system objectives and satisfy City aesthetic, ROW, usage and (potentially) safety objectives depends on the availability of poles throughout the City that are eligible to accommodate wireless facilities. Comments here strive to assure eligibility based on specified pole ownership and clearance requirements.

It was not absolutely clear to me whether the SCE-owned utility poles are included as eligible for facility accommodation per proposed Code 12.18.030 Definitions, where Municipal Infrastructure means “City-owned or controlled property”. Hopefully the SCE poles are clearly deemed City-“controlled”. My recollection is that there are roughly 900 SCE poles and 400 City poles. Since exclusion of the SCE poles could impose a substantial limitation, these should be included.

We should also consider whether an excessive limitation would be associated with the proposed 5-foot pole clearance requirements per Resolution Section 5.A.2. (“A minimum five (5) foot horizontal radius from the base of the pole shall remain clear of obstructions to maintain pedestrian passage.”). While this requirement is not exactly the same type of specification as our ADA requirements for passage on sidewalks, we should consider whether there might similarly occur a number of challenges for compliance in our City. If so, then a relaxed value such as four (4) foot might be more appropriate to maximize flexibility.

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