

Hermosa Beach Wireless Facilities in Public Right of Way Ordinance & Design Standards

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1/8/19 AGENDA, ITEM 5a - WIRELESS COMMUNICATION FACILITIES

SUPPLEMENTAL POWERPOINT PRESENTATION SUBMITTED TO THE CITY MANAGER'S OFFICE ON 1/8/19 AT 7:00 P.M.

Why do we need an ordinance?

- Tremendous demand for wireless services → increased interest to locate in the Public Right of Way (PROW)
 - Streaming videos, multiple devices, internet of things, smart city apps, autonomous vehicles, etc.
- Hermosa's code is outdated and ambiguous as to whether PROW is included in prohibition in residential zones
- Carriers need different types of capacity and coverage
 - Small cells fill in the gaps left by macro facilities

Illustration of How Wireless Systems Function

The City Ordinance is **ONLY** Related to Small Wireless Facilities (including oDAS) in the Right of Way (ROW)



Topography: If an area is very hilly, more sites are needed to cover the area since there is shadowing from terrain. Consider how a hill blocks the sun's rays at sunset.



Distribution of demand:
In more dense traffic and population areas, we also need to have more sites in order to provide the necessary capacity.

Why do we need an ordinance?

- Need to make locations available in the city
- Since so much is residential, PROW is a great solution that is in line with carriers technology- small cells
- City Council directed staff to prepare an ordinance allowing small cells in the PROW- end of 2017.
 - Small cells in PROW are preferable
 - Less intrusive scale, lower output and allows distribution throughout the city

Recap on regulatory situation for local governments



Local governments mainly regulate **placement** and **aesthetics** (within limits). Decisions must comply with limits in state and federal law, e.g. be based on substantial evidence and cannot effectively prohibit service.



Wireless providers and telephone companies have a limited right to use the **public rights-of-way** and **utility infrastructure** for their facilities.



CPUC mainly responsible for rules on **safety of infrastructure**.



FCC small cell order puts **new limits** on local time for review and on aesthetic rules, among other things.

Local Regulatory Authority for Small Cells

- Cities mainly regulate placement and aesthetics (within limits).
 - Shall not incommode the public use of the PROW (safety, aesthetic, etc.)
 - Reasonable control over time, place and manner in which PROW is accessed
- City can't "effectively prohibit" wireless service by materially inhibiting providers ability to provide service (filling serving gaps, introduces new services, densifying capacity).
- FCC small cell order puts new limits on local time for review and on aesthetic rules, among other things.

Recap of Small Cell Order-

- Establishes shorter shot clocks for processing “small wireless facilities” applications- 60 days or 90 days
- Clarifies that all required authorizations included in shot clocks
- Clarifies definition of “collocation”
- Redefines “effective prohibition” standard
- Establishes test for permitted fees, and sets out presumptively reasonable one-time and recurring fees, including for permits, for use of PROW and for use of government property located in PROW
- Establishes test for permitted aesthetic, undergrounding and spacing standards

Aesthetic Regulation

- FCC states requirements must be:
 - *Reasonable* (“technically feasible and reasonably directed to avoiding or remedying the intangible public harm of unsightly or out-of-character deployments”)
 - *No more burdensome than those applied to other types of infrastructure deployments* (treat similar installations the same way)
 - *Objective and published in advance* (“clearly-defined and ascertainable standards applied in a principled manner”)

Aesthetic Regulation

EXAMPLES

■ Location

- protecting historic, cultural and scenic resources.

■ Camouflaging

- colors, painting, concealment, so long as required of other similar infrastructure as well.

■ Height & Size

- presumably ok so long as technically feasible and required of other similar infrastructure as well (but note FCC definition of small wireless facility has height and size components)

Approach to Update of Wireless Ordinance

- **Create a permitting process by ordinance that reflects the new and ever changing technology**
- **Provide Flexibility** (recognizing that deployments and technology will evolve over time, allow City to respond more nimbly)
 - City will establish design standards by resolution
 - As technology changes, City Council can more easily revise the standards
 - Director of Public Works can implement administrative regulations to manage the program
- **Reasonably Comply with FCC Order** (the FCC Order has ambiguities which require some judgements as to appropriate interpretations)

Major Provisions in Wireless Ordinance

Definitions

- Intended to be consistent with FCC Order

Scope

- Applies to small cell in PROW
- Existing illegal or unpermitted facilities must come in for a permit

Administration

- Director of Public Works administers the Chapter and processes applications

Appeal

- Decisions can be appealed to a Hearing Officer (2 business day period to comply with shot clock)

Major Provisions in Wireless Ordinance

Minimum Standards to guide deployment

- Specifics set out in the separate design standards

Application Requirements

Public Noticing

- Per CC Direction- notice provided to owners and occupants within 300 feet

Findings for Approval

Major Provisions in Wireless Ordinance

Conditions of Approval

- Permit Duration – 10 Years, which is authorized under state law
- Once approved, construction within one year
- Operation Commenced within 90 days
- City may enter and support, repair, disable or remove in an emergency
- Insurance and Indemnification
- Performance Bond for removal of facility
- General Maintenance
- Abandonment if not operated for a continuous period of 6 months
- Encouraging co-location

Major Provisions in Design Standards

- Meeting with applicant to walk through standards and proposal and issue spot at the beginning
- Height
 - Located no higher than 10% or 10 feet higher (whichever is greater) to adjacent zoning district
 - Encouraged to be as small, short and unobtrusive as possible
 - Tradeoff is that carriers may need *more* locations
- Camouflage and concealment requirements

Major Provisions in Draft Design Standards

■ Locations

- On existing or replacement infrastructure such as street lights and utility poles
- Alleys- place above roof line
- Walk Streets- placed below roofline
- If possible, locate between structures rather than next to them
- New tower only available when all existing and replacement options have been exhausted
- Monopalms and artificial trees prohibited

Major Provisions in Draft Design Standards

- Antennas small, short and unobtrusive as possible
- Accessory equipment enclosed in replacement poles or underground where feasible
- Electric meters, vaults and fans underground where feasible
- Lighting prohibited (unless required by FAA)
- Very limited signage
- Landscaping required around any ground mounted equipment
- Cabling and wiring should run internally
- Can't use historic structures or decorative street lights

Major Provisions in Draft Design Standards

- On street lights, equipment shall be in pole-top shrouds and tubular or cyclical form
- Utility poles
 - Equipment should match the color of the pole and be narrow
 - Equipment should be stacked close together on the same side of the pole
- Replacement Poles
 - Should be in the same location as the pole being replaced, unless doesn't meet standards and then shall be relocated to meet standards
- New Poles
 - New poles authorized when waiver required under 12.18.060(b) because denial would effectively prohibit service
 - New pole must function for a purpose other than a wireless facility (light, utility pole)
 - Must match dimensions and design of similar types of poles in the area

City of Hermosa Beach Sample Street Light Poles, Utility Poles and Traffic Signals (Prohibited and Allowed)



Prohibited on decorative street light poles



Allowed on standard street light poles



Prohibited on all traffic signals



Allowed on utility poles extending above adjacent buildings

Prohibited Wireless Facility Designs on Utility Poles



Exposed cables and antennas not painted to match pole



Bulky equipment not flush mounted or painted to match pole

Allowed Wireless Facility Designs on Utility Poles



Cables are flush mounted and all equipment is painted to match pole



Cables and equipment are flush mounted and painted to match pole

Prohibited Wireless Facility Designs on Street Lights



Exposed slack on cables and bulky equipment



Allowed Wireless Facility Designs on Street Lights



Lineal designed equipment and flush mounted on pole with colors to match pole

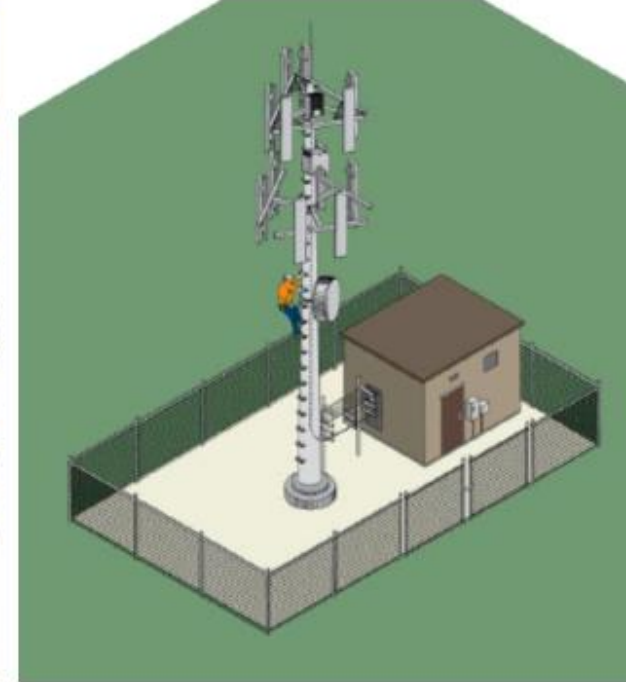


The Ordinance is NOT Related to the Following Types of Wireless Facilities

Cell on Wheels (COW)



Macro Cell Sites



Recommended Changes to Ordinance

- Section 12.18.020 Purpose.

a) The purpose of this Chapter is to establish a process for managing, and uniform standards for acting upon, requests for the placement of wireless facilities within the ROW of the City adjacent to all zoning districts consistent with the City's obligation to promote the public health, safety, and welfare, to manage the ROW, and to ensure that the use and enjoyment of the ROW is not inconvenienced by the use of the ROW for the placement of wireless facilities. The City recognizes the importance of wireless facilities to provide high-quality communications service to the residents and businesses within the City, and the City also recognizes its obligation to comply with applicable Federal and State law regarding the placement of personal wireless services facilities in its ROW. This Ordinance shall be interpreted consistent with those provisions.

Recommended Changes to Ordinance

- Section 12.18.070 Applications.

b) Content. An application must contain:

3) The name of the owner of the structure, if different from the applicant, and ~~a signed and notarized~~ proof of owner's authorization for use of the structure

6) A copy of the lease or other agreement between the applicant and the owner of the property to which the proposed facility will be attached. Proprietary information may be redacted.

Recommended Changes to Ordinance

- Section 12.18.070 Applications.

e) ~~Rejection for Incompleteness.~~ Wireless facility applications will be processed, and notices of incompleteness provided, in conformity with State, local, and Federal law. If such an application is incomplete, ~~it may be rejected by the Director by~~ may notifying the applicant and specifying the material omitted from the application.

Recommended Changes to Ordinance

- Section 12.18.090 Conditions of Approval.

3) Timing of Installation. The installation and construction authorized by a wireless encroachment permit shall begin within one (1) year after its approval, or it will expire without further action by the City. The installation and construction authorized by a wireless encroachment permit shall conclude, including any necessary post-installation repairs and/or restoration to the ROW, within ~~thirty (30)~~ ninety (90) days following the day construction commenced.

Recommended Changes to Ordinance

- Section 12.18.090 Conditions of Approval.

(4) Commencement of Operations. The operation of the approved facility shall commence no later than ~~ninety (90)~~ one hundred and eighty (180) days after the completion of installation, or the wireless encroachment permit will expire without further action by the City. The Permittee shall provide Director notice that operations have commenced by the same date.

Recommended Steps

- Introduce ordinance on first reading as revised
- Staff will review comments from wireless companies on the Design Standards and bring back a revised version for approval on consent at a future meeting
- Staff will bring back at a future date a permit fee and proposed master lease agreement for city facilities

Questions?