



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: May 21, 2019

Agenda Item 6-F

Approvals: _____
City Manager [Signature]
Dept. Head PGD
Attorney _____
Finance [Signature]

Department: Community Development Department, Planning Division
Prepared By: Katie Crockett, Associate Planner

Subject: *INITIATION OF A ZONING AMENDMENT TO UPDATE PERMITTING REQUIREMENTS FOR CERTAIN WIRELESS TELECOMMUNICATION FACILITIES IN RESPONSE TO RECENT FEDERAL COMMUNICATIONS COMMISSION REGULATIONS*

Fiscal Impact: None

Summary: The purpose of this item is to initiate a Zoning Amendment to bring the City's permitting processes for certain wireless telecommunications facilities, known as "Small Cells," into compliance with recent regulations set forth by the Federal Communications Commission (FCC).

Background: FCC Declaratory Ruling and Order 18-133 ("the Order") was adopted on September 26, 2018, implementing rules that limit the City's ability to regulate the deployment of Small Wireless Facilities ("Small Cells," see Attachment 1 for examples of Small Cells). According to the FCC definition, Small Cells are wireless telecommunications facilities that: (1) are mounted on structures 50 feet or less in height, including their antennas; or (2) are mounted on structures no more than 10 percent taller than other adjacent structures; or (3) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater. Small cells, according to the FCC, must also meet the following requirements: (1) each antenna associated with the deployment must be no more than three cubic feet; and (2) all other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure is no more than 28 cubic feet in volume.

The Order limits the timeframe within which the City must review and permit Small Cells, including all permits or permissions ("the shot clock"), and limits the fees, both for the initial application, as well as annual licensing or similar fees. Furthermore the Order limits the types of design standards or restrictions that the City can place on Small Cell installations. However, the City may exercise reasonable control as to time, place, and manner of construction within the public right of way (ROW) and may impose aesthetic requirements provided the requirements do not result in the actual or effective prohibition of Small Cells and that are no more burdensome than those applied to other types of infrastructure deployments.

Discussion: The City currently requires a Conditional Use Permit (CUP) or City Antenna Permit (CAP) for wireless telecommunications facilities depending on where they are located and how the facility is designed. Both permits require a noticed public hearing and

Design Review Subcommittee review. Both permits require a deposit, which staff time is billed against. The initial deposit is typically \$5,000. Because of the new restrictions on fees, shot clock, and design standards set forth in the Order, the current permitting required by the City's Zoning Ordinance for wireless telecommunications facilities is not feasible and would render the City unable to comply with the Order.

In order to comply with the Order, a new permit type for Small Cells will be created that eliminates the requisite public hearing, thereby reducing time and costs associated with review. Design standards will be drafted and maintained by the Planning Division to facilitate expedited review of Small Cells that meet the standards. The changes will enable the City to comply with the Order.

Staff will prepare a draft ordinance adding the new permit type and setting forth procedures thereof. The ordinance will be presented to the Planning Commission for review and recommendation prior to the ordinance being presented for City Council review.

Environmental

Review:

Initiating this Zoning Amendment would not, in itself, in any way impact or alter the physical environment. Accordingly, this action is exempt from environmental review under State CEQA Guidelines sections 15061(b)(3) (the general-rule exemption) and 15262 (exemption for feasibility and planning studies).

Recommended

Action:

STAFF RECOMMENDS THAT THE CITY COUNCIL, AS AUTHORIZED BY MUNICIPAL CODE SECTION 17.16.020(C)(1), INITIATE A ZONING AMENDMENT TO UPDATE PERMITTING REQUIREMENTS FOR CERTAIN WIRELESS TELECOMMUNICATIONS FACILITIES IN RESPONSE TO FEDERAL COMMUNICATIONS COMMISSION REGULATIONS

Attachments: 1. Small Cell Examples

Notification: N/A

Small Cell Examples

