



Legislation Text

File #: 18-0222, **Version:** 1

Adopt resolution authorizing City Manager, or designee, to execute License Agreements, and any necessary amendments, with wireless telecommunication providers and carriers, for the non-exclusive use of City-owned properties for wireless telecommunications facilities, for ten-year terms. (Citywide)

On February 15, 2018, the Planning Commission adopted Negative Declaration ND-11-17 and approved a Zoning Code Amendment (ACA17-008) and Local Coastal Program Amendment (LCPA 17-001) to remove from Title 21 of the Long Beach Municipal Code (LBMC) those provisions that relate to the regulations of wireless telecommunications facilities in the public right-of-way (ROW). The regulation of wireless telecommunications facilities in the public ROW will now fall under Title 15 of the LBMC and be under the jurisdiction of the Department of Public Works (PW), which will review all applications related to the installation of such facilities in the public ROW. The Department of Development Services will continue to regulate the installation of wireless telecommunications facilities that are outside the public ROW, pursuant to Chapter 21.56 of the LMBC.

In addition to shifting departmental responsibility, this action follows through a series of substantial Ordinance changes that began last year. On May 2, 2017, the City Council adopted a Zoning Code Amendment for time-critical regulations for small cell wireless telecommunications facilities. These facilities, which are commonly located on City infrastructure such as street lights, are often referred to as small cells. This amendment was intended to be a short-term patch to implement several aesthetic standards and regulations, with the understanding that a more complete Ordinance would follow. Since then, City staff has collaborated to produce a comprehensive Ordinance regulating small cells in the ROW that addresses not only design and aesthetic standards, but sets forth a new streamlined review and approval process.

Before 2016, wireless development was occurring principally through macro wireless telecommunications facilities on monopoles, building rooftops, or electrical transmission towers. Most of these facilities are large and located on private property. To date, there are over 120 macro wireless telecommunications facilities in the City and provide broad area coverage to the wireless carriers' customers throughout Long Beach.

Small cells are often located in the public ROW. They are placed on existing or new poles, such as street lights, and are considerably smaller in scale than macro facilities. They consist of a single small omnidirectional antenna, or up to three small panel antennas concealed behind a cylindrical shroud at the top of a pole, inside of the pole, or in an underground vault (Exhibit A). These small cells fill small- and intermediate-sized gaps in the carriers' macro

coverage. They also provide for greater communications capacity in areas of existing macro coverage, as necessary, to accommodate the significant increases in data consumption over wireless networks.

In 2016, the wireless telecommunications industry shifted to large-scale deployment of small cells. With the sudden increase in the volume of applications for wireless telecommunications facilities in the public ROW, it became apparent that the City's regulations for small cells needed to be updated to ensure a balance between the City's visual and aesthetic standards, and the demand and desire for more abundant access to wireless services. Among other issues, the previous small cell regulations did not contain sufficient development standards to avoid visual clutter on the City's vertical infrastructure. Staff in PW and the City Attorney's Office worked with the Planning Bureau of the Development Services Department to update wireless ROW regulations to better respond to the current market for small cell development.

The 2017 regulations in Chapter 21.56 of the LBMC provided more appropriate aesthetic and location standards for Long Beach residents and stakeholders, while providing increased clarity of regulations and efficiency of processing for the wireless industry. The 2017 Ordinance implemented the most crucial changes and allowed City staff time to develop a more comprehensive update of the wireless telecommunications regulations, while also allowing aesthetically-appropriate small cell projects to proceed.

The proposed Ordinance amending Chapter 21.56 (Wireless Telecommunications Facilities) and Title 15 (Public Utilities) of the LBMC completes this effort (as to ROW installation) by establishing comprehensive regulations for small cells in the ROW, and creates a streamlined, uniform review process based on the best practices of several other jurisdictions at the forefront of wireless ROW regulation. The proposed Ordinance includes new standards for location, size, intensity, and aesthetics of wireless small cells. Sites meeting the stricter development and location standards are eligible for ministerial (by-right) approvals. More discretionary (conditional) approval processes are reserved for circumstances when aesthetic and other considerations require site-specific analysis. The proposed Ordinance also creates consistent expectations and gives the City the ability to expeditiously permit these technological infrastructure projects while protecting the City's vital interests in its visual environment and public ROW.

Most small cells consist of two components: an antenna and associated equipment. The proposed Ordinance sets the preferences for the small cell antenna to be placed on an existing street light pole, replacement street light pole, or an existing structure other than a street light pole or utility pole in the public ROW. As a last resort, small cells may be allowed on an existing wood pole, new wooden poles may not be installed, but only if the applicant is able to show that all higher preferences are infeasible. For the required small cells equipment (e.g., radio units, power supplies, voltage converters, etc.), the preference is that they be located within a below-grade equipment vault, enclosed at the base or skirt of the pole, or on the utility pole itself. As a last resort, a new equipment enclosure mounted at grade may be allowed, but only if the applicant is able to show that all higher preferences are infeasible.

Review of applications for new small cells in the public ROW will be split into two categories: Tier A and Tier B. Tier A applications are for proposed facilities that applicants have demonstrated would not significantly detract from any of the defining characteristics of the neighborhood. Staff review of Tier A applications should take no more than 20 business days to process following receipt of a completed application. Tier B applications require additional review, as the proposed location is within, or adjacent to, a protected location. For Tier B applications, a finding that the proposed wireless telecommunications facility would not significantly detract from any of the defining characteristics of that protected location will be necessary. Staff review of Tier B applications should take no more than 40 business days to process following receipt of a completed application. Protected locations proposed under the Ordinance include, Planning Protected Locations, Coastal Zone Protection Locations, or Zoning Protected Locations, as defined in the City's General Plan.

Since February 15, 2018, City staff has made significant revisions to the proposed Ordinance as a response to public comments received before and during the Planning Commission hearing. Staff has also continued to meet with stakeholders on the proposed Ordinance. Major revisions to the proposed Ordinance since the Planning Commission Hearing, include, but are not limited to:

- Removal of the absolute prohibition to place small cells on wooden pools;
- Clarified that equipment on poles is allowed if undergrounding equipment is infeasible;
- Removal of restrictions associated with the installation of small cells near schools or parks;
- Clarified that manufacturers specification sheets may be used in lieu of noise studies if they prove that the equipment will not exceed the noise threshold.

In addition, for wireless telecommunication providers and carriers that wish to use City-owned property, such as street light poles, they will each be required to enter into a License Agreement with the City. As part of the License Agreement, the licensees will be responsible for installation, maintenance, bonding and insurance, restrictions on transfers, and other obligations. To compensate the City for use of street light poles and other City-owned facilities in the ROW, the licensees shall provide the City with negotiated annual license fees, proposed at \$3,000 per site, and/or other valuable non-monetary considerations.

In accordance with the California Environmental Quality Act, Mitigated Negative Declaration No. ND-11-17 was issued and circulated, and adopted by the Planning Commission on February 15, 2018 (Exhibit B).

A Notice of Public Hearing was published in the local newspaper of record, as required, on February 26, 2018, and no responses were received as of the date of preparation of this report. Any comments received prior to the City Council hearing will be provided at the hearing.

This matter was reviewed by Deputy City Attorney Linda T. Vu on and by Budget Analysis Officer Julissa José-Murray on March 1, 2018.

City Council action is requested on March 13, 2018, to move forward with the implementation of a more streamlined process for review and approval of applications for small cells throughout the City, while protecting the City's interests in the visual environment and public ROW.

The proposed Ordinance includes a component where telecommunication companies would pay a \$3,000 annual license fee per site for use of City facilities in the public ROW. The amount generated by the executed annual license fee will depend on the total approved locations and is unknown at this time.

Approval of this recommendation will provide continued support to the local economy. The number of local jobs created by this action is not known.

Approve recommendation.

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