SMALL WIRELESS FACILITIES REGULATIONS

Item 6a: Ordinance Adding Chapter 8.36 (Small Wireless Facilities In the Public Right-of-Way and utility easements in public and Private Properties) to Title 8 of the Municipal Code and Adopt a Resolution with Small Wireless Facilities Design and Siting Guidelines, Engineering Design Standards, and Standard Conditions of Approval

City Council
June 11, 2019

Darcy Smith,
Community and Economic Development Director
Agenda

I. Objective
II. Background – Federal Regulations
III. Planning Commission and Community Engagement
IV. Ordinance Overview
V. Resolution Overview
VI. City Council Review - May 14, 2019
VII. Tonight’s Action
VIII. Questions
Objective

- Waive First Reading and Introduce an Ordinance Adding Chapter 8.36 (Small Wireless Facilities In the Public Right-of-Way and utility easements in public and Private Properties) to Title 8 (Streets, Sidewalks, and Rights-of-Way) and Adopt a Resolution with Small Wireless Facilities Design and Siting Guidelines, Engineering Design Standards, and Standard Conditions of Approval
Background – Federal Regulation
Small Wireless Facilities

• Emerged as a result of growing demand for wireless service and speed

• Complement or stretch macro cellular facility coverage and add capacity in high demand areas.

• Small antennas mounted on a structure typically 50 feet or less in height

• Installed on a range of facilities in public right-of-way

• Supporting wireless equipment, such as power cabinets

• Safety of facilities, including radiofrequency emissions, is primarily regulated by the California Public Utilities Commission and Federal Communications Commission
Federal Regulations

• Federal Communications Commission (FCC) approved federal small wireless facility rules: “Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment”

• Clarify and restrict the authority of state and local governments to regulate small wireless facilities.

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

• Easier and faster for wireless companies to quickly expand and enhance their networks.
Federal Regulations

• Cities can adopt **objective aesthetic standards** to regulate the design and location of facilities (within state and federal limits)
• Standards must be **reasonable and no more burdensome** than those applied to other types of infrastructure in the right-of-way
• Regulations cannot have the effect of actually or effectively **prohibiting service**
• Restrictive application processing deadlines (“shot clocks”) set firm deadlines for processing:
  • **60 days** for small cell wireless facility attached to existing poles or structures
  • **90 days** for small cell wireless facilities on new poles or structures
How is Our Community Responding?

• Joined Coalition with other cities to appeal the FCC order
• Website developed with extensive information and FAQ – updates posted frequently
• Interested parties list to notify public of all meetings
• Three Planning Commission Study Sessions
• One Planning Commission public meeting to review Draft Ordinance and Resolution
• Community Engagement Meeting
• New Ordinance, application process, and regulations developed in response to FCC Regulations
Planning Commission Meetings and Community Engagement
Planning Commission Meetings

• Four Meetings:
  • October 12, 2018
  • November 20, 2018
  • January 15, 2019
  • March 19, 2019

• Review and education on Federal Regulations

• Examination of current City Regulations and other Cities’ regulations

• Review of Draft Ordinance and Resolution
Community Engagement Session

- Three feedback stations
- Community input forms
Types of Facilities

• Facilities attached to existing wooden utility poles and utility lines - top extension or side arm mounting
• Facilities attached to streetlights and traffic signal control poles
• New freestanding poles
Ordinance and Resolution Overview
Guiding Policy Principles

• **Achieve compliance with new federal law**
  - Objective standards
  - Ensure application processing compliance with Shot Clocks of 60 or 90 days
  - Ensure decision making process is based on substantial evidence and does not effectively prohibit service

• **Establish regulations for design and location**
  - Concealment / Screening
  - Height and Size
  - Location
  - Mounting
Ordinance Overview

• Ordinance will amend Municipal Code Title 8: Streets, Sidewalks, and Rights-of-Way

• Utilities and structures within the City’s public rights-of-way are regulated by Title 8

• Small wireless facilities will be administered by the City’s Public Works Department through a newly developed Wireless Facility Permit process
Key Features of the Ordinance

- 300 foot public notification provided at the time of application
- Copy of Decision provided to public if requested
- Right of appeal to the City Manager
- Recommended to ensure compliance with Processing Deadlines of 60 for existing poles or structures, or 90 days for new poles or structures
- Similar to other administrative permit processes
Key Features of the Application Process

- Director of Public Works, or his/her designee will be decision maker
- Peer and Independent Consultant Review
- Compliance with all aesthetic design guidelines and engineering standards
- Standard Conditions of Approval
Application Process Submittal Timeline

Day 1

Items to Complete:

• Application submittal

• Public Notice

• Review of Application – May require resubmittals

• Decision on Application

• Appeal Deadline

Day 60 or 90
Application Process Flow Chart

1. Applicant Proposes Wireless Facility
2. Voluntary Pre-Submittal Conference
3. Schedule Application Submittal Appointment
4. Public Notification by DPW to Property Owners per Ordinance

Decision Notice:
- Yes: Appeal (Y/N)
- No: Decision Notice by City Manager

Application Reviewed for Compliance with SBMC 8.36.080

Permit Process Complete
Key Features of the Permit Conditions of Approval

- Maintenance of the facility
- Compliance with approved plans
- Inspection and access by City staff
- Insurance and indemnity provisions to protect the City
- Performance bonds
- Maintenance obligations
- Compliance and independent testing to ensure full adherence to FCC rules for RF emissions
Key Features of the Design and Siting Guidelines

- Designed to provide flexibility to respond to the many different location contexts present in San Bruno

- Installations should be **concealed** to the **maximum extent feasible**

- One facility per structure - Facilities should be no closer than **300 feet away**, radially, from another small wireless facility

- Equipment should be located entirely on the pole in a **vertical arrangement** and **shrouded/concealed**

- Supporting equipment should be **undergrounded** in areas where undergrounding has occurred
Key Features of the Design and Siting Guidelines

- Should not be installed such that the facility damages existing City street trees

- Maximum height of 50 feet

- New poles should replicate the materials, color, and finish of existing infrastructure nearby

- Siting location preferences in which Industrial and Combining Industrial zoning districts are the highest ranked preference and low-density residential districts with single-family or two-family residential uses are the least preferred locations
City Council Review - May 14th Meeting
City Council Review

Maximum Facility Height

• City Council Discussion: 50 foot maximum height acceptable

Public Notification

• City Council Discussion: 500 feet noticing radius discussed. Suggested other alternatives such as door hangers or notices posted on poles or using other forms of technology

Staff recommendation: 300 feet for consistency.

Ordinance modification includes requirement that the public notice be placed on the proposed pole or other location.
City Council Review - May 14 Meeting

Appeals Process

- City Council Discussion: More information about appeals process and fee requested

Staff recommendation:

Appeals fee of $225 – consistent with lowest appeal fee for any City administrative decisions
Appeals Process Proposed:

- Appeal of Public Works Director’s Decision of a wireless facility permit submitted to the City Manager’s office within the prescribed time in the Ordinance.

- Appeal distributed to City Council for informational purposes, to applicant for written response, and to staff.

- Staff prepares written recommendation after reviewing appeal and any written response by applicant.
City Council Review - May 14 Meeting

Appeals Process (Continued)

- City Manager schedules and holds hearing to include appellant, staff, and applicant, and then renders written Decision on wireless facility permit to approve, conditionally approve, or deny the permit.

- Decision distributed to appellant, applicant, staff, and City Council.
City Council Review - May 14 Meeting

Damage to Public Infrastructure

- City Council Discussion: Concerns regarding the restoration of public infrastructure with respect to the construction work for wireless facilities

Staff recommendation:

Revised and added Conditions of Approval in Resolution to address this and ensure that any damage to the City’s infrastructure is restored.
Final Ordinance and Resolution

- Includes final changes recommended by City Attorney and outside counsel
- Substantive changes requested by AT&T and Verizon in their official comment letters rejected
Tonight’s Action – Request to City Council

• Waive First Reading and Introduce an Ordinance Adding Chapter 8.36 (Small Wireless Facilities In the Public Right-of-Way and utility easements in public and Private Properties) to Title 8 (Streets, Sidewalks, and Rights-of-Way) and Adopt a Resolution with Small Wireless Facilities Design and Siting Guidelines, Engineering Design Standards, and Standard Conditions of Approval
QUESTIONS?