



Ordinance Fact Sheet

TO: CITY COUNCIL **DATE:** April 27, 2009
FROM: CITY ATTORNEY
SUBJECT: TELECOMMUNICATIONS REGULATIONS ORDINANCE

TITLE OF PROPOSED ORDINANCE

ORDINANCE OF THE CITY OF PASADENA ADDING A NEW CHAPTER 12.22 TO THE PASADENA MUNICIPAL CODE ENTITLED "TELECOMMUNICATIONS FACILITIES," AMENDING SECTION 17.50.310 OF THE PASADENA MUNICIPAL CODE ("TELECOMMUNICATIONS FACILITIES"), MAKING CONFORMING AMENDMENTS TO TITLES 17 AND 18 OF THE PASADENA MUNICIPAL CODE, AND REPEALING ORDINANCE NO. 7144, AN INTERIM URGENCY ORDINANCE RELATING TO GROUND-MOUNTED WIRELESS FACILITIES IN RESIDENTIAL ZONES

PURPOSE OF ORDINANCE

This ordinance implements the direction given by Council on February 23, 2009 to return with a telecommunications ordinance that (1) establishes a set of new regulations over wireless and wireline telecommunications facilities in the public right-of-way through Title 12 of the Municipal Code; and (2) amends the Zoning Code's regulations over wireless facilities.

This ordinance would establish a process in Title 12 of the Municipal Code where applications for wireless and wireline telecommunications facilities in the public right-of-way are decided by the Director of Public Works, and all decisions may be appealed to the City Council by any interested person.

In Title 17, the following permit processes for wireless facilities would be amended and/or established through this ordinance:

MEETING OF 04/27/2009

AGENDA ITEM NO. 8.A.2.

<u>Facility</u>	<u>Process</u>
1. Major Facility (Monopole)	Permitted with CUP subject to Section 17.50.310.
2. Minor Facility (Co-Located)	Permitted with MCUP subject to Section 17.50.310.
3. Specific Co-Located (new, required by state law)	Permitted through ministerial approval by Director of Planning & Development through Section 17.50.310. We believe the most likely instance of this process being required will be for later attachments to monopoles approved after January 1, 2007. However, a CUP would still be required for the original monopole itself.
4. Opportunities Map (city-owned property) (new)	Permitted through City Council approval

Additionally, under the existing scheme, an applicant proposing to construct wireless facilities on a City-owned pole in the public right-of-way or on City-owned real property would need to obtain both (1) a land use permit; and (2) a license agreement. The multiple approvals created additional staff time in processing these facilities. Accordingly, the terms and conditions from the City's standard form license agreement for wireless facilities (previously adopted by Resolution No. 7542) have been incorporated into the code as conditions of approval for a permit. This obviates the need for a license agreement yet still allows the City to be protected to the same extent as it would with a separate license agreement.

At its February 23, 2009 meeting, the Council also directed the City Attorney to return with a resolution repealing the standard form license agreement for wireless facilities (Resolution No. 7542) and a resolution amending design guidelines pertaining to wireless facilities on property within the City (Resolution No. 7559). These resolutions will be presented to the Council on the date of second reading of this ordinance.

REASON WHY LEGISLATION IS NEEDED

This legislation is needed to bring the Municipal Code in line with legal developments since the time the City Council adopted the Zoning Code's wireless telecommunications regulations in 1997. The existing moratorium on ground-mounted wireless facilities in residential zones, originally adopted on June 18, 2007, expires on June 11, 2009, and state law prohibits the City from extending the moratorium.

DISCUSSION REGARDING ADDITIONAL INPUT

We understand that the Madison Heights Neighborhood Association has adopted a position statement on the Opportunities Site portion of the proposed ordinance. The MHNA has suggested a 500-foot minimum separation between ground-mounted telecommunications facilities in parks, and has also recommended that such facilities be camouflaged. In fact, the Zoning Code already does not allow wireless facilities in open space zoning districts (parks).

Concern has also been expressed over the location of wireless facilities in “pocket parks,” which, while not a recognized term in the Zoning Code, we understand to be certain undeveloped City properties located in residential zones. Presently, section 17.22.030 of the Zoning Code allows wireless facilities on City-owned property (potential Opportunities Sites) in residential zones, and the Council did not direct this provision be changed through this ordinance. However, through the Opportunities Site process, any approvals would be subject to the Council’s discretion.

Additionally, it has been suggested that equipment clusters with facilities from more than one service provider be prohibited. However, section 17.50.310(D)(4) encourages the co-location of antennas on support structures (monopoles), and the Council did not direct this provision to be amended at the February 23, 2009 meeting. It should be noted, however, that the Opportunities Site permitting process allows the Council to take into consideration the over-concentration of wireless facilities in the area of an Opportunities Site.

If the Council desires to eliminate the Opportunities Site Map and related process as requested by some members of the public, that may be accomplished by making amendments to the ordinance during the council meeting (such as deleting Section 17.50.310, paragraph I “Opportunities Map”), and proceeding with introduction of the ordinance.

PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED

The Public Works Department and Planning & Development Department will implement the proposed ordinance.

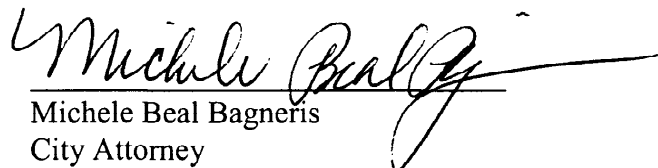
FISCAL IMPACT

The proposed amendments will not have a major fiscal impact. Staff reports that fees will be developed to reimburse the staff costs for review of the applications.


ENVIRONMENTAL REVIEW

On February 23, 2009, the Council acknowledged the conclusions of the Initial Study and adopted a Negative Declaration for the project.

Respectfully submitted,

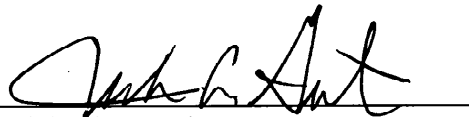

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