



Legislation Text

File #: ORD 2018-012, Version: 1

AGENDA ITEM REPORT

TITLE:

AN ORDINANCE AMENDING THE CITY'S CODE OF ORDINANCES, BY AMENDING CHAPTER 13, "LAND DEVELOPMENT CODE," ARTICLE III, "ZONING REGULATIONS," DIVISION 4, "ACCESSORY USES AND STRUCTURES," BY AMENDING ALL OF SUBDIVISION IX, "WIRELESS COMMUNICATIONS FACILITIES;" CHANGING THE SUBDIVISION TITLE TO "COMMUNICATIONS FACILITIES;" AND CHANGING ALL SECTIONS THEREIN IN ORDER TO UPDATE THE CITY'S TELECOMMUNICATIONS ORDINANCES TO COMPORT WITH RECENT CHANGES TO STATE AND FEDERAL LAW AND TO ENSURE CONSISTENCY WITH INDUSTRY STANDARDS.
(SECOND READING)(PUBLIC HEARING)

BACKGROUND:

This item was approved on First Reading at the May 10, 2018, City Commission Meeting and was tabled on Second Reading at the May 24, 2018, City Commission Meeting.

In July 2017, the State Legislature enacted the "Advance Wireless Infrastructure Deployment Act," which completely changed the regulation landscape of communications facilities located within the public rights-of-way. The City enacted a moratorium to allow for research and amendment to its previously existing regulations on the subject matter. In January 2018, the City Commission considered amendments to certain portions of Subdivision IX, "Wireless Communications Facilities," but issues were raised by industry representatives. These currently proposed regulations represent a complete re-write of the newly titled Subdivision IX, "Communications Facilities."

DISCUSSION:

The City has put considerable effort into re-writing the entire Subdivision to include both wireless and wireline communications facilities regulations, both inside and outside of the City's rights-of-way. The proposed amendments provide for regulations governing the subject matter to achieve consistency with the new state and federal laws.

Subsequent to First Reading of this Ordinance, representatives from the industry supplied comments to the City for further revisions. Based on the industry's comments, the City has done the following:

1. Removed the Security Fund requirement.
2. Removed the surveillance language from definitions of "personal wireless" and "small wireless facilities."
3. Removed the City's authority to deny a permit based on an HOA's or property's restrictive covenants.
4. Removed the Annual Fee for Wireline Facilities.

5. Removed the need for technical data regarding wireline service gaps.
6. Removed the buffering requirements for wireline stand-alone poles.
7. Clarified the definition of “tower.”
8. Clarified the wireline deployment requirement so as to not require a geographic search ring, rather require a showing of the geographic area around a proposed new pole.
9. Clarified that Section 13-539, “Shared use of wireless communications facilities,” is only for collocations outside rights-of-way.
10. Clarified that “Public Notice” is required for both wireless and wireline facilities under certain circumstances.
11. Clarified the concealment requirements, in that wireless facilities lines must be housed within the support structure, with specific considerations for the MainStreet Design Standards for all installations in the MainStreet RAC.
12. Added a separate category for permit applications for Small or Micro Wireless Facilities in the right-of-way.

Upon request by the industry representatives, the City Commission tabled the item to be heard on June 28, 2018, for second reading to allow the industry to have a final meeting with staff. The results of the meeting and subsequent discussions yielded twelve (12) new changes, which include:

1. The City allows for design wrapping of communications facilities to blend into the surrounding environment or to be consistent with the City’s Public Art Master Plan, instead of mandating buffering through fencing/landscaping.
2. The City allows for an administrative review of micro wireless facilities outside of the City’s rights-of-way in certain zoning districts, where other facilities must receive special land use approval.
3. The City allows communications facilities to be installed on top of nonresidential structures with a minimum height of thirty (30) feet, outside the right-of-way.
4. For clarification, the City eliminated certain subparagraphs that were incorporated by reference into the City’s wireless within the right-of-way section and kept only the non-interference subparagraph to be incorporated by reference.
5. For clarification, the City added language to provide that wireless facility equipment, like cabinet boxes, must either be vaulted underground or design wrapped consistent with the purposes stated above.
6. For clarification, the City added language to provide that when an installation is proposed in a residential zoning district, it must not unreasonably interfere with the residential structure in that the installation must be located in the corner nearest the property line at the farthest point away from the residential structure.
7. For clarification, when a new tower is built, the owner must notify the industry and the City’s consultant of the location of the tower and the availability of shared use.
8. For clarification, the City added language to provide that the distance separation requirements for ground-mounted equipment is the distance between two (2) neutral host antennas, not the providers located on the same neutral host antenna.
9. For clarification, the City added language to its public notice requirements.
10. The City amended its distance requirement between ground-mounted equipment to five hundred (500) feet.
11. The City removed the requirement for all facilities to be neutral host antennas, and simply indicates that such facilities are preferred within the City (providing incentives for same).
12. For clarification, the City added language to emphasize that certain micro wireless facilities suspended on cables between existing utility poles are exempt from permitting requirements.

13. The City initiated the deletion of language that allowed proof of self-insurance in lieu of traditional insurance requirements pursuant to the City's registration.

RECOMMENDATION:

Staff recommends approval of this Ordinance.

FISCAL IMPACT: N/A