

Council Agenda Report

To: Mayor La Monte and the Honorable Members of the City Council

Prepared by: Bonnie Blue, Planning Director

Approved by: Reva Feldman, City Manager 

Date prepared: November 9, 2016

Meeting date: November 28, 2016

Subject: Amendments to the Wireless Communications Facilities Ordinances

RECOMMENDED ACTION: Adopt Resolution No. 16-48 initiating amendments to Title 17 of the Malibu Municipal Code (MMC) and to the Local Coastal Program (LCP) to update the City's ordinances related to wireless communication facilities (WCFs).

FISCAL IMPACT: None.

DISCUSSION: Staff is proposing to amend the MMC and LCP regulations regarding WCFs in an attempt to address issues that residents, City staff and wireless communications applicants have experienced during the process of proposing and placing new facilities, including existing facility upgrades throughout the City. City staff wishes to establish a transparent permitting process for WCFs and codify other processing time rules. In addition, the code updates are necessary to bring the City's ordinances into compliance with federal¹ and State² laws that have been enacted since the City's adoption of its original ordinance in 2003.

Upon initiating the code amendments, City staff will seek professional consulting services for the following services: 1) preparation of a revised City WCF ordinance; 2) preparation of an initial study pursuant to California Environmental Quality Act (CEQA); 3) creation of an implementation program with a public outreach component;

¹ Spectrum Act – Title IV, Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 {47 U.S.C. 1455}; On December 17, 2014, the FCC adopted regulations implementing Section 6409, codified at 47 C.F.R. § 1.40001, which took effect on April 9, 2015. The regulations were intended to clarify which types of WCF projects are covered by the Spectrum Act.

² State Laws SB 1627 codified as Government Code Sections 65850.6 and 65964 adopted in 2006; Assembly Bill 57 (Quirk), effective January 1, 2016, a new state statute codified Government Code Section 65964.1 (see <http://bit.ly/1Rcnlpb>), which deems approved all applications for new sites after 150 days and all collocations not covered under the FCC's rules after 90 days.

4) peer review services for WCF applications; and 5) technical services for a maintenance and compliance program.

For the code update, staff proposes that the consultant conduct a community meeting to solicit public comment prior to developing an administrative draft of the ordinance and publishing said comments on the City's website. The draft ordinance will be presented to the City Council Zoning Ordinance Revisions and Code Enforcement Subcommittee, followed by additional public workshops, and Planning Commission hearings prior to the City Council consideration. This process will occur concurrently with the public review process of the CEQA document.

Funding for the code update is included in the adopted budget for Fiscal Year 2016-2017 in Account No. 101-2001-5100 (Planning Professional Services). Staff will present a proposed scope of work and agreement for the WCF professional consulting services to Council at a later date.

SUMMARY: Staff recommends that the Council initiate the amendments in order for the code amendments to move forward.

ATTACHMENT: Resolution No. 16-48

RESOLUTION NO. 16-48

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU
INITIATING AMENDMENTS TO TITLE 17 OF THE MALIBU MUNICIPAL
CODE AND TO THE LOCAL COASTAL PROGRAM TO UPDATE THE CITY'S
ORDINANCES RELATED TO WIRELESS COMMUNICATION FACILITIES

The City Council of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. Initiation.

Pursuant to the Malibu Municipal Code (MMC) and Local Coastal Program (LCP) Local Implementation Plan (LIP) Section 19.2.1, the City Council hereby initiates amendments to the MMC and LCP, and directs staff to issue a Notice of Availability consistent with LIP Section 19.3.1 to update the development standards and processing of wireless communication facilities.

SECTION 2. Planning Commission Hearing.

The Planning Commission is hereby directed to conduct a duly noticed public hearing in accordance with the provisions of LIP Chapter 19 no earlier than six weeks from the date of mailing of the Notice of Availability. Following the public hearing, the Planning Commission shall recommend to the City Council whether it should approve, modify, or reject the amendments. The Planning Commission's recommendation shall be made by resolution carried by the affirmative vote of not less than the majority of the entire Planning Commission.

SECTION 3. The City Clerk shall certify to the adoption of this resolution and enter it into the book of original resolutions.

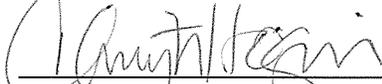
PASSED, APPROVED, and ADOPTED this 28th day of November 2016.

LOU LA MONTE, Mayor

ATTEST:

HEATHER GLASER, City Clerk
(seal)

APPROVED AS TO FORM:



CHRISTI HOGIN, City Attorney