



Virtual Public Workshop

# Wireless Communication Facility Ordinance Update

**Wednesday, December 16 | 6 PM**

City of Malibu

# Poor Utility Line Installation

- Contact the California Public Utilities Commission's Consumer Affairs Branch
- <https://www.cpuc.ca.gov/complaints/>

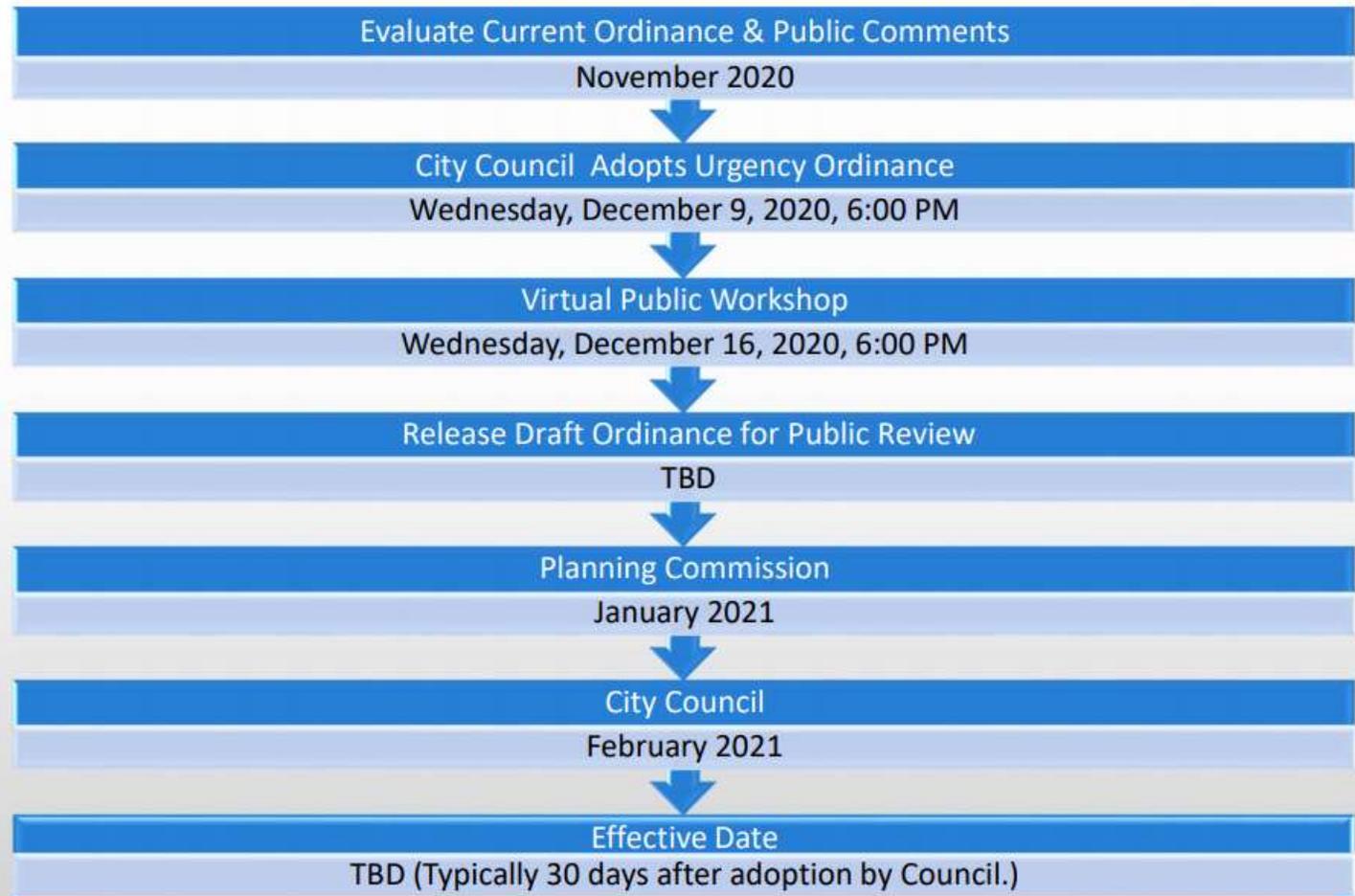


Wireless Communication Facility  
Ordinance Update



# Wireless Communication Facility Ordinance Update

## *Timeline*



# Regulatory Overview

- National Wireless Policy – no local decision or regulation can create an effective prohibition of personal wireless service
- National RF Emissions Standards – localities can only ensure compliance with federal standards
- Timely Action Required – shot clocks and remedies for failure to act
- Some modifications to existing wireless facilities must be approved
- Additional limits on local authority over installations in public ROW
  - State telco franchise to use public ROW – includes wireless
  - CPUC standards for safe utility infrastructure – includes wireless
  - Telco right to use utility poles – includes wireless
- CPUC defers to local government on land use regulation of macro cell sites (General Order 159A)



# Shot Clocks and Remedies

Wireless Communication Facility  
Ordinance Update



# Shot Clocks

- Local governments may not impose a moratorium on accepting or processing applications
- In addition, there are federal and state shot clocks for wireless
- “Shot clocks” are specific time periods in which a city must take final action on an application to install or modify a wireless facility → **including appeals**
- Applicable shot clock depends on application type
- The shot clock may be reset or tolled only by issuing a timely notice of incompleteness (NOI), or by agreement with the applicant



# Summary of Wireless Shot Clocks

Category	Applicable Shot Clock	
<u>Eligible Facilities Requests (EFR)</u> Must involve modification to existing wireless facility (tower or base station) and meet size and other requirements to qualify as EFR	60 days	
<u>Small Cells (Small Wireless Facility (SWF))</u> Must be personal wireless services facility that meets size and other requirements to qualify as SWF.	Placement on existing structure (need not be existing wireless facility)	60 days
	New	90 days
<u>Collocations</u> Must involve placement of personal wireless services facility (that does not qualify as EFR or SWF) on existing structure that need not have wireless facility already on it	90 days	
<u>Other</u> Personal wireless services facility that does not fall in any other category	150 days	
<u>CA Emergency Generator (AB 2421)</u> Must be a generator that meets the requires of AB 2421	60 days	



# Summary of NOI Deadlines

Category	NOI Deadlines
<u>Eligible Facilities Requests (EFR)</u>	Initial Submission: 30 days Resubmissions: 10 days
<u>Small Cells (Small Wireless Facility (SWF))</u>	Initial Submission: 10 days* Resubmissions: 10 days *First NOI resets shot clock
<u>Collocations</u>	Initial Submission: 30 days Resubmissions: 10 days
<u>Other</u>	Initial Submission: 30 days Resubmissions: 10 days
<u>CA Emergency Generator (AB 2421)</u>	Initial Submission: 10 days* Resubmissions: 10 days* *All NOIs reset shot clock



# Shot Clock Remedies

- **60-day and 90-day Small Cell Shot Clocks**
  - No federal or state deemed granted remedy
  - Enhanced remedy – presumed to be an illegal effective prohibition
- **60-day EFR Shot Clock**
  - Federal deemed granted remedy
- **60-day CA Emergency Generator Shot Clock**
  - State deemed granted remedy
- **90-day and 150-day Collocation and Other Wireless Shot Clocks**
  - State deemed granted remedy (CA Gov. Code 65964.1)



# Implementation

- **Urgency ROW Ordinance**

- Application notices posted at site within 7 days of submittal and mailed to residents within 5 business days of completeness
- (City also posts application info on website)
- Administrative decision by Director
- Filing appeals within five business days
- Appeals Body is Hearing Officer chosen by the City Manager or designee



# Modifications That Must Be Approved

Wireless Communication Facility  
Ordinance Update



# Eligible Facilities Requests (EFRs)

- EFRs are certain non-substantial modifications to existing structures with an existing wireless facility
- An EFR can entail:
  - Collocation of new transmission equipment;
  - Removal of transmission equipment; or
  - Replacement of transmission equipment
- Federal law establishes that the City has **no discretion to deny** an EFR
- One factor in determining qualification as an EFR is whether the proposed work defeats the concealment elements of an existing “stealth” structure
- A “stealth facility” is one that is designed to look like something other than a wireless tower or base station



# Emergency Standby Generators

- **CA State Law: AB 2421**
  - Effective for three years beginning on January 1, 2021
  - If a emergency standby generator meets certain requirements, then the locality must approve the application
  - Rules apply only to macro cell tower sites
    - Do not apply to rooftop sites, small cells, or outdoor or indoor distributed antenna systems



# Implementation

- **Urgency ROW Ordinance**
  - Special findings for EFRs
  - Administrative decision by Director
  - Filing appeals within five business days
  - Appeals Body is Hearing Officer chosen by the City Manager or designee
- Zoning Ordinance update will address AB 2421



# Regulating Safety

Wireless Communication Facility  
Ordinance Update



# Radiofrequency (RF) Emissions

- FCC sets national standards
- Under federal law, City may confirm and mandate compliance with FCC standards but may **not** regulate based on health concerns over RF emissions



# Utility Infrastructure In Public ROW

- California Public Utilities Commission (CPUC)
  - Regulates telecommunications and electric utilities
  - Responsible for rules on safe use of infrastructure to protect consumers and ensure access to “safe and reliable utility infrastructure and services”
  - Sets rules for wireless carriers to use investor-owned utilities in the public ROW
- Industry associations and pole owners also establish standards, e.g. ANSI, EEI



# General Order 95

- Contains CPUC rules for overhead electric line construction
- Includes standards for safe installations, including wireless facilities, on utility poles supporting electric power lines
  - Example: separation from power lines on pole depending on voltage of lines and proposed installation location of wireless facility (above or below power lines)



# CPUC Resiliency Requirements

- A July 16, 2020 CPUC decision requires facilities-based wireless providers to develop resiliency strategies to prepare for disasters and power outages
- Wireless providers have 12 months to implement a 72-hour backup power requirement for their facilities to maintain minimum service coverage to Tier 2 and Tier 3 High Fire Threat Districts during disasters or commercial grid outages
- CPUC is currently reconsidering these requirements



# Implementation - Safety

- **Application Requirements** – Applicant must:
  - (1) state whether proposed facility is in a High Fire-Threat District;
  - (2) state whether the support structure is subject to CPUC General order 95, 165, or 166 (**if in the ROW**); and
  - (3) provide reports from certified experts addressing the current structure's and proposed facility's compliance with applicable standards
- **Design Standards** – Require that all wireless facilities contain:
  - A power shutoff accessible to fire safety personnel
  - Surge and lightning protection
  - Safety signage
  - Instructions for de-energizing equipment
- **Permit Conditions of Approval**
  - Must maintain compliance with applicable laws and regulations, including requirements from the City, FCC, and LA County Fire Department
  - Must engineer and design facility to prevent unauthorized climbing



# Structural Safety

- **Application Requirements**
  - Structural analysis report signed by a California-certified professional engineer
  - Site plan
- **Permit Conditions of Approval**
  - Must maintain compliance with applicable laws and regulations, including requirements from the City, FCC, and LA County Fire Department
  - Must engineer and design facility to prevent unauthorized climbing
  - Construction must be conducted in accordance with applicable standards



# Implementation - RF Emissions

- Addressed as both an application requirement and a condition of approval
- Provide report on RF emissions compliance
- Monitoring after installation:
  - Wireless carriers will not accept condition of constant monitoring
  - In some instances, wireless carriers have agreed to periodic testing (e.g., every two years or upon permit renewal)



# Regulating Locations, Aesthetics and Noise

Wireless Communication Facility  
Ordinance Update



# Limits on Local Authority

- Generally, local governments can regulate aesthetics, however:
- Aesthetic regulations for personal wireless facilities must not prohibit or effectively prohibit the provision of personal wireless services
- Aesthetic requirements for small cells must be:
  - *Reasonable* (“technically feasible and reasonably directed to avoiding or remedying the intangible public harm of unsightly or out-of-character deployments”); and
  - *Published in advance*
- Spacing, separation, and setback requirements are subject to same federal standards
- Under state law, wireless carriers and telecommunications providers have a right to install wireless facilities in the public ROW, so long as the placement does not incommode the public use of the ROW
- Spacing requirements may not keep the carriers out of the public ROW entirely



# Implementation – Spacing Requirements

- **Design Standards Resolution (for in ROW)**
  - Prohibited
    - Within 600 feet of an existing wireless facility, If adjacent to residential zone and not on Pacific Coast Highway (PCH) or a major arterial roadway
  - Discouraged
    - Within 250 feet of property line of an open space or recreational area
    - Within 500 feet of school grounds, playgrounds or parks
    - Within 450 feet of an existing wireless facility within or adjacent to a residential zone, except for those on PCH or major arterial roadway
  - Zoning Code – contains similar standards



# Implementation - Utility Poles in ROW

- **Design Standards Resolution**

- Preferred side-mounted to top-mounted installations to protect views
- Must be stealth
- RRUs in shroud or on same side of pole as arm
- Cables within conduit on pole
- Top-Mounted Facilities
  - Must be stealth and in a shroud
  - Antenna maximum volume: three feet
  - Facility maximum height (incl. shroud): six feet
  - Facility maximum diameter (incl. shroud): 14.5 inches
- Strand-Mounted Facilities
  - Encouraged – must be stealth and of smallest size technically feasible
  - Reduces number of pole-mounted installations to protect views



# Implementation - Streetlight Poles in ROW

- **Design Standards Resolution**

- Top-mounted installations preferred
- Must be stealth and in a shroud
- Maximum antenna volume: three feet
- Maximum height (incl. shroud): five feet
- Maximum diameter (incl. shroud): 14.5 inches



# Implementation - Replacement Poles in ROW

- **Design Standards Resolution**

- Placed in same position as existing pole, subject to safety requirements
- Must be stealth
- Designed to resemble pole that it is replacing
- Cables in wiring in pole or under conduit (if wooden pole)



# Implementation - New Poles in ROW

- **Design Standards Resolution**
  - Prohibited, unless City approves a waiver
  - If approved:
    - Must be stealth
    - Maximum height: 28 feet
    - Maximum diameter: 14 inches
    - Maximum base enclosure size: shall not exceed 24 inches in width or height
    - Shall resemble other poles in the area
    - New wooden poles prohibited, unless necessary to match poles in surrounding area
    - Cables and wiring inside pole



# Summary

Wireless Communication Facility  
Ordinance Update



# Core Authority of Local Governments

- Set reasonable standards for aesthetics, safety, and placement (within limits)
- Can say “no” to a specific installation, but decision has to be supported by **substantial evidence** *and be in writing*
- Local governments may not:
  - Impose a moratorium on wireless applications
  - Deny without written decision
  - Set their own radiofrequency (RF) standards
  - Keep the wireless facilities entirely out of the public ROW
  - Create an effective prohibition of personal wireless service



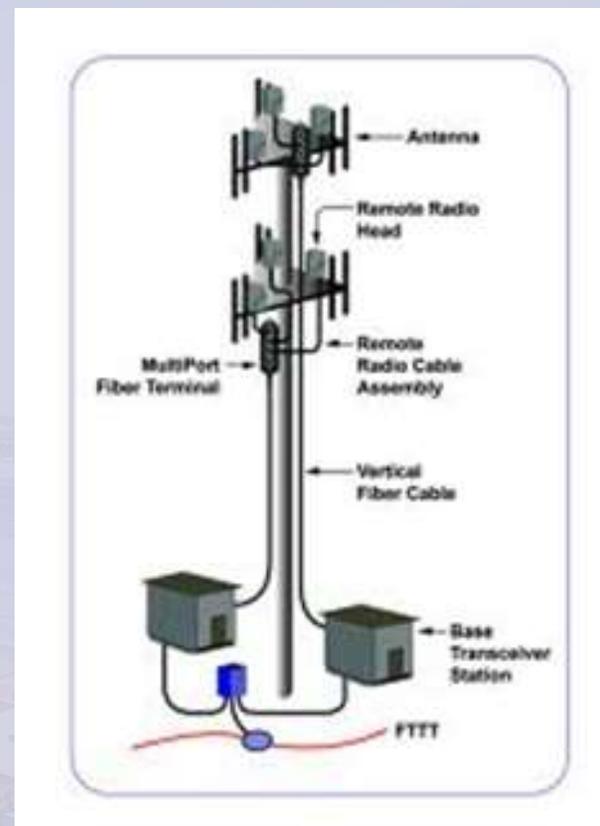
# Wireless Communication Facilities 101

Wireless Communication Facility  
Ordinance Update



# Components

- Antenna(s)
- Equipment
- Connecting Cables
- Support Structure
- Power Source (Meter/Battery)
- Backhaul (wired or wireless)



Wireless Communication Facility  
Ordinance Update



# Most Common WCF Types in Malibu



Wireless Communication Facility  
Ordinance Update



# Other Types in the Malibu



Wireless Communication Facility  
Ordinance Update



# Other Types in Malibu



Wireless Communication Facility  
Ordinance Update



# WCFs within the Right-of-Way



Wireless Communication Facility  
Ordinance Update



# Let's Talk!

Wireless Communication Facility  
Ordinance Update



# Utility Poles: Side-Mounted



# Utility Poles: Top-Mounted



Wireless Communication Facility  
Ordinance Update



# Utility Poles: Strand-Mounted



# Streetlight Pole



Wireless Communication Facility  
Ordinance Update



# Traffic Sign Pole



Wireless Communication Facility  
Ordinance Update



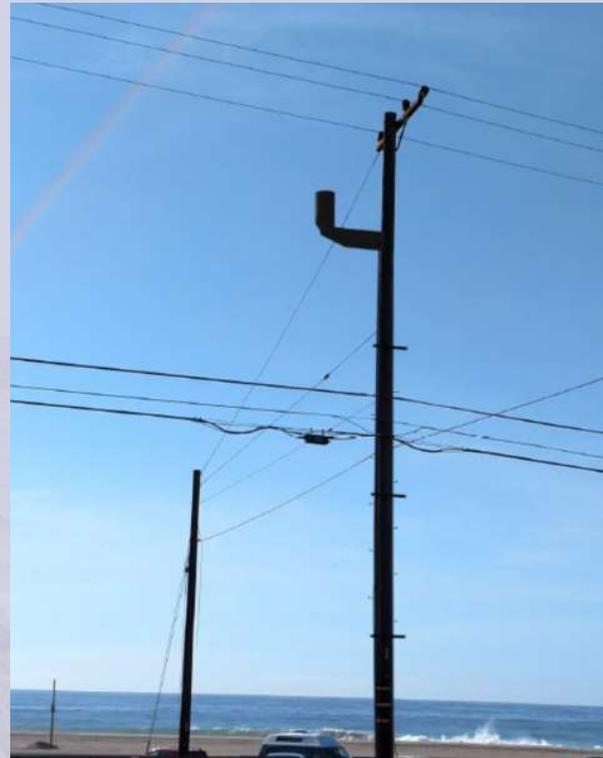
# Outside Right-of-Way



Wireless Communication Facility  
Ordinance Update



# Equipment Aesthetics



Wireless Communication Facility  
Ordinance Update



# Equipment Aesthetics



Wireless Communication Facility  
Ordinance Update



WE WANT TO HEAR FROM YOU!

Wireless Communication Facility  
Ordinance Update

