

EXHIBIT F

DRAFT

TITLE 16

ORDINANCE

**ORDINANCE NO. \_\_\_\_\_**

An ordinance amending the Los Angeles County Code, Title 16 – Highways to establish regulations for small cell wireless communication facilities in highways.

The Board of Supervisors of the County of Los Angeles ordains as follows:

**SECTION 1.** Chapter 16.25 is hereby added to Title 16 (Highways) of the County Code to read as follows:

**CHAPTER 16.25 SMALL CELL WIRELESS COMMUNICATION FACILITIES**

**16.25.010 Purpose and Scope.**

The purpose of this chapter is to establish procedures and standards for the installation and modification of small cell wireless communication facilities (SCF) located in highways. Wireless facilities, including temporary wireless facilities, that are not SCF must comply with applicable provisions of Title 22 (Planning and Zoning) of the Los Angeles County Code, other applicable laws, ordinances and regulations, and obtain required approvals from county departments and public agencies.

**16.25.020 Definitions.**

The terms as used in this chapter are defined as follows:

A. Applicant. "Applicant" means a person or entity applying for a permit pursuant to this chapter to install, maintain, modify or remove SCF within a highway.

B. Base station. "Base station" means a structure or equipment, as defined in 47 C.F.R. § 1.6100(b)(1), or any successor provision, at a fixed location in a highway that enables FCC-licensed or authorized SCF wireless communications between user equipment and a communications network. This term does not include a tower or any equipment associated with a tower.

C. C.F.R. "C.F.R." means the Code of Federal Regulations and references to such provisions in this chapter also includes successor provisions to those cited.

D. County infrastructure. "County infrastructure" means county-owned property, structures, objects, and/or equipment located within highways, including without limitation, free standing streetlights, traffic signals, and pedestrian lights.

E. Eligible Facilities Request. "Eligible facilities request" or "EFR" means a request for modification of an existing tower or base station that does not substantially change the physical dimensions of that tower or base station, and involves collocation, removal, or replacement of transmission equipment, as defined in 47 C.F.R. § 1.6100(b)(3) and within the meaning of the Spectrum Act or any successor provisions. For the purposes of eligible facilities requests, collocation is as defined in 47 C.F.R. § 1.6100(b)(2), or any successor provisions.

F. FCC. "FCC" means the Federal Communications Commission or its lawful successor.

G. Owner. "Owner" means the party responsible for the SCF who is authorized to control and maintain the SCF, including the owner, licensee, or any other party who has authority and control over the SCF and their successors and/or assigns.

H. Permittee. "Permittee" means any person or entity granted a permit in accordance with this chapter.

I. Small cell wireless communication facility or SCF. "Small cell wireless communication facility" or "SCF" means a "small wireless facility" as defined in 47 C.F.R. 1.6002(l), and in any successor provisions.

J. Support structure. "Support structure" includes county infrastructure, streetlights, towers or utility poles.

K. Temporary SCF. "Temporary SCF" means an SCF intended or used to provide wireless services on a temporary or emergency basis, such as a large-scale special event in which more users than usual gather in a single location or following a duly proclaimed local or state emergency as defined in California Government Code Section 8558 requiring additional service capabilities. Temporary SCFs include without limitation, cells on wheels, sites on wheels, cells on light trucks, or other similar wireless facilities: (1) that will be in place for no more than six months (or such other longer time as the County may allow in light of the event or emergency); (2) for which required notice is provided to the FAA; (3) that do not require marking or lighting under FAA regulations; (4) that will not exceed the height limit in the applicable zone; and (5) that will either involve no excavation or involve excavation only as required to safely anchor the facility, as approved by the road commissioner.

L. Tower. "Tower" A structure that is built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas as defined in 47 C.F.R. § 1.6100(b)(9), including on-site fencing, equipment, switches, wiring, cabling, power sources, shelters, or cabinets associated with that tower but not installed as part of an antenna. This definition does not include utility poles or light poles.

**16.25.030 Permit required.**

A. Permit. A permit issued pursuant to this chapter is required to authorize the installation, replacement, maintenance, modification or removal of any SCF in a highway, including any temporary SCF and any eligible facilities requests pertaining to an SCF that

received approval pursuant to this Division 1. All other eligible facilities requests should be made pursuant to Title 22, Chapter 22.14.

B. Application.

1. Application submittal. An applicant for an SCF shall submit an application for a permit on forms provided by the road commissioner, containing all information that is required in this chapter and in section 16.08 of this Division 1, and providing payment of all application fees required pursuant to this Division 1. The applicant shall identify the written approval for use of the support structure or base station proposed for SCF consistent with section 16.25.060 and provide supportive documentation to the satisfaction of the road commissioner.

2. Design guidelines and permit checklist. The road commissioner may develop and issue design guidelines for SCFs, permit conditions for SCFs and EFRs, and permit checklists for SCFs and EFRs implementing the provisions of this chapter. The permit application and checklists for SCFs and EFRs shall demonstrate compliance with this chapter for the application to be deemed complete.

3. Installation of county infrastructure. If the SCF is to be mounted on new or replacement county infrastructure, engineered plans shall be submitted for approval by the road commissioner.

4. Emergency work. For emergency SCF work, the permit application shall be submitted no later than one business day after the emergency SCF work is commenced.

5. Incomplete application. An application will be screened for completeness in conformity with this chapter, and applicable law, including any FCC-issued order(s). If the application is incomplete, the road commissioner shall notify the applicant in writing

and specify the information or material(s) omitted from the application in a timely manner pursuant to any applicable law or order.

6. Processing. An application shall be processed within the time period as specified by applicable law, including any FCC-issued order(s), in accordance with all applicable requirements and procedures for a permit identified in Title 16 – Highways, Division 1 – Highway Permits.

7. Decision on permit application. The road commissioner shall grant a permit when the road commissioner is satisfied that the SCF or EFR meets all applicable requirements for a permit under this chapter. Permits processed and granted pursuant to this chapter are subject to all provisions of Title 16 – Highways, Division 1 – Highway Permits, including the requirements of this chapter and any permit conditions imposed by the commissioner. The denial of a permit application shall be issued in writing and state the reasons for denial.

8. Final decision. The road commissioner’s decision on an application submitted pursuant to this Chapter shall be the final action of the county.

C. County authority over highways. The county’s grant of a permit for a SCF or EFR does not waive, and shall not be construed to waive, any claims, authority or standing by the county to challenge any FCC orders or rules related to SCF or EFR in a highway.

**16.25.040 Other requirements.**

A. Other applicable permits. Prior to the issuance of a permit for a SCF or EFR, the applicant shall obtain all required county and public agency permits and approvals, as applicable.

1. Regional Planning. A SCF on a new support structure to be located in a highway identified as a Scenic Highway in the County General Plan, or to be located within the boundaries of a Coastal Zone or Significant Ecological Area, or within 50 feet of a Significant Ridgeline, as described in Title 22 of the county code, shall obtain land use approvals from Regional Planning.

B. Pre-existing SCF in the highways. Any existing SCF in a highway as of the adoption date of this chapter shall remain subject to the provisions of the county code and any applicable master license agreement or authorization in effect prior to this chapter, unless and until the agreement or authorization for such SCF to remain in the highway expires, at which time the provisions of this chapter shall apply. Notwithstanding the above, any existing SCF in a highway is subject to provisions of Title 16 – Highways, Division 1 – Highway Permits of the county code.

C. Public use. Except as otherwise provided by applicable law, any use of a highway or county infrastructure authorized pursuant to this chapter is subordinate to the county's use and use by the public.

D. Order of use. To the extent feasible, the SCF shall utilize support structures in this order of preference: 1. existing support structures, other than traffic signal poles; 2. replacement support structures; 3. traffic signal poles; 4. new towers.

E. Compliance with law, permits and agreements. SCF owners and permittees shall comply with all applicable federal, state and local laws, regulations, and other rules, permits, conditions, and any agreement with the county related to SCF.

**16.25.050 Development Standards for SCFs.**

In order to obtain a permit, SCFs shall comply with the following development standards and the design guidelines and checklist developed by the road commissioner pursuant to section 16.25.030.B.2:

A. Support structure concealment. All SCFs shall be stealth, meaning designed to look like something other than a wireless facility. The SCF and associated equipment, including antennas, radios, and cables, shall be concealed on or within the support structure, consistent with the design guidelines for SCF.

B. Location.

1. The location or placement of SCF shall not interfere with the use of the highway; impede the flow of vehicular or pedestrian traffic; impair the primary use and purpose of traffic signals, streetlights, utility poles, other support structures, signs, or other county infrastructure in the highway; interfere with outdoor dining areas or emergency facilities; or otherwise obstruct the accessibility of the highway. SCFs and associated equipment in the highway shall comply with Americans with Disabilities Act (ADA) requirements.

2. Temporary facilities. In addition to the standards set forth in this section, temporary SCFs shall be located at least six feet from existing wireless communication facilities, support structures, or county equipment, and comply with Americans with Disabilities Act (ADA) requirements.

C. Structural integrity. All SCFs shall comply with applicable utility facilities construction standards including but not limited to California Public Utilities Commission General Order 95, or successor provisions. A SCF and its associated equipment to be mounted on an existing support structure shall not compromise the structural integrity of

the support structure. If the SCF or its equipment to be mounted on the support structure affects its structural integrity, a replacement support structure shall be installed that will accommodate the SCF and its associated equipment. If the proposed new or replacement support structure is county infrastructure, the structure shall adhere to all terms, conditions, and guidelines of any agreement or master license agreement between the county and the owner. If any SCF is requested to be placed on county infrastructure, then a structural analysis of the effect of such placement on the county infrastructure, including wind impacts on traffic signal poles and mast arms of traffic signals, shall be provided for review and approval to ensure there is no overburden on county infrastructure.

D. Height. The combined height of the support structure and antenna(s) for a SCF shall not exceed the lesser of:

1. The height limitation in 47 C.F.R. 1.6002(l), and any successor provisions,
- or
2. The height of other support structures in the surrounding area, or
  3. The height limit of the zone in which the new or replacement support structure is to be located.

In no event shall the antenna(s) on the support structure be placed lower than eight feet above the ground.

E. Placement of pole-mounted antennas and associated equipment.

1. Streetlights. Antennas or other associated equipment to be mounted on or integrated in a streetlight shall be placed in a manner that does not block or otherwise impede the illumination of the lighting to the ground.

2. Utility poles. If a cross-arm is the only technically feasible option to mount SCF and any associated equipment on a utility pole, then each side-arm assembly shall not extend further than four feet from the center of the pole in either direction. A cross-arm shall not exceed a total length of eight feet. No additional extensions or mounting equipment are permitted between the side-arm and the pole. Antennas or associated equipment to be mounted on or integrated in a utility pole shall be placed in a manner that does not block or otherwise impede the illumination of street lighting to the ground.

3. All antennas or associated SCF equipment shall be installed at least five feet from any existing radio equipment on county infrastructure. If the county requires radio equipment to be installed on the support structure, the SCF antenna(s) and its associated equipment shall be relocated to maintain the five feet separation at the cost of the permittee and/or owner.

F. Power supply. Co-mingling or sharing circuits used for county power service is prohibited.

G. Prohibition of generators. Separate, above-ground generators for SCFs shall be prohibited in any highway.

H. Lighting. No SCF shall contain artificial lighting that is in addition to any existing illumination provided by the support structure, such as a streetlight luminaire, unless otherwise required by applicable county, state or federal regulations.

I. Waiver of Development Standards.

1. Requests for waivers of any development standards identified in this section shall be made in writing to the road commissioner. A deposit pursuant to Chapter

16.10.130 shall be collected for a waiver request for consideration by the road commissioner to cover the county's review and processing costs.

2. The road commissioner may grant a waiver of the development standards if the applicant establishes to the satisfaction of the road commissioner that the denial of such request would:

a. Prohibit or effectively prohibit the provision of personal wireless services;

b. Violate applicable laws, regulations or the written agreement or master license agreement with the county; or

c. Require a technically infeasible design or installation of SCF.

When a waiver is granted by the road commissioner, the waived development standard(s) may be waived only to the minimum extent required to avoid the prohibition, violation or technically infeasible design or installation, as determined by the road commissioner.

3. The road commissioner may deny a waiver request upon determining any one of the following apply:

a. The request does not satisfy any condition in subsection 1.2,

b. A waiver from one or more development standards would result in a violation of applicable legal requirements, or

c. The development standard is needed to maintain public safety or public use.

**16.25.060 Authority to use Support Structures.**

A. County Infrastructure. The placement of SCFs on county infrastructure in the highway shall be subject to a written agreement or master license agreement with the county. The agreement shall specify the compensation to the county for use of the county infrastructure, including additional maintenance costs incurred by the county due to the placement of the SCF and associated equipment on county infrastructure. Any person or entity seeking an agreement or master license agreement with the county shall reimburse the county for all costs incurred in connection with its review of, and action upon such request. Such agreement or master license agreement shall be signed by the county and the owner prior to the issuance of a permit on county infrastructure pursuant to this chapter. Every agreement or master license agreement approved by the county for placement of SCF in the highway shall be granted upon and be subject to such rules, regulations, restrictions, terms and conditions as are incorporated therein by reference, and except as otherwise expressly provided in the agreement or master license agreement, is subject to the rules, regulations, restrictions, terms and conditions set forth in this chapter.

B. Other Support Structures. The placement of SCF on support structures in the highway that is not county infrastructure shall be authorized by the entity that owns, operates and/or controls the support structure.

**16.25.070 Violations, unpermitted facilities, revocations and relocations.**

A. Violations. Any violation of this chapter by a permittee or owner shall be subject to the same penalties described in Chapter 16.28 of the county code. Penalties for violations of any agreement or master license agreement between the owner and the county, if applicable, are in addition to penalties for violations of the county code.

B. Unpermitted facilities. A SCF installed without a permit and/or authorization to utilize the support structure consistent with section 16.25.060, shall be removed within 90 days, following the issuance of a written notice from the road commissioner, or as otherwise determined by the road commissioner; provided that the support structure owned by the county, a utility, or other entity authorized to maintain the support structure in a highway need not be removed, but the structure shall be restored to its condition prior to such unpermitted work, except as specifically allowed by the county. A permit shall be required for the removal of such SCF. All costs incurred by the county in connection with the removal shall be paid for by the owner.

C. Revocations. A permit may be revoked for failure to comply with applicable standards, law, or the agreement with the county. Upon revocation, the SCF shall be removed at the expense of the owner or permittee within 90 days or as determined by the road commissioner, or in accordance with the terms and conditions of a license agreement between the owner and the county.

D. Relocations. A SCF shall be relocated within 90 days of a request by the county when the road commissioner determines a paramount need of the county, due to a change in street alignment, construction, expansion, permanent closure of a street, sale of county property, public improvement project, or other determination by the road commissioner. The owner of the SCF shall relocate the equipment at its own expense to an alternative location. Required permit(s), and other approvals as applicable, shall be obtained prior to relocation.

**SECTION 3. Severability.** If any section, subsection, provision, sentence, clause, phrase or word of this Ordinance is for any reason held to be illegal or otherwise invalid

by any court of competent jurisdiction, such invalidity shall be severable, and shall not affect or impair any remaining section, subsection, provision, sentence, clause, phrase or word included within this Ordinance, it being the intent of the county that the remainder of the Ordinance shall be and shall remain in full force and effect, valid, and enforceable.