



# Los Angeles County Department of Regional Planning

*Planning for the Challenges Ahead*



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## REPORT TO THE REGIONAL PLANNING COMMISSION

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DATE ISSUED:	March 10, 2022	
MEETING DATE:	3/23/2022	AGENDA 5 ITEM:
PROJECT NUMBER:	2021-002931 (1-5)	
PROJECT NAME:	Wireless Facility Ordinance	
PLAN NUMBER(S):	Advance Planning Case No. RPPL2021007939	
SUPERVISORIAL DISTRICT:	1-5	
PROJECT LOCATION:	Countywide	
PROJECT PLANNER:	Alyson Stewart, Senior Regional Planner ordinance@planning.lacounty.gov	

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### **RECOMMENDATION**

The Department of Regional Planning staff ("staff") recommends the Regional Planning Commission (RPC) adopt the attached resolution recommending approval to the County of Los Angeles Board of Supervisors (Board) the Wireless Facility Ordinance, Advance Planning Case No. RPPL2021007939.

Staff recommends the following motion:

**I MOVE THAT THE REGIONAL PLANNING COMMISSION CLOSE THE PUBLIC HEARING AND FIND THAT THE CATEGORICAL EXEMPTION QUALIFIES PURSUANT TO STATE AND LOCAL CEQA GUIDELINES.**

**I ALSO MOVE THAT THE REGIONAL PLANNING COMMISSION ADOPT THE ATTACHED RESOLUTION RECOMMENDING APPROVAL TO THE COUNTY OF LOS ANGELES BOARD OF SUPERVISORS THE WIRELESS FACILITY ORDINANCE, PLAN NO. RPPL2021007939, WITH THE REVISIONS RECOMMENDED BY STAFF.**

## **PROJECT DESCRIPTION**

### **Ordinance**

Plan Number RPPL2021007939 is a proposed ordinance (Ordinance) to amend Title 22 (Planning and Zoning) of the Los Angeles County Code to establish application requirements and land use regulations, including zoning and development standards, for wireless communication facilities (wireless facilities) (**Exhibit A**). This Ordinance will apply to all unincorporated areas, except in specific locations covered by a community standards district, specific plan, or local implementation program where existing standards for wireless facilities take precedence. The Ordinance proposes the following:

- Permit wireless facilities in most zones, subject to height restrictions per the zone.
- Require a Ministerial Site Plan Review for existing wireless facilities that comply with or are redesigned to meet development standards.
- Require a Ministerial Site Plan Review for existing wireless facilities that conform to all development standards and do not require a waiver.
- Require either a Ministerial Site Plan Review or a ministerial Revised Exhibit “A” per an Eligible Facilities Request (EFR), as defined in the most recent Federal Communications Commission (FCC) Order.
- Require a Ministerial Site Plan Review for Small Cell Facilities (SCF) located on private property. With some exceptions, SCFs located in the public right-of-way will not require Regional Planning approval and will go directly to Public Works.
- Require a Conditional Use Permit for all other existing wireless facilities not redesigned to meet development standards.
- Require a Conditional Use Permit for new wireless facilities, including facilities in the public right-of-way that are not defined as an SCF.
- Establish design standards for each type of wireless facility: structure-mounted (including monopoles and faux trees), ground-mounted, roof-mounted, facade-mounted, architectural towers, temporary facilities, and SCF. The standards require screening, shrouding and/or camouflaging, and encourage streamlined designs to reduce visual impacts to the extent technically feasible.
- Exempt satellite dish antennas and similar facilities, amateur radio antennas “like-kind” equipment repair and upgrades, and temporary facilities that will be used for less than seven days.
- Add regulations for wireless facilities in residential zones and in sensitive areas, such as significant ecological areas, significant ridgelines, scenic highways, and on properties containing historical resources.
- Require additional findings for a Conditional Use Permit that the wireless facility complies with a limited number of standards that do not apply to other wireless facilities, is the least visually intrusive as technically feasible, and does not create a safety hazard.

- Provide a waiver through a Conditional Use Permit if a development standard effectively prohibits wireless services, results in a design that is technically infeasible, or conflicts with federal and state regulations.

The Ordinance will not apply to areas covered by a local coastal program. These local coastal programs will enact amendments for wireless facilities at a later time.

See **Exhibit B** for a full summary of the Ordinance.

### **Supplemental Information**

The Design Guidelines (Guidelines) (**Exhibit E**) provide guidance on implementation of the Ordinance and establishes criteria for preferred designs for the various types of wireless facilities. The Guidelines are intended to be used and referenced by applicants, County staff, and community stakeholders. The Guidelines will not be codified into Title 22 as they are intended to be periodically amended to stay current with wireless technology and advances in design and camouflaging techniques. The Guidelines comply with the FCC schedule for processing applications for ministerial and discretionary reviews for wireless facilities and contain links to relevant FCC rulings that govern when and how these applications are to be reviewed and approved by local governments. The Guidelines also include siting preferences and photos of preferred and non-preferred types of wireless facilities.

Public Works is currently developing an ordinance for Title 16 (Highways) of the County Code to regulate the placement of SCF within the public right-of-way (**Exhibit F**). Per the FCC regulations, SCF are to be processed and approved with a ministerial review within 60 days. The ordinance will streamline the process by having all SCF applications go directly to Public Works for review prior to issuance of road encroachment permits. Proposed SCF on County-owned streetlights shall comply with all standards listed in Public Works' Streetlight Master Licensing Agreement. The draft ordinance is included for your information only and does not require any action by your Commission. The proposed language in the draft ordinance is subject to change between now and the time it is presented to the Board for its consideration.

### **Project Background**

On March 5, 2019, the Board adopted a motion that directed the Director of Planning to prepare an ordinance that at minimum defines and establishes standards for the location, height, and design of wireless communication facilities; conduct outreach to residents, wireless service providers, and other interested parties; and present the Ordinance and the appropriate environmental document to RPC and the Board for their consideration (**Exhibit G**). Furthermore, recent wildfires and the COVID-19 pandemic have disclosed systemic inequities in digital access across Los Angeles County, and in response, the Board adopted a number of motions in October 2020 and February 2021 directing various County departments to report back on recommendations and strategies to address these inequities, broadly known as the "digital divide." The Ordinance will satisfy a key

component of the Chief Information Officer's County Internal Action Plan and Comprehensive Regional Digital Divide Strategy for improving access to broadband services and digital resources.

Currently, the Department processes wireless facility applications through a Departmental policy memo dated July 26, 2010 (**Exhibit H**). The policy memo has not been updated to accommodate the growth of wireless services or advances in wireless technology and recent federal and state regulations, orders, and case law. The Ordinance will supplant the policy memo and shift the intake, review, and processing of applications for SCFs in the public right-of-way from Regional Planning to Public Works through the proposed Title 16 Ordinance.

## **ANALYSIS**

### **A. General Plan Consistency**

The Ordinance is consistent with the County's General Plan and supportive of its policies, including Policy PS/F (Public Services and Facilities) 6.2: Improve existing wired and wireless telecommunications infrastructure; and Policy PS/F 6.3: Expand access to wireless technology networks, while minimizing visual impacts through colocation and design.

### **B. Land Use Compatibility**

The Ordinance establishes development standards for wireless facilities countywide. These standards include height limits across zones and additional location restrictions in residential zones. The Ordinance requires a discretionary review for new facilities and existing facilities that do not conform to all development standards.

### **C. Neighborhood Impact**

The Ordinance serves a critical need in bridging the digital divide by establishing a permitting process that includes expected and known outcomes that will facilitate the build-out of broadband infrastructure and therefore access to wireless services for all County residents, employees, businesses and visitors. Public safety is another critical need in that adequate coverage for wireless services should be made available in all areas and for all residents prior to, during, and after a major disaster. The After Action Review of the Woolsey Fire Incident, submitted to the Board in November 2019, identified communication services and delivery as an area in need of improvement and made a recommendation to increase the availability of communication systems for public notifications of evacuations, which may include wireless services. To address visual impacts, the Ordinance requires a discretionary review for new wireless facilities, which provides County stakeholders with an opportunity to provide input during the entitlement process. The Ordinance will streamline the review of certain types of existing wireless facilities with specific development standards, which may incentivize the redesign of first-generation wireless infrastructure, and thereby reduce visual impacts.

#### **D. Design Compatibility**

The development standards will minimize visual impacts to the extent technically feasible for certain types of wireless facilities to be permitted by-right. Height limits in residential zones are more restrictive for wireless facilities while allowing for taller structures in industrial zones. Height limits are necessary to control the overall height of an EFR, which may potentially add up to 20 feet to the original height of the facility or support structure. Design standards include limiting side-arms to a maximum of two feet from the support structure for a streamlined design and requiring color-matching, shrouding, sheathing, screening, or camouflaging to minimize visual impacts of the facilities with their surroundings. Wireless facilities that cannot be modified to comply with the standards or require a waiver from any of the standards may be allowed with a Conditional Use Permit.

#### **E. Legal Considerations**

Wireless facilities are regulated by the FCC. Under federal law, state and local governments cannot regulate wireless facilities in such a way that would prohibit or effectively prohibit the provision of personal wireless services. When interpreting and applying federal law, the U.S. Court of Appeals for the Ninth Circuit, which upheld FCC's recent orders, uses a two-part test to determine if a local regulation effectively prohibits service. This test requires the applicant to show that: (1) a significant gap in service exists; and (2) the proposed installation is the least intrusive means of filling that gap, having considered alternatives. Recently, the FCC interpreted federal law for SCFs to establish a "materially inhibits" standard for determining if a regulation or decision is an effective prohibition of service. The FCC ruled that local regulations that materially inhibit the provision of personal wireless services are an effective prohibition and expanded the scope beyond the satisfying a coverage gap to also include such actions as fortifying an existing network, improving existing wireless services, and providing new wireless services.

The Federal Telecommunications Act of 1996 (Act) restricts local governments from regulating the placement, construction, and modification of wireless facilities based on environmental effects from radiofrequency (RF) emissions, which includes public health effects, if those facilities meet the FCC's RF guidelines. All wireless facilities must meet the FCC's RF emission standards in order to be licensed by the FCC for operation.

#### **G. Draft Ordinance Updates**

After the draft ordinance was released for public review in December 2021, staff received feedback on the draft. Feedback included that citations were not updated to reflect revisions made just prior to public release, clarifications were needed to reduce ambiguity over certain provisions in the draft, or certain provisions may potentially conflict with state or federal regulations. Therefore, staff proposes the following changes, which are marked as red strikethroughs and underlines in the draft:

- Add the term "substantial change" in Section 22.14.230 (W - Definitions).

- Add “but not limited to” after “such as” for temporary facilities in Section 22.14.230.
- Renumber Section 22.140.650 to 22.140.700.
- Update references to application requirements for wireless facilities in land use regulation tables for all zones in Division 3 (Zones).
- Add “ministerial” to site plan review in Section 22.26.040 (Specific Plan Zone) for consistency with Chapter 22.186.
- Add a provision to 22.140.700.B (Applicability) where other regulations in Title 22 address wireless facilities, those regulations shall take precedence, and exclude areas served by a local coastal program from the Ordinance.
- Add generators to “like-kind” equipment replacements and remove “the same or less radio frequency (RF) emissions...” in Section 22.140.700.C.3 (Exemptions).
- Add “repairs and upgrades” for short-term temporary facilities in Section 22.140.700.C.4.b (Exemptions).
- Clarify that applicable conditions of approval with a CUP may be relieved through an EFR, but only to the extent the request pertains to those conditions, and other conditions will continue to apply, in Section 22.140.700.D.3 (Revised Exhibit “A”).
- Add the requirement that an applicant shall submit a RF emission report for each facility at the time of the application submittal in Section 22.140.700.D.4 and remove the every-five-years requirement in Subsection J.
- Add language on technical infeasibility and reference to the CUP requirement to Section 22.140.700.E (General Standards).
- Replace “limitations” with “regulations as specified” and add references to Community Standards Districts (Division 10), and Non-Coastal Specific Plans (Division 11) in Section 22.140.700.E.1.b.iii (Location).
- Switch subsections d.ii and d.iii in Section 22.140.700.E.1.d (Height), and added “including those” in subsection E.1.d.iv. because FAA requirements can extend beyond an airport influence area.
- Make an exemption for radio units from the screening requirement in Subsection 22.140.700.E.1.e.iii (Design standards).
- Make consistent the phrase “to the extent technically feasible” in Section 22.140.700.E.3.a for non-ground-mounted facilities.
- Add “unless expressly prohibited by a state regulation” in Section 22.140.700.E.3.a to account for State PUC’s GO95 standards, and add “Cables shall not be visibly loose or spooled” in subsection E.3.b.
- Clarify language in Section 22.140.700.G.3 (Modifications to Existing Macro Facilities) on Eligible Facilities Requests.
- Change “as” to “to the extent” for consistency in Section 22.140.700.H.2.b.iv (Faux Trees).
- Add language for a waiver to Section 22.140.700.I.1 (Findings).

- Make subsection J.2 as K in Section 22.140.700 and retitle the subsection heading to “Permit Duration.”

Staff also made edits to the Wireless Facility Design Guidelines to make corrections, clarify certain provisions, modify a few guidelines for technical feasibility, and make consistent with the edits made to the Ordinance.

## **ENVIRONMENTAL ANALYSIS**

This project (Ordinance) qualifies for a Categorical Exemption, (Class 1 – Existing Facilities, and Class 3 – New Construction or Conversion of Small Structures) under the California Environmental Quality Act (CEQA) and County environmental guidelines. The project includes authorization for modifications to existing facilities as well as for minor alterations to land with the construction or conversion of small structures. Both actions will not have a significant effect on the environment. Therefore, staff recommends that the RPC find the project is categorically exempt from CEQA. A Categorical Exemption (**Exhibit D** – Environmental Determination) is issued for the project.

## **OUTREACH AND ENGAGEMENT**

### **A. County Department Comments**

Regional Planning collaborated with Public Works in developing the Title 16 Small Cell Facility Ordinance (**Exhibit F**). The Ordinance for Title 22 was also submitted to Public Works, Fire, Parks and Recreation, and Public Health for their review and comments. Public Works cleared the Ordinance with no additional comments. Fire Department recommended approval of the Ordinance as presently submitted.

### **B. Project Outreach and Engagement.**

Staff met with wireless service providers in Los Angeles County, including those that have submitted land use applications to Regional Planning for wireless facilities. Staff presented at Topanga Town Council’s monthly meeting on March 9, 2022, regarding the Ordinance, and current regulations for wireless facilities in the Coastal Zone and Santa Monica Mountains North Area CSD. On multiple occasions, staff met with individual stakeholders with specific concerns regarding visual blight on ridgelines and the potential environmental and health impacts of wireless technology.

Community outreach was conducted through social media posts and email blasts to community-based organizations on Regional Planning courtesy lists, as well as to interested stakeholders. A link to a page on the Department’s website containing all documents relating to the Ordinance were included in these communications.

### **C. Public Comments**

A total of 14 letters and e-mails were received in opposition of the project, which included communications from local residents and community groups.

A total of seven letters and e-mails were received by community groups, service providers, and public agencies requesting modifications to the language in the Ordinance.


See **Exhibit J** for all public correspondences.

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Report

Reviewed By: A. Bruce Durbin  
Bruce Durbin, Supervising Regional Planner

Report

Approved By:   
Connie Chung, Deputy Director

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LIST OF ATTACHED EXHIBITS	
EXHIBIT A	Draft Title 22 Ordinance
EXHIBIT B	Summary of the Ordinance
EXHIBIT C	Resolutions
EXHIBIT D	Environmental Determination
EXHIBIT E	Wireless Facility Design Guidelines
EXHIBIT F	Draft Title 16 Ordinance
EXHIBIT G	Board Motions
EXHIBIT H	2010 Regional Planning Policy Memo
EXHIBIT I	Public Hearing Notice
EXHIBIT J	Public Correspondence