

City of La Quinta

PLANNING COMMISSION MEETING: January 22, 2019
STAFF REPORT

AGENDA TITLE: ZONING ORDINANCE AMENDMENT 2018-0004 AMENDING SECTIONS 9.170.020 DEFINITIONS AND 9.170.060 APPROVAL STANDARDS OF THE LA QUINTA MUNICIPAL CODE TO ADD STANDARDS FOR SMALL CELL ANTENNAS.

PROJECT INFORMATION

CASE NUMBER: ZONING ORDINANCE AMENDMENT 2018-0004

APPLICANT: CITY OF LA QUINTA

REQUEST: ADOPT A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL AMEND SECTIONS 9.170.020 DEFINITIONS AND 9.170.060 APPROVAL STANDARDS OF THE MUNICIPAL CODE TO ADD STANDARDS FOR SMALL CELL ANTENNAS

CEQA: EXEMPT FROM ENVIRONMENTAL REVIEW UNDER CEQA, PURSUANT TO SECTION 15061 (B)(3), REVIEW FOR EXEMPTIONS – COMMON SENSE RULE

LOCATION: CITYWIDE

RECOMMENDATION

1. Determine that the project is exempt from environmental review under the California Environmental Quality Act pursuant to Section 15061 (b)(3), Review for Exemptions – Common Sense Rule.
2. Adopt a resolution recommending to the City Council approval of Zoning Ordinance Amendment 2018-0004, approving amendments to Sections 9.170.020 Definitions and 9.170.060 Approval Standards of the La Quinta Municipal Code.

EXECUTIVE SUMMARY

- Small cell technology is proposed to be deployed in the future in order to implement 5th generation (5G) technology.
- Small cell facilities have begun to be deployed by providers, although the technology is not yet available.
- The City's Zoning Ordinance does not contain standards for these facilities, only for the traditional cell tower facilities.
- The text amendments provide definition and design standards for small cell facilities, which do not have the same structure or character as cell towers.

BACKGROUND

Small Cell technology is evolving at a rapid rate and is expected to supersede the need for free standing cell towers (usually mono-palms in La Quinta) in the future.

Recent enactments of the Federal Communications Commission (“FCC”) purport to compel an expedited review of these types of facilities, and to try and limit the City’s discretion when imposing certain aesthetic and other types of regulations on those applications.

Small Cell technology will eventually be used to deploy 5G technology, which will accelerate wireless services. Although the technology is not yet ready for commercial use, wireless technology providers are now looking at Small Cell technology to fill gaps in service and improve connections for wireless devices, and to deploy 5G when the technology is ready.

Small Cell facilities are usually (but not exclusively) mounted on existing power poles, light poles or traffic signal poles. Two early versions of small cells currently exist in the City – one at Park Drive and Avenue 50, and one south of the Avenue 52 roundabout on Jefferson Street. Both are representative of acceptable appearance: they are small, fully screened and blend into the environment in which they are located.

In advance of anticipated applications for these facilities, staff has been concerned that the lack of definition and standards in the Zoning Ordinance would preclude the City’s ability to assure that their appearance meets the City’s standards. On December 4, 2018, the City Council held a study session to consider whether standards should be imposed, and directed staff to proceed with the amendments.

Chapter 9.170 addresses Wireless Telecommunication Facilities. Exhibit A of the attached Resolution provides the amendments to this section in “track changes” format. The amendments primarily:

1. Define small cell technology consistent with FCC standards.
2. Add development standards to limit the size of these facilities and require that they be fully screened, including both the antennas and the equipment.
3. Address the need for an agreement with the City if the small cell is to be located on a City-owned light pole or traffic signal.

Small Cell facilities, like antennas, would require a Conditional Use Permit, and would be reviewed for conformance to these standards. In addition, all Small Cell facilities will be required to apply for building permits, including review for structural integrity, and conformance with wind load requirements.

AGENCY & PUBLIC REVIEW

Public Notice:

This project was advertised in The Desert Sun newspaper on January 11, 2019. To date, no comments have been received. Planning Division staff has coordinated with Public Works Traffic staff and the City Engineer to assure that these facilities will not conflict with other City-operated telecommunication facilities.

ENVIRONMENTAL REVIEW

The Design and Development Department has determined that the proposed zone text amendment is exempt from environmental review under CEQA, pursuant to Section 15061(b)(3), Review for Exemptions – Common Sense Rule, in that it can be seen with certainty that there is no possibility for this action to have a significant effect on the environment, and individual development plans will be reviewed under CEQA as they are proposed.

Prepared by: Nicole Sauviat Criste, Consulting Planner

Approved by: Danny Castro, Design and Development Director

PLANNING COMMISSION RESOLUTION 2019 -

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF LA QUINTA, CALIFORNIA,
RECOMMENDING THAT THE CITY COUNCIL AMEND
SECTIONS 9.170.020 DEFINITIONS AND
9.170.060 APPROVAL STANDARDS OF THE
MUNICIPAL CODE TO ADD SMALL CELL
TECHNOLOGY DEVELOPMENT STANDARDS**

CASE NUMBER: ZONING ORDINANCE AMENDMENT 2018-0004

APPLICANT: CITY OF LA QUINTA

WHEREAS, the Planning Commission of the City of La Quinta, California, did on the 22nd day of January, 2019 held a duly noticed Public Hearing for review of a Zoning Ordinance Amendment to amend Chapter 9.170 of the Municipal Code to add development standards for small cell technology; and

WHEREAS, said Zoning Ordinance Amendment has complied with the requirements of "The Rules to Implement the California Environmental Quality Act of 1970" (CEQA) as amended (Resolution 83-63), insofar as the proposed amendment is exempt from environmental review pursuant to Section 15061(b)(3), Review for Exemptions – Common Sense Rule, in that it can be seen with certainty that there is no possibility for this action to have a significant effect on the environment, and individual development plans will be reviewed under CEQA as they are proposed; and

WHEREAS, the Design and Development Department published a public hearing notice for this request in *The Desert Sun* newspaper on January 11, 2019 as prescribed by the Municipal Code; and,

WHEREAS, at said Public Hearing, upon hearing and considering all testimony and arguments, if any, of all interested persons desiring to be heard, said Planning Commission did make the following mandatory findings to recommend approval of said Zoning Ordinance Amendment to the City Council:

1. Consistency with General Plan

The code amendment is consistent with the goals, objectives and policies of the General Plan. In particular, Policy LU-2.4, which requires that public facilities consider impacts to neighboring development; and Program LU-2.4.a, which requires that standards for utilities and other public facilities be maintained in the Zoning Ordinance.

2. Public Welfare

Approval of the code amendment will not create conditions materially detrimental to the public health, safety and general welfare. The proposed Zoning Ordinance amendment adds standards to minimize the visual impact of small cell facilities, and to define these facilities which are an emerging and developing technology.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of La Quinta, California, as follows:

SECTION 1. That the above recitations are true and constitute the findings of the Planning Commission in this case.

SECTION 2. That the Planning Commission does hereby recommend approval of Zoning Ordinance Amendment 2018-0004, as set forth in attached Exhibit A, to the City Council for the reasons set forth in this Resolution.

PASSED, APPROVED, and ADOPTED at a regular meeting of the City of La Quinta Planning Commission, held on this the 22nd day of January, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN: NONE

KEVIN MCCUNE, Chairperson
City of La Quinta, California

ATTEST:

DANNY CASTRO, Design and Development Director
City of La Quinta, California

9.170.010 Purpose.

The purpose of this chapter is to provide a uniform and comprehensive set of standards for the development of wireless telecommunication facilities. The regulations contained herein are intended to protect and promote public health, safety, and welfare and the aesthetic quality of the city while providing reasonable opportunities for telecommunication services to provide such services in a safe, effective and efficient manner. These regulations are intended to address the following community concerns:

- A. To minimize adverse visual effects of towers and accessory buildings associated with wireless telecommunication facilities through careful design, siting and vegetative screening;
- B. To avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures;
- C. To lessen traffic impacts on surrounding residential districts;
- D. To maximize use of any new and existing telecommunication tower and to reduce the number of towers needed;
- E. To ensure radio frequency radiation is in compliance with federal requirements; and
- F. To allow new telecommunication towers in residential areas only if a comparable site is not available outside residential areas. (Ord. 550 § 1, 2016)

9.170.020 Definitions.

"Antenna" means any system of wires, poles, rods, panels, reflecting discs or similar devices used for the transmission or reception of radio frequency electromagnetic waves when such system is external or attached to the exterior of a structure.

"Building-mounted" means any antenna, or other antenna associated support equipment resting on the ground, directly attached or affixed to the side of a building, tank, tower or other structure other than a telecommunication tower.

"Co-location" means the placement of two or more wireless telecommunication facilities service providers sharing one support structure or building for the location of their facilities.

"Existing facilities" means an existing structure located in the public right-of-way or a building with an approved site development permit and/or an existing telecommunication facility with a previously approved conditional use permit.

“**FAA**” means the Federal Aviation Administration. “**FCC**” means the Federal Communication Commission.

“**FCC OET Bulletin 65**” refers to the Federal Communication Commission Office of Engineering and Technology Bulletin 65 entitled “Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields.”

“**Freestanding towers**” include all telecommunication towers used in association with the mounting and/or placement of antenna and associated equipment.

“**General population**” means all persons who are not direct family members, relatives, or employees of the owner or operator of a source of NIER of the owner or other users of the site of an NIER source.

“**Ground-mounted**” means an antenna or other antenna associated support equipment with its support structure placed directly on the ground.

“**Hand-held source**” means a transmitter normally operated while being held in the hands of the user.

“**Height of antenna above grade or ground**” means the vertical distance between the highest point of the antenna and the finished grade directly below this point.

“**Highest calculated NIER level**” means the NIER predicted to be highest with all sources of NIER operating.

“**Lattice tower**” means a three or more legged open structure designed and erected to support wireless telecommunication antennas and connecting appurtenances.

“**Monopole**” means a single pole structure designed and erected to support wireless telecommunication antennas and connecting appurtenances.

“**Roof-mounted**” means an antenna directly attached to the roof of an existing building, water tank, tower or structure other than a telecommunication tower.

“**Satellite dish**” means any device incorporating a reflective surface that is solid, open mesh or bar configuration, that is shallow dish, cone, horn, bowl or cornucopia shaped and is used to transmit and/or receive electromagnetic or radio frequency communication/signals in a specific directional pattern.

“**Shared capacity**” means that capacity for shared use whereby a tower can accommodate multiple users simultaneously. Tower height, antenna weight, design and the effects of wind are prime determinants of capacity.

“**Small Cell Facilities**” means any wireless telecommunication facility that meets the following exact conditions:

1. The structure on which antenna facilities are mounted –
 - a. is 50 feet or less in height, or
 - b. is no more than 10 percent taller than other adjacent structures, or
 - c. is not extended to a height of more than 50 feet or by more than 10 percent above its height as a result of the addition of the facility; and
2. Each antenna associated with the deployment (excluding the associated equipment with that specific antenna) is no more than three cubic feet in volume; and
3. All antenna equipment associated with the small cell facility's antennas (but, excluding the antennas themselves) are cumulatively no more than 28 cubic feet in volume; and
4. The facility does not require antenna structure registration under 47 CFR Part 17; and
5. The facility is not located on Tribal lands, as defined under 36 CFR 800.16(x); and
6. The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in FCC Rule 1.1307(b).

“Sole-source emitter” means one or more transmitters only one of which normally transmits at a given instant.

“Stealth” means improvements or treatments added to a wireless telecommunication facility which mask or blend the proposed facility into the existing structure or visible backdrop in such a manner as to minimize its visual impacts, or any design of a wireless telecommunication facility to achieve same. Stealth designs may utilize, but does not require, concealment of all components of a facility. Examples of stealthing include, but are not limited to, the design and construction of a tower so that it is disguised as a flagpole, tree, palm or sculpture, or the incorporation of colors and design features of nearby structures.

“Structure” means a pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of services).

“Telecommunication tower” means a monopole or lattice tower.

“Wireless telecommunication facility or facilities” means any structure, antenna, pole, equipment and related improvements, the primary purpose of which is to support the transmission and/or reception of electromagnetic signals, including, but not limited to,

telecommunication towers.

“**Vehicle source**” means a transmitter regularly used in vehicles that normally move about.

9.170.030 Permitted locations.

Location Preferences. Location preferences are provided in furtherance of the purpose of this chapter, as set forth under Section 9.170.010. To the maximum extent feasible, new telecommunication facilities shall be located according to the following preferences, with the most preferred sites listed first:

- A. Major community facilities (MC), parks and recreation (PR), and industrial (I) zoning districts;
- B. All commercial zoning districts;
- C. Very-low density (VRL), residential low density (RL), medium density residential (RM), and medium high density residential (RMH) zoning districts;
- D. High density residential (RH); and
- E. Open space (OS) and floodplain (FP) zoning districts.

9.170.040 Applicability.

This chapter shall apply to all wireless telecommunication facilities for the transmission and/or reception of wireless radio, television, and other telecommunication signals including, but not limited to, commercial wireless communication systems such as cellular and paging systems, except those facilities defined in this chapter as exempt facilities. (Ord. 550 § 1, 2016)

9.170.050 Exemption.

The following uses are exempt from this chapter but may be regulated by other sections of the municipal code:

- A. Portable hand-held devices and vehicular transmission;
- B. Industrial, scientific and medical equipment operating at frequencies designated for that purpose by the FCC;
- C. Government-owned communication facilities used primarily to protect health, safety and welfare;
- D. Facilities operated by providers of emergency medical services, including hospital, ambulance and medical air transportation services, for use in the provision of those services;
- E. A source of nonionizing electromagnetic radiation with an effective

radiated power of seven watts or less;

F. A sole-source emitter with an average output of one kilowatt or less if used for amateur purposes, such as CB radios;

G. Goods in storage or shipment or on display for sale, provided the goods are not operated except for occasional testing or demonstrations;

H. Amateur or "ham" radio equipment;

I. Satellite receiving dishes regulated by Sections 9.60.080 and 9.100.070; and

J. Any facility specifically exempted under federal or state law.

9.170.060 Approval standards.

A. Except as specifically otherwise noted, ~~G~~ general approval standards for all telecommunication facilities include:

1. Compliance with all federal and state statutes, including, but not limited to, FCC licensing, NIER levels, and FAA requirements;
2. Addition of the planned equipment to an existing or approved tower shall not result in NIER levels in excess of those permitted by the FCC;
3. Antennas, equipment, and all ancillary components shall be stealth to the maximum extent feasible.

B. Telecommunication Tower Provisions.

1. All towers shall incorporate stealth/camouflaged design(s) to the maximum extent feasible, to avoid adverse visual impacts to the surrounding properties and the community as a whole.
2. The base of the tower shall comply with the setback standards in the underlying zoning district, except where additional setbacks under subsection (B)(7) apply.
3. Towers shall not be located within primary image corridors as designated in the general plan.
4. If a telecommunication tower is located adjacent to any of the city's designated image corridors, as identified in the city's general plan, the tower's height shall conform to the height limitations as identified in the city's general plan.
5. All new towers shall be designed at the minimum height functionally required. No new telecommunication tower shall exceed one hundred feet in height.
6. The proposed tower shall be designed structurally to accommodate the maximum number of foreseeable users,

including all potential co-location scenarios.

7. All accessory structures associated with a tower shall comply with the setback standards in the underlying zoning district.
8. Any guy-wire anchors shall be set back twenty-five feet from any property lines.
9. Towers shall not be artificially lighted unless required by the FAA or state aeronautics division.
10. Existing on-site vegetation shall be preserved to the maximum extent feasible.

C. Roof-Mounted and Building-Mounted Telecommunication Facilities.

1. All building-mounted facilities shall comply with Section 9.100.050 of this code.
2. Equipment shall not be visible to surrounding properties.
3. All equipment shall blend or architecturally match the existing design of the building. Elements used to screen roof-mounted or building-mounted equipment shall not appear as "add-on" elements to the existing building.

D. Small Cell Facilities

4.1. All small cell facilities shall be required to meet the following standards:

- Painted or treated to match the pole and/or structure on which it is to be located.

- All wiring shall be enclosed within the antenna, pole and/or structure so that it is not visible from the right-of-way or neighboring parcels.

- All antennas shall not exceed 12 inches in diameter and 36 inches in height.

- All ground-mounted equipment shall be fully screened in equipment cabinets integrated within the base of the pole or in a permanent cabinet located within the landscaped parkway.

- All small cell facilities shall incorporate stealth/camouflaged design(s) to the maximum extent feasible, and as allowed by pertinent law, to avoid adverse visual impacts to the surrounding properties and the community as a whole.

2. Small cell facilities shall only be mounted on the top of, or within the top 5 feet of a structure.-

3. The associated equipment (as that term is used in the definition of Small Cell Facilities) shall be located within the base of the pole on which the small cell is located, only if such equipment does not

impede the path of travel or reduce a sidewalk to a width narrower than that required by the Americans with Disabilities Act (ADA) and/or Building Code in effect at the time. If appurtenant equipment is to be located in a ground-mounted cabinet, it shall be placed on a permanent foundation in the landscaped parkway of the public right of way, and shall be screened by landscaping to the satisfaction of the Director.

4. Prior to applying for a permit for the development and deployment of a small cell facility, the applicant must demonstrate compliance with either of the following standards (or some combination thereof where necessary):

- Where the facility is to be located on City-owned property, the applicant must have a fully executed lease with the City or other reasonable indication that the City has consented to the proposed facility.
- Any other application shall be accompanied by proof that the applicant has sufficient rights to install and maintain the proposed facility.

5. Small Cell Facilities are not subject to Section 9.170.60(A)(E).

D.E. Other Facilities. Other facilities are described as those telecommunication facilities that do not fit the descriptions above. These facilities may include, but are not limited to, rock features and other wireless telecommunication facility designs. All telecommunication facilities shall be stealth to the maximum extent feasible.

9.170.070 Application.

All new telecommunication facilities shall require a conditional use permit. Modifications and/or additions to approved existing telecommunication facilities shall require a minor use permit for director approval. All modifications and/or additions shall be reviewed on a case-by-case basis. Upon review of an application for modification and/or additions to an existing facility, the director may schedule the proposal for a hearing with the planning commission. In all cases, unless otherwise waived by the director, an application for approval of a wireless telecommunication facility shall include, at a minimum:

- A. A site plan or plans drawn to scale and identifying the site boundaries; tower(s); guy wires; existing and proposed facilities; vehicular parking and access; existing vegetation to be added, retained, removed or replaced; and uses, structures and land use and zoning designations on the site and abutting parcels.

B. A plan drawn to scale showing proposed landscaping, including species type, size, spacing and other features.

C. Photo simulations showing the proposed wireless telecommunication facility and surrounding features. Photo simulations shall include at least three different angles of the proposed facility at different distances from the location, including before and after visualizations.

D. RF maps showing all existing wireless telecommunication facilities within a ten-mile radius of the proposed facility. The RF maps shall show existing coverage without the proposed site, predicted coverage with the proposed site and existing sites, and the predicted coverage of only the proposed site. RF maps shall show the predicted coverage for indoor, in vehicle, and outside service.

E. The applicant shall provide a project information and justification letter. The letter shall provide the project location, contact information, a project description and project objectives, alternative site analysis and justification for why the proposed site was chosen over existing sites. The letter shall include justification for the selected site and a benefits summary on how the proposed site will improve wireless telecommunication access in the community.

F. A structural report from a California registered structural engineer. The report shall provide the following information:

1. Describe the tower and the technical, economic and other reasons for the tower design;
2. Demonstrate that the tower complies with the applicable structural standards;
3. Describe the capacity of the tower, including the number and type of antennas that it can accommodate and the basis for the calculation of capacity;
4. Show that the tower complies with the capacity requested under Section 9.170.060; and
5. Demonstrate that the proposed sources of NIER are in compliance with FCC guidelines.

G. The applicant shall request the FAA, FCC, and state aeronautics division to provide a written statement that the proposed tower complies with applicable regulations administered by that agency or that the tower is exempt from those regulations. If each applicable agency does not provide a requested statement after the applicant makes a timely, good-faith effort to obtain it, the application will be accepted for processing. The applicant shall send any subsequently received agency statements to the director.

H. Evidence that the tower complies with Section 9.170.060(A) and a letter of intent to lease excess space on the tower and excess land on the tower site except to the extent reduced capacity is required under Section 9.170.060.

I. The applicant shall provide a draft copy of the lease agreement between the tower operator and the property owner to the planning division. Financial information may be blocked out.

J. A letter of intent, committing the tower owner and his or her successor in interest to:

1. Respond in a timely, comprehensive manner to any request, required under Section 9.170.060, for information from a potential shared-use applicant, the tower owner may charge a party requesting information under this section to pay a reasonable fee not in excess of the actual cost of preparing a response.
2. Negotiate in good-faith or shared use by third parties; an owner generally will negotiate in the order in which requests for information are received, except an owner generally will negotiate with a party who has received an FCC license or permit before doing so with other parties.
3. Allow shared use if an applicant agrees in writing to pay charges and to comply with conditions described in this section.

9.170.080 Operations and maintenance.

A. All new telecommunication towers shall be designed within the applicable American National Standards Institutes (ANSI) standards.

B. No wireless telecommunication facility or combination of facilities shall produce, at any time, power densities that exceed current FCC adopted standards for human exposure to RF (Radio Frequency Radiation Exposure Standards) fields. Failure to comply with FCC Standards will result in the immediate cessation of operation of the wireless telecommunication facility.

C. Each telecommunication facility will be subject to a ten-year review by the planning commission. The review will determine whether or not the originally approved telecommunication facility and accessory equipment are still in compliance with the conditions of approval, and that all radio frequencies are in compliance with FCC OET Bulletin 65. This report shall be prepared by a qualified licensed engineer.

D. All wireless telecommunication facilities shall be installed and maintained in compliance with the requirements of the Uniform Building Code, National Electrical Code, the city's noise ordinance, and other

applicable codes, as well as other restrictions specified in the permit and this section. The facility operator and the property owner shall be responsible for maintaining the facility in good condition, which shall include, but not be limited to, regular cleaning, painting, and general upkeep and maintenance of the site.

E. All wireless telecommunication facilities and related support equipment shall be designed to prevent unauthorized persons from accessing and/or climbing upon any wireless telecommunication facility or appurtenance thereto. Fences, walls, and other landscape materials shall be installed to prevent unauthorized persons from accessing and/or climbing a wireless telecommunication facility.

F. All wireless telecommunication facility operators are required to notify the city of La Quinta's planning division within sixty days of any change of ownership of the facility.

9.170.90 Required findings of approval.

The following findings shall be made by the planning commission and/or director prior to approval of any wireless telecommunication facility:

A. Consistency with General Plan. The wireless telecommunication facility is consistent with the goals, objectives and policies of the general plan;

B. Public Welfare. Approval of the wireless telecommunication facility will not create conditions materially detrimental to the public health, safety and general welfare;

C. The proposed wireless telecommunication facility minimizes adverse visual impacts through careful design and site placement;

D. The proposed wireless telecommunication facility is designed at the minimal height to achieve the service provides objectives for coverage within this portion of the community;

E. The proposed wireless telecommunication facility is necessary, as shown in the applicant's justification letter, to improve community access to wireless service.