



WESTSIDE CITIES
COUNCIL OF GOVERNMENTS

**REGULAR MEETING OF THE
WESTSIDE CITIES COUNCIL
OF GOVERNMENTS**

Date: April 11, 2019

11:45 AM Board Luncheon

12:00 PM Meeting

1:15 PM Adjourn

Hosted by: City of Santa Monica

Location: Santa Monica Institute Training Room

333 Civic Center Dr.

Santa Monica, CA 90401

Additional Meeting Materials

- **Agenda Item 3A – Meeting Notes**
 - [Revised Meeting Notes](#)
- **Agenda Item 3E - COG Regional Homelessness Coordination Grant**
 - [Updated Proposed Scope of Work dated \(April 9, 2019\)](#)
- **Agenda Item 4 – Executive Director’s Report**
 - [SCAG Mobility Go Zone and Pricing Feasibility Study Overview and Findings](#)
- **Agenda Item 6A – FCC Declaratory Ruling to Accelerate the Deployment of Wireless Facilities**
 - [City of Santa Monica ordinance related to public right-of-way wireless communication facilities](#)
 - [FCC Cells Us Out authored by councilmember Kevin McKeown – Santa Monica Daily Press](#)
- **Agenda Item 9 – Announcements**
 - [Homelessness & Mental Illness: Challenges and Solutions Panel by Everyone In, Supervisor Sheila Kuehl, and the LA County Homeless Initiative \(April 30, 2019\)](#)



**REGULAR MEETING OF THE
WESTSIDE CITIES COUNCIL
OF GOVERNMENTS**

**DRAFT MEETING NOTES
(Revised)**

THURSDAY, FEBRUARY 14, 2019
12:00 NOON

CITY OF WEST HOLLYWOOD
WEST HOLLYWOOD LIBRARY
625 N. SAN VICENTE BLVD.
WEST HOLLYWOOD, CA 90069

IN ATTENDANCE:

Beverly Hills: Vice Mayor John Mirisch. Staff: Cindy Owens, Aaron Kunz, Jessie Holzer

Culver City: Vice Mayor Meghan Sahli-Wells, Councilmember Alex Fisch, Mayor Thomas Small. Staff: Shelly Wolfberg

Santa Monica: Councilmember Kevin McKeown, Mayor ~~Pro Tempore~~ Gleam Davis. Staff: Anuj Gupta

West Hollywood: Councilmember John Heilman, Councilmember Lauren Meister. Staff: Hernan Molina, Bob Cheung, Bianca Siegl

City of LA: District 5 Staff: Debbie Dwyer-Harris. Chief Legislative Analyst Office: Steve Luu, Matt Shade

County of LA: Supervisorial District 3 Staff: Stephanie Cohen.

WSCCOG: Executive Director Cecilia V. Estolano. Staff: Winnie Fong, Nathan Serafin. Counsel: Lauren Langer.

Other Attendees: Peter Carter (Metro); Arnold San Miguel (SCAG); Josh Kurpies (AD 50)

1. CALL TO ORDER

Vice Mayor John Mirisch (WSCCOG Chair) called the meeting to order at 12:02 p.m.

2. WELCOME, INTRODUCTIONS, AND IDENTIFICATION OF VOTING MEMBERS

3. ACTION ITEMS

A. Approval of November 15, 2018 Draft Meeting Notes

A motion was made by Councilmember John Heilman and seconded by Vice Mayor Meghan Sahli-Wells to approve the draft meeting notes. The motion passed unanimously.

B. SCAG Regional Council District #41 Representative

The WSCCOG Board held a discussion about special elections in an event that the current Regional Council District representative's council term expires before the end of the Regional Council's term. Vice Mayor Meghan Sahli-Wells expressed her interest to continue to serve on the Regional Council. Councilmember Lauren Meister expressed interest in serving on the Regional Council after Vice Mayor Sahli-Wells' term. A motion was made by Councilmember Kevin McKeown and seconded by Councilmember John Heilman for Vice Mayor Meghan Sahli-Wells to continue serving on the Regional Council. The motion passed unanimously.

4. SEPULVEDA PASS PRESENTATION

Peter Carter (Senior Manager of Systemwide Mobility Corridors at Metro) provided an update to the Board on the Sepulveda Transit Corridor Project, which included an update on the corridor study process. Metro conducted a series of public outreach meetings to gain feedback for the six concepts under review, which include heavy rail, light rail, monorail, and an extension from the proposed Purple Line station in Westwood. Mr. Carter also discussed the results from the concept development, which included a travel demand analysis for each concept, as well as their key strengths and challenges.

5. EXECUTIVE DIRECTOR'S REPORT

A. WSCCOG Appointed Representative Update

Executive Director Cecilia V. Estolano provided an update on WSCCOG's appointed representatives stating that the WSCCOG issued a call for nominations for the SCAG Energy and Environment Committee and the Metro Westside/Central Service Council.

B. Westside Mobility Study and MSP 5-Year Plan Request for Proposal Update

Ms. Estolano provided an update on the Westside Mobility Study and SCAG's request for proposals for the Multi-Subregional Program 5-year plan, as well as a timeline for the process.

C. Cities' Homelessness Plan Implementation Grants Update

Ms. Estolano notified the Board that Culver City and West Hollywood were awarded Homelessness Implementation Plan grants from Los Angeles County. Culver City will develop a feasibility study on motel conversion and inclusionary zoning ordinance, while West Hollywood will study city-owned properties for bridge and permanent supportive housing.

E. WSCCOG Website and Twitter

Ms. Estolano informed the Board of the WSCCOG's new Twitter account, which will update followers on subregional news and encouraged the cities and community members to follow the account.

F. WSCCOG Agenda and Meeting Information

Ms. Estolano informed the Board that WSCCOG staff have created list of deadlines for members of the Board and their staff to request items for the next Board meeting agenda and for WSCCOG cities to post the agenda.

G. Statement of Economic Interest (Form 700) Annual Filing Period

Ms. Estolano informed the Board that the deadline to file their Form 700s is April 2nd. Ms. Estolano added that WSCCOG staff Winnie Fong will coordinate the collection of the forms among members of the Board.

H. WSCCOG Financial Reports

Ms. Estolano informed the board that the WSCCOG's treasurer provided the Board with a financial statement attached to the agenda.

6. WSCCOG STRATEGIC INITIATIVES

A. Transportation

i. Metro Board Southwest Corridor Member Nominations Update

Ms. Estolano provided an update on the Southwest Corridor Subcommittee's nomination of Mayor James Butts to serve another term as representative on the Metro Board of Directors. The City Selection Committee was short of a full quorum in January, and that the Southwest Corridor Subcommittee must now re-nominate Mayor Butts.

ii. Overview of Metro Congestion Pricing Proposal

Ms. Estolano provided an update on a motion by Metro Board members Solis, Garcetti, Hahn, and Butts directing Metro to report back on a funding plan to accelerate the remaining 8 projects in its 28 by '28 initiative. Metro staff responded to the motion with a controversial report that assumed the agency would deny local return funds from local municipalities. Ms. Estolano also stated that as a response to the report, Metro's Public Advisory Committee unanimously agreed to draft a letter requesting the agency to comply with the following key concepts: (1) decoupling congestion pricing from 28 by '28 project acceleration, (2) study how congestion pricing could help the county achieve goals for equity, mobility, and access to opportunity, (3) clarify if the 28 by '28 project acceleration would affect Metro's Long Range Transportation Plan, Vision 2028 Strategic Plan, and other major plans, (4) keep its promises for local return, MSPs, and other Measure M Local programs, and (5) address transit comprehensively by considering how funding from congestion pricing would benefit other local operators.

iii. Micro-Mobility Vehicle Workshop on E-Scooter Recap

Ms. Estolano provided an update to the Board that Metro is considering a program to regulate dockless e-scooters and dockless bicycles on Metro rights-of-way. Vice Mayor Sahli-Wells addressed Metro's statements that they likely will not be participating in the mobility data specification (MDS) even though other cities have participated in it so that they do not have to depend on micromobility companies. Vice Mayor Sahli-Wells added that Culver City has information from its own study that she can send to Metro and other cities in the WSCCOG region.

iv. Open Streets Program FY 2020 Mini-cycle Application

Ms. Estolano informed Board members and their staff that Metro is holding a mini-cycle application for fiscal year 2020 for their Open Streets Grant

Program. She also encouraged cities in the WSCCOG to apply, as other cities within the WSCCOG region have benefitted from the award in the past.

7. LEGISLATION

A. Overview of Legislative Bills Related to Redevelopment and Affordable Housing

Ms. Estolano informed the Board of four bills that are under review in the California State Legislature: AB 11 (Chiu), SB 5 (Beall and McGuire), SB 4 (McGuire and Beall), and SB 50 (Wiener). Each bill relates directly to WSCCOG's legislative and policy platform on financing opportunities for affordable housing development and sustainable approaches to reduce greenhouse gas emissions. When discussing SB 50, Vice Mayor Mirisch stated that dense market-rate housing should not be viewed as a solution to the region's housing issues. Hernan Molina (City of West Hollywood) added that the bill should allow cities to have their own discretion of where they do and do not want density. Ms. Estolano clarified that SB 50 differentiates from a similar bill from last year, AB 827 (Wiener), in that Senator Wiener consulted with government officials and labor and housing advocates, recommending that the Board continue to engage with the bill. Councilmember McKeown requested that the COG Board agendaize the bill for future meetings as it evolves.

B. Update from League of California Cities

Jeff Kiernan (League of California Cities) provided a brief update to the Board that Legislative Action Day will be on April 24th, 2019.

8. ANNOUNCEMENTS

A. Connect SoCal

Vice Mayor Sahli-Wells informed the Board that she attended a policy meeting to launch Connect SoCal, which is SCAG's 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy. Vice Mayor Sahli-Wells discussed the data at the presentation, which included millennial housing choices and the region's aging population and added that it leaves the members of the COG with many decisions to consider for the future.

B. Westside Urban Forum

Mayor Gleam Davis announced that she will be presenting at the Westside Urban Forum on February 15th and that tickets for the event were sold out.

C. Department of Water and Power

Councilmember McKeown announced that the ~~DWP Los Angeles will not~~ was not maintain ~~maintaining their its~~ natural gas plants, ~~adding that Councilmember McKeown also added that Santa Monica's~~ the switch to 100 percent renewable energy will reduce greenhouse gas dependence by 19 percent, renewably sourced electricity ha dreduced their greenhouse gas emissions to 19 percent/

D. AB 3059 "Go Zones"

Josh Kurpies announced that Assemblymember Richard Bloom introduced AB 3059, which would authorize two "Go Zone" demonstration programs in Northern and Southern California.

E. West Los Angeles Armory Bridge Housing Site

Stephanie Cohen announced that the Third Supervisorial District will move forward with a proposal to build a bridge housing site in the West Los Angeles Armory, adding that Board members can visit www.supervisorkuehl.com/westLA for a list of community meetings. She also requested the COG's assistance with communication to the general public about the meetings, as the proposal would need federal and state legislation to move forward.

F. CicLAvia: "Culver City Meets Palms"

Vice Mayor Megan Sahli-Wells announced that the CicLAvia event "Culver City Meets Palms + Mar Vista" will take place on March 3rd.

9. FUTURE MEETING LOCATIONS AND AGENDA ITEMS

10. PUBLIC PARTICIPATION

11. ADJOURN

The WSCCOG Board adjourned early at 1:07 p.m.

**Proposed Scope of Work for the FY 2018-19 COG Regional Coordination
By the WSCCOG Executive Director Team
(Led by Estolano LeSar Advisors)
Revised April 9, 2019**

The County Homeless Initiative provided a list of required deliverables to be included in the COG's statement of work under the COG Regional Coordination grant funding for FY 2018-19. The WSCCOG Executive Director Team, led by Estolano LeSar Advisors (ELA), will conduct the proposed activities to support the member cities in regional engagement and city plan implementation.

Task 1: City Engagement

Engage cities around land use and zoning to develop more interim and supportive housing

A. Provide Technical Assistance on Grant Funding Opportunities

WSCCOG will research future grant funding opportunities for member cities, including grants for multi-jurisdictional projects. WSCCOG's role in providing technical assistance to member cities will be limited to disseminating information and fielding inquiries related to the grant applications.

B. WSCCOG Homelessness Strategic Plan

WSCCOG staff will draft a Homelessness Strategic Plan to provide grant-ready information for the COG and our member cities, such as the following: (1) baseline data; (2) existing programs, facilities, and services; (3) inventory of State and Federal parcels for interim and supportive housing; (4) subregional goals and an action plan to prevent and combat homelessness. This plan would also identify subregional activities and projects for the WSCCOG to pursue future multi-jurisdictional grant opportunities.

Task 2: Regional Coordination

Create a regional response to homelessness that is aligned with the County Homeless Initiative

A. WSCCOG Homelessness Working Group Conference Call

WSCCOG will convene a monthly conference call with the WSCCOG Homelessness Working Group, which will include the following: (1) progress updates on the cities' homelessness plan implementation efforts; (2) share and disseminate information to the cities from LAHSA and the County Homeless Initiative, as well as updates on Measure H, grant funding opportunities, annual homeless counts and events/conferences.

B. Westside Subregional Homelessness Convening

WSCCOG will convene two (2) meetings with key stakeholders. The purpose of the first convening is to inform stakeholders of the cities' homelessness action plans, as well as solicit input on regional goals and efforts to inform the development of the WSCCOG Homelessness Strategic Plan. The participants may include, but limited to, elected officials, city managers, city staff, emergency responders, local service providers, faith-based organizations, and other community leaders. The second convening will inform the stakeholders about the WSCCOG Homelessness Strategic Plan and outline the cross-jurisdictional activities related to combatting and preventing homelessness.

C. Partnership with United Way’s Everyone In Campaign

WSCCOG will engage with the member cities in partnering with United Way by participating as a co-host in the following possible activities throughout the region to educate community members, as well as foster support for local development for permanent supportive and affordable housing:

1. Community Information + Advocacy Training workshops
2. Community pop-up event
3. Stories from the Frontline event
4. Supportive housing tour

WSCCOG will target at least one (1) event in each member city, and at least one (1) event each quarter in the subregion.

Schedule

Below is a year-long timeline of activities beginning on the contract agreement start date.

Task	Month											
	1	2	3	4	5	6	7	8	9	10	11	12
1. City Engagement												
A. Provide grant writing technical assistance (when necessary)	■	■	■	■	■	■	■	■	■	■	■	■
B. WSCCOG Homelessness Strategic Plan	■	■	■	■	■							
2. Regional Coordination												
A. Homelessness Working Group Meetings	■	■	■	■	■	■	■	■	■	■	■	■
B. Homelessness Subregional Convening		■				■						
C. Partner with United Way Everyone In Campaign		■			■			■			■	

Deliverables

1. WSCCOG Homelessness Strategic Plan
2. WSCCOG Subregional Homelessness Working Group Agendas and Meeting Notes
3. WSCCOG Homelessness Convening – minimum two (2) meetings
4. Homelessness-related Events with Everyone In – minimum four (4) events

~~● **Inventory of Cities’ SB-2 Compliance Status**~~

~~The County is working towards achieving 100% SB-2 Compliance across the region. SB-2 compliance would ensure that the Westside cities are eligible for homeless-related State and Federal grants. The goal is to create inventory of cities in compliance and those out of compliance, with details about what needs to be done to come into compliance. WSCCOG staff will work with the member cities to confirm that they are in compliance with SB-2 in an effort to promote regional SB-2 compliance and implementation as outlined in the County’s approved strategies to combat homelessness (Strategy FI). WSCCOG staff will create an inventory report of the cities’ SB-2 compliance status.~~

~~● **Shelter Emergency Declaration for Homeless Emergency Aid (HEAP) Grant**~~

~~The WSCCOG member cities expressed concerns regarding HEAP’s requirement for cities to declare a shelter emergency because it conflicts with existing encampment policies. This requirement deterred our cities from applying for the HEAP grant in 2018.~~

~~The WSCCOG will continue to communicate the cities' concerns, which includes engaging with Assemblymember Richard Bloom (AD 50) and Senator Ben Allen (SD 26) to advocate amending the HEAP's shelter emergency declaration requirements by the next funding cycle.~~

● ~~**Inventory of Potential Parcels for Interim and Supportive Housing**~~

~~Some of our cities are currently compiling information on potential publicly owned or privately owned sites to be analyzed for interim and supportive housing. WSCCOG staff will consult with State and Federal agencies on potential underutilized publicly owned sites, such as Caltrans' surplus properties.~~

● ~~**Subregional Housing Needs Assessment**~~

~~The WSCCOG Homelessness Strategic Plan will include an immediate action for a housing needs assessment study for the Westside subregion. The study will identify strategies to meet the gap in affordable and supportive housing units. WSCCOG will engage in a campaign to seek support and funding for the study from local stakeholders, such as the chambers of commerce, tourism boards real estate communities, faith-based organizations, financial affiliates, and other.~~

● ~~**Organize a Supportive Housing Tour (If applicable)**~~

~~The Westside cities' elected officials and staff currently promote supportive housing and are well-informed about the local supportive housing projects in the subregion. WSCCOG will assist in organizing a supportive housing tour to newly elected officials, if necessary.~~

● ~~**WSCCOG Homelessness Public Education Implementation Strategy**~~

~~In 2018, the City of Santa Monica developed a Homelessness Curriculum Framework, which informs and educates people about homelessness strategies to effectively interact with community members experiencing homelessness. The WSCCOG is committed to using this framework to promote a consistent and unified message on homelessness across all member cities in the Westside subregion. In 2019, the WSCCOG developed a Homelessness Public Education Implementation Strategy, which identified activities to encourage community members to participate in homelessness solutions and engage with homeless individuals. WSCCOG will implement the Homelessness Public Education Strategy by conducting the following activities: (1) encourage cities to use and incorporate the Homelessness Curriculum Framework in their homelessness resources materials (2) collaborate with United Way's Everyone In to host community information and advocacy workshops in each member city and promote the Homelessness Curriculum Framework that is customized to the jurisdictions; and (3) continue to aggregate homeless-related resources and services on the Westside on the WSCCOG's website.~~



Southern California Association of Governments
900 Wilshire Boulevard, Suite 1700, Los Angeles, California 90017

April 4, 2019

ITEM NO. 7

To: Transportation Committee (TC)
From: Annie Nam, Manager of Goods Movement, Goods Movement & Transportation Finance, 213-236-1827, Nam@scag.ca.gov
Subject: Mobility Go Zone & Pricing Feasibility Study Overview and Findings

INTERIM
EXECUTIVE DIRECTOR'S
APPROVAL

RECOMMENDED ACTION:

For Information Only - No Action Required

STRATEGIC PLAN:

This item supports the following Strategic Plan Goal 1: Produce innovative solutions that improve the quality of life for Southern Californians.

EXECUTIVE SUMMARY:

The Mobility Go Zone & Pricing Feasibility Study was funded by a Federal Highway Administration (FHWA) Value Pricing Pilot Program (VPPP) grant. The VPPP is intended to demonstrate whether and to what extent roadway congestion may be reduced through the application of congestion pricing strategies, and the magnitude of the impact of such strategies on driver behavior, traffic volumes, transit ridership, air quality and availability of funds for transportation programs. Specifically, this study focuses on a form of congestion pricing referred to as cordon pricing, which involves charging a variable or fixed fee to drive into a highly congested area. Staff will provide a brief overview of the study and evaluation findings.

BACKGROUND:

The Mobility Go Zone & Pricing Feasibility Study was funded by a Federal Highway Administration (FHWA) Value Pricing Pilot Program (VPPP) grant. The VPPP is intended to demonstrate whether and to what extent roadway congestion may be reduced through the application of congestion pricing strategies, and the magnitude of the impact of such strategies on driver behavior, traffic volumes, transit ridership, air quality and availability of funds for transportation programs.

Although past SCAG research evaluated a range of congestion pricing options, this current study focuses on cordon pricing, which involves charging a variable or fixed fee to drive into a highly congested area. This pricing strategy was screened for application within multiple areas of the region to advance to a more detailed evaluation of a potential proof-of-concept pilot program, named the "Mobility Go Zone" Program within the Westside area of Los Angeles.

The concept of a "Mobility Go Zone" was derived and defined as a geographic area with a suite of mobility service options for commuters, visitors, and residents to reduce dependency on personal automobiles. This expanded mobility ecosystem can include increased local bus circulator routes including demonstration of micro-transit options, express commuter buses, bike share and

enhanced active transportation infrastructure, and implementation of incentives such as a fee on vehicles entering during peak traffic periods to shift travel patterns to shared modes; shift less time sensitive or lower value trips to off-peak times resulting in more evenly distributed daily congestion. Revenues collected from the fee would be used to fund local transportation improvements to help reduce congestion and carbon emissions, and offer improved travel options for residents, commuters, and other visitors to the area.

Study Area

The impacts of the Mobility Go Zone Program were evaluated as it pertains to the Westside area as an initial proof-of-concept pilot location. The study area includes parts of the Cities of Los Angeles and Santa Monica encompassing the employment concentrations along Wilshire, Santa Monica, and Olympic Boulevards west of I-405 and north of I-10. The Westside was identified because of extensive recurring congestion on arterial roadways, including substantial use of residential streets by commuter traffic. The physical barriers of I-10 and I-405 concentrate traffic onto a limited number of arterials, creating gridlock during peak periods. The Westside has become and continues to advance as a major employment center, particularly for the entertainment, media, and technology industries. These sectors depend on the ability to draw a highly educated labor pool from across the region. The Westside is accessible by transit and active transportation, and a more robust investment program can be realized. Both Metro and Big Blue Bus provide service to the area. Metro Rapid routes 720 and 704 on Wilshire and Santa Monica Boulevards are heavily utilized. The Exposition Light Rail began serving the area in 2016. Additionally, Line 788 Valley-Westside Express Route is now in service.

Pilot Program Concept Analyzed

As currently analyzed, the pilot program concept would consist of a charge for private vehicles entering the study area during the a.m. and p.m. peak periods. The fee assumed was in the vicinity of \$4 for entry during each peak period, with discounts offered to residents of the zone and low-income households. The pilot program would include extensive investment in transit services to and within the study area. The capital and operating costs of the transit services would be paid for from program revenues. For analysis, services assumed local circulators to facilitate short trips within the area and to Expo stations, long-distance commuter services from areas such as the San Fernando Valley and the South Bay, and increased service on existing routes within the area.

Pilot Program Evaluation Findings

The program has been evaluated using SCAG's travel demand model, and results have been consistent with the experience of international pricing programs. The program is anticipated to result in the following outcomes for inbound peak period trips:

- an approximately 9% increase in transit usage for trips to the area
- an approximately 7% increase in bicycling trips to the area
- an approximately 7% increase in walking trips to the area
- an approximately 19% decrease in automobile trips to the area

The program is estimated to result in a 21% to 22% decrease in VMT and 24% decrease in VHT within the study area during peak periods, reducing congestion and pollution hot spots. VMT and VHT directions translate directly into greenhouse gas reductions from mobile sources, the equivalent annual benefit of \$4 million.

The revenues from the vehicles anticipated to pay the fee are sufficient to cover the program costs (e.g., transaction costs, customer service, etc.), supplemental transit services, and other complementary measures such as pedestrian and bicycle projects and programs. Analysis indicates an annual average net revenue of \$69.2 million to support transportation investments and offer additional revenue sources for local reinvestment. The economic feasibility of the Mobility Go Zone Program can also be represented by the benefit/cost ratio of 3 to 1.

Equity analysis conducted to examine the potential impacts of the program on low-income households suggests that low-income travelers to the area are much more likely to take transit or carpool than drive alone, compared to all-income travelers. Low-income travelers would directly benefit from investments in new transit service to and from areas currently underserved by transit, and by circulator routes.

As part of equity considerations, it should be noted that the recent SCAG/UCLA study, *Falling Transit Ridership*, concludes that transit ridership has been falling in Southern California primarily due to increasing auto ownership, particularly among low income and foreign-born households that did not previously have access to a car. A Mobility Go Zone Program would therefore need to carefully consider the impact of a fee on these households and appropriately design mitigation measures.

FISCAL IMPACT:

Work associated with this item is included in the Fiscal Year 2018-2019 Overall Work Program.

ATTACHMENT(S):

1. Mobility Go Zone & Pricing Feasibility Study Overview

Mobility Go Zone & Pricing Feasibility Study

Annie Nam

Manager of Transportation Finance & Goods Movement Dept

April 4, 2019

www.scag.ca.gov



Study Background



- Funded by a Federal Highway Administration (FHWA) Value Pricing Pilot Program (VPPP) grant
- Intended to demonstrate whether and to what extent roadway congestion may be reduced through the application of congestion pricing strategies
- Builds on 2013 Express Travel Choices Phase I study, which evaluated a range of pricing strategies including express lanes, DTLA cordon, facility/corridor pricing, and mileage-based user fees
- Provides important policy context for the 2020 Regional Transportation Plan and Sustainable Communities Strategy—Connect So Cal
- Coordinated a stakeholder driven process to conduct feasibility analysis for a proof-of-concept cordon pricing pilot program

What is Cordon/Area Pricing?



- Fixed or variable fee to drive into or within a highly congested area
- Electronic toll collection
- Often cited international examples include Stockholm and London
- Complementary measures maximize success—transit, walking, biking, and even park & ride amenities (e.g., Stockholm)

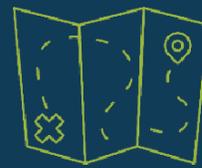
How a Go Zone Could Work in Los Angeles



Transit improvements



Circulators shuttles and regional commuter buses



First/Last mile connections



Bike and pedestrian improvements



Assistance for low-income travelers



Fee to improve traffic flow



Ridesharing & improved real-time technologies



THE 100 HOURS CAMPAIGN



100hoursla.com

Facebook.com/100hoursla

Twitter.com/100hoursla



Billboards

- 100 Hours billboards were designed and installed in potential Go Zones, advertising the campaign and alternative ways to spend 100 hours.
- There were 2 rounds of creative for a total of 7 billboards that garnered 1.1 million impressions. Each ran for between 2-5 weeks from the end of May through mid-July.





SCAG @SCAGNews - Jun 11
 If you're at @CicLAvia today, please visit our @100HoursLA booth & let us know how you'd rather spend 100 hours a yr pic.twitter.com/0tp5WryEf

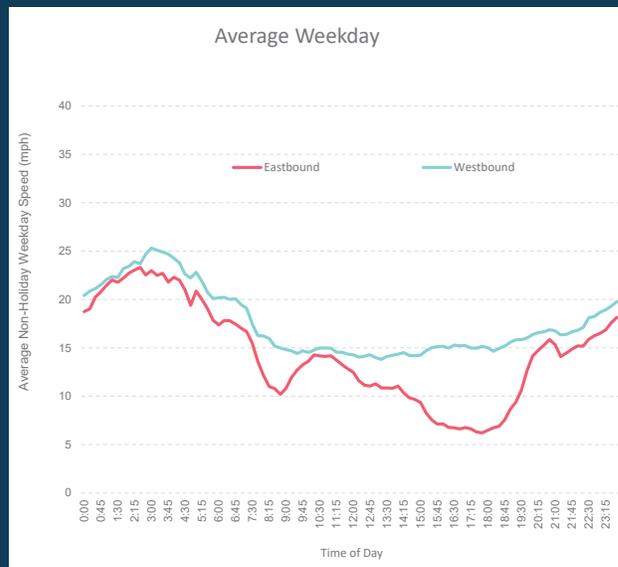
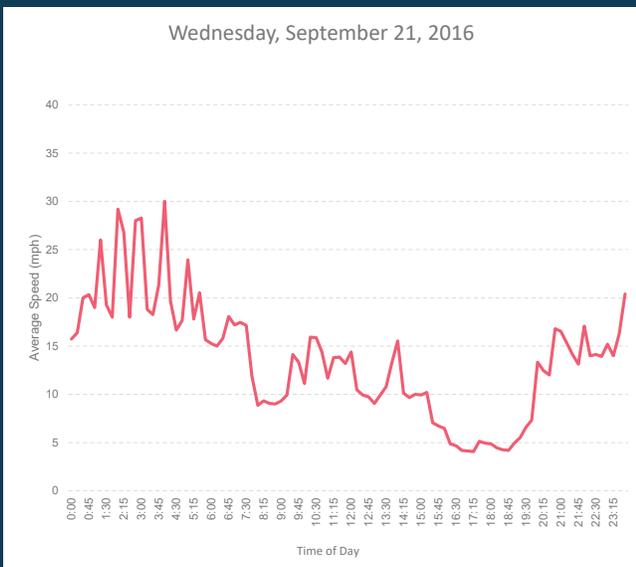
Westside Study Area



- Major employment center, particularly for entertainment, media, and technology industries that depend on the ability to draw a highly educated labor pool
- “Second downtown” with 80K jobs, 3:1 jobs to housing ratio
- Physical barriers of I-10 and I-405 concentrate traffic onto limited number of arterials, creating gridlock
- Extensive recurring congestion on arterial roadways that routinely slows to 5 miles per hour



Westside Study Area: Average Speed – Santa Monica Blvd at I-405



Westside Study Area: Average Speed – Sunset at Kenter

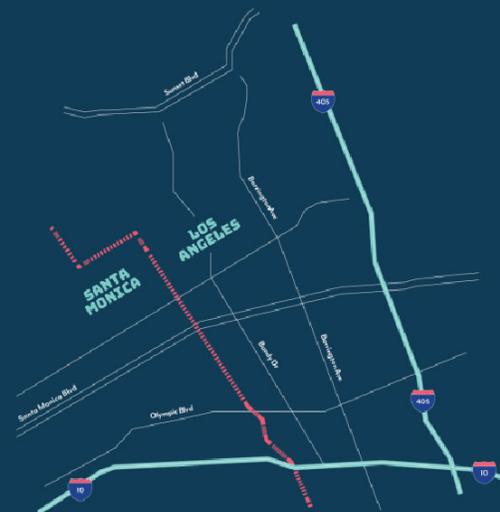


Attachment: Mobility Go Zone & Pricing Feasibility Study Overview (Mobility Go Zone & Pricing Feasibility Study Overview and

Westside Study Area



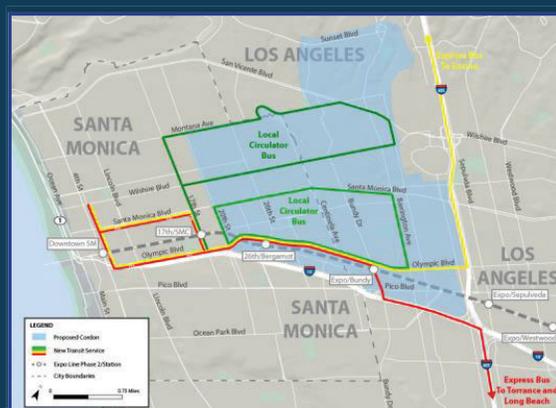
- Size: 4.3 square miles
- Daily trips on area roads: 550,000
- Underutilized transit capacity: 50%
- Accessible by transit
 - Both Metro and Big Blue Bus provide service to the area
 - Metro Rapid routes 720 and 704 on Wilshire and Santa Monica Blvd serve the area
 - The Expo Light Rail began serving the area in 2016
 - Line 788 Valley–Westside Express Route also in service



Pilot Program Concept Analyzed

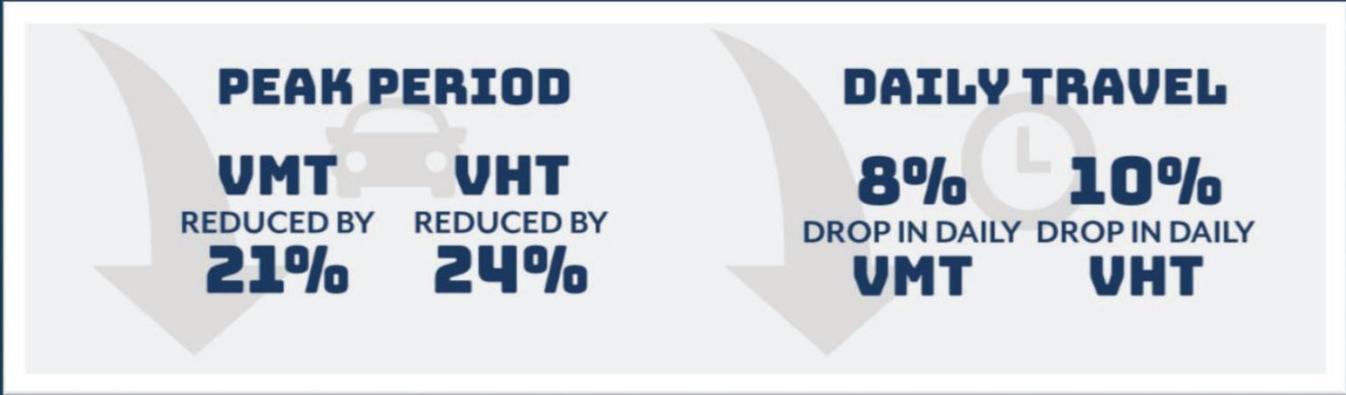


- Assumed a charge per vehicle (\$4) entering the zone during weekday peak period only
- Discounts for residents and low-income commuters
- Toll collection similar to Metro ExpressLanes with FasTrak transponders and Automated License Plate Recognition (ALPR) technology
- Two local circulators, two commuter express bus services, increased service on existing routes, connections to Expo and commercial corridors



*Map illustrates concepts for increases in transit service in the area.

Pilot Program Concept Evaluation Findings



Pilot Program Concept Evaluation Findings



9% ↑
TRANSIT



7% ↑
BIKING



7% ↑
WALKING



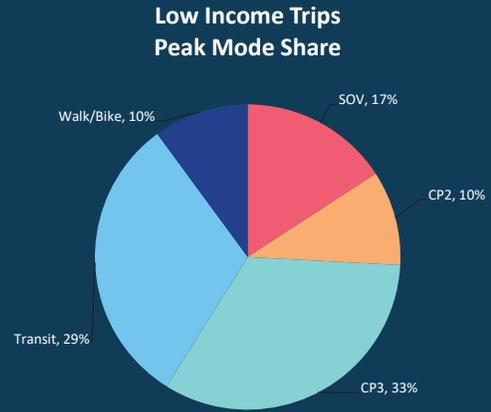
-19% ↓
DRIVING

TRANSPORTATION MODE
SHIFT FOR INBOUND PEAK PERIOD TRIPS TO THE GO ZONE

Equity Analysis: Low-Income Trips by Mode



- 6% of all auto trips and 24% of all transit users entering the project area are low-income during peak periods
- Low-income travelers rely heavily on transit (29%) and carpooling (43%) as primary modes to travel to the study area during peak periods
- Flexibility to provide carpoolers a discount
- Enhanced transit options will directly benefit low-income travelers



Thank You

www.scag.ca.gov





City Council Report

City Council Meeting: November 27, 2018
Agenda Item: 7.B

To: Mayor and City Council
From: Susan Cline, Director, Public Works, Civil Engineering
Subject: Introduction for First Reading of an Ordinance to Repeal and Replace Santa Monica Municipal Code Chapter 7.70 Pertaining to Public Right-of-Way Wireless Communications Facilities

Recommended Action

Staff recommends that the City Council introduce for first reading the attached ordinance to repeal and replace Santa Monica Municipal Code Chapter 7.70 pertaining to wireless facilities in the public right-of-way.

Executive Summary

The national roll-out of enhanced wireless networks has been the subject of intense interest as well as controversy in many communities, including Santa Monica. On July 26, 2016, the City Council adopted Ordinance 2525 CCS to add Municipal Code Chapter 7.70 (Attachment A), which created additional local regulations in anticipation of a proliferation of applications for wireless facilities in the public right-of-way. In particular, City staff anticipated an increased number of applications for “small cell sites,” which are a relatively newer form of wireless technology deployment that can be installed on existing infrastructure, such as streetlight and wooden utility poles. In support of the goal of telecommunications companies’ efforts to expedite wireless upgrades, the Federal Communications Commission (FCC) has moved to dramatically curtail the regulatory discretion of local jurisdictions. Going forward in this dynamic regulatory climate, the proposed Ordinance revisions maximize the City’s oversight of the public-right-of way while maintaining compliance with all legal requirements that significantly limit the City’s local authority.

Since the adoption of Chapter 7.70, City staff has identified sections of the existing ordinance that (i) need clarification and revision to ensure more comprehensive

regulation of wireless facilities in conformance with applicable federal law, (ii) are administratively difficult to enforce, and (iii) need to provide the City authority and flexibility to create new regulations in response to changing wireless technology to ensure the City may exercise the full extent of its regulatory authority at all times. Staff, therefore, recommends that the City Council introduce for first reading an ordinance to repeal and replace SMMC 7.70 to ensure that wireless installations are regulated to the maximum extent provided under applicable federal law. Such proposed regulations include objective aesthetic standards for wireless facilities, more rigorous compliance reporting requirements to ensure compliance with FCC radio frequency emissions standards, and other measures as described in this report. The proposed changes are recommended to provide the City with the maximum legal authority to safeguard the public peace, health, and wellbeing of the community and protect the unique aesthetic character of the City.

Background

The City desires to exercise maximum regulatory authority over wireless facilities. However, this authority is significantly hindered by two federal mandates: The Telecommunications Act of 1996 and Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 together with FCC rules and regulations interpreting these two mandates.

Federal Mandate 1: Telecommunications Act of 1996

The Telecommunications Act of 1996 (TCA) maintains a local jurisdiction's authority to regulate wireless facilities provided that such authority does not prohibit or have the effect of prohibiting the provision of personal wireless service facilities. The TCA also stipulates that local jurisdictions are required to act on applications for wireless facilities within a "reasonable timeframe."

Since passage of the Telecommunications Act of 1996, the Federal Communications Commission (FCC) has issued declaratory rulings and orders that clarify and interpret provisions of the TCA. In its Declaratory Ruling FCC 09-99, the FCC defined the term

“reasonable timeframe” as 90 days for collocation applications and 150 days for applications to install a new wireless facility where none currently exists.

More recently, on September 26, 2018, the FCC adopted Declaratory Ruling and Third Report and Order FCC 18-133 that further restricts local authority. The proposed FCC regulations are scheduled to become effective on January 14, 2019. Among other things, the latest FCC order does the following:

- Articulates a broader standard to determine when a local regulation prohibits or effectively prohibits wireless services;
- Imposes a reasonable fee standard and establishes presumptively reasonable fees that can be charged for wireless installations;
- Clarifies the standard for regulating wireless installations to address aesthetic concerns as long as the regulations are based upon published objective standards;
- Shortens the shot clocks to 60 days for installations on an existing structure and 90 days for installations on a new structure and clarifies that the shot clock period applies to all local approvals required for installations; and
- Clarifies that the failure to take action results in an effective prohibition, which triggers a 30-day period to file an action for expedited judicial review.

The FCC’s most recent ruling may be challenged within a certain period after publication in the Federal Register. The City has joined a coalition of other cities in the nation to challenge certain of these FCC regulations. Therefore, staff anticipates returning to Council with an updated ordinance if challenges to the FCC regulations are successful.

Federal Mandate 2: Middle Class Tax Relief and Job Creation Act of 2012

Congress passed the Middle Class Tax Relief and Job Creation Act (Act) in February 2012. Section 6409(a) of the Act includes provisions establishing an expedited, non-

discretionary permitting process for the approval of certain types of wireless facility modifications. Section 6409(a) generally states that an “eligible facilities request”—which involves changes to existing wireless sites that involve collocation, removal, or replacement of transmission equipment—that does not constitute a “substantial change” may not be denied and shall be approved by the local jurisdiction.

Section 6409(a) of the Act does not prescribe a required timeframe for local jurisdiction review or define the term “substantial change.” In its Report and Order 14-153, the FCC established that local jurisdictions have 60 days to approve an application from the date an applicant seeks approval under Section 6409(a) of the Act or the application is deemed granted by rule of law. It also defined what types of modifications constitute a “substantial change.”

Past Council Actions

07/26/2016 (Attachment A)	Adoption of Ordinance 2525 CCS to update Municipal Code Chapter 7.70
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Discussion

Federal regulations concerning wireless facilities are rapidly changing. In 2018, the FCC published new rules that further restrict a local municipality’s authority to regulate the placement of wireless facilities. The proposed ordinance is necessary to ensure that the City’s regulations require wireless facilities to be deployed in such a manner as to not interfere with the public use of the public right-of-way, to preserve public peace, health, and safety, and to exercise local regulatory authority to the maximum extent legally possible. The proposed ordinance would repeal and replace SMMC Chapter 7.70 and would establish standards and procedures for the permitting, placement, construction, and modification of wireless facilities in the public right-of-way. These standards and procedures would provide clear and transparent regulations that recognize the unique, aesthetic character of the City.

The proposed Chapter 7.70 would reaffirm the City's paramount right in utilizing the public right-of-way over wireless carriers, establish clear and objective aesthetic requirements for wireless facilities, set standards for operation and maintenance, provide the City with tools to terminate or revoke a wireless permit, and provide regulations for the removal of wireless facilities. Further, the proposed Chapter 7.70 would set indemnity, insurance, and bond requirements that would protect the City's interests and afford it a remedy to exercise should the City need to remove an abandoned wireless facility.

Other substantial changes proposed to Chapter 7.70 are summarized below.

Change 1: Applicability

The proposed Chapter 7.70 would apply to all applications for wireless facilities that have not been approved prior to the effective date of the ordinance. This includes applications for wireless facilities that have been submitted but have not yet been deemed complete. Further, all wireless facilities for which applications have been approved would be required to comply with the City's regulations concerning radio frequency monitoring, operations and maintenance, abandonment, removal and restoration of facilities, insurance and bond requirements, and indemnity provisions. Notwithstanding the above, personal wireless service facilities constructed for City use or by the City to exclusively provide unlicensed wireless services, such as Wi-Fi, are exempt from the proposed Chapter 7.70.

Change 2: Permits, Application Procedures, and Fees

The current and proposed Chapter 7.70 require that all wireless facilities used to provide licensed wireless services receive a permit from the City. However, the proposed Chapter 7.70 would establish three separate types of permits to manage all aspects of wireless facility permitting and construction.

1. 6409(a) Permit: A 6409(a) Permit is proposed to provide authorization for certain types of modifications to existing wireless facilities that are subject only to a ministerial approval process pursuant to federal law.

2. Wireless Facility Permit: A Wireless Facility Permit is proposed to provide authorization for all other types of wireless facilities that do not qualify for a 6409(a) Permit. A Wireless Facility Permit is subject to limited discretionary approval by the Public Works Director based on published requirements.
3. Public Works Wireless Construction Permit: A Public Works Wireless Construction Permit is a ministerial permit proposed to authorize the construction activity approved via a 6409(a) Permit or Wireless Facility Permit. The Public Works Wireless Construction Permit is proposed to manage construction activity in the public right-of-way and ensure construction safety.

Designed to facilitate orderly intake and processing, the proposed Chapter 7.70 requires that applications for Wireless Facility Permits and 6409(a) Permits be submitted in-person by appointment only. These proposed permitting and application processes align more closely with the Planning and Community Development Department's existing processes for permitting wireless facilities not within the public right-of-way.

The proposed Chapter 7.70 would also authorize the Council to approve by resolution a Municipal Fee Schedule that would establish cost-recovery fees for permits, inspections, enforcement, amendments, noticing, informational materials, copies, and other such items.

Change 3: Standards and Ancillary Documents

The proposed Chapter 7.70 would authorize the Public Works Director to publish a Public Right-of-Way Personal Wireless Service Facility Standards and Regulations (Standards) document and other ancillary documents. The Standards and other ancillary documents may be updated at the discretion of the Public Works Director and would, without limitation, establish:

- Objective design standards for wireless facilities;

- Minimum application requirements (i.e., what is required to constitute a complete application);
- Site location justification requirements;
- Construction noticing requirements;
- Inspection requirements;
- Approved construction hours; and
- Standard conditions of approval.

The proposed Standards (Attachment B) are similar to the existing Wireless Application Policy and Guidelines document authorized under the current Chapter 7.70 but are wider in scope.

Change 4: Noticing

The current Chapter 7.70 requires noticing when an application is filed with the City for a new wireless facility prior to issuance of the permit to all residents, owners, and businesses within a 500-foot radius of the proposed installation location. The proposed Chapter 7.70 Standards require noticing after a Public Works Wireless Construction Permit is issued and prior to any permitted construction activity to all residents and businesses within a 100-ft radius of the installation location subject to the discretion of the Public Works inspector. This policy aligns more closely with the City's existing noticing requirements for permitted activity in the public right-of-way, such as excavation.

Change 5: Appeals

Currently, Chapter 7.70 allows any person to appeal the City's decision regarding a wireless facility application within 14 days of the determination being published. When an appeal is received, appeal public notices are sent to residents, owners, and businesses within a 500-foot radius of the proposed installation location, and appeals are heard by City Council.

The proposed Chapter 7.70 no longer allows appeals due to the following factors: (i) administrative appeals are not required or expressly authorized by the above referenced federal laws, (ii) permit applicants have the right to expedited judicial review for any denial or failure to take action on a pending permit application, (iii) the most recent standard adopted by the FCC to determine when a local regulation effectively prohibits wireless services is so broad as to render meaningless any challenge to a carrier's articulated business reason for the installation, (iv) the City's discretionary authority is effectively limited to the adoption of objective standards, (v) the approval of any installation can be challenged by judicial review after the approval of an installation, even without an administrative appeal, and (vi) the shortened FCC shot clock periods, if not successfully challenged, effectively preclude any prolonged administrative process, including administrative appeals. In sum, the combination of the above factors does not allow for any meaningful administrative appeal rights.

Change 6: Exceptions to City Requirements

To prevent the City from adopting regulations that prohibit or have the effect of prohibiting the provision of wireless facilities and to accommodate for waivers from strict compliance with the Municipal Code, the proposed Chapter 7.70 includes an exception section (Section 7.70.110) that provides the Public Works Director with a means to waive Municipal Code requirements if certain required findings are made, including that:

1. The applicant has provided the Public Works Director with a reasonable and clearly defined technical service objective to be achieved by the proposed facility;
2. The applicant has provided the Public Works Director with a written statement that contains a detailed and fact-specific explanation as to why the proposed facility cannot be deployed in compliance with the applicable provisions in this Chapter and the Santa Monica Municipal Code, including the Public Right-of-Way Personal Wireless Service Facility Standards and Regulations;
3. The applicant has provided the Public Works Director with a meaningful comparative analysis with the factual reasons why all alternative locations and/or designs identified in the administrative record (whether suggested by the

applicant, the City, public comments, or any other source) are not technically feasible or potentially available to reasonably achieve the applicant's reasonable and clearly defined technical service objective to be achieved by the proposed facility; and

4. The applicant has demonstrated that the proposed location and design is the least non-compliant configuration that shall reasonably achieve the applicant's reasonable and clearly defined technical service objective to be achieved by the proposed facility, which includes without limitation a meaningful comparative analysis into multiple smaller or less intrusive facilities dispersed throughout the intended service area.

Change 7: Radio Frequency Exposure Monitoring

While the existing Chapter 7.70 requires proof of FCC compliance at the time of application and permit renewal, the proposed Chapter 7.70 would impose additional radio frequency monitoring requirements. Permittees would be required, within 30 days of commencing operation of a wireless facility and annually thereafter, to furnish certification stating that the actual emissions from the wireless facility operates in compliance with FCC rules.

Change 8: Notification of Expiration of Shot Clock

City staff recognizes that federal and state law set required timeframes for review, or "shot clocks," to approve or deny a wireless facility application. To ensure that staff is properly aware of any pending shot clock expirations, the proposed Chapter 7.70 would require that applicants mail notice to the City no earlier than 30 days and no later than 20 days prior to expiration of the shot clock for any pending wireless facility application.

Alternatives

City Council may choose to retain the existing Chapter 7.70. As stated in this report, the existing Chapter 7.70 is obsolete and does not clearly articulate the City's local authority and requirements regarding the placement, construction, and modification of wireless

facilities considering restrictions set by state and federal law. This puts the City at risk of violating federal law.

Council may also adopt different requirements, recognizing that the FCC's most recently adopted regulations further restrict the City's ability to regulate wireless installations.

Environmental Analysis

The proposed Chapter 7.70 is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to 15061(b)(3) of the State Implementation Guidelines (common sense exemption). There is no possibility that the proposed changes may have a significant effect on the environment. The recommended amendments represent updates to City regulations regarding personal wireless service facilities that are required to be consistent with current state and federal requirements. Therefore, no further environmental review under CEQA is required.

Financial Impacts and Budget Actions

There is no immediate financial impact or budget action necessary as a result of the recommended action.

Prepared By: Thomas Check, Civil Engineer Assistant

Approved

Forwarded to Council



Susan Cline, Director

11/19/2018



Rick Cole, City Manager

11/20/2018

Attachments:

- A. Adoption of Ordinance 2525 CSCS to Update Municipal Code Chapter 7.70
- B. Public Right-of-Way Personal Wireless Service Facility Standards and Regulations
- C. Ordinance - PW - Telecommunications - 11.27.2018

ORDINANCE NUMBER _____ (CCS)
(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
SANTA MONICA REPEALING AND REPLACING IN ITS ENTIRETY THE TEXT OF SANTA
MONICA MUNICIPAL CODE CHAPTER 7.70 PERTAINING TO PERSONAL WIRELESS
SERVICE FACILITIES IN THE PUBLIC RIGHT-OF-WAY

WHEREAS, the Telecommunications Act of 1996 (TCA) recognized that cities have authority to regulate personal wireless service facilities, but limited the scope of such regulation; and

WHEREAS, the TCA prevents cities from prohibiting or effectively prohibiting these facilities and requires cities to act on applications for these facilities within a reasonable timeframe; and

WHEREAS, Congress passed Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 on February 22, 2012, which established an expedited administrative process for the review of certain wireless facilities; and

WHEREAS, Section 6409(a) generally requires that a state and local government “may not deny, and shall approve” certain applications for changes to existing sites that co-locate, remove, or replace transmission equipment at an existing wireless tower or base station; and

WHEREAS, regulations issued by the Federal Communications Commission (FCC) generally preempt subjective land-use regulations, preempt local regulations that prohibit or effectively prohibit the provision of wireless services, and impose reasonable review timeframes to provide applicants with a judicial remedy when the State or local government fails to approve or deny the request within the reasonable timeframes established by the FCC; and

WHEREAS, California Public Utilities Code sections 7901 and 7901.1 authorize the installation of personal wireless service facilities in the public right-of-way by right, as long as such installations do not interfere with public use of the public right-of-way and are subject to reasonable controls imposed by the City as to time, place, and manner in which the public right-of-way is accessed; and

WHEREAS, the City's existing telecommunications ordinance, which is applicable to personal wireless installations in the public right-of-way, is obsolete and must be updated to comply with current federal and state laws; and

WHEREAS, the City Council desires to protect and promote public health, safety, and welfare, and also balance the benefits that flow from robust, advanced wireless services with the City's local values, which include without limitation the aesthetic character of the City, its various neighborhoods and community without (1) prohibiting or effectively prohibiting any personal wireless service provider's ability to provide personal wireless services; (2) prohibiting or effectively prohibiting any personal wireless service provider's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulations; (3) unreasonably discriminating among providers of functionally equivalent services; (4) denying any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such facilities comply with the FCC's regulations concerning such emissions; (5) prohibiting any collocation or modification that the City may not deny under federal or state law; or (6) otherwise authorizing the City to preempt any applicable federal or state law or regulation; and

WHEREAS, the adoption of this ordinance is necessary to ensure that the City's regulation of personal wireless facilities in the public right-of-way is consistent with federal and state laws, does not interfere with public use of the public right-of-way, and preserves public peace, health, and safety, to the extent allowed under federal and state laws.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES
HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Santa Monica Municipal Code Chapter 7.70 is hereby repealed in its
entirety and fully restated as follows:

Chapter 7.70 PERSONAL WIRELESS SERVICE FACILITIES IN THE PUBLIC RIGHT-OF-WAY

7.70.010 Purpose

The purpose of this Chapter is to establish reasonable and uniform standards and procedures for personal wireless service facilities deployment, construction, installation, collocation, modification, operation, relocation, and removal within the public right-of-way, consistent with and to the extent permitted under federal and California state law. The regulations set forth in this Chapter are intended and shall be applied to protect and promote public health, safety, and welfare; retain the aesthetic character of the City; and ensure that residents, visitors, businesses, and government services in the City have reliable access to the state-of-the-art wireless telecommunications networks.

This Chapter is not intended to, nor shall it be interpreted or applied to:

- (a) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services;
- (b) prohibit or effectively prohibit any personal wireless service provider's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulations;
- (c) unreasonably discriminate among providers of functionally equivalent services;
- (d) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such facilities comply with the FCC's regulations concerning such emissions;

- (e) prohibit any collocation or modification that the City may not deny under federal or California state law; or
- (f) otherwise authorize the City to preempt any applicable federal or California state law or regulation.

7.70.020 Definitions

The abbreviations, phrases, terms, and words shall have the meanings assigned to them in this Section. If any definition assigned to any phrase, term, or word in this Section conflicts with any federal or state-mandated definition, the federal or state-mandated definition shall control.

- (a) **Accessory Equipment.** Any equipment serving or being used in conjunction with antennas that have been established for the purpose of providing personal wireless services up to the point of connection with a larger fiber optic or power network. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, wires, conduits, equipment buildings, cabinets, storage sheds, shelters, vaults, or other structures.
- (b) **Antenna.** A device used to transmit and/or receive radio or electromagnetic waves for the provision of personal wireless services. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes designed for residential or household purposes.
- (c) **Applicant.** An entity that possesses the appropriate legal authority to construct, install, modify, collocate, relocate, or otherwise deploy personal wireless service facilities in the public right-of-way.
- (d) **Base Station.** The same meaning as it is defined in 47 CFR Section 1.40001(b)(1).
- (e) **City Engineer.** The City Engineer or his/her designee.
- (f) **Code.** Santa Monica Municipal Code.
- (g) **Collocation.** The same meaning as it is defined by the FCC.

- (h) **Day.** Unless specifically set out in this Chapter, a “day” shall mean one calendar day.
- (i) **Existing.** The same meaning as it is defined in 47 CFR Section 1.40001(b)(5).
- (j) **Eligible Facilities Request.** The same meaning as it is defined in 47 CFR Section 1.40001(b)(3).
- (k) **FCC.** Federal Communications Commission.
- (l) **Laws.** Any and all applicable federal, state and local ordinances, resolutions, regulations, administrative orders, or other legal requirements.
- (m) **Modify.** Changing an existing personal wireless service facility in any manner. This includes, but is not limited to, increases to the power output of the personal wireless service facility and physical changes to the personal wireless service facility.
- (n) **Permittee.** The owner of a personal wireless service facility that has obtained permission through issuance of a Wireless Facility Permit or 6409(a) Permit to construct, install, modify, collocate, relocate, or otherwise deploy personal wireless service facilities in the public right-of-way. Said owner shall possess the appropriate legal authority to construct, install, modify, collocate, relocate, or otherwise deploy personal wireless service facilities in the public right-of-way.
- (o) **Person.** An individual or legal entity that is recognized by law as the subject of rights and duties.
- (p) **Personal Wireless Services.** The same meaning as it is defined in 47 USC Section 332(c)(7)(C)(i).
- (q) **Personal Wireless Service Facilities.** The same meaning as it is defined in 47 USC Section 332(c)(7)(C)(ii).
- (r) **Public Right-of-Way.** Any public street, alley, sidewalk, or parkway, and the space on, above, or below it, that is owned or granted by easement, operated, or controlled by the City.
- (s) **Public Works Director.** The Public Works Director or his/her designee.

- (t) **Section 6409(a).** Section 6409(a) of the Middle Class Tax Relief and Job Creation Act, Pub. L. No. 112-96, 126 Stat. 156 (Feb. 22, 2012), codified as 47 USC Section 1455(a) and implemented pursuant to 47 CFR Section 1.40001.
- (u) **Site.** The same meaning as it is defined in 47 CFR Section 1.40001(b)(6).
- (v) **Substantial Change.** The same meaning as it is defined in 47 CFR 1.40001(b)(7).
- (w) **Tower.** The same meaning as it is defined in 47 CFR Section 1.40001(b)(9).
- (x) **Transmission Equipment.** The same meaning as it is defined in 47 CFR Section 1.40001(b)(8).
- (y) **Unlicensed Wireless Service.** The same meaning as it is defined in 47 USC Section 332(c)(7)(C)(iii).

7.70.030 Applicability

This Chapter applies to all personal wireless service facilities as follows:

- (a) All facilities for which applications were not approved prior to the effective date of this Chapter shall be subject to and comply with all provisions of this Chapter; and
- (b) All facilities, notwithstanding the date approved, shall be subject immediately to:
 - (1) 7.70.130 Radio Frequency Exposure Monitoring Requirements;
 - (2) 7.70.140 Operation and Maintenance Standards;
 - (3) 7.70.190 Abandonment;
 - (4) 7.70.210 Removal and Restoration;
 - (5) 7.70.230 Insurance and Bond; and
 - (6) 7.70.240 Indemnity.
- (c) **Exempt Facilities.** Notwithstanding Sections 7.70.030(a) and 7.70.030(b), the provisions in this Chapter shall not be applicable to:
 - (1) Personal wireless service facilities or equipment owned and operated by California Public Utilities Commission-regulated electric companies for use in connection

with electrical power generation, transmission, and distribution facilities subject to California Public Utilities Commission General Order 131-D;

- (2) Personal wireless service facilities that are constructed for City use or by the City to exclusively provide unlicensed wireless services, such as Wi-Fi;
- (3) Facilities that are for the purpose of wireless-based reading of water, gas, or electric meters;
- (4) Amateur radio facilities;
- (5) Over the Air Reception Devices (“OTARD”) antennas; and
- (6) Any entity legally entitled to an exemption pursuant to state or federal law or governing franchise agreement.

7.70.040 Departmental Standards, Forms, and Other Regulations

The City Council authorizes the Public Works Director to develop and publish a Public Right-of-Way Personal Wireless Service Facility Standards and Regulations document to supplement the regulations set forth in this Chapter. In addition, the City Council authorizes the Public Works Director to develop and publish permit application forms, checklists, informational handouts, and other related materials for this Chapter. Without further authorization from the City Council, the Public Works Director may from time-to-time update and alter the Public Right-of-Way Wireless Service Facility Standards and Policies, permit application forms, checklists, informational handouts, and other related materials as the Public Works Director deems necessary or appropriate. The City Council further authorizes the Public Works Director to establish other reasonable rules and regulations, which may include without limitation regular hours for appointments with applicants and inspection procedures, as the Public Works Director deems necessary or appropriate to organize, document, and manage the application, permitting, construction, and other processes related to personal wireless service facilities. All such rules and regulations must be in written form and posted on the City’s website.

7.70.050 Permits Required

- (a) **Wireless Facility Permit.** A Wireless Facility Permit is required to construct, install, modify, collocate, relocate, or otherwise deploy a personal wireless service facility in the public right-of-way except eligible facilities requests regulated pursuant to Section 7.70.050(b).
- (b) **6409(a) Permit.** A 6409(a) Permit is required for all eligible facilities requests filed pursuant to Section 6409(a).
- (c) **Wireless Telecommunications Construction Permit.** No work in the public right-of-way shall occur unless a Wireless Telecommunications Construction Permit has been properly issued, and only the work described therein shall occur.
- (d) **Other Permits and Regulatory Approvals.** In addition to any permit required under this Chapter, the applicant must obtain and comply with all other required authorizations and permits and all other regulatory approvals from all City departments, and state and federal agencies.
- (e) **Proprietary Approvals.** Nothing in this Chapter shall be deemed to waive any required proprietary approvals for siting of personal wireless service facilities on privately or publicly owned property or improvements.
- (f) **Non-Exclusive Grant.** No permit or approval granted under this Chapter shall confer any exclusive right, privilege, license or franchise to occupy or use the public right-of-way of the City for any purpose whatsoever. Further, no approval shall be construed as any warranty of title.

7.70.060 Permit Applications

- (a) **Application Requirement.** Except as provided in subsection (c) herein, the City shall not accept, approve, or deny any personal wireless service facility subject to this Chapter

except upon a duly filed application pursuant to this Chapter and the Public Right-of-Way Personal Wireless Service Facility Standards and Regulations.

(b) **Procedures for a Duly Filed Application.** The City shall accept applications filed in accordance with the provisions in this Section.

(1) **Application Form.** The Public Works Director shall develop and from time-to-time revise the application form. The current application form shall be published by being available in paper form at the Public Works counter. Additionally, the form may be published on the City's web site.

(2) **Submittal Appointment.** All applications must be filed in person with the City at a pre-scheduled appointment. Applicants may generally submit one application per appointment but may schedule successive appointments for multiple applications whenever feasible and not prejudicial to other applicants. Any application attempted to be tendered without an appointment, whether delivered in-person or through any other means, shall not be deemed as filed.

(3) **Appointment Scheduling Procedures.** A pre-scheduled appointment can only be set by contacting the City's Public Works Department. No application shall be tendered to or accepted by the City during any of the following periods: (i) any time Public Works counter is closed to the public; (ii) any legal holiday observed by the City; (iii) the week of Thanksgiving; and (iv) three business days prior to July 4, December 25, and January 1.

(c) **Wireless Telecommunications Construction Permit Applications.** An application for a Wireless Telecommunications Construction Permit shall comply with the procedures stated in this Section except that no submittal appointment shall be required, and an application may be presented in person at any time that the Public Works counter is open to the public.

7.70.070 Applications Deemed Withdrawn

If an application is deemed incomplete, the City shall notify the applicant as to what information is needed in order to deem the application complete. The applicant must provide all requested information within sixty (60) days of being notified by the City that the application is incomplete or the application shall be deemed withdrawn without prejudice by the applicant. If the applicant delivers to the City a written request prior to the sixtieth (60th) day to extend the response time, the Public Works Director may grant a written extension where the applicant provides good cause to grant the extension. The extension, if granted, may be for up to an additional thirty (30) calendar days. No additional extensions shall be granted.

7.70.080 Fees

The City Council may approve by resolution a Municipal Fee Schedule that establishes cost-based fees for permits, consulting costs, inspections, enforcement, appeals, amendments, noticing, informational materials, penalties, copies, and other such items as required by this Chapter. These fees may be amended by the City Council.

7.70.090 Wireless Facility Permit Applications

- (a) **Decision Notices.** Within five (5) days after the Public Works Director approves, conditionally approves, or denies a Wireless Facility Permit Application, the Public Works Director shall transmit a written determination to the applicant at the email address provided on the application. The Public Works Director shall also post the written determination on the City's website. For any denial notice, the Public Works Director shall include the reasons for the denial either in the notice or as a separate written document, and shall also place a copy of the denial notice in the written administrative record for the project.
- (b) **Required Findings for Approval.** The Public Works Director shall only approve or conditionally approve a duly filed application for a Wireless Facility Permit if the Public

Works Director determines that the project, as submitted or modified, conforms to all the following criteria.

- (1) The proposed personal wireless service facility complies with all applicable requirements described in this Chapter 7.70 and in the Public Right-of-Way Personal Wireless Service Facility Standards and Regulations;
- (2) The proposed personal wireless service facility complies with all other laws, including without limitation state and federal law.

The inability to make one or more of the findings required in this Chapter is grounds for denial of an application.

- (c) **Conditional Approvals.** The Public Works Director may impose any reasonable condition or conditions on any Wireless Facility Permit, related and proportionate to the subject matter in the application, as the Public Works Director deems necessary or appropriate for the preservation of public health and safety.

7.70.100 6409(a) Permit Applications

- (a) **Decision Notices.** Within five (5) days after the Public Works Director approves, conditionally approves, or denies a 6409(a) Permit Application, the Public Works Director shall transmit a written determination to the applicant at the email address provided on the application. Additionally, within five (5) days after the Public Works Director approves, conditionally approves, or denies a 6409(a) Permit Application, the Public Works Director shall post the written determination on the City's website. For any denial notice, the Public Works Director shall include the reasons for the denial either in the notice or as a separate written document.
- (b) **Required Findings for Approval.** The Public Works Director shall only approve or conditionally approve a duly filed application for a 6409(a) Permit if the Public Works

Director determines that the project, as submitted or modified, conforms to all the following criteria.

- (1) The proposed personal wireless service facility complies with all applicable requirements described in this Chapter 7.70 and in the Public Right-of-Way Personal Wireless Service Facility Standards and Regulations;
- (2) The proposed personal wireless service facility complies with all other laws, including without limitation state and federal law;
- (3) The 6409(a) Permit Application constitutes an eligible facilities request; and
- (4) The 6409(a) Permit Application does not constitute a substantial change.

The inability to make one or more of the findings required in this Chapter is grounds for denial of an application.

- (c) **Conditional Approvals.** As permitted by law, the Public Works Director may impose conditions on any 6409(a) Permit for the preservation of public health and safety.

7.70.110 Limited Exception for Wireless Facility Permits Applications

The Public Works Director shall not grant any limited exception for a Wireless Facility Permit Application pursuant to this Section 7.70.110 unless the Public Works Director finds all the following:

- (a) The proposed facility qualifies as a “personal wireless service facility” as defined in 47 USC Section 332(c)(7)(C)(ii);
- (b) The applicant has provided the Public Works Director with a reasonable and clearly defined technical service objective to be achieved by the proposed facility;
- (c) The applicant has provided the Public Works Director with a written statement that contains a detailed and fact-specific explanation as to why the proposed facility cannot be deployed in compliance with the applicable provisions in this Chapter and the Code,

including the Public Right-of-Way Personal Wireless Service Facility Standards and Regulations;

- (d) The applicant has provided the Public Works Director with a meaningful comparative analysis with the factual reasons why all alternative locations and/or designs identified in the administrative record (whether suggested by the applicant, the City, or any other source) are not technically feasible or potentially available to reasonably achieve the applicant's reasonable and clearly defined technical service objective to be achieved by the proposed facility; and
- (e) The applicant has demonstrated that the proposed location and design is the least non-compliant configuration that shall reasonably achieve the applicant's reasonable and clearly defined technical service objective to be achieved by the proposed facility, which includes without limitation a meaningful comparative analysis into multiple smaller or less intrusive facilities dispersed throughout the intended service area.

7.70.120 Permit Expiration and Deadlines

(a) **Wireless Facility Permits and 6409(a) Permits**

- (1) **Expiration.** Unless a shorter period is permitted or preempted by law, a Wireless Facility Permit or 6409(a) Permit for any personal wireless service facility shall be valid for a period of ten (10) years from the date of issuance, unless such permit is terminated pursuant to Section 7.70.150, revoked pursuant to Section 7.70.160, or becomes null and void pursuant to Section 7.70.120(a)(3). At the end of ten (10) years from the date of issuance, such permit shall automatically expire.
- (2) **Permit Renewal.** A permittee may apply for a new Wireless Facility Permit or 6409(a) Permit no earlier than eighteen (18) months nor later than six (6) months prior to expiration of the expiring permit. Said application and proposal shall comply with the City's code and application requirements in effect at the time of said application.

(3) **Time to Obtain Wireless Telecommunications Construction Permit.** For any Wireless Facility Permit or 6409(a) Permit granted under this Chapter, the permittee shall obtain a Wireless Telecommunications Construction Permit to perform the work within one hundred eighty (180) days of issuance of the Wireless Facility Permit or 6409(a) Permit. Failure to obtain a Wireless Facility Telecommunications Construction Permit pursuant to this Section 7.70.120(a)(3) shall automatically render the Wireless Facility Permit or 6409(a) Permit null and void.

(b) **Wireless Telecommunications Construction Permit**

(1) **Time to Commence Work.** For any Wireless Telecommunications Construction Permit granted under this Chapter, the permittee shall commence work within one hundred eighty (180) days from the date of issuance of this permit.

(2) **Time to Complete.** The permittee shall complete work within one hundred eighty (180) days from the date of commencing work pursuant to Section 7.70.120(b)(1).

(3) **Extensions.** The Public Works Director may grant up to a maximum of two (2) written extensions of time from the stated periods in Sections 7.70.120(b)(1) and 7.70.120(b)(2) where the permittee provides good cause to grant the extension. An extension, if granted, may be for up to an additional forty-five (45) days.

(4) **Expiration.** Where a permittee of a Wireless Telecommunications Construction Permit fails to comply with this Section 7.70.120, the permit shall automatically expire.

(5) **Permit Renewal.** Before any work authorized under an expired Wireless Telecommunications Construction Permit can be recommenced, the permittee shall file an application for a permit renewal pursuant to the Public Right-of-Way Wireless Facility Standards and Regulations. Renewal permits shall be subject to a permit renewal fee and the Public Right-of-Way Wireless Facility Standards and Policies in effect at the time of filing for permit renewal.

7.70.130 Radio Frequency Exposure Monitoring Requirements

- (a) **FCC Compliance.** The City shall not approve any permit that does not demonstrate planned compliance with the FCC's regulations concerning radio frequency exposure.
- (b) **Pre-Installation Reporting.** As part of any application required under this Chapter, the applicant shall provide to the City a radio frequency electromagnetic energy report pursuant to the requirements set forth in the Public Right-of-Way Personal Wireless Service Facility Standards and Regulations.
- (c) **Post-Installation Certification.** Within 30 days of commencing operation of a personal wireless service facility, the permittee shall provide to the Public Works Director a post-installation certification confirming, under penalty of perjury, that the actual emissions from the personal wireless service facility do not exceed that disclosed in the pre-installation report submitted pursuant to Section 7.70.130(b).
- (d) **Annual Certification.** Within thirty (30) days of the anniversary date of the permit, the permittee shall provide to the Public Works Director a post-installation certification confirming, under penalty of perjury, that the personal wireless service facility is compliant with FCC regulations concerning radio frequency emissions.

7.70.140 Operation and Maintenance Standards

All personal wireless service facilities must comply at all times with the following operation and maintenance standards:

- (a) All personal wireless service facilities shall be maintained in good condition, including ensuring the facilities are reasonably free of:
 - (1) General dirt and grease;
 - (2) Chipped, faded, peeling, and cracked paint;
 - (3) Rust and corrosion;
 - (4) Cracks, dents, and discoloration;

- (5) Missing, discolored, or damaged camouflage;
 - (6) Graffiti, bills, stickers, advertisements, litter, and debris;
 - (7) Broken and misshapen structural parts; and
 - (8) Any damage from any cause.
- (b) Each personal wireless service facility shall be operated and maintained at all times in compliance with all laws;
- (c) Within thirty (30) days of the anniversary date of the permit, each owner of a personal wireless service facility shall routinely inspect each site to ensure compliance with the standards set forth in this Section and all conditions of approval.

7.70.150 Termination for Public Benefit

Every permit granted under this Chapter may be terminated upon twelve (12) months' prior written notice to the permittee, or less time if in response to an urgent or emergency situation as determined by the City, if the personal wireless service facility interferes or will interfere with any public work of improvement that impacts the public right-of-way. If a permit granted under this Chapter is terminated pursuant to this Section, any Wireless Facility Permit Application for a new personal wireless service facility within 500 feet of the terminated Wireless Facility Permit that will act as a replacement for the terminated Wireless Facility Permit shall not be subject to site justification pursuant to Section 7.70.260(b).

7.70.160 Revocation or Modification

Any permit granted under this Chapter may be revoked or modified for cause in accordance with the provisions of this Section.

- (a) **Initiation.** Revocation or modification proceedings may be initiated by the Public Works Director.
- (b) **Notification of Hearing.** The permittee shall be notified by the Public Works Director of the basis for the proposed revocation or modification and be provided a date and time

during which a hearing will be held not less than fourteen (14) days in advance of said hearing.

(c) **Required Findings for Revocation or Modification.** The Public Works Director may revoke or modify the permit if he or she makes any of the following findings:

- (1) The applicant obtained the approval by means of fraud or misrepresentation of a material fact;
- (2) The applicant has failed to construct, or has expanded or altered the permitted facility in manner that inconsistent with that set forth in the permit;
- (3) The personal wireless service facility has not been operational for six (6) months or more;
- (4) Failure to comply with any condition of a permit issued;
- (5) Failure to comply with any provision in this Chapter;
- (6) A substantive change of state or federal law or regulations materially affecting a permittee's authority to occupy or use the public right-of-way or the City's ability to impose regulations relating to such occupation or use; and
- (7) A personal wireless service facility is located on a utility pole or structure subject to removal pursuant to a lawfully approved utility undergrounding district or other rule or regulation.

(d) **Notice of Action.** A written determination of revocation shall be sent via USPS Certified Mail to the permittee within five (5) days of such determination.

7.70.170 Expert Assistance

Where the City determines that it requires the services of a consultant for expert assistance in implementing this Chapter or processing any application received thereunder, the applicant shall deposit a fee equal to the estimated cost of the consultant's services to the City. In the event that the actual fees exceed the deposited fees, the applicant shall pay the difference to the City. In the

event that the actual fees are less than the deposited fees, the applicant shall be refunded for the difference from the City. No permit for an approved project shall be issued if the applicant owes the City funds to fully reimburse the City for its actual costs to process the application, including without limitation, reimbursement for the City's consultant costs.

7.70.180 Deemed Approved

In the event that an application is deemed approved by any rule of law or regulation, all applicable requirements of this Chapter, including those requirements set forth in the Public Right-of-Way Personal Wireless Service Facility Standards and Regulations in effect at the time of the deemed approval, and any other applicable laws, including, without limitation, standard conditions of approval, shall automatically attach and apply as permit conditions.

7.70.190 Abandonment

A personal wireless service facility that is considered abandoned pursuant to Section 7.70.160(c)(3) shall be promptly removed and, as applicable, the area restored to its prior condition at the permittee's sole cost and expense within sixty (60) days after abandonment. If there are two (2) or more users of a single facility, then this provision shall not become effective until all users cease using the facility.

The owner of a facility shall notify the City in writing of its intent to abandon or cease use of a permitted site or a nonconforming site (including unpermitted sites) within thirty (30) days of ceasing or abandoning use.

Failure to inform the Public Works Director of cessation of operations or abandonment of any personal wireless service facility as required by this Section shall constitute a violation of any approvals and be grounds for:

- (a) Revocation or modification of the permit;
- (b) Acting on any bond or other assurance required by this article or conditions of approval of the permit;
- (c) Removal of the facilities by the City at the owner's expense; and/or

- (d) Any other remedies permitted under this Code or by law.

7.70.200 Preservation of City Rights

- (a) **Overview.** The City at all times reserves the right to take any action it deems necessary, in its sole discretion, to repair, maintain, alter, or improve the public right-of-way. Such actions may temporarily or permanently interfere with the personal wireless service facility. The City shall in all cases, other than emergencies, give the applicant written notification of such planned, non-emergency actions no fewer than fourteen (14) days prior to such actions.
- (b) **Summary Removal.** In the event the Public Works Director determines that the condition or placement of a personal wireless service facility located in the public right-of-way constitutes a dangerous condition, obstruction of the public right-of-way, or an imminent threat to public safety, or determines other exigent circumstances require immediate corrective action (collectively, "exigent circumstances"), the Public Works Director may cause the facility to be removed summarily and immediately without advance notice or a hearing. Written notice of the removal shall include the basis for the removal and shall be served upon the permittee and person who owns the facility within five (5) business days of removal and all property removed shall be preserved for the owner's pick-up as feasible. If the owner cannot be identified following reasonable effort or if the owner fails to pick-up the property within sixty (60) days, the facility shall be treated as abandoned property subject to any disposal or reuse in the City's sole discretion.
- (c) **Non-Liability for Removal.** In the event the City removes a personal wireless service facility pursuant to Section 7.70.200(b), any such removal shall be without any liability to the City for any damage to such facility that may result from reasonable efforts of removal. The City has no obligation to restore such facility. The permittee shall not have any claim if the City removes a personal wireless service facility pursuant to Section 7.70.200(b).

7.70.210 Removal and Restoration

(a) **General Provisions.** Upon the expiration date of the permit, earlier termination or revocation of the permit or abandonment of the facility, the permittee shall remove its personal wireless service facility and restore the site to its natural condition except for any improvements to be retained by the City at its discretion. Any such retained improvements shall be purchased from the permittee for one dollar, and the parties will cooperate to effectuate this provision. Removal shall be in accordance with proper health and safety requirements and all ordinances, rules, and regulations of the City. The facility shall be removed from the property, at no cost or expense to the City. Failure of the permittee, owner, or operator to promptly remove its facility and restore the property within sixty (60) days after expiration, earlier termination or revocation of the permit, or abandonment of the facility, shall be a violation of this Chapter. Upon a showing of good cause, an extension may be granted by the Public Works Director where circumstances are beyond the control of the permittee after expiration, earlier termination or revocation of the permit, or abandonment of the facility. Further failure to abide by the timeline provided in this Section shall be grounds for:

- (1) Acting on any security instrument required by this Chapter or conditions of approval of permit;
- (2) Removal of the facilities by the City at the owner's expense; and/or
- (3) Any other remedies permitted under this Code or under state or federal law.

7.70.220 Notice of Shot Clock Expiration

The applicant is required to provide the Public Works Director with written notice of the expiration of any timeframe for review, which the applicant shall ensure is received by the City (e.g., via Certified Mail, Registered Mail, national carrier, any of which shall require a receipt signature) no earlier than thirty (30) nor later than twenty (20) days prior to expiration of the shot clock.

7.70.230 Insurance and Bond

- (a) **Insurance.** The permittee, including its agents and contractors, shall procure and maintain in full force and effect as a condition of any permit granted under this Chapter 7.70 insurance pursuant to the requirements of the City's Risk Manager.
- (b) **Bond.** Permittee shall pay for and provide a performance bond or other form of security approved by the City Attorney's Office, which shall be in effect until the personal wireless service facility is fully and completely removed and the site reasonably returned to its original condition, to cover permittee's obligations under this Chapter. The security instrument coverage shall include, but not be limited to, removal of the facility. The amount of the security instrument shall be calculated by the applicant in its submittal documents in an amount rationally related to the obligations covered by the bond and pursuant to the requirements set forth in the Public Right-of-Way Personal Wireless Service Facility Standards and Regulations.

7.70.240 Indemnity

The permittee shall defend, indemnify and hold harmless the City, its agents, officers, officials, employees and volunteers from any and all: (1) damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs and other actions or proceedings ("Claims") brought against the City or its agents, officers, officials, employees or volunteers to challenge, attack, seek to modify, set aside, void or annul the City's approval of any permit or regulatory approval authorized by City under this Chapter; and (2) other Claims any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the permittee's or its agents', directors', officers', employees', contractors', subcontractors', licensees', or customers' acts or omissions in connection with the permit or the facility; provided, however, the permittee shall not be required to defend, indemnify, or hold harmless the City, agents, officers, officials, employees and volunteers due to the negligence, gross negligence, or

willful misconduct of the City, agents, officers, officials, employees, and volunteers. In the event the City becomes aware any Claims, the City shall use best efforts to promptly notify the permittee and shall reasonably cooperate in the defense. The permittee expressly acknowledges and agrees that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the property owner and/or permittee (as applicable) shall promptly reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense.

7.70.250 Emergency Deployment

In the event of an officially-declared federal, state, or local emergency, or when otherwise warranted by conditions that the City deems to constitute an emergency, the Public Works Director, City Manager, or their designees may approve the installation and operation of a temporary personal wireless service facility (e.g., a cell on wheels, or "COW"), which is subject to such reasonable conditions that the City deems necessary.

7.70.260 Location and Deployment Preferences

- (a) **New Poles.** New poles in the public right-of-way detract from the aesthetics of the City. New poles in the public right-of-way to accommodate a personal wireless service facility that are not replacing an existing pole are permitted only through the exception process pursuant Section 7.70.110.
- (b) **Site Justification.** For Wireless Facility Permit Applications, the applicant shall provide to the City a site justification report pursuant to the requirements set forth in the Public Right-of-Way Personal Wireless Service Facility Standards and Regulations.

7.70.270 Effect on Other Ordinances

Compliance with the provisions of this Chapter shall not relieve a person from complying with any other applicable provision of this Code. In the event of a conflict between any provision of this Chapter and other sections of this Code, this Chapter shall control.

SECTION 2. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effectuate the provisions of this Ordinance.

SECTION 3. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause this Ordinance, or a summary thereof, to be published once in the official newspaper within fifteen (15) days after its adoption. This Ordinance shall become effective thirty (30) days from its adoption.

APPROVED AS TO FORM:

LANE DILG
City Attorney



Your column here

By Kevin McKeown

Send comments to editor@smdp.com

FCC Cells Us Out

That little box that suddenly appeared on a utility pole or street light near your home isn't a birdhouse. It's a 5G technology "small cell" wireless transmitter, and it has some of your neighbors worried.

For years we've lived with the older and larger cell phone transmitters, which are often affixed to tall buildings or on standalone poles disguised (unconvincingly) as trees.

The new 5G cells are different. They provide more reliable voice service and extremely high-speed data transfers for smartphones, but they broadcast effectively over a much shorter distance than the old cells.

That means there must be many more of the 5G cells, much closer together, and even deep within residential neighborhoods. City staff in a recent report advised the City Council that just within Santa Monica as many as 600 small cell sites may be applied for over the next two to three years.

City governments enjoy local control over most land use matters, but the federal government has claimed sovereignty over telecommunications infrastructure, telling cities like Santa Monica that we must accept 5G cells without any meaningful ability to mitigate their impacts.

Let's be clear we're not talking about radiation hazards — if only because we're not allowed to. Starting with the Communications Act of 1996, the federal government has whittled away local control over radiation impacts, saying only "trust us."

The entity in charge of cell towers and their safe operation is the Federal Communications Commission, or FCC. They have long held that if a cell transmitter has been certified by their engineers as in compliance, local governments cannot restrict their location or operation based on concern over radiation. Any appeal of a 5G "small cell" siting based on radiation concerns must be summarily denied.

Just over a month ago, your City Council heard three such appeals. We certainly sympathized with the residents who made convincing cases that the 5G sitings in question were too close to their bedrooms, for instance, but the cells were FCC certified, and thus we, outranked by federal law, could do nothing about the radiation concerns.

However, at that time, cities still retained some local control over the aesthetics of cell sitings, in terms of how the intrusive appearance was mitigated with camouflage and concealment elements, and whether the cell siting would interfere with other uses of the public right-of-way.

Our local cell control law had been written for the older, larger cell phone towers, not the relatively less intrusive appearance of

small cell 5G transmitters. The City Council on August 28th asked staff to return as soon as possible with an updated ordinance that might give us more control over these new 5G installations.

I thought we'd be ready with a local law, for local control, to protect Santa Monica residents from unreasonable intrusions and impacts.

Then, last Wednesday, the Federal Communications Commission issued a harsh new regulatory declaration, further usurping local control over rapidly proliferating small cell installations.

Under the new rules, cities like Santa Monica have even less time to process small cell applications, no matter how many are filed at one time. If the municipality fails to completely review and process the application before the deadline, the application is deemed approved by default, granted by federal fiat.

Who pays for this? You do, because the new FCC rules limit the application fee the telecomm company must pay to \$100. That makes any real study or public outreach a cost to taxpayers, subsidizing the telecomm company.

Most troubling, the new ruling further narrows the already limited grounds on which we are allowed to exert control over a small cell siting.

The telecomm industry and business media claim these restrictions on local control are needed because you, through your local government, are obstructing progress. The morning of the FCC vote on the new ruling, the Wall Street Journal claimed in an editorial that "U.S. cities are throttling deployment (of 5G technology) with extortionist fees... (and) self-serving behavior from local politicians."

As a resident concerned for your home and your neighborhood, you may feel differently. You can share your dismay over forced small cell deployment with our Congressman, Ted Lieu, or our Senators, Diane Feinstein and Kamala Harris.

The City of Santa Monica, even with its hands tied by the audacious FCC pre-emption, fights above its weight. I will support the strongest possible new local ordinance when it comes back to the Council.

The National League of Cities likely will fight this latest FCC over-reach, by lobbying Congress and by litigation if necessary. Almost inevitable is an appeal of the FCC ruling to one or more circuit courts, and it's possible that the little not-birdhouse outside your bedroom window will make it all the way to the Supreme Court.

Kevin McKeown is a City Councilmember, and prior to that served on the Santa Monica Telecommunications Task Force.



Homelessness & Mental Illness:

Challenges and Solutions

Panel discussion hosted by
**Everyone In, Supervisor Sheila Kuehl,
and the L.A. County Homeless Initiative**

Tuesday, April 30, 2019
Beyond Baroque
681 Venice Blvd, Los Angeles, CA 90291
5:30-7:00pm

RSVP / for more info
Chelsea Byers, Field Organizer
chelsea@everyoneinla.org

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