



City Council Study Session Wireless Policies January 7, 2019

Wireless Policies Update Part One: Ordinance Revisions

Town of Hillsborough

January 7, 2019

Presenter:

Gail A. Karish, Partner

Best Best & Krieger LLP

Recap on regulatory situation for local governments



Local governments mainly regulate placement and aesthetics (within limits). Decisions must comply with limits in state and federal law, e.g. be based on substantial evidence and cannot effectively prohibit service.



Wireless providers and telephone companies have a limited right to use the public rights-of-way and utility infrastructure for their facilities.



CPUC mainly responsible for rules on safety of infrastructure.



FCC small cell order puts new limits on local time for review and on aesthetic rules, among other things.

Recap of Small Cell Order

- Establishes shorter shot clocks for processing “small wireless facilities” applications
- Clarifies that all required authorizations included in shot clocks
- Clarifies definition of “collocation”
- Redefines “effective prohibition” standard
- Establishes test for permitted fees, and sets out presumptively reasonable one-time and recurring fees, including for permits, for use of ROW and for use of government property located in ROW
- Establishes test for permitted aesthetic, undergrounding and spacing standards

Approach to Update of Wireless Policies

- Minimize Changes (existing ordinance applies to wireless in entire Town; not a major overhaul but targeted revisions to address latest FCC order, respond to community feedback and make some minor clean ups)
- Maximize Flexibility (recognizing that deployments and technology will evolve over time, allow Town to respond more nimbly)
- Reasonably Comply with FCC Order (the FCC Order has ambiguities which require some judgements as to appropriate interpretations)

Major Changes to Wireless Ordinance

Definitions

- Add/modify definitions to match FCC Order “small wireless facility” definition and “collocation”

Application Requirements

- List minimum requirements and delegate authority to staff

Public Noticing

- Add requirement that public noticing be on submittal rather than completeness

Major Changes to Wireless Ordinance

Design Standards

- Remove from ordinance and delegate to Council to adopt via resolution

Conditions of Approval/Operational Standards

- Remove from ordinance and delegate to Council to adopt via resolution

Appeals

- Shorten time for filing for applications with short shot clocks

Wireless Policies Update Part Two: Resolution & Policy

Town of Hillsborough

January 7, 2019

Presenter:

Robert “Tripp” May, Partner

Telecom Law Firm, PC

Guiding Principles

- **achieve compliance with new federal law**
 - objective standards and evenhanded application of potentially subjective standards
 - extend guidelines to all utility infrastructure
- **maximize local control / preserve community character**
 - never allow anything that harms public health and safety
 - avoid/minimize new or enlarged obstructions in the rights-of-way
 - mandate concealment; require undergrounding whenever possible
 - facilitate community involvement

Major Themes

Locations

- community feedback indicated that the basic hierarchy in the existing ordinance was still appropriate
- additions in the policy reflect more granular distinctions (e.g., criteria for different structures within broader location categories)

Support Structures

- community feedback continues to discourage new obstructions in the public rights-of-way
- some community support for new streetlight structures when existing structures are not technically feasible or context-appropriate

Undergrounding/Concealment

- strong community support for strict undergrounding/concealment to preserve the Town's rural/residential character
- the draft reflects this by requiring concealment in all cases, requiring undergrounding whenever legally permissible and retaining some subjective standards with guidance to ensure an evenhanded application to future projects

Next Steps

- The Ordinance, Resolution and Policy are still in draft form and public comments are still being evaluated and incorporated.
- Receive WCAC feedback report from Chair Regan
- Review/Discuss Redline Draft Ordinance and Design Aesthetic Standards in the Resolution and Policy

street sign examples (PVE)



WCAC requested examples for evaluation
these facilities are Crown Castle for AT&T
located in Palos Verdes Estates