



CITY of CALABASAS

CITY COUNCIL AGENDA REPORT

DATE: MARCH 11, 2021

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MICHAEL RUSSO, COMMUNICATIONS DIRECTOR
MICHAEL KLEIN, SENIOR PLANNER, AICP *MAK*
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SUBJECT: CONSIDERATION OF ORDINANCE NO. 2021-391, TO REVISE CMC SECTIONS 17.11.010 AND 17.12.050 (ANTENNAS/PERSONAL WIRELESS TELECOMMUNICATION FACILITIES), AND ADD A NEW CHAPTER 17.31 TO REGULATE WIRELESS TELECOMMUNICATION FACILITIES. THE COMMUNICATION AND TECHNOLOGY COMMISSION (ACTING AS A PLANNING COMMISSION PER SECTION 17.76 OF THE CMC) RECOMMENDED APPROVAL OF THE ORDINANCE TO THE CITY COUNCIL AT A PUBLIC HEARING HELD ON FEBRUARY 25, 2021.

MEETING DATE: MARCH 24, 2021

SUMMARY RECOMMENDATION:

That the City Council introduce and waive further reading of Ordinance No. 2021-391 (Attachment A), amending CMC sections 17.11.010 and 17.12.050 (Antennas/Personal Wireless Telecommunication Facilities), and add a new Chapter 17.31 to regulate Wireless Telecommunication Facilities.

BACKGROUND:

The City regulates installation, operation, and maintenance of personal wireless telecommunications facilities in the City under the provisions of the Wireless Facility Ordinance, Section 17.12.050 of the Calabasas Municipal Code. As stated in Section 17.12.050(A), the ordinance is intended to protect the health and safety of residents and business, protect the benefits provided to residents and business

by wireless telecommunications facilities, balance these goals by permitting the installation and operation of personal wireless telecommunication facilities where needed, while reducing adverse economic, safety and/or aesthetic impacts. The ordinance must accomplish these goals while also complying with all applicable federal and state laws, including the federal 1996 Telecommunications Act, and therefore is intended to regulate personal wireless telecommunications facilities to the limit of, but not beyond, the City's power.

At the direction of the City Manager, with the concurrence of the City Council, the Communications Department conducted a citywide survey to assess community opinions on the nature and quality of wireless services provided in Calabasas. The survey initially ran during the period of June 28, 2019 through December 15, 2019. The total number of survey responses received during that period was 1,058. Of the 1,058 surveys received during both periods, 68 survey responses were from persons who identified themselves as not living in Calabasas, or did not disclose their locations, or indicated that they lived in Calabasas but indicated that their home was in a community other than Calabasas (most commonly Hidden Hills, Agoura, and Los Angeles County). As a result, out-of-City responses were excluded from the final analysis.

The results of the survey demonstrate that the majority of respondents are dissatisfied with the quality of wireless service throughout the City, and very dissatisfied with the reliability of wireless service during the Woolsey Fire. Additionally, there is also willingness to accept new cell sites throughout the City, including in neighborhoods, to improve wireless service to Calabasas residents.

On March 11, 2020, the survey results were discussed by the City Council at a regular meeting. The City Council directed staff and the City Attorney to review the survey results with the Communications and Technology Commission in order to analyze the City's wireless ordinance and provide the Council with feedback on how to increase wireless service coverage and reliability within the City.

At the direction of the City Council, on April 21, 2020, the Communications and Technology Commission discussed the survey results. At the conclusion of the discussion, the Communications and Technology Commission directed the wireless subcommittee to work with staff, the City Attorney and Kramer Firm to analyze the current wireless ordinance to determine 1) the cause of poor wireless service within the City and 2) recommendations to amend the wireless ordinance in order to improve wireless service within the City.

On July 21, 2020, the Communications and Technology Commission discussed revision to the wireless ordinance based on recommendations made by the subcommittee, staff, the City Attorney and Kramer Firm. The Commission took

public testimony and unanimously approved a memo from the Commission to City Council, recommending specific modifications to the City's wireless ordinance.

On August 12, 2020, the City Council held a public meeting to discuss the recommendations from the Commission to modify the City's wireless ordinance. At this meeting, the City Council directed staff to draft an ordinance and design guidelines as recommended by the Commission. Further, the City Council directed staff to conduct outreach efforts with the wireless industry and Calabasas Home Owner's Associations.

After the August 12, 2020, City Council meeting, staff worked with the Commission's wireless subcommittee, the City Attorney and Kramer Firm to prepare a draft wireless ordinance and wireless telecommunication facility design guidelines. Staff also met with wireless industry representatives and HOA representatives via zoom, as well as follow up correspondence. These meetings proved useful in fine tuning provisions to make the draft ordinance more effective.

The Communications and Technology Commission (CTC) reviewed the draft ordinance at a public hearing on February 25, 2021, and unanimously adopted CTC Resolution No. 2021-044 (Attachment B), recommending adoption of the ordinance by the City Council.

DISCUSSION/ANALYSIS:

A detailed discussion of the goals and objectives of an updated wireless ordinance is provided in the July 21, 2020, CTC staff report, which is included as Attachment C to this report. In summary, the lack of reliable wireless service in the City is the result of a restrictive ordinance that discourages deployment of new wireless facilities. After a thorough review of the current wireless ordinance, it was determined that the best approach is to modify rather than revise the entire ordinance. As a result, the following is a summary of recommendations made by the CTC:

- 1) Develop a two-tier permit process for the construction of new wireless facilities. A Tier 1 permit would allow for the construction of new stealth facilities, located in areas predetermined by the City to be appropriate. A Tier 1 permit would require an administrative review and would eliminate the need for a public hearing for new facilities that meet these requirements. A Tier 2 permit would be required for any new facility that does not meet these specific requirements, and the process would remain the same as the City's current Wireless Telecommunication Facilities Permit.

- 2) Allow for stealth facilities in Residential Zoning Districts and Open Space Zoning Districts, specifically on properties that are developed and under HOA ownership. Property owner consent would still be required.
- 3) Allow Tier 1 eligible facilities to be constructed within 1,000 feet from residential zones, schools and parks. The 1,000-foot setback would remain applicable to Tier 2 facilities.
- 4) Reorganize the existing wireless ordinance into its own Chapter in the Municipal Code.
- 5) Develop design and stealth guidelines for Tier 1 Facilities. The design guidelines would be a supplementary document, meant to act as a visual aid that complements the standards set forth in the ordinance.
- 6) Implement a time limit for the updates to the ordinance. The ordinance's amendments creating the Tier 1 permit process would initially remain in effect for only 12-18 months after being adopted, for the purpose of encouraging sooner deployment of new facilities to more swiftly address the issues described in this memorandum. Provisions could be added that would allow the ordinance to be reevaluated at a later date, and extended for an additional period of time if necessary and as determined by the Council. The reorganization element would remain in effect.

As directed by the City Council, staff worked with the City Attorney, Kramer Firm and the subcommittee to develop a draft ordinance consistent with the above recommendations from the Commission. The following is a summary of the key components of the draft ordinance:

- 1) Relocate wireless telecommunication facility regulations to its own Chapter 17.31, maintaining only satellite antennas and amateur radio antennas in Section 17.12.050.
- 2) Add a new Tier 1 Permit process that would allow for the construction and modification of stealth wireless facilities through a streamlined administrative review process based on objective design standards, eliminating the need for a public hearing.
- 3) Rename the Wireless Telecommunication Facility Permit to a Tier 2 Permit, maintaining current standards and public hearing process.
- 4) Allow stealth wireless facilities, subject to a Tier 1 Permit, in residential and open space zones, as long as the property is currently developed and under common ownership, such as an HOA. This includes the right-of-way within gated communities.
- 5) Allow stealth wireless facilities, subject to a Tier 1 Permit, to be located within 1,000 feet of residential uses, schools and parks.
- 6) Reorganize the ordinance to include general standards and conditions that apply to all permits, and specific standards and conditions for each permit type.

- 7) Existing standards, conditions and process for a Minor Modification Permit and Small Wireless Facility Permit remain the same.
- 8) A fee reduction for the first 18 months after the effective date of the draft ordinance in order to encourage the deployment of new facilities sooner rather than later. A fee reduction is recommended by staff in lieu of the time limit previously discussed. The purpose of a fee reduction is to incentivize carriers to act quickly but not penalize those that wait longer.

In addition to development of the draft ordinance, staff has prepared a Wireless Facility Design Guidelines (Attachment D) as a companion document to the draft ordinance. The purpose of the Guidelines is to provide a visual aide in order to establish acceptable stealth designs. As a result, the Guidelines would be used to determine eligibility for Tier 1 Permits, and provide guidance for carriers and applicants to design facilities that will qualify for a Tier 1 Permit. Furthermore, the Guidelines would be adopted by the City Council by resolution, and is intended to be updated from time to time in order to reflect changes in technology.

Based on feedback received from the meetings with wireless industry representatives and with HOA representatives, staff believes that the draft ordinance will encourage deployment of new wireless facilities by removing existing regulatory hurdles. Both groups expressed interest to take advantage of the new provisions added by the draft ordinance, which would allow for a streamlined process for stealth wireless telecommunication facilities and open up hard to reach residential areas of the City. As a result, the draft ordinance and Guidelines provide the tools and flexibility necessary for carriers to deploy a more reliable wireless network within the City.

REQUIRED FINDINGS:

The findings required in Section 17.76.030 of the Calabasas Municipal Code for development code amendments are contained in Communications and Technology Commission Resolution No. 2021-044 and City Council Ordinance No. 2021-391.

ENVIRONMENTAL REVIEW:

The proposed amendment is exempt from CEQA review because there is no possibility that this amendment, which does not directly authorize any new construction or development, may have a significant effect upon the environment. Under CEQA Guidelines Section 15061(b)(3), a project is exempt when there is no possibility that it may have a significant effect on the environment. The proposed amendment does not authorize any new construction or development; rather it modifies the City's existing standards for reviewing and approving wireless telecommunication facilities. Further, every proposed wireless facility governed by the proposed amendment will receive individualized CEQA review unless otherwise

exempt under CEQA. Accordingly, the Council finds that the proposed amendment is exempt from CEQA under Guidelines Section 15061(b)(3) because there is no possibility that that it will have a significant effect on the environment.

Additionally, the proposed amendment does not qualify as a "project" under CEQA Guidelines Section 15378(b)(5). Under CEQA Guidelines Section 15378(b)(5), a "project" does not include "administrative activities of governments that will not result in direct or indirect physical changes in the environment." The proposed amendment is an administrative activity because it creates an administrative process to determine review and approve new stealth wireless telecommunication facilities. The proposed amendment will not "result in direct or indirect physical changes in the environment" because the stealth design of new facilities will have minimal visual impact on the surrounding community. Accordingly, the City finds that the regulations related to Tier 1 Permits in the proposed amendment do not qualify as a "project" under CEQA Guidelines Section 15378(b)(5) because it constitutes administrative activities of government that do not directly or indirectly result in any physical changes in the environment. A Notice of Exemption has been prepared.

FISCAL IMPACT/SOURCE OF FUNDING:

Staff recommends that the City Council establish a fee to recover staff costs for processing Tier 1 Wireless Facility Permits in accordance with the proposed ordinance. A separate agenda item with the proposed fee will be prepared for the City Council's consideration at a future meeting.

REQUESTED ACTION:

That the City Council waive further reading and introduce Ordinance No. 2021-391, amending the Calabasas Land Use and Development Code.

ATTACHMENTS:

- A. City Council Ordinance No. 2021-391
- B. Communications and Technology Commission Resolution 2021-044
- C. July 21, 2020, CTC Staff Report
- D. Wireless Facility Design Guidelines
- E. PowerPoint Presentation