



**CITY OF HERCULES
COMMUNITY DEVELOPMENT DEPARTMENT**

TO: Chair Galieva and Members of the Planning Commission

FROM: Robert Reber, AICP, Community Development Director
Rusty Monroe, Founder/Senior Partner—The Center for Municipal Solutions
Robert Ross, Technical Expert/Consultant—The Center for Municipal Solutions

FOR: Regular Planning Commission Meeting of October 5, 2020

SUBJECT: **Recommended Updates to Hercules Municipal Code—Title 10, Chapter 16—Wireless Telecommunications Facilities**

APPLICANT: City of Hercules Initiated

RECOMMENDATION

Staff recommends that the Planning Commission:

- a. Request City staff present the staff report;
- b. Open the public hearing and receive testimony;
- c. Request clarification, if necessary, from staff on any issues related to the proposed changes to Municipal Code regulation of wireless telecommunications facilities;
- d. Close the public hearing; and
- e. Adopt draft Planning Commission resolution (Attachment 1) recommending that the City Council pass an Ordinance revising Title 10, Chapter 16—Telecommunications Facilities section of the Hercules Municipal Code to incorporate the recommended changes to address small wireless facilities (Attachment 2), with any modifications deemed necessary by the Commission.

BACKGROUND

Small cell wireless communication facilities, also called “5G,” are a type of wireless infrastructure. Existing wireless facilities are typically large antennas (also referred to as “macrocells”) placed high above the ground that service a wide area, measured in square miles. Conversely, the 5G antennae (“small cells”) provide spot coverage to a relatively small area up to several hundred feet away. Because of the very limited coverage areas

associated with small cells, many more antennae are necessary and need to be relatively closer to the ground (compared to macrocells) and closer to homes and businesses. The telecommunications industry plans to install the vast majority of these antennae in public rights-of-way, affixed to existing pole infrastructure (streetlights, traffic signals, and utility poles), or on new purpose-built small cell poles.

On October 15, 2018, the Federal Communications Commission (FCC) issued a Final Rule (FCC-18-133, “Accelerating Wireless and Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment” and referred to as the “FCC Order”), which implements industry demands to remove barriers and accelerate the transition to 5G deployment, accelerating the United States’ transition to 5G cellular networks. The FCC Order, which took effect on January 14, 2019, provides guidance and rules to streamline the wireless infrastructure siting review process to facilitate the deployment of next-generation wireless facilities. The Order addresses state and local consideration of aesthetic concerns, specific fee levels, and limits on review time (“shot clocks”) related to the deployment of small wireless infrastructure.

The City’s own telecommunications regulations (Hercules Municipal Code Title 10, Chapter 16) were last updated on September 8, 2015, when the City Council approved Ordinance No. 487. Subsequently approved Federal regulations, including the FCC Order described above, require additions to the City’s existing ordinance to address small wireless facilities. Working with the City’s telecommunications consultants from The Center for Municipal Solutions, City staff have incorporated all the changes that are required for the ordinance to both comply with FCC regulations and be effective immediately.¹

The City’s existing ordinance is not structured to deal with small cell infrastructure, in part because the regulations do not provide guidance regarding how to best conceal equipment in the public right-of-way and attached to existing poles. Staff has determined that the specific changes shown in Attachment 2 and summarized below are needed and would be in the best interest of the city. The proposed changes would add the following subsections to Title 10, Chapter 16 of the Municipal Code (“Wireless Telecommunications Ordinance”):

- Administrative Use Permit Applicability for Modifications that Qualify as Eligible Facilities
- Application Requirements for an Administrative Special Use Permit
- Design, Visibility, and Aesthetics
- Small Cell and Small Wireless Facilities (covering both existing and new structures, on both private property and public right-of-way)

¹ The proposed changes do not address FCC-19-126 which will not be implemented until December 2021 and which will address additional regulations regarding human exposure to radiofrequency electromagnetic fields.

ENVIRONMENTAL DETERMINATION

The adoption of the below Ordinance Amendments are exempt under the CEQA Guidelines § Section 15061(b)(3), covered by the ‘general rule,’ as the project will not have a significant effect on the environment and stemmed from the prior CEQA determination.

ATTACHMENTS

1. Draft Ordinance with proposed changes to Municipal Code Title 10, Chapter 16—
Wireless Telecommunications Facilities (redlined with tracked changes)
2. Draft Ordinance with proposed changes to Municipal Code Title 10, Chapter 16—
Wireless Telecommunications Facilities (clean with changes incorporated)