

**SANTA CRUZ COUNTY PLANNING DEPARTMENT
ADMINISTRATIVE PRACTICE GUIDELINE**

Guideline No.: WCF-06 (Wireless Communication Facilities Ordinance- Small Cells Rev.)
Effective Date: 8/1/18
Originally Issued: 12/12/17
Revised: 3/2/18; 8/1/18

PURPOSE:

To clarify that exceptions to SCCC section 13.10.661(B)(1) shall be granted for certain co-located "small cell" facilities located within public road rights-of-way in Prohibited Zoning Districts, to the extent required by Public Utilities Code section 7901, and subject to the remainder of SCCC sections 13.10.660 through 13.10.668, inclusive.

Applicable Regulatory Section(s)
SCCC Section 13.10.661(B) (1)

INTERPRETATION:

Notwithstanding SCCC section 13.10.661(B)(1), certain co-located "small cell" facilities may be located within public road rights-of-way in Prohibited Zoning Districts, to the extent required by Public Utilities Code section 7901, in such manner and at such points as not to incommode the public use of the road or highway, without obtaining a Telecommunications Act exception pursuant to SCCC section 13.10.668. Each such facility shall comply with the remainder of SCCC sections 13.10.660 through 13.10.668 inclusive, obtain all required permits, and be co-located.

Although these facilities, because they are within public road-rights-of-way, cannot feasibly be sited and designed to be invisible from public vantage points, all such facilities shall be screened and/or camouflaged so that they are inconspicuous and designed to blend into the existing public view as seamlessly as possible. In addition, to the extent reasonably technically feasible and with deference to the foregoing requirement to screen and/or camouflage facilities to reduce their aesthetic impacts, preference shall be given to public road corridors in which existing wireless telecommunication facilities are located.

For purposes of this interpretation, "small cell" facilities are defined as inconspicuous wireless facilities co-located on poles in the public road right-of-way that pose minimal visual impact due to size and placement on existing utility infrastructure, and which do not exceed the following dimensions:

- One canister or omni-directional antenna up to 48 inches in height and 15 inches in diameter with an antenna mount no more than one foot in height attached to the top of a utility pole and any extension required to accommodate state mandated requirements (currently, 72 inches from supply lines pursuant to CPUC General Order 95 Rule 94.4(C)); or, one canister or omni-directional antenna measuring up to 24 inches tall and 15 inches in diameter with an antenna mount no more than one foot in height attached to the top of a street light pole or to the side of

a utility pole and any standoff from the utility pole required to accommodate state mandated requirements (currently, 2 feet pursuant to CPUC General Order 95 Rule 94.4(E));

- Equipment cabinets with a cumulative volume not exceeding four cubic feet mounted to the side of the pole, stacked vertically or placed back-to-back; and
- One very small wireless electricity meter, one small disconnect switch and very small diplexor boxes mounted to the side of a utility pole (meter and disconnect generally not required for street light poles).

Nothing herein shall supersede the requirements of SCCC Chapter 9.70 relating to encroachments upon County-maintained roads. Any future proposal to expand an approved small cell wireless facility beyond the limits established for a small cell facility as provided in this interpretation will be subject to SCCC section 13.10.668, Telecommunications Act exception procedure.

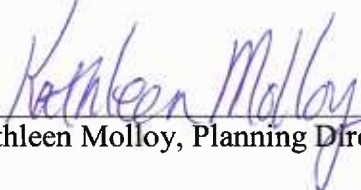
ISSUES:

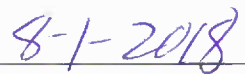
Santa Cruz County Code section 13.10.661(B) (1) establishes "Prohibited Zoning Districts" in which wireless communication facilities are prohibited without a Telecommunications Act exception pursuant to SCCC 13.10.668. These zones are:

- (a) Single-Family Residential (R-1);
- (b) Multifamily Residential (RM);
- (c) Single-Family Ocean Beach Residential (RB);
- (d) Commercial Agriculture (CA); and
- (e) The combining zone overlay for Mobile Home Parks (MH).

California Public Utilities Code Section 7901 authorizes telephone corporations to construct telecommunications facilities along and upon any public road or highway "in such manner and at such points as not to incommode the public use of the road or highway or interrupt the navigation of the waters." State and federal courts have determined that (1) wireless carriers are included in the definition of "telephone corporation" in Section 7901, and (2) the definition of "telephone line" in Section 7901 is broad enough to include wireless equipment. (*See GTE Mobilnet of Cal. L.L.P. v. City & County of San Francisco* (2006), 440 F. Supp. 2d 1097; *Sprint Telephony PCS, L.P. v. County of San Diego* (2006), 140 Cal. App. 4th 748.)

As interpreted by *T-Mobile West LLC v. City and County of San Francisco*, (2016) 3 Cal. App. 5th 334, cert. granted, (2016) 211 Cal. Rptr. 3d 259, "section 7901 is a limited grant of rights to telephone corporations, with a reservation of local police power that is broad enough to allow discretionary aesthetics-based regulation." Additionally, this case holds that under Public Utilities Code section 7901.1, local agencies can require wireless providers to obtain temporary occupancy permits (e.g., encroachment permits) to access the right-of-way for construction.


Kathleen Molloy, Planning Director


Date