



MEMORANDUM

TO: CITY COUNCIL

FROM: TERESA McCLISH, COMMUNITY DEVELOPMENT DIRECTOR

BY: KELLY HEFFERNON, ASSOCIATE PLANNER

**SUBJECT: CONSIDERATION OF DEVELOPMENT CODE AMENDMENT 15-001;
ADOPTION OF AN ORDINANCE TO AMEND REGULATIONS
REGARDING SMALL CELL TELECOMMUNICATION FACILITIES;
LOCATION – CITYWIDE; APPLICANT - VERIZON WIRELESS**

DATE: MAY 9, 2017

RECOMMENDATION:

It is recommended that the City Council adopt an Ordinance amending Arroyo Grande Municipal Code (AGMC) Section 16.04.070(C), Table 16.36.030(A) and Table 16.44.040-A relating to small cell telecommunication facilities.

FINANCIAL IMPACT:

There is no identified direct impact to financial and personnel resources. This item is not identified in the City's Critical Needs Action Plan.

BACKGROUND:

On April 25, 2017, the City Council introduced an Ordinance amending regulations governing small cell telecommunication facilities. The Council directed staff to make a minor revision to allow for a Minor Use permit if the small cell telecommunication facility is not publicly visible, which has been incorporated.

The Ordinance is now ready for adoption. The Ordinance will become effective thirty (30) days after final passage of the Ordinance.

ALTERNATIVES:

The following alternatives are provided for Council's consideration:

1. Adopt the attached Ordinance amending AGMC Section 16.04.070(C), Table 16.36.030(A) and Table 16.44.040-A relating to small cell telecommunication facilities;
2. Modify and reintroduce the attached Ordinance amending Arroyo Grande Municipal Code Section 16.04.070(C), Table 16.36.030(A) and Table 16.44.040-A relating to small cell telecommunication facilities; or
3. Do not adopt the attached Ordinance and provide direction to staff.

**CITY COUNCIL
CONSIDERATION OF DEVELOPMENT CODE AMENDMENT 15-001
MAY 9, 2017
PAGE 2**

ENVIRONMENTAL REVIEW:

In compliance with the California Environmental Quality Act (CEQA), it has been determined that the proposed ordinance is categorically exempt per Section 15311 of the CEQA Guidelines regarding construction or placement of minor structures accessory to existing facilities.

PUBLIC NOTIFICATION:

A summary of the Ordinance was published in The Tribune on Monday, May 1, 2017. The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2. At the time of report publication, no comments have been received.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE AMENDING SECTION 16.04.070(C), TABLE 16.36.030(A) AND TABLE 16.44.040-A OF THE ARROYO GRANDE MUNICIPAL CODE RELATING TO SMALL CELL TELECOMMUNICATION FACILITIES

WHEREAS, the Telecommunications Act of 1996 was the first comprehensive rewrite of the Communications Act of 1934 (the “Act”) and dramatically changed the rules for competition and regulation in most all sectors of the communications industry; and

WHEREAS, technology has changed rapidly since adoption of the Act, including the advent of small cell telecommunication facilities, which allow for capacity building for carriers using smaller scale infrastructure; and

WHEREAS, in 2001 the City Council adopted Resolution No. 3569 approving Telecommunication Facilities Siting and Permit Submittal Requirements; and

WHEREAS, on April 25, 2017 the City Council adopted a Resolution approving amendments to the Telecommunication Facilities Siting and Permit Submittal Requirements regarding small cell telecommunication facilities; and

WHEREAS, the purpose of this Ordinance is to amend the City’s Municipal Code to define and allow small cell telecommunication facilities in all commercial districts subject to the Telecommunication Facilities Siting and Permit Submittal Requirements; and

WHEREAS, on December 20, 2016, the Planning Commission held a duly noticed public hearing and recommended the City Council introduce an Ordinance amending the City’s Municipal Code regarding small cell telecommunication facilities; and

WHEREAS, it has been determined that the proposed revisions to Title 16 are exempt per Section 15311 of the California Environmental Quality Act (CEQA) Guidelines regarding construction or placement of minor structures accessory to existing facilities; and

WHEREAS, the City Council held a duly noticed public hearing on April 25, 2017 and, after consideration of all testimony and all relevant evidence, determined that the following Development Code Amendment findings can be made in the affirmative manner:

ORDINANCE NO.

PAGE 2

- A. The proposed revisions to Title 16 is consistent with the goals, objectives, policies and implementation measures of the General Plan, particularly the Land Use Element, and is therefore desirable to implement the provisions of the General Plan.

The proposed Development Code Amendment is consistent with the General Plan by providing improved cell service for current and future residents of the City while protecting the visual character of the community. All proposals to install telecommunication infrastructure are subject to the City's Telecommunication Siting and Submittal Requirements, and require discretionary land use permit approval.

- B. The proposed revisions to Title 16 will not adversely affect the public health, safety, and welfare or result in an illogical land use pattern.

The proposed Development Code Amendment will not adversely affect the public health, safety, and welfare or result in an illogical land use pattern because the City's Telecommunication Siting and Submittal Requirements provide stipulations to balance the needs of wireless communication providers, the regulatory functions of the City, the rights guaranteed by the federal government, and the potential impacts upon the community and neighboring property owners in the design and siting of telecommunication facilities.

- C. The proposed revisions to Title 16 are consistent with the purpose and intent of Title 16.

The proposed Development Code Amendment is consistent with the purpose and intent of Title 16 because the revisions being made assist the City with meeting the future growth and demand for telecommunication services which provides social and economic advantages, and provide regulations to protect the aesthetic character of the community. The revisions also protect the health and safety of residents by requiring a radio frequency emissions report certified by a qualified radio frequency professional demonstrating compliance with Federal Communications Commission guidelines.

- D. The potential environmental impacts of the proposed revisions to Title 16 are insignificant, or there are overriding considerations that outweigh the potential impacts.

The proposed Development Code Amendment is categorically exempt from environmental review by Section 15311 of the California Environmental Quality

ORDINANCE NO.

PAGE 3

Act (CEQA) Guidelines regarding construction or placement of minor structures accessory to existing facilities.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Arroyo Grande as follows:

SECTION 1. The above recitals and findings are true and correct and are incorporated herein by this reference.

SECTION 2. Section 16.04.070(C) of the Arroyo Grande Municipal Code is hereby amended to add the following definitions:

16.04.070 - Definitions.

“Small cell telecommunication facility” means an unmanned facility, excluding a satellite television dish antenna, established for the purpose of providing wireless voice, data and/or image transmission within a designated service area. A small cell telecommunication facility and may consist of one or more radio receivers, antennas, interconnecting cables, power supply, other associated electronics, and accessory equipment. Small cell telecommunication antennas may be installed on existing rooftops, buildings, utility poles, light standards, or support structures where permitted in accordance with the City’s Telecommunication Facilities Siting and Permit Submittal Requirements, as adopted by resolution of the City Council. Related telecommunication equipment may be located within a building, an equipment cabinet outside a building, or an equipment room within a building. Small cell antennas shall have a maximum length of two (2) feet and a maximum volume of six (6) cubic feet. All related small cell telecommunication equipment shall be concealed from public view.

“Wireless Telecommunication facility” means any unmanned exterior facility, including an antenna, antenna array or other communications equipment, excluding a satellite television dish antenna, established for the purpose of providing wireless voice, data and image transmission within a designated service area and which includes equipment consisting of personal wireless services, as defined in the Federal Telecommunications Act of 1996. Wireless telecommunication equipment and network components may include towers, utility poles, transmitters, base stations and emergency power systems. Antennas may be mounted to a building, a building rooftop or a freestanding pole in accordance with the City’s Telecommunication Facilities Siting and Permit Submittal Requirements, as adopted by resolution of the City Council. Equipment may be located within a building, an equipment cabinet, or an equipment room within a building. Small cell telecommunication facilities are defined separately.

SECTION 3. Table 16.36.030(A) of the Arroyo Grande Municipal Code is hereby amended to add the following to Section B. (Services General):

**Development Code Table 16.36.030(A)
Uses Permitted Within Mixed Use and Commercial Districts**

Allowed Land Uses and Permit Requirements – LAND USE	IMU	TMU D-2.11	VCD HCO D-2.4	VMU D-2.11 HCO D-2.4	GMU	FOMU	HMU	OMU D-2.20	RC	Specific Use Standards and other references
Small Cell Tele-communication facilities (commercial)	MUP	MUP	MUP/CUP ^{4,5}	MUP/CUP ⁴	MUP	MUP	MUP	MUP	MUP	Subject to the <u>Telecommunication Facilities Siting and Permit Submittal Requirements as adopted by City Council Resolution</u>
Tele-communication facilities (commercial)	CUP	MUP	NP	CUP	CUP	CUP	MUP	CUP	CUP	Subject to the <u>Telecommunication Facilities Siting and Permit Submittal Requirements as adopted by City Council Resolution</u>

4 Telecommunication facilities that are publicly visible are subject to a CUP.

5 The Historic Resources Committee shall review applications for small cell telecommunication facilities that are proposed in the Village Core Downtown district and are publicly visible.

SECTION 4. Table 16.44.040(A) of the Arroyo Grande Municipal Code is hereby amended to add the following permitted uses within the Public/Quasi-Public District:

**Development Code Table 16.44.040-A
Uses Permitted Within Public/Quasi-Public District**

Use	PF
A. Public/Quasi-Public Uses	
15. <u>Small Cell Telecommunication facilities (commercial)</u>	MUP (subject to the <u>Telecommunication Facilities Siting and Permit Submittal Requirements as adopted by City Council Resolution</u>)
16. <u>Telecommunication facilities (commercial)</u>	CUP (subject to the <u>Telecommunication Facilities Siting and Permit Submittal Requirements as adopted by City Council Resolution</u>)

ORDINANCE NO.

PAGE 5

SECTION 5. This ordinance is exempt from CEQA pursuant to CEQA Guidelines section 15311 regarding construction or placement of minor structures accessory to existing facilities.

SECTION 6. A summary of this Ordinance shall be published in a newspaper published and circulated in the City of Arroyo Grande at least five (5) days prior to the City Council meeting at which the proposed Ordinance is to be adopted. A certified copy of the full text of the proposed Ordinance shall be posted in the office of the City Clerk. Within fifteen (15) days after adoption of the Ordinance, the summary with the names of those City Council members voting for and against the Ordinance shall be published again, and the City Clerk shall post a certified copy of the full text of such adopted Ordinance. This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage.

SECTION 7. This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage.

SECTION 8. 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.

On motion by Council Member _____, seconded by Council Member _____, and by the following roll call vote to wit:

AYES:

NOES:

ABSENT:

the foregoing Ordinance was adopted this 9th day of May, 2017.

JIM HILL, MAYOR

ATTEST:

KELLY WETMORE, CITY CLERK

APPROVED AS TO CONTENT:

JAMES A. BERGMAN, CITY MANAGER

APPROVED AS TO FORM:

HEATHER K. WHITHAM, CITY ATTORNEY