

WIRELESS TELECOMMUNICATIONS IN THE PUBLIC RIGHTS-OF-WAY



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Changes in Law By FCC

- A whole new landscape of law for “small cells” issued by the FCC.
- Issued by FCC on September 27, 2018.
- Dramatic changes in law with very short timeframes for implementation and compliance.
- *Primarily* deals with “small cells” in the **public right-of-way**. We will eventually have to circle back to City’s regulations of private property facilities, but that is not where the pressure is at currently.
- Most incoming applications are going to qualify as “Small Wireless Facilities” or “SWFs” under the new Order.
 - Likely many in residential neighborhoods.
 - They are “gap” fillers for capacity and data. Largely aimed at the residential and commercial “internet of things”.
 - About a 400 foot range.



The New FCC Order

- Thou shalt not “materially inhibit” SWF installations.
 - This is a total re-write of 30 years of 9th Circuit law, and also a complete revision of the standards upon which ALL our ordinances were based.
 - City’s aesthetic standards need to be (1) reasonable, (2) non-discriminatory as between carriers, and (3) objective and pre-published.
 - The new aesthetic standards take effect April 15, 2019.
 - Have them or waive them by that date!
- Creates 2 new shot clocks for “small cells” *both inside and outside of RoW*:
 - 60 days for action on application for attachment to existing structures.
 - 90 days for new structures.
 - **The shot clocks on SWFs have been shortened so much—in many cases from 150 to 60 days—that discretionary hearing process is no longer logistically possible.**
 - **So, we’ve proposed an admin. approval process for SWFs.**
- Your Ordinance also needs to be corrected to account for certain “by-right” installations that were established by the FCC in 2012.



Administrative Process for SWF Review

- The FCC Order allows “...**aesthetic requirements that are reasonable in that they are technically feasible** and reasonably directed to avoiding or remedying the intangible public harm of unsightly or out-of-character deployments. . .”
- Essentially, once an application is deemed complete, there is very little room for denial, especially if that application proposes to meet our aesthetic standards that are “technically feasible” for the deployment.
 - City can ask industry applicants to demonstrate that our aesthetic requirements are not technically feasible.



How Do We Sort This by April 14?

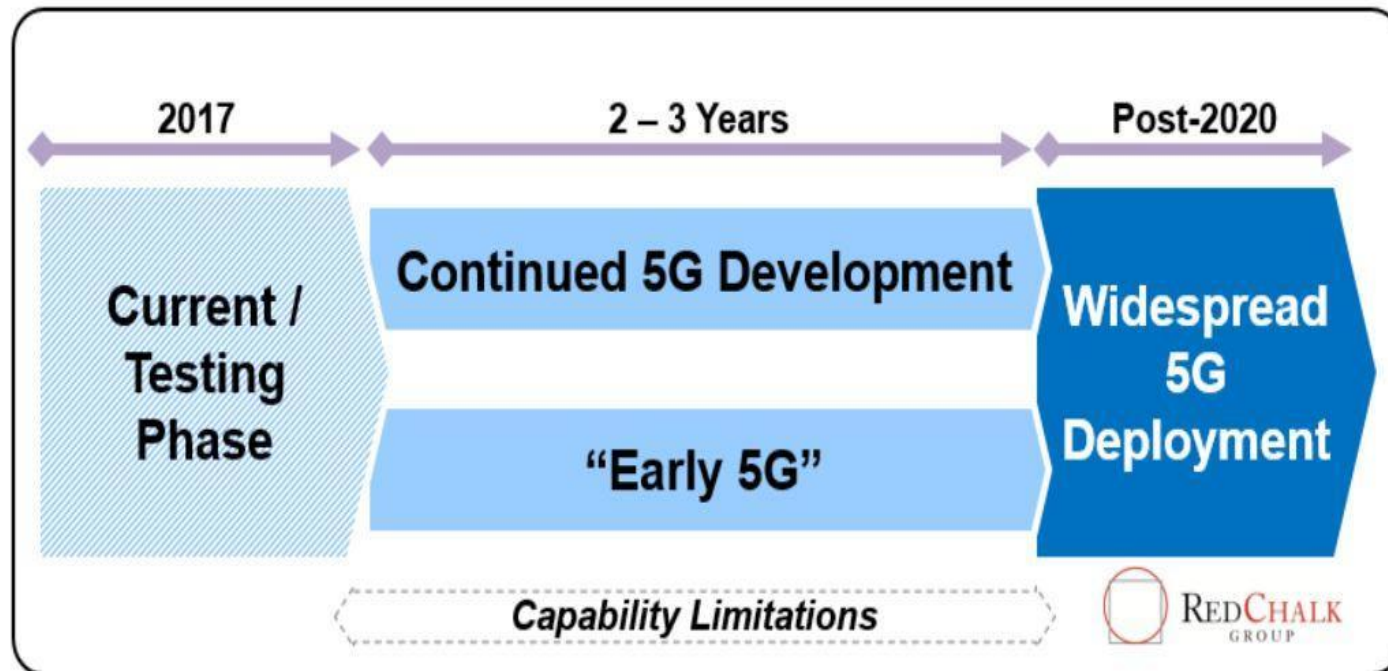
- We propose an Urgency Ordinance.
- At the May 14 Council meeting, we would also run a “normal” ordinance (1st/2nd Readings, plus 30 days).
- For SWF aesthetics, we propose the use of a “Policy” that is adopted by resolution. Maximizes flexibility and changeability in the face of rapidly changing laws and changing technological advances.



More Aesthetic Guidance

- The Policy includes a list of aesthetic preferences for SWFs.
- You can prohibit certain structures—but be aware of the threat of a *new pole!*

U.S. 5G Rollout Timeline



Any Questions?

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