



2024 Wireless Ordinance and Policy Update

Sustainability and Infrastructure Commission
Study Session

Public Works Department

Jay Yu P.E., Engineering Manager

I. Background

II. May 2024 City Council Direction

III. Summary of Changes

IV. Compared to Encinitas

V. General Public Comments

VI. Staff Recommendation

VII. Next Steps

VIII. Questions

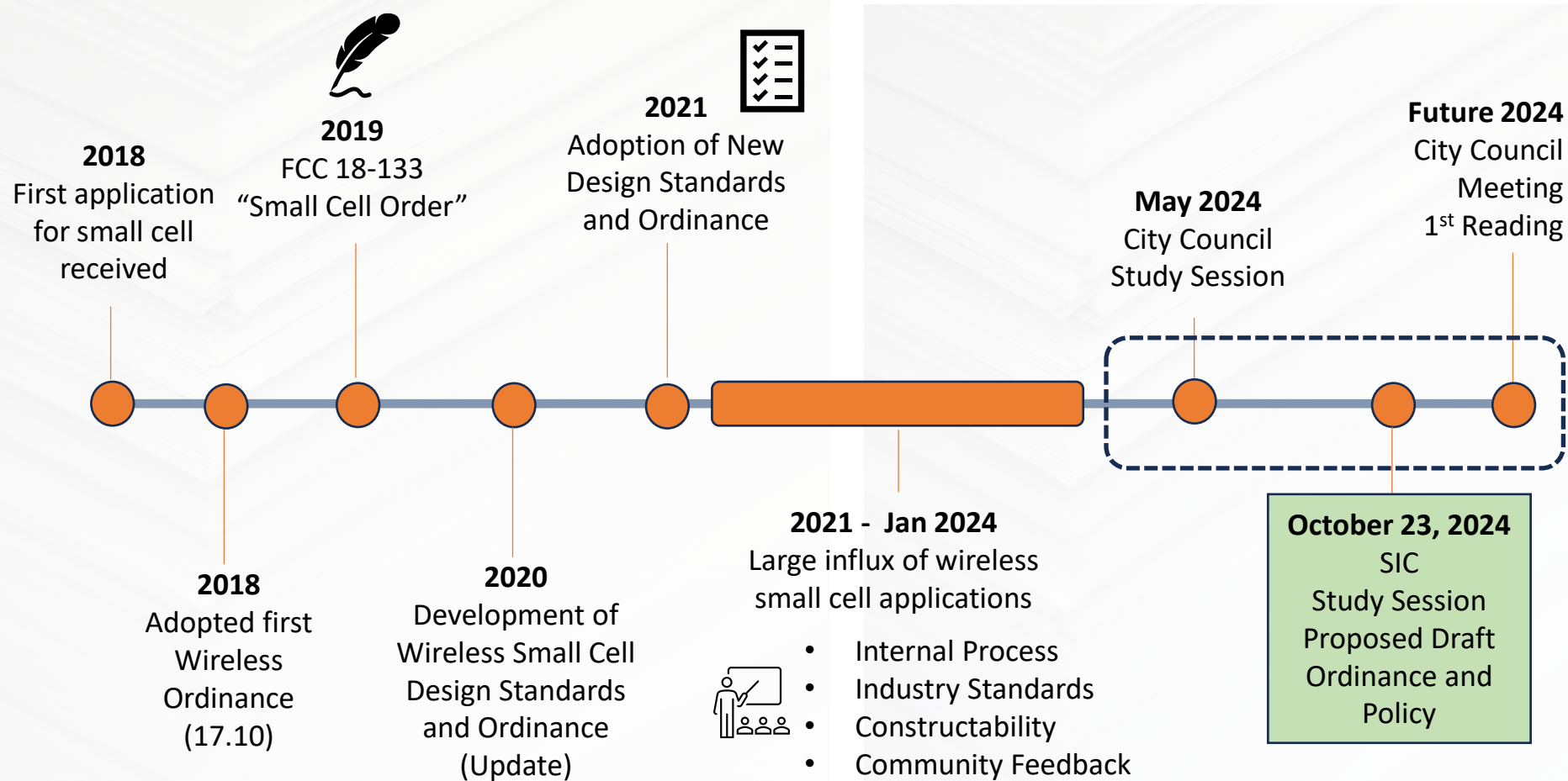


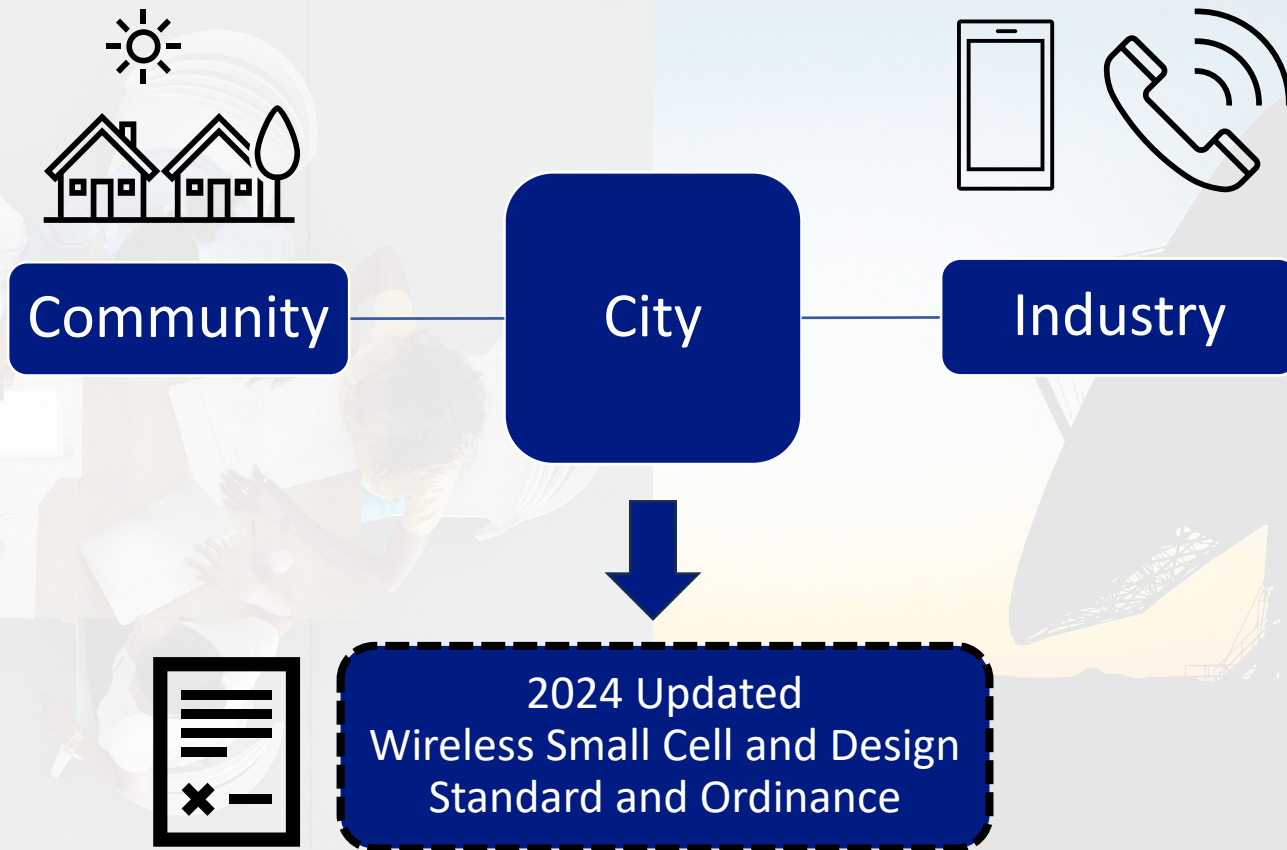
- ✓ Public & industry input obtained
- ✓ City Council direction received
- ✓ Ordinance & Policy Updates proposed
- ✓ These updates are defensible and responsive

Staff recommends the Commission recommend approval by City Council of the proposed updated ordinance and policy documents.

An overhead, top-down view of a group of seven people sitting around a large, light-colored wooden conference table. They are engaged in a meeting, with some looking at documents or laptops. The image is faded and serves as a background for the slide.

I. BACKGROUND





Community Meetings



+



Email



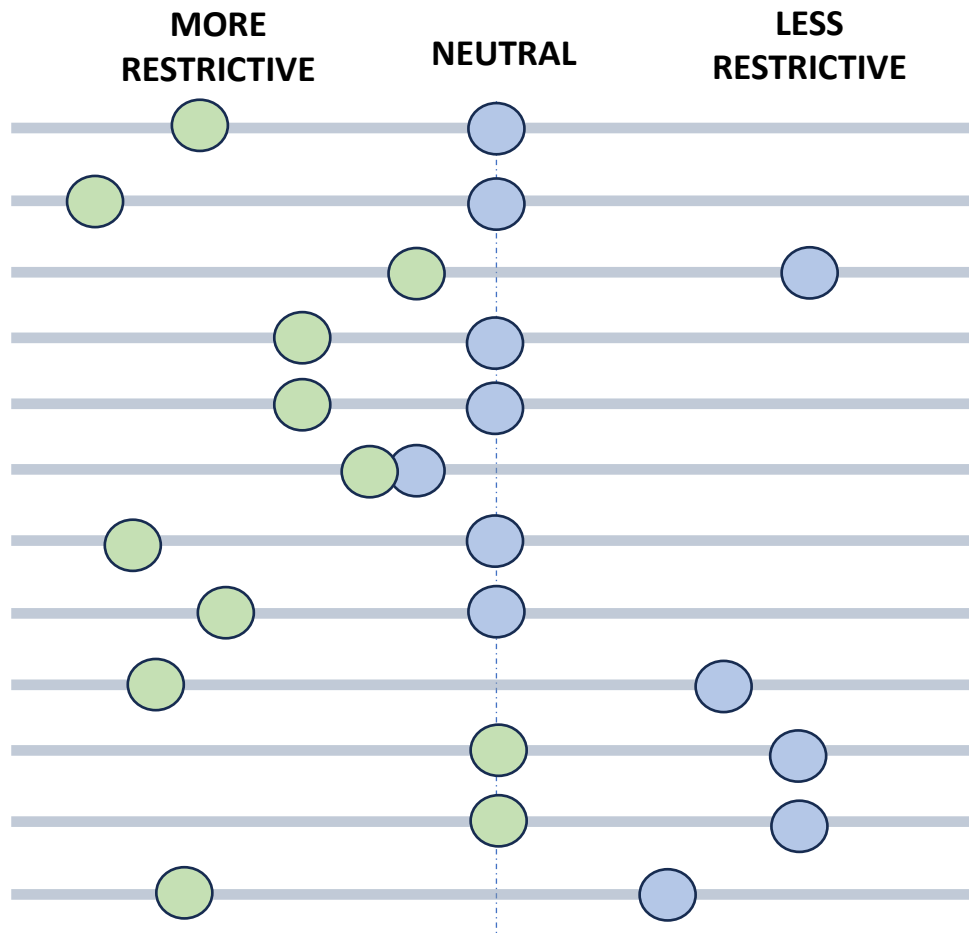
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Letters



Community Industry

Gap In Coverage
Restrictions on Residential Land-Uses
Appeal Process
Public Notices and Outreach
City Internal Review Process
Definitions and Clarity
Required Facility Separation
Post Construction
Pole Options
Technical Installation Standards
Conformance to Other Regulations
Application Requirements



Summary of Community Feedback



II. MAY 2024 - City Council Direction

TOPIC

COUNCIL DIRECTION

Conformance to State Regulations

Comply with state-mandated batch processing rules

Definitions and Clarity

Explore objective design standards for less intrusive installations

Appeal Process

Use hearing officers for appeal arbiter and extend appeal window

Public Notices and Outreach

Make notices more visible and multilingual and use informed delivery

Objective Standards

Define “technically infeasible,” remove conflicting requirements, and clarify design cases

Facility Separation

Increase separation requirements while maintaining flexibility

Post-Construction

Require applicants to submit annual RF compliance

Pole Options

Expand pole options and include discretion to use freestanding poles



TOPIC

COUNCIL DIRECTION

City Review Process

Explore options to use third-party experts

Installation Standard

Explore options to reduce number of meter pedestals in ROW

Conformance to Other Regulations

Amend the design guidelines to be consistent with other requirements

Application Requirements

Revise application requirements to require all relevant information upfront

Appeal Cost Recovery

Adopt an appeal fee that is minimal and not cost-prohibitive

Residential Category

Consolidate the definition of residential

Restrictions Instead of Preferences

Explore restricted areas instead of only site preferences


Review City of Encinitas Ordinance

Inquire what issues the City of Encinitas has encountered



A faded, top-down view of a group of people sitting around a table, engaged in a meeting or discussion. The image is light and serves as a background for the slide.

III. SUMMARY OF CHANGES



Cannot adopt
regulation that
“effectively prohibits”
providers from
providing service.

47 USC § 332 (c)(7)(B)(i)(II)

The City can require
and ensure compliance
with FCC’s limits on RF
emissions.

47 USC 332 (c)(7)(B)(iv)



Things to Remember

NEW PROPOSED

City Policy for <u>new</u> Small Cells in ROW	Setbacks “Restricted Sites” 300ft, Residential dwelling unit, daycare, & school
Specific Submittal Hours Designated days for submittal	Batching Allowed (AB965)
Antenna Height Window, minimum 18’	Appeal Fees \$565 appeal fee
Annual RF Compliance	Pre-Approved Designs



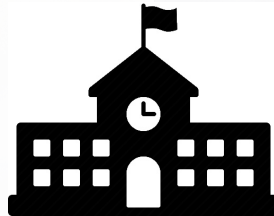
SUBSTANTIAL REVISIONS – NEW PROPOSED

SETBACKS “RESTRICTED SITES”

1. Any location within a residential or mixed-use zone
2. Any location within 300 feet from a residential dwelling unit
3. Any location within 300 feet from a daycare facility or school structure
4. Any location within a Very High Fire Hazard Severity Zone
 - *Applicant may request an Exception to install within Restricted Sites*
 - *Exceptions shall demonstrate “effective prohibition” to be granted*



300-ft Setback



300-ft Setback



Any Zone

SPECIFIC SUBMITTAL HOURS

- Mon-Tues (non-holiday) @ 9am-4pm
- Specifies when applications are submitted to staff
- Allows staff consistency on when to expect applications and when response is due

BATCH APPLICATION

- Applicants may submit up to 50 projects within the same application
- Projects must be substantially similar to be batched



Antenna Height

- Min Height = 18-ft
- Cannot be same elevation as nearest building windows



APPEAL FEES

SWF Appeal Costs

- Processing & prep = \$1,164
- Hearing Costs = \$ 668
- **Total PW staff cost = \$1,832**
 - *Does not account for CAO*
 - *Per Matrix study 2023-24*

Other City Appeal Fees

- Master Fee Schedule FY24-25
 - City Clerk = \$565
 - Code Enf. = \$565
 - Planning = \$565

- **Proposed Fee = \$565**
- **Cost Recovery = 30%**



Pre-Approved Designs

- Requires PW Director adoption
- Only for Preferred Locations:
 - No noticing requirements
 - Only Applicant may appeal

Annual RF Compliance

- Annual affirmation from qualified RF-engineer
- Submitted every January



EXISTING

Public Notice
"Spam" mail & letter-size

Location Preferences
Zoning only

Frontage PUEs allowed

Preferred Structure
Existing poles



PROPOSED

Public Notice
Postcard, larger, & online PDF

Location Preferences
Street, zoning, & clearances

No PUEs allowed

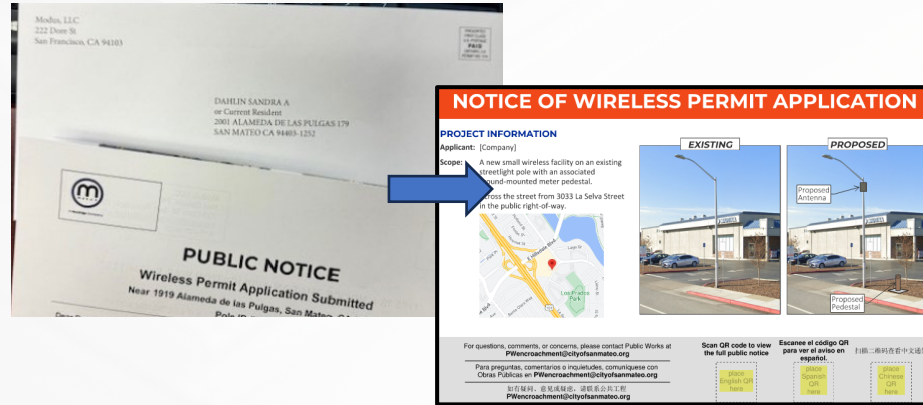
Preferred Structure
Farthest from residential



Public Notice

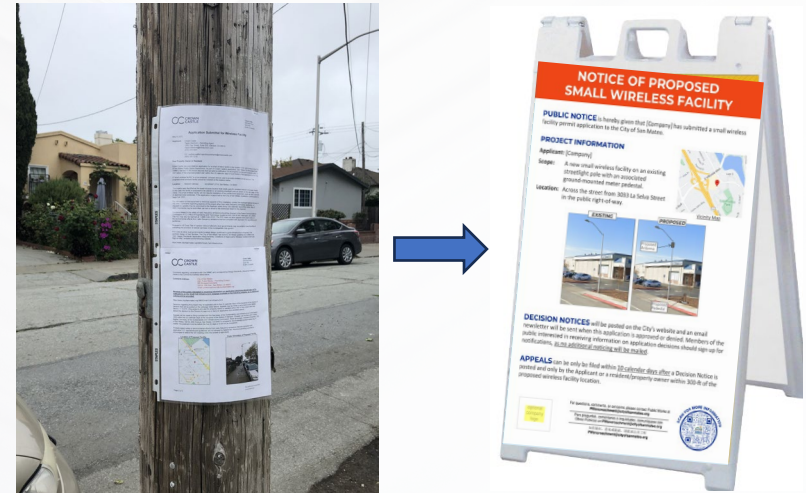
MAILED NOTICE

- Currently, basic envelope
 - “looks like spam mail”
- New standard is Postcard
- USPS Informed Delivery required



SITE NOTICE

- Currently, letter size prints taped to proposed pole and nearby poles
- Site Posted Notices will be printed large poster-style on A-Frames

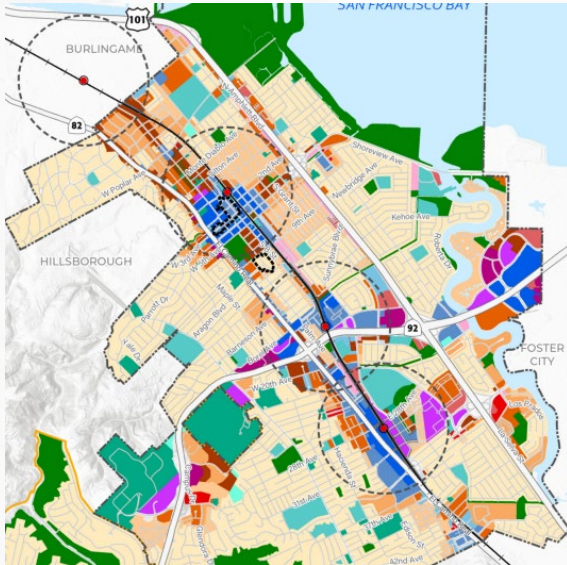


Public Notice

Location Preferences

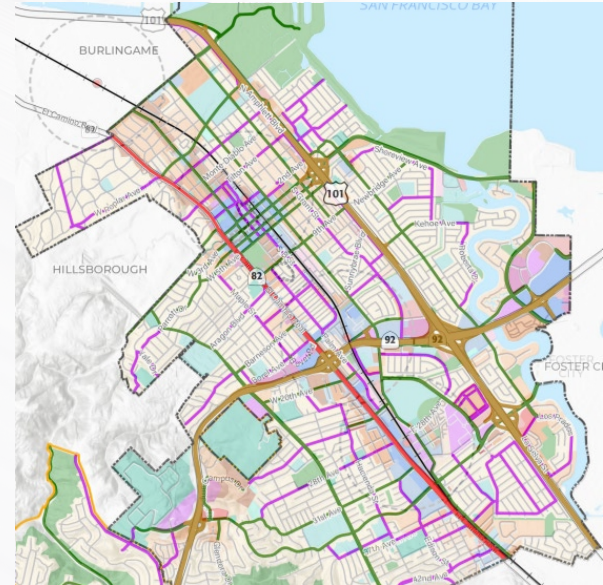
CURRENT LOCATION PREFERENCES

- Based on zoning land use



PROPOSED LOCATION PREFERENCES

- Based on street class, zoning, & clearance to residential/other antennas



CURRENT LOCATION PREFERENCES

1. Manufacturing
2. Transportation Corridor or TOD
3. Executive
4. Central Business
5. Commercial
6. Agricultural & Open Space
7. Shoreline
8. Residential Multi-Family
9. Residential Single Family

MOST to LEAST Preferred

PROPOSED LOCATION PREFERENCES

“Preferred Locations”

1. Non-res/mixed-use zone along arterial
2. Non-res/mixed-use zone along collector
3. Non-res/mixed-use zone along local
4. Within 300-ft of another SWF

5. Within 300-ft of res/mixed-use zone*
6. Res/mixed-use zone along arterial*
7. Res/mixed-use zone along collector*
8. Res/mixed-use zone along local*

**These tiers fall under “Restricted Sites”*



EXISTING

Existing Pole Options
Utility & streetlights

Mounting Preference
"Top of pole" only

Alt Sites Analysis Range
500-ft

Director Findings
4 broad findings



PROPOSED

Existing Pole Options
Utility, streetlights, signals

Mounting Preference
Top -> Pole -> Side

Alt Sites Analysis Range
300-ft

Director Findings
9 specific findings



SUBSTANTIAL REVISIONS - CHANGES (PART 2 of 3)

Mounting Preference



Pole-Top



Pole-Mount



Side-Arm



CURRENT REQUIRED FINDINGS

1. Applicant and SWF comply with SMMC 17.10 and Design Standards and App Requirements
2. Application deemed complete by Director
3. Application complies with all applicable federal, state, and local laws
4. Application demonstrates compliance with FCC rules for RF emissions

PROPOSED REQUIRED FINDINGS

1. Project qualifies as “small wireless facility” as defined by FCC
2. Application meets all design requirements of Muni Code and City Policy (*complies with all applicable federal, state, and local laws*)
3. Project in Preferred Locations, most-preferred location, or granted exception
4. Project on most preferred structure or granted exception
5. Project not on a prohibited structure
6. Applicant has demonstrated it can obtain service connections and provides plans showing proposed service connection route
7. Applicant demonstrates compliance with FCC rules for RF emissions
8. All required public notice has been given
9. Applicant has paid all fees/deposits or enrolled in quarterly billing



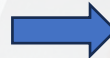
EXISTING

Build-Out Period
1yr w/ (1) optional 1yr extension

Appeal Window
5-days

Appeal Authority
Sustainability & Infrastructure

Appeal Basis
Anything not RF related



PROPOSED

Build-Out Period
1yr w/(1) optional 6mo extension

Appeal Window
10-days

Appeal Authority
Hearing Officer

Appeal Basis
Limited to Director Findings





IV. COMPARED TO ENCINITAS



Section 6409 not in Policy

Voluntary Meetings

“Technically Infeasible”

Email Notifications

City of
Encinitas





1 Year Buildout Period

Annual RF affirmation

Pre-Approved Designs

Exceptions Process

City of
Encinitas



Compared to Encinitas – SAME (Part 2 of 2)



Application Submittals
Email Submittal Window

Batched Applications
Up to 50 projects

Submittal Notices
Applicant mails notice

Appeals
10-day, Hearing Officer

Application Submittals
In-Person Appointment

Batched Applications
Up to 5 projects

Submittal Notices
Encinitas mails notice

Appeals
7-day, City Council

City of
Encinitas



Compared to Encinitas – DIFFERENCES (Part 1 or 2)



Restricted Sites

300-ft to Res/Day/School

Coverage & Capacity

Required

Fire Department Review

No

Antenna Height

Min height, not window elev

Restricted Sites

500-ft R/D/S, coastal, historic

Coverage & Capacity

Not Required

Fire Department Review

Yes - Encinitas FD

Antenna Height

Max 5-ft over support

City of
Encinitas



Compared to Encinitas – DIFFERENCES (Part 2 of 2)

An overhead, top-down view of a group of people sitting around a large, light-colored wooden conference table. The image is faded and serves as a background. Several people are visible, some looking at documents or laptops, others gesturing. The scene suggests a collaborative meeting or workshop.

V. GENERAL PUBLIC COMMENTS



Community

Want to default all reviews to
Consultants

Expand ASA to 500 feet. More public
input on location selection

Want “stealth” design requirements

Appeals to remain at SIC

Summary: The community thinks the proposed policy and ordinance should be more restrictive.



Industry

Not in favor of restricted areas and
exception process

Not in favor of all reviews being done by
consultants

Does not want RF Annual Affirmation

Does not want shrouding requirement
due to signal interference

Not in favor of height restrictions (i.e.,
Window)

Summary: The industry thinks our policy and ordinance is too restrictive and burdensome



An overhead, top-down view of a group of people sitting around a large, light-colored conference table. The image is faded and serves as a background for the slide. Several people are visible, some looking at documents or laptops, others gesturing. The scene is brightly lit, and the overall tone is professional and collaborative.

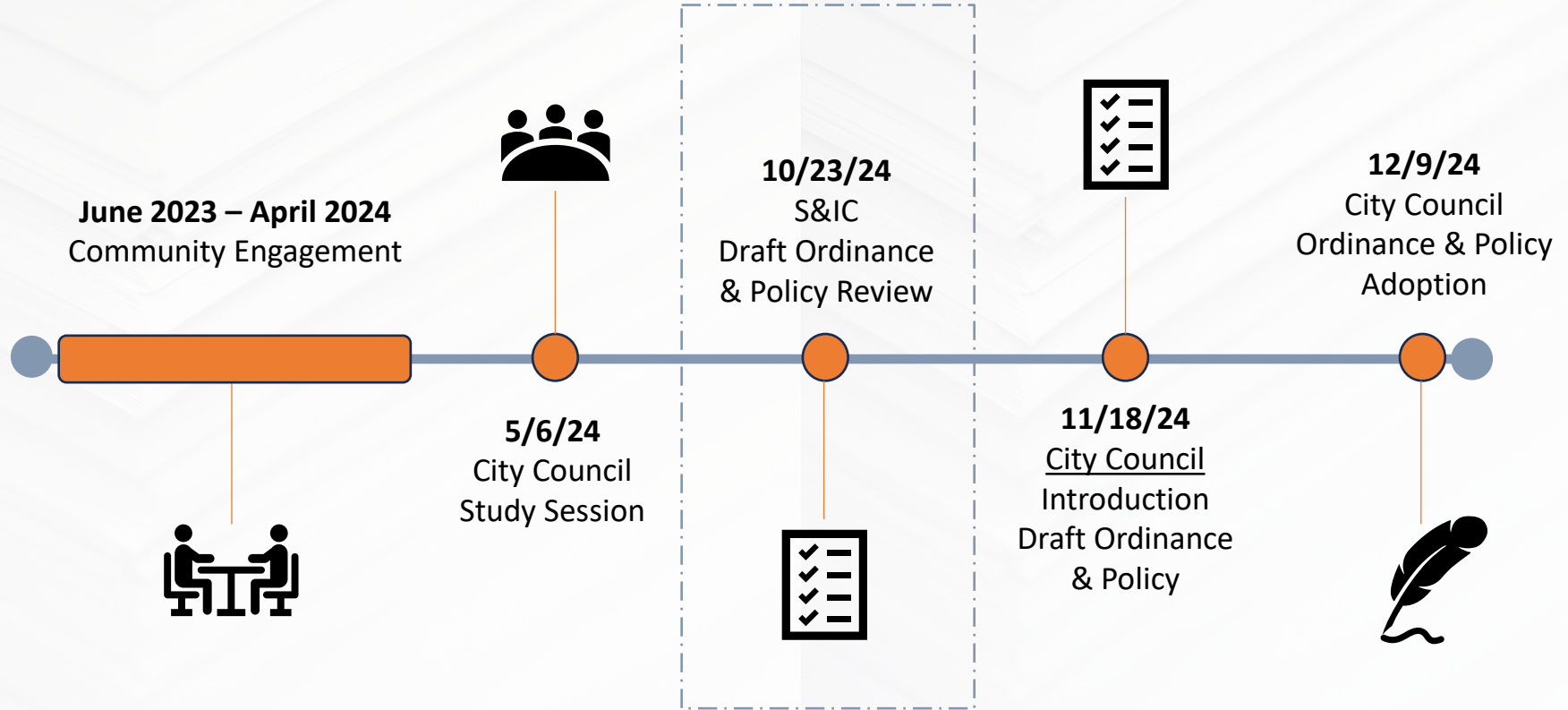
VI. STAFF RECOMMENDATION

- ✓ Public & industry input obtained
- ✓ City Council direction received
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- ✓ These updates are defensible and responsive

Staff recommends the Commission recommend approval by City Council of the proposed updated ordinance and policy documents.

An overhead, top-down view of a group of six people sitting around a large, light-colored wooden conference table. They are all looking down at papers or devices on the table, appearing to be in a collaborative meeting. The image is faded and serves as a background for the slide.

VII. NEXT STEPS



V. Next Steps

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VIII. QUESTIONS

Thank You

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Also Available To Answer Questions

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Public Works

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Jason Hallare P.E.
Senior Engineer

Public Works

Linh Nguyen
Assistant City Attorney

City Attorney Office

Tripp May
Managing Partner

Telecom Law Firm

