July 22, 2024

The Honorable John Cruikshank
Mayor of Rancho Palos Verdes
30940 Hawthorne Blvd.
Rancho Palos Verdes, CA 90275

RE: Ordinance No. 682 - Repeal and Replacement of §17.76.020 (Antennas) with Chapter 17.73 (Wireless Telecommunication Facilities on Private Property)

Dear Mayor Cruikshank and Members of the Rancho Palos Verdes City Council:

CTIA®, the trade association for the wireless communications industry, respectfully submits these comments on Ordinance No. 682 - Wireless Telecommunication Facilities on Private Property. Rancho Palos Verdes' residents, schools, government and other users increasingly count on wireless services for their voice, text, and broadband communications, including Internet access, and rely on wireless connectivity in emergencies. As such, we have concerns that several policies in the Ordinance are unnecessary and will hinder our ability to continue improving connectivity in the Rancho Palos Verdes community.

For initial background, it is critical to keep in mind that the public's growing demand for wireless communications requires reliable and ubiquitous service, which in turn requires our members to continuously invest in wireless infrastructure to upgrade and expand their networks. Last year, the United States experienced another record-breaking year for wireless data usage, reaching almost 74 trillion megabytes of traffic.[1] This represents a 38% increase from the previous year, constituting the greatest increase in mobile data traffic ever. To meet this growth in demand, wireless carriers invested $39 billion in private funds to grow and improve the nation's networks in 2022 alone.[2] This investment also fuels economic growth in California, where the wireless industry supports more than 581,000 jobs and generates $73 billion in annual GDP growth.[3]

To continue this progress, we strongly encourage adopting reasonable, predictable regulations that promote and encourage investment, sustain, and expand high-quality service for local communities and preserve the critically important role of local governments to promote the City's interests. Addressing the following concerns will achieve that balance.

Height Restrictions

Section 17.73.210.C.1.a.i. imposes strict height limitations based on zoning district maximums, which can create unnecessary barriers to improved connectivity. Due to the line-of-sight nature of wireless technology, antennas generally need to be positioned slightly higher than nearby structures and

[1] https://www.ctia.org/news/2023-annual-survey-highlights
[2] https://www.ctia.org/the-wireless-industry/wireless-industry
[3] https://www.ctia.org/the-wireless-industry/map/4g

vegetation to function effectively. Higher structures are needed to enhance network resilience, particularly for macro towers equipped with backup generators. Since the Ordinance includes adequate measures to protect aesthetics by mandating screening or concealment, there should be greater flexibility for concealed facilities to exceed the zoning district maximum height. For instance, a faux tree or steeple would blend in despite being slightly taller than surrounding buildings.

Facility Mock-Up Requirement

Section 17.73.210.C.4.b.vi requires the installation of a wireless mock-up facility. This imposes substantial costs that hinder service and network improvements, which the Federal Communications Commission (FCC) has determined constitutes an unlawful prohibition of service. This mock-up requirement is also redundant, as the Ordinance already mandates photo simulations to assess the visual impact of a facility. Current industry technologies already provide accurate representations of new construction through professional photo simulations from multiple vantage points, making full-scale mock-ups unnecessary.

Violations of Section 6409(a)

In 2012, Congress enacted Section 6409(a) of the Spectrum Act, 47 U.S.C. § 1455(a), which says that any state or locality "may not deny, and shall approve, any eligible facilities request (EFR) for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station." The FCC's regulations provide specific criteria for these modifications, emphasizing that a local government can only seek information pertinent to determining whether a request qualifies as an EFR, and they must review EFRs within 60 days, factoring in any applicable tolling, or the application is automatically deemed granted upon notice by the applicant.
However, the city's Ordinance violates Section 6409(a) in several ways:

- Mandatory Pre-Application Meetings - The City should not impose a pre-application meeting requirement for EFRs, as this jeopardizes compliance with the 60-day shot clock, increasing the risk of deemed granted permits. This is unnecessary for non-substantial modifications.

- Submittal Appointments - The City should reconsider its requirement for pre-scheduled intake appointments. Adding steps at the beginning of the process delays the start of the 60-day clock, potentially causing the clock to start several days (or longer) before city staff can act under the Ordinance.

- Appeals - CTIA recommends eliminating or shortening the right to appeal EFR approvals under Section 6409(a). The proposed appeal process cannot be completed within the 60-day shot clock and it is impractical to add time for re-reviewing a non-discretionary approval based on objective standards.

- Excessive Application Requirements - Section 17.73.040 includes application requirements for all wireless facility applications, many of which cannot be required under Section 6409(a). The City may only request information necessary to determine if the proposed modification qualifies as an EFR. CTIA suggests establishing a separate, streamlined set of requirements for EFRs.

- Community Meeting Requirement- Requiring a community meeting for applications already scheduled for a public hearing is unnecessary. Public hearings provide advance notice to community members and an opportunity for community input. Moreover, adding a community meeting would cause delays in the application process. This is problematic because it affects the FCC's "Shot Clock" rules, which stipulate that the city must make a final decision on an application within 90 or 150 days for a typical facility on private property.

To ensure compliance and clarity, the Ordinance should clearly separate and distinguish provisions related to Section 6409(a) from those applicable to other types of wireless facility applications. This would ensure compliance with federal law, enable both City staff and wireless providers to quickly identify and follow the appropriate procedures for different types of applications, and ultimately speed up deployment and improved connectivity across the City.

Thank you for considering our feedback and concerns. We would welcome the opportunity for the wireless industry to participate in a workshop, allowing for further in-depth discussions on these important matters. We look forward to further collaboration to achieve a comprehensive and equitable Ordinance that benefits all residents and communities in the City of Rancho Palos Verdes.

Sincerely,

Annissa Reed

Annissa Reed
Director
State and Local Affairs