

Communication from Public

Name:

Date Submitted: 04/12/2023 12:06 PM

Council File No: 22-0617

Comments for Public Posting: For submittal to CF 22-0617

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March 22, 2023

VIA EMAIL

Brittany Arceneaux, City Planner
City of Los Angeles Department of City Planning
200 North Spring Street, Room 667
Los Angeles, CA 90012
Via email: brittany.arceneaux@lacity.org

Re: Draft Zoning Code Section 4C.12.4, Wireless Telecommunications Facilities

Dear Brittany:

We write on behalf of Verizon Wireless regarding the draft zoning code that is a component of the overall Downtown Community Plan known as “DTLA2040.” It is our understanding that “This Plan provides strategies to promote compact development and increase mobility options by planning for more jobs, housing, and amenities in close proximity to transportation resources and each other.” This suggests the DTLA2040 plan focuses on specific changes to land use policies and zoning codes to advance commercial and residential development, and not specifically to regulate wireless telecommunications facilities. Verizon is aware that the Planning Department has had extensive engagement with the real estate development and general business community about DTLA2040. However, Planning has not directly engaged Verizon or the telecommunications industry regarding the proposed zoning code changes to wireless facilities and data/telecom centers within commercial buildings. Verizon is therefore recommending this portion of the DTLA2040 Plan (and relevant code revisions) be separated from the community plan at this time and withheld from action by the City Council.

Below are several provisions of the draft zoning code (the “Draft Code”) that require amendments or further review prior to adoption. For your convenience, we have attached a marked copy of the Draft Code that reflects these comments. We also suggest that the Planning Department review Federal Communications Commission (“FCC”) regulations as they relate to the siting and modification of wireless facilities, to ensure that any code revisions are consistent with federal rules.

Article 5 – Use (Permit Requirements by Zone)

According to the proposed zoning use tables, new monopolies would be a permitted use in only industrial zones, requiring a conditional use permit in all other zones. *The City should consider permitting monopolies in additional zones, particularly industrial mixed zones.*

Rooftop facilities would be a permitted use in all zones, except for residential, residential mixed, open space and agriculture zones, where a conditional use permit would be required. Taller residential buildings provide an opportunity for a fully-concealed rooftop facility to serve dense residential areas. *The City should consider allowing rooftop wireless facilities as a permitted use in residential and residential mixed zones.*

Section 4C.12.4 – Wireless Telecommunication Facilities

C(1)(b). Collocation requirement. This requires collocation with existing facilities if feasible. However, there is no direction as to how far away an applicant should search for co-location options. Cities commonly specify a search distance for preferred options, which benefits both applicants and City decision-makers. The Glendora City Council adopted a quarter-mile search distance in December 2022. *We suggest revising this provision: “New wireless telecommunication equipment shall be installed at an approved existing facility, when co-location within one-quarter mile of a proposed location is feasible.”*

C(1)(c), (d). Modified facilities subject to current code standards. According to this provision, an existing facility modified with new equipment must comply with the code’s design standards. However, that is preempted by the federal Spectrum Act, which requires cities to approve wireless facility modifications that cause no “substantial change” according to Federal Communications Commission (“FCC”) rules. *See 47 U.S.C. § 1455(a); 47 C.F.R. §§ 16100(b)(7), (c).* The FCC’s rules preempt local zoning standards, so the City cannot subject modified facilities to any design standards that exceed the “substantial change” thresholds. The FCC confirmed that the Spectrum Act allows modification of legal non-conforming facilities (those permitted under prior zoning codes). *Spectrum Act Order*, 29 FCC Rcd. 12865, ¶ 201 (FCC 2014). *These provisions should be deleted.*

C(2)(c). Rooftop facilities prohibited on buildings less than 40 feet. This continues a current code requirement. To site on a lower building, an applicant would need to apply to for an exception. This height restriction is unnecessary because the Draft Code requires screening of rooftop facilities, minimizing or eliminating any visual impact. In some cases, a shorter building may be the only feasible option to serve a high-demand area.

Shorter buildings may support “small wireless facilities” that fit within strict dimension limits defined by the FCC. 47 C.F.R. § 1.6002(l). The FCC requires that city standards applied to small wireless facilities be “reasonable,” that is, technically feasible and meant to avoid “out-of-character” deployments. *Infrastructure Order*, 33 FCC Rcd. 9088, ¶¶

86-88 (FCC 2018). The minimum building height provision could be infeasible by precluding small cells on shorter buildings, contradicting FCC regulations. *This provision should be deleted.*

C(2)(d). Rooftop screening on all sides. We believe that the intended reference is to Section 4C.12.1, the general standards for roof-mounted equipment (which in turn refer back to the wireless code). Section 4C.12.1(C)(1) requires screening that is six inches taller than equipment and “encloses the equipment 100%.” There is no reason to require screening on those sides of equipment that are out-of-view. *These provisions should be revised to require screening on those sides of a facility that are visible from off-site vantage points.*

C(2)(f). Rooftop equipment height. This limits equipment height to 10 feet above the rooftop. However, where antenna facilities set back from the roof edge, the roof itself can block signal to the street below if antennas are not sufficiently elevated. *We suggest allowing a modest height increase to 15 feet over the rooftop.*

C(2)(h). Limit to 10 percent of rooftop area. Another current code requirement, this would limit the footprint of a rooftop facility to 10 percent of the rooftop area, but that may not be adequate on small buildings. *We suggest revising this provision to limit the occupied area to 10 percent of the rooftop area, or a minimum of 200 square feet.*

C(3)(a). Monopole designed for future replacement. This requires a foundation sufficient to support a monopole 15 feet taller than proposed (which would then be limited to zone height limits) in order to accommodate future pole replacement for a collocation. This provision appears to curtail a proposed new monopole to 15 feet less than the zone height limit. However, applicants commonly install a new monopole with their antennas on top at the maximum height allowed, and design the pole with sufficient structural integrity to support the future collocated antennas of other carriers underneath. This provision overlooks the practical considerations of shared-site design, and unnecessarily limits the height of new monopole antennas, which reduces a facility’s coverage area. *This provision should be deleted, and replaced with a requirement to design a new monopole “to be of ample structural integrity to support at least one additional collocated facility, if feasible.”*

C(3)(e). Monopole camouflage. This list includes structures such as clock towers and church steeples as camouflage options, and should also include faux tree designs commonly used to disguise antennas (e.g., “monopines” and “monopalms”). *We suggest adding “faux trees” to the list.*

C(3)(f). Monopole tapering from 3-foot base to 1.5-foot top. Phrased as an absolute requirement, this may be incompatible with the monopoles or faux tree poles that are available from manufacturers. *The 3-and 1.5-foot references should be deleted.*

E. Relief. For rooftop facilities that are a permitted use in most zones, a required exception or deviation from strict standards would convert an administrative process to a discretionary process. Certain facility designs may require the same exception over and over. To avoid the need for repeat exceptions or deviations, the City should ensure that the Draft Code includes feasible standards at the outset, incorporating our proposed revisions.

Modifications. The Draft Code does not address wireless facility modifications that comply with the federal Spectrum Act and FCC rules. The City has processed such “eligible facilities requests” administratively according to *Zoning Administrator Memorandum No. 130* adopted in 2013. That memo reflected the FCC’s initial guidance on modifications, but not the FCC’s final rules and the “substantial change” criteria adopted in 2014 and updated in 2020. 47 C.F.R. § 1.6100. The City’s new zoning regulations clarify the process for administrative review (*see, e.g.*, Sec. 13B.3.1), which is appropriate for wireless facility modifications. *The City should consider addressing modifications in the Draft Code, or updating the 2013 Zoning Administrator Memorandum.*

Verizon Wireless appreciates the opportunity to provide comment on the Draft Code. We urge the City to incorporate our suggested revisions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Paul Albritton", written over a horizontal line.

Paul B. Albritton

cc: Randall Hernandez, Verizon Wireless
Daisy M. Uy Kimpang, Verizon
Ethan J. Rogers, Verizon

Attachment

Verizon Wireless Proposed Revisions

Los Angeles County Draft Zoning Code

ARTICLE 5. USE

For the use districts tables, Verizon Wireless recommends that the City permit monopoles in additional zones, particularly industrial mixed zones.

The City should also allow rooftop wireless facilities as a permitted use in residential and residential mixed zones.

SEC. 4C.12.4. WIRELESS TELECOMMUNICATION FACILITIES

A. Intent

To minimize visual impacts, make the installation, operation, and appearance of wireless telecommunication facilities as inconspicuous as possible, to prevent the facility from visually dominating the surrounding area, and to hide the installation from predominant views from surrounding properties.

B. Applicability

All wireless telecommunications uses, excluding satellite dish antennae, radio, and television transmitters and antennae incidental to residential uses.

C. Standards

Wireless telecommunications facilities shall meet the following screening design standards. Specific screening and design requirements depend on the proposed site and surroundings based on discretionary review by the approving authority.

1. General

- a. All wireless telecommunications facilities shall meet the minimum siting distances to habitable structures required for compliance with Federal Communications Commission (FCC) regulations and standards governing the environmental effects of radio frequency emissions.
- b. ~~New wireless telecommunication equipment shall be installed at an approved existing facility, when co-location is feasible.~~ New wireless telecommunication equipment shall be installed at an approved existing facility, when co-location within one-quarter mile of a proposed location is feasible.
- c. ~~Existing rooftop facilities in which new wireless telecommunication equipment is installed shall be subject to the standards included in Sec. 4C.8.8.C.2.~~
- d. ~~Existing monopole facilities in which new wireless telecommunication equipment is installed shall be subject to the standards included in Sec. 4C.8.8.C.3.~~

2. Rooftop Wireless Telecommunications Facilities

Rooftop wireless telecommunications facilities, including antennas and any associated equipment shall meet the following standards:

- a. Rooftop Wireless Telecommunications facilities are only allowed where they are a permitted use in the applied *Use District (Part 5B)*.
- b. Where located on the rooftop of a designated historic resource or a surveyed historic resource rooftop Wireless Telecommunications facilities require review and approval pursuant to Sec. 13B.2.2. (Class 2 Conditional Use Permit).
- c. ~~Shall be located on rooftops no less than 40 feet above grade.~~
- d. Shall be screened on all sides that are visible from an off-site vantage point by a parapet or screening enclosure that meet the standards provided in Sec. 4C.8.5.C (*Roof-Mounted Equipment*).
- e. The structure covering the antenna and any equipment cabinet shall be painted and textured to match the exterior walls of the building.
- f. Any wireless antenna structures and associated equipment shall have a height no greater than ~~40 feet~~ 15 feet, measured from rooftop surface at the base of the structures or equipment.
- g. Where mounted on the walls of a rooftop enclosure for mechanical equipment or vertical circulation, wireless antenna structures and associated equipment cabinets shall not exceed the height of the rooftop enclosure.
- h. The cumulative area occupied by all rooftop wireless telecommunications facilities and associated equipment shall not exceed 10% of the total area of the rooftop, or a minimum of 200 square feet.

3. Monopole Installations

Monopole wireless telecommunications facilities, including antennas and any associated equipment shall meet the following standards:

- ~~a. The footing of a monopole antenna shall be structurally designed to support a monopole which is at least 15 feet higher than the monopole under review, while being within the applicable requirements of the maximum height specified in the applied Form District (Part 2C), in order to allow a future wireless network to replace an existing monopole with a new monopole capable of supporting equipment co-location.~~
- a. Monopoles shall be structurally designed to be of ample structural integrity to support an additional collocated facility, if feasible.
- b. Monopoles shall be set back a minimum distance equal to 20 percent of the monopole height or 35 feet, whichever is greater, from the following lot lines:
 - i. Primary and side street lot lines;

- ii. Lot lines shared with a lot that includes a sensitive use; and
 - iii. Lot lines shared with a lot that zoned with a residential or agricultural use district.
- c. Monopoles shall be screened on all sides with a planting area meeting the following standards:
 - i. Shall have a minimum width of 5 feet.
 - ii. Shall provide a screening plant at a frequency of 30 per 50 feet of planting area.
 - iii. Shall provide a large species tree at a frequency of 3 per 50 feet of planing area.
- d. All monopole wireless telecommunication facilities shall use surfacing and camouflaging techniques that satisfy the following criteria:
 - i. Exterior colors, textures, and shapes are visually compatible with the surrounding built or natural environment.
 - ii. Exterior finish is non-reflective, unless otherwise required by the Federal Aviation Administration
 - iii. Shall be situated so as to utilize existing natural or man-made features including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening.
- e. The approving authority may require additional measures designed to camouflage a monopole wireless telecommunication facility, including placing the facility entirely within a vertical screening structure. Suitable architectural features include, but are not limited to, clock towers, bell towers, church steeples, icon signs, lighthouses, flagpoles, faux trees or utility poles. All facility components, including the antennas, shall be mounted inside said structure.
- f. Monopoles that are not vertically screened shall be of tapered design. ~~(3 foot diameter- the base up to 1.5 foot diameter at the top).~~
- g. All wireless telecommunication facilities shall be removed within 90 days of discontinuance of use.

D. Measurement

1. Setbacks from Lot Lines are measured according to *Sec. 2C.2.2.D. (Building Setbacks)*.
2. Planting area width is measured according to *Sec. 4C.6.4.D.1. (Planting Area Width)*.
3. Planting frequency is measured according to *Sec. 14.1.8. (Frequency)*.
4. Screening Plants are measured as provided or not provided, based on the presence of screening plants that comply with *Sec. 4C.6.4.C.3.b. (Screening Plants)* and all other applicable provisions of *Sec. 4C.6.4. (Plant Design and Installation)*.
5. Large species trees are measured as provided or not provided, based on the presence of large

species trees that comply with *Sec. 4C.6.4.C.3.a. (Trees)* and all other applicable provisions of *Sec. 4C.6.4. (Plant Design and Installation)*.

E. Relief

1. An alternative to wireless telecommunication facilities standards may be requested in accordance with *Sec. 13B.5.1 (Alternative Compliance)*.
2. A deviation from any wireless telecommunication facilities dimensional standard of up to 10% may be requested in accordance with *Sec. 13B.5.2 (Adjustment)*.
3. Deviation from any wireless telecommunication facilities standard may be allowed as a variance in accordance with *Sec. 13B.5.3 (Variance)*.

Site: 800 S Hope Street, Los Angeles

	Existing Zoning Code	DTLA 2040
Designation	Regional Center Commercial	Transit Core
Zone	C2-4D	[HB3-SH1-5] [CX3-FA] CPIO

After review of the CPC Recommendation Draft dated September 27, 2022, City of Los Angeles Zoning Code, we have the following recommendations:

A. Revise definition of “MINOR UTILITY” [Sec. 5C.1.2.L.1]

1. Include within this definition “all wireline and network telecommunications services facilities, including switching and exchange facilities, data centers, cloud storage and internet-business supporting facilities” as permitted uses; and
2. Allow for on-site personnel¹ with regard to the wireline and network telecommunications services facilities and related uses stated in (1) above.

Proposed Revisions:

Utility infrastructure with no on-site personnel and having modest impact on surrounding properties. Minor Utilities includes passive energy generation such as wind turbine, geothermal system, and solar photovoltaic system, serving no more than 10 different lots with supporting on-site storage, control and transmission equipment, storm water retention or detention ponds, aeration and septic system, reservoir, lift station, water supply well and water tank or tower, ~~telecommunications switching facility, and electrical substation,~~ wireline and network telecommunications services facilities, including switching and exchange facilities, data centers, cloud storage and internet-supporting facilities. For wireless telecommunication facilities, see Sec. 5C.1.2.L.4. (Wireless Facility, Monopole) and Sec. 5C.1.2.L.5. (Wireless Facility, Rooftop). For wireline and network telecommunications services facilities, including switching and exchange facilities, data centers, cloud storage and internet-supporting facilities, on-site personnel shall be permitted.

- B. If proposed changes to the definition of MINOR UTILITY are not made, revise Permission Level for a “MAJOR UTILITY” to allow for Class 1 Conditional Use (C1) for wireline and network telecommunications services facilities, including switching and exchange facilities, data centers, cloud storage and internet-supporting facilities.

Use	Permission	Use Standard	Specification
PUBLIC & INSTITUTIONAL			
Utilities:			
Minor	P*	Screening	
		Frontage Screen	F-Screen 2
		Transition Screen	T-Screen 2
Major	C3		

¹ These types of facilities are never completely unmanned. There are typically a nominal number of employees to report to them and come to retrieve and service equipment. For example, at 800 S Hope Street there are 3-5 employees who have office space at the facility and 26-30 technicians who come into the building to pick up equipment and supplies from storage areas.

<u>Wireline and network telecommunications services facilities</u>	C1		
Solar Energy Facility	P*	In conjunction with:	Other allowed use:
		Floor area (min)	0.1 FAR
		Relief	C3
Wireless Facility, Monopole	C2*	Supplemental Standards	Sec. 5B.5.3.C.1.
Wireless Facility, Rooftop	P*	Supplemental Standards	Sec. 5B.5.3.C.1.