Edits to Draft Wireless Telecommunications Facilities Ordinance

for the City of xxxxx, xxxxx

January 18, 2020

*Submitted on behalf of the xxxxx Anti-5G Microwave Network*

**15 Points General Outline on Changes & Intent:**

1. “Tele” is to be reinstated into the main title for consistency and conformity to the requirements of the “Tele”communications Act of 1996, and not the arbitrary and capricious request of the FCC’s agenda to connect billions of wireless devices to service the Internet of Things (IoT). The IoT is not within jurisdiction for need of service, only (telephony) gap in coverage is. The revised wording as directed by xxxxx and legal counsel introducing “Communications” instead of the original “Telecommunications” opens us up to the acceptance of other usage of wireless communications not related to calls but for the IoT, and thus, the agenda of densifications of “small” cell antennas throughout the city. The xxxxx residents do not care to be exposed to such increases and unnecessary microwave radiation as a result of this “communications” agenda, the fulfillment of the so-called IoT. The original title, “Wireless Telecommunications Facilities” should be reinstated, and not “Wireless Communications Facilities”.
2. Industry must show proof of need for gap in coverage regarding telephone communications services under Title II, and the Telecommunications Act of 1996. Industry must also determine the least intrusive means for achieving this coverage.
3. Submittal by applicant proof of NEPA review by the FCC as required by the National Environmental Policy Act (NEPA) for actions that may have significant environmental effect (47 CFR 1.1307) based on the federal undertaking of deploying over 800,000 5G/4G sWTF.
4. All small wireless telecommunication facilities locations considered shall be in compliance with the United States Access Board and Americans with Disabilities Act (ADA) recognizing individuals with electro-sensitivity (ES) as a disability, and providing safe access to and from their homes and community where they live, work, study, commune, and heal. Electro-sensitivity is also known as radar sickness and microwave sickness, but not limited to these.
5. No sWTF shall be placed within the radius of 500’ from any residential home. The topography of the City of xxxxx is flat which means the wireless radiation propagation distance will travel further in the tens to thousands and thousands of feet than areas in hills, swales and valleys. Because of the low to no impedance of RF microwave radiation propagation due to a flat topography, dense placements of sWTF and WTF is not necessary. Industry tests on MMW have proven these frequencies can travel over 2’000 feet through dense canopy of trees and vegetation and still enable connectivity.
6. Each sWTF must be at least 1,500’ away from another nearest sWTF.
7. Each sWTF must be at least 1,500’ away from schools, parks, and sports fields.
8. Proof of Safety Testing Above 6GHz. Submittal of report of proof of safety testing and/or SAR and/or similar calculable means for RF power levels of exposures from all antennas, transmitters and electronic components that utilize frequencies past 6GHz determined at ground level, second and third storied buildings**.**
9. Proof of Insurance. The applicant shall submit evidence of ability to attain independent third-party insurance, cannot show self as being the insurer.
10. The applicant has demonstrated that the proposed project will be in planned compliance with all applicable FCC regulations and guidelines for human exposure to RF emissions. The facilities will not expose people to radio frequency (RF) radiation in excess of FCC standards being that the power density cannot exceed 5% of the power density exposure limit applicable to that transmitter or facility or in a field strength that, when squared, exceeds 5% of the square of the electric or magnetic field strength limit applicable to that transmitter or facility (47 CFR 1.1310).
11. All RF values shall be shown, described and graphed out in actual real time data showing maximum peak measurements, not averages. Report must show PEAK potential power density. And the report must be generated by an independent third-party member written by an RF engineer or professional building biologist or hygienist, and shall be chosen by the city, and funded by the applicant. Payment for future RF reports shall be built into the lease for yearly monitoring of RF levels to ensure continued safety compliance.
12. Generate a Cumulative Impact RF Analysis. The applicant must submit a cumulative impact analysis for the proposed facility and other WTFs on the project site within a radius of one thousand three hundred feet of the proposed WTF site. The analysis shall include all existing and proposed (application submitted to the community development and sustainability department) WTFs on or near the site, dimensions of all antennas and support equipment on or near the site, power rating for all existing and proposed back-up equipment, and a report estimating the ambient RF fields and maximum potential cumulative electromagnetic radiation at, and surrounding, the proposed site that would result if the proposed WTF were operating at full buildout.
13. Facilitate public hearings on proposed conditionally permitted sWTF and WTF and follow in conduct according to Sections 40.30.070 of the xxxxx Municipal Code. Also add in “Noticing Radius” to notify all residents living within a 500’ radius of the proposed sWTF. The noticing radius shall be measured from the outer boundary of the subject parcel, or, for those facilities in the PROW, from the outer boundary of the closest parcel adjacent to the subject PROW site.
14. An encroachment permit must be obtained for any work in the public right-of-way.
15. Police power must be maintained to enforce the quiet enjoyment of streets and ability to protect city residents their health and safety regarding sWTF whether it be harm and endangerment from RF exposures, high voltage induced fires, undue surveillance, data harvesting, live wires and/or electrical arcs but not limited to these.

**10 Points of Statements for Elimination:**

1. Eliminate “preferential” locations of WTF and sWTF to stating definitive setback distances as described in the preceding 15 points list.
2. Eliminate “Consequences of Non-Compliance” regarding Article 40.29 of the xxxxx Municipal Code as portions of the Report and Order has been overturned and deemed “capricious and arbitrary” by the D.C. Court of Appeals.
3. Eliminate “The Master License Agreement” (MLA) as again, many crucial areas of the FCC Report and Order has been overturned and deemed “capricious and arbitrary” by the D.C. Court of Appeals.
4. Eliminate anything that has to do with the FCC Report and Order as it no longer holds weight in the decision making for the City on placement, modification, operations of WTF and sWTF. It actually never did, but the D.C. court case and final judgement makes definitive this motion.
5. Eliminate the “Conclusion” section regarding the FCC Report and Order placing limitations on the City and the MLA, which no longer holds true for reasons stated above.
6. Eliminate the “Project Analysis” section because it states eliminating discretionary authority and replacing it with ministerial authority by city staff and legal counsel only. This is not a legal process nor a fulfillment of required public due process, not to mention the same reasons as stated above.
7. Eliminate “Environmental Determination” because that is no longer true. The deployment of the FCC’s 800,000 plus sWTF has been deemed an environmentally significant federal undertaking requiring NEPA review.
8. Eliminate all areas which states that environmental effects are deemed insignificant and exempt from NEPA and CEQA regulations. That is no longer the case for reasons stated above.
9. Eliminate “Ministerial Permits” for reasons that it does not allow public due process and gives unbalanced decision-making power to the legal counsel and city manager.
10. Eliminate all statements allowing ministerial permits to be applied and approved for the processing any permit applications.

Thank you for your consideration.

Best Regards,

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