

City of Newark City Council Meeting

SMALL CELL URGENCY ORDINANCE & MASTER LICENSE AGREEMENT

January 10, 2019

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Outline

- FCC Order
- Proposed Urgency Ordinance
- Master License Agreement Template

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FCC Order: Declaratory Ruling

- **What is it?** FCC's interpretation of the 1996 Federal Telecommunications Act that limits state or local regulations
- **What does it do?** Provides guidance on fees local governments may charge and how they may regulate issues such as tower spacing, equipment design and other aesthetic concerns.

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FCC Order: Declaratory Ruling

- **October 15, 2017: Governor Jerry Brown Vetoes SB 649**
- **September 26, 2018: FCC Adopts Declaratory Ruling on Small Cell Deployments**
- **January 10, 2019: Proposed Urgency Ordinance & Template MLA**
- **January 14, 2019: Effective Date of FCC Ruling**

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FCC Order: Impacts

- The Order's interpretations are intended to restrict local aesthetic guidelines and other regulations and limit local control over small cells
- Wireless providers could challenge the City's policy or decision on a small cell applications as inconsistent with federal law based on the Order's interpretations
- Legal Action: Federal Appeals Court is hearing consolidated cases

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FCC Order: Regulations

- "Shot Clock" Rules:
 - Collocation of small wireless facilities: 60 days
 - Collocation of facilities other than small wireless facilities: 90 days.
 - Construction of new small wireless facilities: 90 days
 - Construction of new facilities other than small wireless facilities: 150 days.

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Proposed Urgency Ordinance

- Requires providers accessing non-City poles (e.g., PG&E utility poles) in Public Right-of-Way comply with:
 - City Design Guidelines & Standards
 - City Encroachment Permit Requirements
- Also requires providers enter into a valid MLA to access City-owned infrastructure in Public ROW (e.g., City poles)

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Proposed Master License Agreement

- Local Outreach Process for each Site License
- Protections for Municipal Infrastructure
- Design Guidelines & Installation Standards
- Exclusive Access
- Five-year initial term, with optional renewal periods thereafter

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Proposed Master License Agreement

- Pole License Fee: \$500/year/pole with 3% annual increase
- Accessory License Fee: \$1000/year/pole with 3% annual increase

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Recommendation

- Adopt the Urgency Ordinance relating to Small Cell Wireless Telecommunications Facilities to become effective immediately
- Adopt the Resolution Authorizing the City Manager to Execute the Master License Agreement for Small Cell Facilities

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