



AGENCY: City Council
MEETING DATE: April 22, 2019
DEPARTMENT: City Manager
PRESENTED BY: Tabatha Miller
EMAIL ADDRESS: tmiller@fortbragg.com

AGENDA ITEM SUMMARY

TITLE: Receive Report and Consider Introducing by Title Only and Waiving the First Reading of Ordinance No. 948-2019 Adding Chapter 12.10 (Wireless Telecommunications Facilities) to Title 12 (Public Improvements) of the Fort Bragg Municipal Code Relating to Aesthetic Guidelines for Deployment of Wireless Communications in the City of Fort Bragg

ISSUE:

On April 12, 2019 in a special meeting the City Council adopted Ordinance No. 947-2019, which provided for the adoption of Aesthetic Guidelines for the Deployment of Wireless Communications in the City of Fort Bragg. That Ordinance was adopted as an Urgency Ordinance in order to establish the mechanism to adopt the Guidelines through a Resolution at the same meeting, this was the second order of business for that meeting. To ensure that the City preserved its rights to have some control of the aesthetics of wireless communication deployment, guidelines had to be in place by April 15, 2019.

A recommended practice when adopting an Urgency Ordinance, is to introduce a standard Ordinance as a backup to the Urgency Ordinance, if it is challenged. Ordinance No. 948-2019 is a duplicate of Ordinance No. 947-2019, excepting the Declaration of Urgency.

ANALYSIS:

Under Government Code section 36937(b) an Urgency Ordinance will take effect immediately upon adoption by a four-fifth's (4/5) vote of the City Council. Council adopted the Ordinance with a 4-0 vote. The Urgency Ordinance allowed the City Council to adopt the Aesthetic Guidelines on or before April 15, 2019. Under the Federal Communications Commission (FCC) Declaratory Ruling and Third Report and Order 18-133, effective January 14, 2019, in order for a City to retain any control over the Aesthetics of Wireless Communications equipment the Guidelines had to be adopted by that deadline and be "(1) reasonable; (2) no more burdensome than those applied to other types of infrastructure deployments; and (3) objective and published in advance."

Although not as fully developed as desired, the Aesthetic Guidelines preserve the City's right to control Aesthetics of wireless communication deployments. This is particularly important in light of the transition to the next generation of wireless services – 5G. The FCC is very supportive of the new 5G services and FCC 18-133 is about removing barriers to deployment of the 5G network systems at the local level. Local control over Aesthetics was carved out in the ruling.

The Guidelines adopted by Resolution can be revised by amending the Resolution. This was important given the rushed nature of an Urgency Ordinance and the necessity to adopt the guidelines by April 15, 2019 per FCC Order 18-133. To ensure that the Guidelines would receive a proper review the Council in adopting those, specifically added language that requires the Guidelines be reviewed within a year of adoption and either revised or confirmed by Council or they will expire.

RECOMMENDED ACTION:

Introduce by Title Only and Waive the First Reading of Ordinance No. 948-2019 Adding Chapter

12.10 (Wireless Telecommunications Facilities) to Title 12 (Public Improvements) of the Fort Bragg Municipal Code Relating to Aesthetic Guidelines for Deployment of Wireless Communications in the City of Fort Bragg

ALTERNATIVE ACTION(S):

Do not introduce Ordinance No. 948-2019 and rely on the Urgency Ordinance No. 947-2019.

FISCAL IMPACT:

There will be a small additional charge to print a summary of Ordinance No. 948-2019 in a newspaper of general circulation printed in the County and circulated in the City.

CONSISTENCY:

N/A

IMPLEMENTATION/TIMEFRAMES:

If adopted the Ordinance will be effective 30 days after adoption or on June 12, 2019.

ATTACHMENTS:

1. Proposed Ordinance No. 948-2019

NOTIFICATION:

N/A