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## MEMORANDUM

September 11, 2018

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**To:** City Council via Planning Commission  
**From:** Community Development Department  
**Subject:** Wireless Communication Facilities in the Public Right-of-Way  
Amend Title 15A, Chapters 11 Special Uses, & 37, Definitions, Land Development Code, Revised Ordinances of Sandy City, 2008

CODE-08-18-5477

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**HEARING NOTICE:** *This item has been noticed on public websites, and in the newspaper at least 10 days prior to the Public Hearing.*

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### REQUEST

The Community Development Department has filed a request to amend Title 15A, Chapters 11, Special Uses & 37, Definitions, Land Development Code, Revised Ordinances of Sandy City, 2008. The purpose of the Code Amendment is to allow for the installation, operation, collocation, modification and removal of small wireless communication facilities in the public right-of-way in Sandy.

### BACKGROUND

In fall of 2015, City staff was approached by Mobilite to install wireless small communication facilities (SWFs) in the City's public right-of-way. Upon review of Sandy City Land Development Code, staff discovered that there were no provisions in the code to address this proposal. During the next few months, other wireless providers including: AT&T, Extenet, and Verizon approached the City with similar proposals. Staff approached the Mayor and City Council to receive direction on how to proceed. Staff was directed to draft an ordinance in order to allow these facilities. The Mayor and City Council added the caveat that staff should ensure this implementation was simple and permissive, while utilizing strong stealth design to minimize visual clutter in the public right-of-way. While staff was researching SWF implementation in other states and drafting an ordinance, the Utah State Legislature drafted and passed Senate Bill 189 (SB 189). Upon learning of the Legislature's ordinance, staff waited to draft a city ordinance to ensure

compliance with SB 189. Upon passage of SB 189, staff began to draft a new ordinance to reflect the state's mandates and ensure compliance with state law.

### **ANALYSIS**

A small cell wireless facility (SWF) is a low-powered cellular radio access node that operates in a range of approximately 300 feet. The equipment transmits a wireless signal to and from a defined area, but provides coverage to a significant smaller space. By distributing the antenna system, the facilities provide greater coverage for data transfer between the macro (large monopole) sites and the end user. In order to ensure the most efficient and direct signal, the antennas need be placed where high amounts of cellular traffic occurs. This typically occurs along major roadways and areas of high concentration of people (for example Rio Tinto Stadium). A number of entities provide this service.

The providers typically involve two types of companies: those that provide direct service (i.e. cellular company), or those that provide infrastructure who then rent this infrastructure to the service provider. The service seen by the end user is a higher, faster, more efficient data use on a cellular device. It is important to note that SWFs technology focuses more on data transfer and not on voice transfer between the end user the macro site. This technology could be enhanced for future implementation of higher speed data transfers such as the fifth generation of connectivity, or 5G. This technology is greatly preferred by the tech industry, and can be very beneficial to Sandy City as whole.

SWFs provide a number of benefits to Sandy City residents, they:

- Provide better cellular performance for the residents of Sandy City.
- Make efficient use of space for cellular coverage minimizing macro cellular sites throughout the City.
- Enhance wireless communication service for the residential and commercial neighborhoods.

However, in implementing small cell technology in Sandy City, staff was concerned with the following items:

- Cluttering the public right-of-way with SWFs by allowing large utility boxes and other infrastructure in the public right-of-way.
- Proliferate in residential neighborhoods throughout the City.
- Create non-aesthetically appealing poles and SWFs design that do not fit the character of neighborhoods.
- Could create traffic visibility hazards.

To address these issues, staff feels that the proposed code amendment will create sensible regulations that would allow for smart SWFs implementation in Sandy City. The following items are briefly discussed in order to mitigate any potential issues with the SWF implementation.

1. SB 189 mandates that local jurisdictions must allow the implementation of SWFs in the public right-of-way, but still allows local jurisdiction to exercise zoning, land use and planning authority regarding wireless support structures and utility poles. In order to

mitigate visual clutter, the proposed code amendment defines and regulates that SWFs must utilize a stealth design. Stealth design is defined to ensure implementation is integrated harmoniously with existing fixtures, as well as be consistent with nearby or architectural features. The ordinance further regulates:

- a. Per SB 189, poles can be 50 feet in height, with antennas extending no more than 10 feet above the utility pole. The proposed code amendment is encouraging the pole height to be no higher than 30 feet on minor arterials, and 20 feet on local streets.
  - b. Ensure any new poles constructed will match existing poles, including: height, color, materials, etc. No new wood poles for SWFs are permitted.
  - c. Preference for approval will be granted in utilizing infrastructure at street intersections including: street signs, traffic lights, light poles, etc.
  - d. No antenna will be allowed to extend in to the sidewalk or street intended for travel.
  - e. All pole-mounted equipment will be mounted close to the pole horizontally, with utility boxes to be installed underground were feasibly possible.
  - f. SWFs and antennas must be sized to avoid visual clutter in the right-of-way.
2. In order to obtain a permit, the applicant must first submit a Master SWFs Plan to be reviewed by the Development Review Team and Community Development Director. The Master SWFs Plan must include:
- a. A pre-submittal meeting with the Development Review Team.
  - b. A scaled site plan of all SWFs to be installed by the applicant and their locations as part of a master small cell plan.
  - c. Photo Simulations.
  - d. Letters of agreement for permission to locate SWFs on poles and other facilities.
  - e. After a master plan has been approved by the Community Development Director, the applicant may only submit 25 SWF permits at one time.
  - f. Any permit may be granted a technical necessity exception. A technical necessity exception is issued if an applicant cannot meet the standards of the SWFs. The technical necessity exception may be issued by the Community Development Director, if the applicant supplies further information to prove that the proposed antenna cannot meet components of the code. Any outside review will be paid for by the applicant.
3. Included in the ordinance are amendments to Chapter 37 regarding applicable definitions for the new code section.

### **NON-CONFORMING USES**

This Code Amendment would not create any non-conforming situations.

### **PLANNING COMMISSION PUBLIC HEARING**

This item was heard by the Planning Commission in a public hearing on September 6, 2018. Planning Commission forwarded a unanimous positive recommendation to the City Council.

## **LAND DEVELOPMENT CODE PURPOSE COMPLIANCE**

The Sandy City Land Development Code in 15A-01-03 lists the criteria explaining the intent and purpose of the Ordinance. The purpose is:

### **15A-01-03 Purpose**

This Code is adopted to implement Sandy City's General Plan and to promote: public health, safety, convenience, aesthetics, welfare; efficient use of land; sustainable land use and building practices; transportation options and accessibility; crime prevention; timely citizen involvement in land use decision making; and efficiency in development review and land use administration. Specifically, this Code is established to promote the following purposes:

#### **1. General**

- a. To facilitate the orderly growth and development of Sandy City.
- b. To facilitate adequate provision for transportation, water, sewage, schools, parks, and other public requirements.
- c. To stabilize property values.
- d. To enhance the economic well-being of Sandy City and its inhabitants.

#### **2. Implementation of General Plan**

To coordinate and ensure the implementation of the City's General Plan through effective execution of development review requirements, adequate facility and services review and other goals, policies, or programs contained in the General Plan.

#### **3. Comprehensive, Consistent and Equitable Regulations**

To establish a system of fair, comprehensive, consistent and equitable regulations, standards and procedures for review and approval of all proposed land development within the City.

#### **4. Efficiently and Effectively Managed Procedures**

- a. To promote fair procedures that are efficient and effective in terms of time and expense.
- b. To be effective and responsive in terms of the allocation of authority and delegation of powers and duties among ministerial, appointed, and elected officials.
- c. To foster a positive customer service attitude and to respect the rights of all applicants and affected citizens.

One of the stated purposes of the City's land use ordinances is to facilitate the orderly growth and development of Sandy City. Some of the general purposes of the City's Development Code are to implement Sandy City's General Plan, and to promote the following public policies: public health, safety, convenience, aesthetics, welfare; efficient use of land; sustainable land use and building practices; transportation options and accessibility; crime prevention; timely citizen involvement in land use decision making; and efficiency in development review and land use administration.

**GENERAL PLAN COMPLIANCE**


The General Plan encourages appropriate development standards for all uses and zoning categories within Sandy City. This code amendment would further that goal and objective.

**STAFF RECOMMENDATION**

The Planning Commission reviewed this request on September 6, 2018 and forwarded a positive recommendation to the City Council to adopt the proposed ordinance amendments as shown in Exhibit "A", attached, for the following reasons:

1. Compliance with the Purpose of the Land Development Code by facilitating the orderly growth and development of Sandy City.
2. Compliance with the Goals and Policies of the General Plan by establishing appropriate development standards for all uses and zoning categories within Sandy City.

Planner: 

Reviewed by: 

Wade Sanner  
Planner

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