



BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

AB 5903
July 20, 2021
Regular Business

AGENDA BILL INFORMATION

TITLE:	AB 5903: Development Code Amendment ZTR19-004 Small Cell / Wireless Facilities (Ord. No. 21C-12 Second Reading)	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed:
RECOMMENDED ACTION:	Adopt Ordinance No. 21C-12, amending Chapters 19.06, 19.15, and 19.16 to revise standards and communications facilities.	<input checked="" type="checkbox"/> Motion <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution

DEPARTMENT:	Community Planning and Development
STAFF:	Jeff Thomas, Interim Director Alison Van Gorp, Deputy Director Eileen Keiffer, Madrona Law Group
COUNCIL LIAISON:	n/a
EXHIBITS:	1. Ordinance No. 21C-12
CITY COUNCIL PRIORITY:	n/a

SUMMARY

The Planning Commission has recommended approving the proposed code amendment to repeal the existing interim wireless communications and small cell regulations contained in Mercer Island City Code (MICC) Chapter [19.06](#) and replace with permanent regulations, as well as to adopt related clean up amendments within MICC Chapters 19.15 and 19.16.

BACKGROUND

This code amendment was brought forward by City staff as a part of the annual docket submittal process in the fall of 2020, and the City Council later added it to the final docket. The proposed code amendment to [MICC 19.06](#) updates the code sections related to wireless communications and small cell regulations.

The City has had interim regulations in place since early 2019, and this update is intended to adopt permanent regulations that are consistent with recent changes to federal regulations and that are responsive to modern cellular technology and facilities. The proposed amendment repeals the existing interim regulations, and replaces them with updated permanent regulations including provisions to:

- Update language and definitions to comply with the latest regulatory developments;
- Add provisions allowing for amateur radio facilities (ham radio antennas);
- Clarify requirements for undergrounding of wires and equipment; and
- Add clarity and more objective standards to provisions related to regulating noise, design, and concealment of small wireless facilities.

City staff followed the procedures in MICC [19.15.230](#) and [19.15.260](#) related to the review of code amendment proposals that have been placed on the final docket by the City Council. On March 17, 2021, public notice was provided for the public hearing scheduled on April 21, 2021. Public notice was provided in

the newspaper and the weekly permit bulletin. A SEPA determination of non-significance was issued by staff on April 7, 2021. Staff memos (three in total) were prepared in advance of each Planning Commission meeting summarizing the proposal and providing a staff recommendation (see [AB 5889](#)).

On March 17, 2021, the Planning Commission reviewed the proposed code amendment during a public meeting. On April 21, 2021, the Planning Commission held a public hearing on the revised amendment. The Public hearing was continued to the May 19 meeting. Following the hearing on April 21, the Planning Commission requested further revisions to the proposed amendment. The Planning Commission held their final review of the proposed amendment on May 19, 2021. During this meeting, the Planning Commission completed and closed the public hearing, then deliberated on the draft code amendment, agreeing to several additional revisions. Finally, by a unanimous vote the Planning Commission recommended the City Council approve the proposed amendment as revised.

SECOND READING

The City Council conducted the first reading of Ordinance 21C-12 on June 15, 2021 (see [AB 5889](#)) and provided direction to staff on several revisions to the draft code amendment. The updated ordinance (Exhibit 1) incorporates these revisions, which are highlighted in yellow. The City Council also inquired about additional concealment standards for small wireless facilities in underground utility areas. In particular, there was interest in requiring concealment that makes the wireless facility/support structure look like a native conifer tree.

Concealment Standards & Options

Staff researched concealment standards for small wireless facilities and have not found examples of this type of application. “Monopine” style concealment is fairly common for the larger “macro” wireless facilities but does not appear to be in use for small cells. One example was found of small wireless facilities disguised as flora-- a Saguaro cactus style concealment—which obviously would not blend in with the current built and native environment on Mercer Island. It is believed the faux tree branches required for conifer style concealment may not be compatible with some small cell technologies, including 5G facilities, which operate at a higher frequency signal and are more easily blocked than previous types of antenna facilities.

Based on this research, it is not recommended to include this type of concealment standard in the revised code, at least at this time. Staff will continue to monitor developments in small cell concealment technology options and bring the matter back to City Council if and when technology and concealment standards change.

Amended Definition of “Underground Utility Areas”

Finally, staff have amended the definition of “Undergrounded Utility Areas” in MICC 19.16.010 and added clarification to MICC 19.06.070(E) that wireless facilities are prohibited on guy poles in or adjacent to Undergrounded Utility Areas. This prohibition on the use of guy poles may result in more above ground infrastructure in or near undergrounded utility areas. Given that the City cannot prohibit installation of wireless facilities in Undergrounded Utility Areas, if a wireless carrier needs to add an antenna in an undergrounded utility area, and they are prohibited from using any existing guy poles, they may need to install a new support structure in the area. The proposed code amendment includes requirements related to aesthetics of the pole and the concealment of the wireless antenna, cabling, etc.

RECOMMENDATION

Adopt Ordinance No. 21C-12, amending Chapters 19.06, 19.15, and 19.16 to revise standards and communications facilities and repealing the temporary regulations contained in Ordinance 21-08.