



# BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

AB 5929  
August 31, 2021  
Consent Agenda

## AGENDA BILL INFORMATION

<b>TITLE:</b>	AB 5929: Wireless Small Cell Code Amendment	<input type="checkbox"/> Discussion Only
<b>RECOMMENDED ACTION:</b>	Repeal Ordinance No. 21C-12 and Adopt Ordinance No. 21C-17	<input checked="" type="checkbox"/> Action Needed: <input type="checkbox"/> Motion <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution

<b>DEPARTMENT:</b>	Community Planning and Development
<b>STAFF:</b>	Jeff Thomas, Director Alison Van Gorp, Deputy Director
<b>COUNCIL LIAISON:</b>	n/a
<b>EXHIBITS:</b>	1. Ordinance No. 21C-17
<b>CITY COUNCIL PRIORITY:</b>	n/a

## SUMMARY

The City Council adopted Ordinance No. 21C-12 on July 20, 2021 related to permanent regulations for small cells and wireless facilities. After the City Council adopted this ordinance and as staff were preparing the code amendment for publication a text error was discovered in the meeting materials. A short section of text was inadvertently omitted from the ordinance presented to the City Council on July 20, 2021 (see [AB 5903](#)). This text was, however, included in the June 15 first reading document (see [AB 5889](#)). It is unclear how this error occurred.

Consequently, in consultation with the City Manager and City Attorney, Ordinance No. 21C-12 was not published and did not go into effect so that a new ordinance with the omitted text could be brought back to the City Council for review and approval.

### OMITTED TEXT

Ordinance No. 21C-12, approved on July 20, 2021, by the City Council omitted portions of subsections 11 and 12 from [MICC 19.06.075\(A\)](#). The omitted text is underlined and highlighted in blue below, as well as in the updated Ordinance No. 21C-17 (Exhibit 1):

11. Antennas, equipment enclosures and ancillary equipment, conduit, and cable shall match the color and visual character of the building or pole upon which they are attached to the extent feasible.
12. The City may consider the cumulative visual effects of small wireless facilities mounted on poles, together with existing utility equipment, within the rights-of-way when assessing proposed siting locations so as to not adversely affect the visual character of the City. This provision shall not be applied to limit the number of permits issued when no alternative sites are reasonably available nor to impose a technological requirement on the service provider.

Ordinance No. 21C-17 corrects the omitted text and is otherwise the same as the version reviewed by the City Council on July 20, 2021. No additional changes have been made.

#### **NEXT STEPS**

Staff are investigating the cause of the omission and whether it is linked to the conversation of “tracked changes” in Microsoft Word to the Municode online packet, some other technical glitch, or perhaps was just human error. Staff are also discussing process improvements to ensure this does not happen again, which may include using old-fashioned strike and delete instead of “track changes” in legal documents. Alternatively, staff may convert all legal documents to PDF before they are handed off to the City Clerk to ensure “tracked changes” carry over properly when uploaded to Municode. Either way, staff take this seriously, and we are working to prevent this type of error in the future.

#### **RECOMMENDATION**

Adopt Ordinance No. 21C-17, amending Chapters 19.06, 19.15, and 19.16 to revise standards and requirements for communications facilities, and repealing Ordinances 21-08 and 21C-12.