

Talking Points re Revised AGF Ordinance
(CF 09-2645; City Attorney Draft Dated December 8, 2015)

A. Background

1. In September 2012, acting on a 2009 motion by former Councilmember Bill Rosendahl, the City Council directed the City Attorney to revise the current Above Ground Facilities (AGF) Ordinance (LAMC §62.00, *et seq.* -- regulating cell towers and other structures, known as “AGFs,” located in the public right-of-way). Specifically, the Council called for ***elimination of the existing exemption for utility pole-mounted cell towers, expansion of notification requirements, enhancement of aesthetic criteria and proof of gap-in-coverage*** (Council File 09-2645). PPCC and many other community organizations (including all members of WRAC) strongly supported these directed revisions.

2. Following the Council’s directive and later directives from the Public Works and Gang Reduction (PWGR) and PLUM Committees (to eliminate the proof of gap-in-coverage requirement and to retain an exemption for utility pole-mounted “Small Cell” installations; see Secs. B.1 and C.1, below), the City Attorney submitted multiple drafts of a revised AGF Ordinance (in 2013, 2014 and most recently on December 8, 2015).

3. The December 8, 2015 draft (“2015 Draft”; http://clkrep.lacity.org/onlinedocs/2009/09-2645_misc_12-08-2015.pdf) reflects input from City agencies such as LADWP, Planning, Cultural Affairs and the Bureau of Engineering (BOE) and includes further revisions by the City Attorney in light of recent changes in federal and state law. The PWGR and PLUM Committees are expected to consider the 2015 Draft in a possible joint session in early 2016.

B. Key Provisions of the 2015 Draft

1. ***The exemption for utility pole-mounted antennas is eliminated in certain circumstances:*** Antennas larger than “Small Cell” (see below) are not exempt (*i.e.*, the exemption is eliminated) in all areas other than commercial (C) and manufacturing (M) zones, and in C and M zones in two circumstances: (1) if the pole is located in a defined “below grade” area (*e.g.*, Specific Plan, Historic Preservation, Scenic Highway) or (2) if the adjoining lot “has residential use.” The utility poles themselves (apart from antennas) and all Small Cell antennas are also exempt, wherever located. (See Small Cell definition discussed in Sec. C.1, below; other exemptions are listed in Sec. C.5, below.)

2. ***Notice is expanded for cell towers in the public right-of-way*** (including freestanding “monopole” cell towers and non-exempt utility pole-mounted large antennas, *i.e.*, those where the exemption is eliminated, as noted above): The AGF applicant must mail notice of the application to any *owners and residents of lots within a 250 ft. radius* from the proposed AGF location; and to Neighborhood Councils (but not Community Councils), the City Council office and homeowners’ and/or residents’ associations within the boundaries of the proposed AGF location. Note: the AGF applicant must provide proof of mailing (via postal service receipts, mailing service certification or “certification from the Applicant”); the existing registered mail requirement is eliminated (also eliminated in prior draft iterations); and more limited (existing) notice requirements remain for smaller, non-cell tower AGFs (*e.g.*, cabinets).

3. ***Aesthetic criteria are enhanced, to a degree:*** Specifically, most AGFs (including freestanding “monopole” cell towers) located in residential and below grade areas are subject to

a new “Least Intrusive Means Test” (“the least amount of physical or aesthetic intrusion into the Public Right-of-Way, taking into account the physical characteristics of the AGF, including but not limited to, size, shape, height, volume, color, noise, camouflaging and screening”) – *except that* non-exempt utility pole-mounted large antennas are subject to a different (new) discretionary requirement: the AGF applicant may be required to paint the antennas to match the pole in order to “conceal or minimize visual impact.” Note: utility-pole mounted antennas are also subject to state law, *e.g.*, Public Utilities Code requirements regarding pole attachments.

C. Other Provisions of Note

1. A “Small Cell” (exempt under the 2015 Draft and per the PWGR and PLUM Committees’ directive) is defined as an antenna or “group of antennas” mounted on a utility pole with a “total cumulative volume” of not more than 3.0 cubic feet, excluding cable and conduit. Additionally, a Small Cell must extend no more than 6 inches from the pole unless additional “stand-off” is required to comply with applicable health or safety regulations; and may not be installed more than 6 feet above the highest transmission lines on a utility pole. Note: a prior 2014 draft specified a total volume of “less than 2.0 cubic feet” for a single antenna, *i.e.*, not “cumulative” volume for a “group of antennas.”
2. Non-exempt utility pole-mounted large antennas are not subject to prior Cultural Affairs Commission design approval (required for all other AGFs), nor to height limits (since the poles themselves are exempt) – but are subject to other applicable provisions.
3. Pre-determination field investigations of AGF locations will now be at the discretion of BOE. Note: Existing provisions (also in prior draft iterations) for some mandatory field investigations (in certain specified instances) have been eliminated.
4. Certification that the facility will comply with applicable FCC requirements (also directed by the City Council in 2012) remains a requirement in the 2015 Draft (as in prior iterations).
5. Persons or organizations that received initial notice of the AGF application (other than Neighborhood Councils and the Council office) may appeal the BOE’s determination. Any appeal must be “*received by*” BOE within 14 calendar days from the date of notification of the determination (notification to be given by the AGF applicant within 3 calendar days to all those who received initial notice of the application). Note: the existing language (also in prior draft iterations; now eliminated) is for appeals to be “*submitted to*” as opposed to “*received by*” BOE within 14 calendar days.
6. In addition to Small Cells, exempt facilities include (among other specified structures): street light poles, fire hydrants, traffic and pedestrian control fixtures, utility poles (other than non-exempt antennas mounted on the poles), utility pole-mounted antennas in C and M zones (except as described in Sec. B.1 above), electrical power meters associated with Small Cell or exempt utility pole-mounted facilities (new), and “vent stacks” related to underground vaults.
7. The 2015 Draft contains numerous revisions with varying degrees of significance. Those interested should review the Council File and the 2015 Draft (link in Sec. A.3, above) and should not rely solely on these Talking Points for information.

*Christina Spitz, President
Pacific Palisades Community Council
ppfriends3@hotmail.com
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