

Attachment E

March 5, 2026, Planning Commission Staff Report (With Correspondence)



CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

March 5, 2026
Agenda Item No. 4

SUBJECT: Wireless Service Facilities Code Amendments (PA2021-103)
▪ Zoning Code Amendment
▪ Local Coastal Program Amendment

SITE LOCATION: Citywide

APPLICANT: City of Newport Beach

PREPARERS: Benjamin M. Zdeba, AICP, Acting Deputy CDD Director
949-644-3253, bzdeba@newportbeachca.gov

Jose Montoya, Deputy City Attorney
949-644-3133, jmontoya@newportbeachca.gov

PROJECT SUMMARY

Consistent with the City Council's initiation on May 25, 2021, and the more recent guidance provided at the City Council Study Session on January 13, 2026, the proposed amendments to Title 13 (Streets, Sidewalks and Public Property), Title 20 (Planning and Zoning), and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code serve to simplify and modernize some of the City of Newport Beach's (City) regulations related to the permitting, installation, modification, operation, and maintenance of wireless service facilities on both private and public property, including within the public right-of-way. Although Title 13 does not fall within the purview of the Planning Commission, it is included for reference.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find this action is not a project subject to the California Environmental Quality Act (CEQA) in accordance with Section 20165 of the California Public Resources Code and Sections 15060(c)(2), 15060(c)(3), and 15378 of the California Code of Regulations, Title 14, Division 6, Chapter 3 (CEQA Guidelines). Further find this action is also exempt pursuant to CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment;
- 3) Adopt Resolution No. PC2026-006 (Attachment No. PC 1) recommending the City Council approve the Zoning Code Amendment modifying regulations pertaining to wireless service facilities on private and public property; and

INTENTIONALLY BLANK PAGE

- 4) Adopt Resolution No. PC2026-007 (Attachment No. PC 2) recommending the City Council authorize staff to submit the Local Coastal Program Amendment to the California Coastal Commission.

INTRODUCTION

The City's regulations for wireless telecommunications facilities (i.e., "wireless service facilities") were last comprehensively updated in 2014 and are codified in Chapter 20.49 (Wireless Telecommunications Facilities) of the Newport Beach Municipal Code (NBMC). Chapter 21.49 (Wireless Telecommunications Facilities) was subsequently incorporated into the NBMC to regulate such facilities in the Coastal Zone upon the California Coastal Commission's certification of the City's Local Coastal Program Implementation Plan.

On September 26, 2018, the Federal Communications Commission (FCC) issued the Declaratory Ruling and Third Report (Declaratory Ruling), adopting 47 C.F.R. Sections 1.6001–1.6004 and substantially revising local jurisdictions' authority to regulate the deployment of small wireless facilities (i.e., "small cell"). Under the police power of Article XI, Section 7 of the California Constitution, as confirmed by *T-Mobile West LLC v. City and County of San Francisco* (2019), local jurisdictions retain authority to regulate wireless service facilities in the public right-of-way to the extent such regulations are not inconsistent with general laws. In light of these federal changes, it was determined to be in the best interest of the City and the public to evaluate and, if necessary, update the NBMC to ensure continued consistency with state and federal law.

Accordingly, on May 25, 2021, the City Council adopted Resolution No. 2021-42 initiating updates to Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the NBMC related to wireless service facilities in the public right-of-way. Upon the City Council's initiation, staff evaluated the City's adopted regulations and monitored ongoing developments in state and federal law, ultimately determining that the City's framework was functioning appropriately.

At the same time, the telecommunications and wireless landscape has evolved significantly since the City's last comprehensive update in 2014. Demand has shifted decisively from traditional voice service to data-driven connectivity, with users now expecting high-bandwidth, seamless, and low-latency performance to support streaming, remote work, and real-time communication. The widespread decline of landlines and increased reliance on cellular networks have placed greater pressure on wireless infrastructure, while the proliferation of tablets, connected vehicles, and other smart devices has expanded both the number and diversity of devices competing for network capacity. As technology continues to advance at a rapid pace, these trends underscore the importance of maintaining regulatory and permitting processes that are

clear, adaptable, and forward-looking, while preserving the City's ability to exercise thoughtful local oversight.

On January 13, 2026, the City Council conducted a study session regarding wireless facilities. At that meeting, staff presented a three-pronged approach to enhancing connectivity within the community. At the conclusion of the session, the City Council expressed support for targeted updates to the NBMC and the Council Policy Manual to ensure the City's regulations remain responsive to evolving technology, community expectations, and legal requirements.

DISCUSSION

Identifying an Approach for the Update

As part of the review of existing code provisions, City staff evaluated several coastal jurisdictions in Orange County and Los Angeles County while soliciting input from wireless operators or "carriers" on best practices. In the end, City staff opted to use the City of Santa Monica's approach to regulating wireless service facilities in the public right-of-way. In Santa Monica and common with many other jurisdictions, the Public Works Department is the primary review and approval authority for wireless service facilities in the public right-of-way. A key component is the authorization for the Public Works Director to publish and maintain permit processing guidelines with design standards and details. City staff believes this is the best approach, as it removes details from the code that are unnecessary to codify and allows for more agile updates that may be needed as technology and needs evolve.

Proposed Code Amendments

Chapter 20.49 (Wireless Telecommunications Facilities) of the NBMC is primarily being updated to remove the process and detailed regulations for Class 3 (Public Right-of-Way) Installations, as defined by Section 20.49.030(G), moving them to the new Chapter 13.22 (Personal Wireless Service Facilities in the Public Right-of-Way). This new chapter is included for reference only in draft form as Attachment No. PC 3. Chapter 20.49 is also being updated to modernize definitions and certain provisions consistent with applicable state and federal laws. Additional notable updates to Chapter 20.49 include:

- Clarification that Class 1 (Stealth) Installations, as defined by 20.49.030(G), are authorized through an administrative clearance and not subject to appeal;
- Clarification that the maximum height for wireless service facilities is the increased maximum height for flat structures, as identified in Section 20.30.060(C)(2) (Increase in Height Limit – Height Limit Areas) of the NBMC; and
- An allowance for temporary installations that coincide with a construction project that affects a permanent installation.

The proposed updates to Chapter 20.49 (Wireless Telecommunications Facilities) of the NBMC mostly refresh the language for consistency with the revisions to Title 20 (Planning and Zoning). To help with the Planning Commission's review, Attachment Nos. PC 4 and PC 5 are redline-strikeout versions of each affected chapter.

Community Correspondence Received

On January 16, 2026, the efforts to revamp the City's regulations regarding wireless service facilities were shared in the City Manager's newsletter *From City Hall to You*. Since that publication, City staff has received one piece of correspondence from a community member supporting the City's efforts. This has been included for review as Attachment No. PC 6.

Summary and Alternatives

Staff believes the proposed collective changes to Titles 20 (Planning and Zoning) and 21 (Local Coastal Program Implementation Plan) of the NBMC serve to modernize aspects of the City's requirements for the deployment of wireless service facilities in a manner consistent with general law while especially streamlining such deployments in the public right-of-way.

Should the Planning Commission identify any deficiencies or areas for improvement, the Planning Commission may recommend revisions to the draft ordinance.

Environmental Review

This action is not a project subject to the California Environmental Quality Act (CEQA) in accordance with Section 20165 of the California Public Resources Code and Sections 15060(c)(2), 15060(c)(3), and 15378 of the California Code of Regulations, Title 14, Division 6, Chapter 3 (CEQA Guidelines). Further find this action is also exempt pursuant to CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment.

Public Notice

Pursuant to Section 13515 of the California Code of Regulations, a review draft of the proposed amendment to Title 21 (Local Coastal Program Implementation Plan) of the NBMC was made available and a Notice of Availability was distributed on February 26, 2026, to all persons and agencies on the Notice of Availability mailing list.

In addition, notice of this hearing was published in the Daily Pilot in a one-eighth-page format at least 10 days before the scheduled meeting, consistent with the provisions of the NBMC. The item also appeared on the agenda for this meeting, which was posted at City Hall and on the city website.

Prepared and Submitted by:



Benjamin M. Zdeba, AICP
Acting Deputy Community
Development Director

ATTACHMENTS

- ~~PC 1 Resolution No. PC2026-006~~
- ~~PC 2 Resolution No. PC2026-007~~
- ~~PC 3 Draft NBMC Chapter 13.22~~
- ~~PC 4 Redline-Strikeout Chapter 20.49~~
- ~~PC 5 Redline-Strikeout Chapter 21.49~~
- ~~PC 6 Community Correspondence Received~~

01/18/23

From: Stephen Scully <stephenscully.mail@gmail.com>
Sent: January 20, 2026 10:09 AM
To: Zdeba, Benjamin
Subject: Community Input – Need for Improved Cellular Coverage in Newport Beach

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe. Report phish using the Phish Alert Button above.

Dear Mr. Zdeba,

Thank you for the City’s outreach regarding wireless infrastructure and for the opportunity to provide community feedback.

I am writing to express my strong support for meaningful improvements to cellular coverage in Newport Beach. I have been a homeowner in Cameo Shores for more than 14 years, and unfortunately our neighborhood continues to experience extremely poor and in many locations unusable cell phone service.

The lack of reliable coverage is not simply an inconvenience. It creates daily communication challenges and, more importantly, real public safety concerns. Dropped calls, inability to connect in emergencies, and inconsistent data access are routine problems for residents. In today’s environment, dependable cellular service is an essential utility, no different than power, water, or internet access.

Beyond my own experience, I have spoken with multiple public safety officers and officials who have confirmed that there are a number of significant gaps in cellular coverage throughout Newport Beach. In certain areas, our emergency services personnel cannot reliably communicate using standard cellular networks. This lack of dependable connectivity directly impacts response capabilities and, in my view, is a serious disservice to our community particularly given the expectations and needs of a modern coastal city like ours.

While most of Newport Beach and the surrounding communities enjoy modern and reliable connectivity, several areas particularly along the coast and in Cameo Shores remain substantial coverage gaps. These deficiencies affect residents, visitors, first responders, and local businesses alike.

I strongly encourage the City to move forward with practical and timely solutions that will allow AT&T, Verizon, and other carriers to close these gaps as quickly as possible. Thoughtfully placed wireless facilities are necessary to provide the level of service that our community needs and deserves.

I appreciate the City's willingness to address this important issue and respectfully ask that improving cellular reliability be treated as a high priority.

Thank you for your time and consideration.

Respectfully,

--

Stephen Scully

stephenscully.mail@gmail.com

March 5, 2026, Planning Commission Item 4 Comments

These comments on a Newport Beach Planning Commission [agenda](#) item are submitted by:

Jim Mosher (jimmosher@yahoo.com), 2210 Private Road, Newport Beach 92660 (949-548-6229).

Item No. 4. WIRELESS SERVICE FACILITIES CODE AMENDMENTS (PA2021-103)

The report suggests staff has been aware of new constraints on the ability of cities to regulate the processing of telecom applications since at least 2018, and has been directed to actively consider their impact on our existing regulations since 2021.

Given that, and given that our city is one that values local control, it is curious the staff report does not explain what the salient federal and state constraints on our regulatory authority are, nor provide decision makers with any clear delineation as to which of the proposed revisions are believed to be required to maintain consistency federal and state law, and which choices are at our discretion.

The most prominent change, which I suspect is entirely discretionary, is to move the regulation of telecom sites in the public right of way from Titles 20 and 21 of our Municipal Code, where the revisions remain under the oversight of the Planning Commission, to Title 13, where they are not. That is not inherently a bad thing, but my concern is that in making that move, all public input to the permitting process for such applications appears to have been removed. I would guess residents and business owners know their neighborhoods at least as well as City staff, and ignoring any input they might be able to provide is unwise.

Of the part that would remain under the Commission's purview, there is a lot to process, and I have reviewed only parts of it. From what I have looked at, it does not yet appear to me to be a finished product ready for advancement to the Council.

As somewhat random examples:

1. I don't think this is a new problem, but on handwritten page 21, revised Subsection 20.49.040.B, defining "prohibited locations," bars installations on properties zoned for one- and two-unit residential structures, and for multi-unit structures with a maximum of four units. Reviewing the Title 20 definitions, this appears to leave a hole for properties zoned for 3-unit structures (triplexes). I have no idea why installations on those would be allowed, while on the others they would be prohibited (but then, I'm not sure I understand the rationale for any of this).
2. On the following page, proposed Table 4-1 has been revised Class 1 applications, currently processed through a Zoning Clearance (ZC), to now be permitted through an "Administrative Clearance" (AC). ZC's, and the process for granting them, are currently defined in Title 20. I can find no explanation of what an "AC" is, or how they are processed.
3. Particularly confusing is proposed Section 20.40.100 ("Decisions") starting on handwritten page 29:
 - a. Subsection A.1 "General Notice Required for the Application" says "*Public notice as provided in Chapter 20.62 (Public Hearings) will be required for any minor use permit.*" Does this mean notice will be required **only** for minor use permits? How

about for a conditional use permit? Or a limited term permit? Or the mysterious new “Administrative Clearance”?

- b. Next, Subsection A.4 (General Findings for Approval) sets out findings that appear to apply to Limited Term Permits. Yet four pages later, on handwritten page 33, we encounter a separate proposed Section 20.49.120 (“Temporary Personal Wireless Service Facilities”) with what looks like a completely different set of findings. Which prevails?
 - c. Continuing with Section 20.40.100, on handwritten page 30, after reading a series of subsections governing actions by “the approval authority” or “the review authority” (I have no idea why it oscillates between the two), in Subsection D (“Limited Exception for Personal Wireless Service Facilities”) we find rules applicable only to “the Director.” Is this meant to imply the Director can grant exceptions, but other authorities, such as the Zoning Administrator, the Planning Commission or the Council (on appeal) cannot?
 - d. And then, most curiously, on handwritten page 31, in Subsection E (“Appeals”) we learn “*Any person or entity may appeal a decision by the Director in accordance with the standards and procedures set forth in Chapter 20.64 (Appeals).*” Is this meant to imply *only* decisions made by the Director can be appealed? Decisions by the other possible review authorities (Zoning Administrator or Planning Commission) cannot be appealed?
4. Section 20.49.120 (“Temporary Personal Wireless Service Facilities”) ends, on handwritten page 35, with an equally curious Subsection “D. The Zoning Administrator’s decision pursuant to subsection (A) of this section shall be final and not subject to further administrative appeal.” Yet, the Subsection (A) this has to do with “Non-Emergencies,” while Subsection (B) deals with “Emergencies.” Why would emergency permits be appealable, but non-emergency ones not? That seems backwards.
 5. Skipping ahead to the Title 21 revisions, and again I am not sure this is a new problem, but on handwritten page 48, I see a subsection 8 that exempts from the requirement for a coastal development permit, any installation by or in which the City has an interest. This seems strange to me since I am not aware of anything in the Coastal Act that provides a blanket exemption to structures erected by a local government. The City could install a massive transmission tower in the middle of the harbor, or ocean, or on a public beach with no Coastal Act review?

I have not had time to review most of the rest, but I suspect I would find similar anomalies.