

## March 5, 2026, Planning Commission Item 4 Comments

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