

City of Elk Grove » Government » Departments & Divisions » Current Planning » Current Planning Projects » Small Cell Telecommunication Facilities

Small Cell Telecommunication Facilities

This webpage provides a summary of information that may be useful to persons interested in this topic. The information on this webpage may be updated from time to time. Please note that given the complexity of this topic this webpage is intended to provide only general information about the technology and information specific to the City's permitting and regulatory policies and procedures. The City encourages readers of this webpage to conduct their own independent research for additional information.

Jump to a section:

- **[Small Cell Technology \(#smallcelltechnology\)](#)**
- **[Federal Requirements \(#newfedrequirements\)](#)**
- **[Local Policies and Regulations \(#localpoliciesandregulations\)](#)**
- **[Installation of Small Cell Equipment on City Owned Facilities \(#InstallationofSmallCellEquipmentonCityOwnedFacilities\)](#)**
- **[Permit Requirements \(#PermitRequirements\)](#)**
- **[State and National Legislation Regarding This Issue \(#statenationallegislation\)](#)**

Small Cell Technology

Historically, cellular telecommunications have utilized large antenna structures (cell sites). These cell sites are often located on existing telecommunications infrastructure, major powerlines, or on monopoles designed to blend into the surrounding environment, such as trees and flag poles. These cell sites have operated on older cellular technology (e.g., 2G, 3G) as well as the current 4G/LTE system that many cell phones use today.



The cellular telecommunications industry is beginning to deploy new forms of technology in a "small cell" format. These new systems are much smaller than traditional cell sites and may be installed on light poles, traffic signals, or small power/telephone poles. These small cells can operate with either the current 4G/LTE technology, or the newer 5G technology.





Proposed 4G antennas and equipment

Proposed 5G antennas and equipment

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Back to Top_(#mainContent).

Federal law provides extensive regulation on the local implementation of cellular telecommunication facilities. Much of this direction comes from laws enacted by Congress and implemented by the FCC. While the City retains some discretion over aesthetic placement of cellular telecommunications facilities, under federal law, the City may not "regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions." (47 U.S.C. § 332(c)(7)(B).) As recently announced by the Federal Ninth Circuit Court of Appeals (which is the federal appeals court covering California) by "the Telecommunications Act, Congress preempted all municipal regulation of radiofrequency emissions to the extent that such facilities comply with federal emissions standards." (*City of Portland v. United States FCC*, 2020 WL 4669906 (9th Cir., Aug. 12, 2020); see also "Lawsuits Filed Against the Federal Communication Commission (FCC)," below.)

2/10

In September 2018, the FCC issued a detailed order on small cell deployment regulation intended to streamline the roll-out of 5G services nationwide. This impacts the scope of local and state regulation in California and other states. This order is referred to as the **5G deployment order** (<https://docs.fcc.gov/public/attachments/FCC-18-133A1.pdf>). The FCC order became effective January 14, 2019. The FCC order was the subject of recent federal lawsuits, which have now been decided, with most of the FCC order being upheld. (See Lawsuits Filed Against the Federal Communication Commission (FCC)).

[Back to Top \(#mainContent\)](#).

Local Policies and Regulations

The City Council held a community workshop on November 28, 2018 to discuss small cell technology, FCC rules, health impacts and local authority to regulate small cell facilities. **[View a recording of the meeting.](https://elkgrove.granicus.com/MediaPlayer.php?view_id=14&clip_id=1622)** (https://elkgrove.granicus.com/MediaPlayer.php?view_id=14&clip_id=1622).

On September 11, 2019, the City Council adopted an **ordinance amending Chapter 23** (http://www.elkgrovecity.org/UserFiles/Servers/Server_109585/File/City%20Government/City%20Council/Ordinance%2011-19%208.5%2019-2019.pdf) of the Elk Grove Municipal Code (Zoning Code) to facilitate the deployment of Small Cell Telecommunications Facilities throughout the City. This ordinance is in compliance with the noted FCC order. The amendments have since been incorporated into Chapters 23.26, 23.27, and 23.94 of the Elk Grove Municipal Code. Amongst other changes, the amendments to the Zoning Code created two new land use categories, "Wireless Communications Facilities", and "Wireless Communication Facilities, Small Cell." Additionally, the Zoning Code Amendments modified Table 23.27 of the Zoning Code (Allowed Uses) to allow small cell facilities in industrial zoning districts by right; in agricultural-residential, residential, and public/quasi-public districts with the issuance of a Minor Conditional Use Permit (MUP); and in commercial, mixed-use, and office districts with an administrative permit when consistent with a City Council Approved Master Licensing Agreement (MLA). Small cell facilities located within a school site would require either an MUP or a CUP, depending on the underlying zoning district.

In addition, the code amendments placed the following restrictions on small cell facilities located in residential zoning districts:

- a. No small cell wireless communication facility shall be placed within five hundred (500' 0") feet of another small cell wireless communications facility.
- b. No small cell wireless communication facility shall be located immediately adjacent to, nor immediately across the street from, a front yard of any residential dwelling.
- c. The cumulative total of all associated equipment from all wireless communications providers, including antennas, for a single facility or property shall not exceed twenty-eight cubic feet (28 feet 3) in volume.

Though the Zoning Code has been amended to facilitate the deployment of small cell antennas throughout the City, the City's discretion remains limited by federal law. For instance, under federal law, the City may not regulate telecommunications facilities in a manner that materially inhibits personal wireless service. Additionally, under federal law, the City may not regulate the placement, construction, or modification of telecommunications facilities on basis of the environmental (health) effects of radio frequency emissions of the facilities, but such facilities must comply with

Federal Communications Commission (FCC) emissions standards.

Information about the safety of radiofrequency (RF) and microwave emissions from transmitters and facilities regulated by the FCC (<https://www.fcc.gov/engineering-technology/electromagnetic-compatibility-division/radio-frequency-safety/faq/rf-safety>).

[Back to Top \(#mainContent\)](#)

Installation of Small Cell Equipment on City Owned Facilities

The City of Elk Grove, under approval by the Elk Grove City Council, has entered into separate Master License Agreements (MLA) with both **New Cingular Wireless PCS (AT&T)** (https://www.elkgrovecity.org/UserFiles/Servers/Server_109585/File/City%20Government/City%20Clerk/Reso28-19_9.3_2019-187.pdf) and **Verizon Wireless** (https://www.elkgrovecity.org/UserFiles/Servers/Server_109585/File/City%20Government/City%20Clerk/Reso11-19_9.1_2019-276.pdf). The MLAs provide for the installation of Small Cell Wireless Communication Facilities on certain Municipal Facilities located in the City's right-of-way. Currently, some City owned streetlights are the only municipal facilities approved for small cell device installation. Locations/streetlights identified in the MLA are approved small cell sites, but the Licensees must first obtain specific permits from the City's Department of Public Works prior to installation. Locations/streetlights not identified in the MLA at the time of City Council approval must be added in the manner defined in the MLA and all added locations must conform to the Chapter 23 of the City's Municipal Code.

Small Cell Communications Neighborhood Meeting



[View PowerPoint Presentation](#)

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Way-Small-Cell-Presentation.pdf)**Approved Small Cell Sites - Interactive Map and Locations List****View the Interactive Map of Approved Small Cell Locations****(<https://elkmap.maps.arcgis.com/apps/instant/minimalist/index.html?appid=56f94c698e2348a08f127305eee191b7>)**

City Street Light #	Licensee	On Street	Nearest Cross Street	Location	Nearest Address
SL027717	ATT	Elk Grove Bld	Auto Center Dr	289' W/O Auto Center Dr	8460 Elk Grove Bld
SL028918	ATT	Laguna Blvd	Franklin Blvd	202' E/O Franklin Blvd	5001 Laguna Blvd
SL030041	ATT	Big Horn Bld	Vicino Dr	163' W/O Vicino Dr	6616 Fairleigh Ct
SL031713	ATT	Laguna Grove Dr	W Stockton Blvd	658' W/O W Stockton Bld	9640 W Stockton Bld
SL033345	ATT	Lewis Stein Rd	Sheldon Rd	407' S/O Sheldon Rd	8106 Sheldon Rd
SL26051P	ATT	Whitelock Pkwy	Bellaterra Dr	298' W/O Bellaterra Dr	9983 Ferragamo Way
SL28051D	ATT	Whitelock Pkwy	Bruceville Rd	227' W/O Bruceville Rd	10058 Bruceville Rd
SL352221	ATT	Power Inn Rd	Mcphetridge Dr	315' E/O Mcphetridge Dr	8521 Modena Way
SL8000824	ATT	Sheldon Rd	Elk Grove Florin Rd	258' W/O Elk Grove Florin Rd	8841 Sheldon Rd
SL8001847	ATT	Lotz Pkwy	Wolfpack Ln	163' W/O Wolfpack Ln	9789 Allen Ranch Way
SL8001958	ATT	Bruceville Rd	Quail Run Ln	379' N/O Quail Run Ln	10075 Rojelio Ct
SL8002179	ATT	Big Horn Bld	Whitelock Pkwy	671' S/O Whitelock Pkwy	10051 Big Horn Bld
SL8002244	ATT	Laguna	Auto Passage Dr	413' E/O Auto Passage	8586 Laguna Grove

		Grove Dr		Dr	Dr
SL8002574	ATT	Franklin Blvd	Elk Grove Blvd	439' S/O Elk Grove Blvd	4810 Elk Grove Blvd
SL020748	VERIZON	Franklin Blvd	Big Horn Blvd	309' N/O Big Horn Blvd	5101 Beechurst Ct
SL021619	VERIZON	Franklin Blvd	Lake Pleasant Dr	65' N/O Lake Pleasant Dr	5121 Lake Pleasant Dr
SL021623	VERIZON	Franklin Blvd	Sims Rd	385' N/O Sims Rd	5101 Thoroe Ct
SL021641	VERIZON	Big Horn Blvd	Frye Creek Dr	259' W/O Frye Creek Dr	5308 Applehurst Way
SL021645	VERIZON	Big Horn Blvd	Frye Creek Dr	260' W/O Frye Creek Dr	8916 Gemwood Way
SL024028	VERIZON	W Stockton Blvd	Laguna Blvd	530' N/O Laguna Blvd	9158 W Stockton Blvd
SL024794	VERIZON	Big Horn Blvd	Longleaf Dr	136' W/O Longleaf Dr	8462 Crystal Walk Cir
SL024844	VERIZON	Big Horn Blvd	Descendant Dr	351' E/O Descendant Dr	9033 Bungalow Way
SL024899	VERIZON	Laguna Blvd	Big Horn Blvd	617' E/O Big Horn Blvd	8245 Laguna Blvd
SL025037	VERIZON	E Stockton Blvd	Survey Rd	811' S/O Survey Rd	10573 E Stockton Blvd
SL025329	VERIZON	Big Horn Blvd	Meadowspring Dr	288' E/O Meadowspring Dr	6031 Ivy Spring Ct
SL025446	VERIZON	Big Horn Blvd	Meadowspring Dr	193' W/O Meadowspring Dr	6301 Alpinespring Way
SL030868	VERIZON	Big Horn Blvd	Anchor Bay Way	80' E/O Anchor Bay Way	5827 Anchor Bay Way
SL033005	VERIZON	Big Horn Blvd	Vicino Dr	266' E/O Vicino Dr	9008 Fernway Ct
SL036521	VERIZON	Franklin High Rd	Whitelock Pkwy	335' S/O Whitelock Pkwy	10073 Mosaic Way
SL27081R	VERIZON	Bruceville Rd	Ackley Dr	136' S/O Ackley Dr	7304 Danberg Way
SL28211F	VERIZON	Center Pkwy	Bruceville Rd	310' W/O Bruceville Rd	8760 Center Pkwy

SL8000085	VERIZON	Hopewell Dr	Big Horn Blvd	91' W/O Big Horn Blvd	9921 Winkle Cir
SL8000830	VERIZON	Bruceville Rd	Big Horn Blvd	178' S/O Big Horn Blvd	9015 Bruceville Rd
SL8001425	VERIZON	Promenade Pkwy	Lent Ranch Pkwy	263' NW/O Lent Ranch Pkwy	10405 Promenade Pkwy
SL8001973	VERIZON	Wymark Dr	Civic Center Dr	263' N/O Civic Center Dr	8151 Civic Center Dr
SL8002050	VERIZON	Bruceville Rd	Elk Grove Blvd	553' S/O Elk Grove Blvd	7460 Elk Grove Blvd
SL8003187	VERIZON	Whitelock Pkwy	Wolfpack Ln	446' E/O Wolfpack Ln	10024 Avocado Way

[Back to Top \(#mainContent\)](#)

Permit Requirements

Prior to the installation of small cell devices on City owned facilities, Licensees must obtain an Individual Site Permit for Small Cell Wireless Communication Facility (ISP). The ISP allows City staff to confirm the applicant has a valid Master License Agreement (MLA) and that the proposed locations and equipment conform to the MLA. The ISP is not an opportunity for City staff to deny locations that were previously approved in the MLA or otherwise modify approved small cell equipment. Locations/streetlights not identified in the MLA at the time of City Council approval must be added in the manner defined in the MLA, and all added locations must conform to Chapter 23 of the City's Municipal Code (Zoning Code). Such locations that are not identified in any initial MLA approval and located in agricultural-residential, residential, and public/quasi-public zoning districts must obtain a Minor Conditional Use Permit (MUP) prior to the issuance of an ISP. The approval of an MUP requires public noticing and a public hearing conducted by the City's Zoning Administrator. The **[ISP Flowchart \(/UserFiles/Servers/Server_109585/File/Departments/Public Works/ISP Flowchart.pdf\)](#)** shows how City staff processes an ISP application.

Once an ISP is issued, the Licensee must then apply for an encroachment permit to perform the physical work within the City's right-of-way. The encroachment permit provides for the review of traffic control plans, electrical connections, and all other activities performed in the City's right-of-way. The encroachment permit process is not an opportunity for City staff to deny locations that were previously approved in the MLA or otherwise modify approved small cell equipment.

For questions regarding Small Cell ISPs, please contact Public Works at (916) 478-2256.

For questions regarding Small Cell MUPs, please contact Planning at (916) 478-2265.

Signup ([http://www.elkgrovecity.org/newsletter/One.aspx?](http://www.elkgrovecity.org/newsletter/One.aspx?objectId=167074&contextId=127200&action=subscribe)

objectId=167074&contextId=127200&action=subscribe), for Zoning Administrator hearing notifications.

[Back to Top \(#mainContent\)](#).

State and National Legislation Regarding This Issue

CA State Legislative Activity

In February 2017, California State Senator Ben Hueso introduced **SB 649**



(https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB649). The bill proposed streamlining the permitting process for installing small cell infrastructure by imposing a state-mandated local program.

The City of Elk Grove submitted a **notice of opposition**

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to the bill in April 2017. The City's primary reason for opposing the bill was due to the fact that it would have improperly removed much of the local authority cities have over regulations of telecommunications facilities. The bill was passed by both houses of the state legislature, but it was **vetoed**

(<https://www.documentcloud.org/documents/4311027-Gov-Brown-Sb-649-Veto-Message-2017.html>), by Governor Jerry Brown in October 2017.

In February 2021, California State Senator Dodd introduced SB 556, which establishes permitting requirements for the placement of small wireless facilities on street lights and traffic signal poles owned by local governments, including specified times for approving and attaching infrastructure, limitations on fees for attachments, and restrictions on local governments ability to prohibit small wireless facility attachments. The City of Elk Grove submitted a **notice of opposition**

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Opposition Letter-Final 2021.04.05-SB 556.pdf) to the bill in April 2021. The City's primary reason for opposing the bill was due to the fact that it threatens local control in areas within the City's traditional regulatory authority, such as aesthetics.

[Back to Top \(#mainContent\)](#).

U.S. Congress

In January 2019, Rep. Anna Eshoo (D-CA) introduced HR 530, the Accelerating Wireless Broadband Development by Empowering Local Communities Act of 2019. The purpose of this legislation is to overturn Federal Communications Commission (FCC) regulations limiting the ability of local governments to regulate the deployment of 5G wireless infrastructure. This legislation remains pending and has not been adopted.

On June 3, 2019 Senators John Thune, R-SD, and Brian Schatz, D-HI, reintroduced the (S. 1699), which would set requirements for cities during the approval process of installing infrastructure for 5G. The bill would enshrine in statute many of the preemptions created by the September 2018 FCC order limiting local authority over small cell wireless deployments in public rights of way. S. 1699 would also impose a "deemed granted" provision, in which wireless siting applications would automatically be approved if a local government missed application review deadlines. This same legislation was introduced by Sens. Thune and Schatz in the previous Congress. This legislation remains pending and has not been adopted.

On June 27, Senator Dianne Feinstein (D-CA) introduced S. 2012, the "**Restoring Local Control Over Public Infrastructure Act** (https://www.feinstein.senate.gov/public/index.cfm?a=files.serve&File_id=58AC06FA-D10E-4091-904F-8CB53EA81E56)," which gives state and local government control over how wireless carriers deploy 5G equipment on phone and utility poles. Similar to legislation introduced in the House of Representatives earlier this year (H.R. 530), S. 2012 would overturn the recent FCC rules and restore local control concerning the placement of 5G equipment on phone and utility poles. It would also overturn the FCC's 60- to 90-day limits for local governments to review applications to use public infrastructure before those applications are automatically approved. This legislation remains pending and has not been adopted.

The City is monitoring this legislation.

[Back to Top \(#mainContent\)](#)

Lawsuits Filed Against the Federal Communication Commission (FCC)

Multiple lawsuits had been filed in federal court against the FCC, many of which had been consolidated for resolution by the Ninth Circuit Court of Appeals, which is the federal appellate court covering the State of California. By the lawsuits several municipalities claimed that the recently issued FCC order is invalid.

On August 12, 2020, the Court issued its decision. (City of Portland v. United States FCC, 2020 WL 4669906 (9th Cir., Aug. 12, 2020.)) The Court largely upheld the FCC's Order with two exceptions concerning aesthetic regulations: (1) the Court invalidated the requirement that aesthetic regulations be "no more burdensome" than requirements of other infrastructure facilities; and (2) the Court invalidated the requirement that aesthetic regulations be "objective." The Court, however, upheld the rest of the FCC Order including the provisions that required aesthetic regulations to be "reasonable" and "published in advance."

In its decision, the Court also noted that the Telecommunications Act "preempted all municipal regulation of radiofrequency emissions to the extent that such facilities comply with federal emissions standards," and deferred to the FCC's conclusions on radiofrequency emissions standards. This conclusion is consistent with other federal court

decisions. (See, e.g. Cellular Phone Taskforce v. FCC, 205 F.3d 82 (2nd Cir. 2000) [municipalities may not regulate radiofrequency emission operations of cellular telecommunications facilities].)

[Back to Top \(#mainContent\)](#)

California Supreme Court

On April 4, 2019, the California Supreme Court decided the case of T-Mobile West LLC. v. City and County of San Francisco, et. al., Case No. S238001. The Court ruled that cities in California retain certain regulatory authority over the placement of cellular telecommunications facilities in public rights of way, including aesthetic concerns, under the California Constitution and California state law. The case was a state court decision, and it did not address the scope of telecommunications regulation under federal law. A copy of the decision can be found at the following

link: **<https://www.courts.ca.gov/opinions/documents/S238001.PDF>**

<https://www.courts.ca.gov/opinions/documents/S238001.PDF>

[Back to Top \(#mainContent\)](#)

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