

ORDINANCE NO. 3840

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TORRANCE, CALIFORNIA, AMENDING CHAPTER 2 OF ARTICLE 39 OF DIVISION 9 OF THE TORRANCE MUNICIPAL CODE BY AMENDING SECTION 92.39.020, AMENDING PROVISIONS FOR SMALL WIRELESS FACILITIES CITYWIDE.

WHEREAS, On September 26, 2018, the Federal Communications Commission ("FCC") adopted a Declaratory Ruling and Third Report and Order, FCC 18-133 (the "Small Cell Order"), in connection with two informal rulemaking proceedings entitled Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79, and Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84.

WHEREAS, the regulations and design standards set out in this Article are necessary to protect public health, safety, welfare, and aesthetic interests, and the enforcement thereof will not result in the imposition of excessive costs on operators and users of wireless telecommunications services. The City Council finds, further, that these regulations and design standards neither materially limit a person's ability to receive wireless telecommunications services nor create unfair competition among wireless telecommunications service providers; and

WHEREAS, Section 704 of the 1996 Telecommunications Act (47 U.S.C. §332(c)) preempts local regulation of the placement, construction, and modification of wireless telecommunications facilities on the basis of environmental effect of radio frequency emissions to the extent that such facilities comply with the applicable FCC regulations; and

WHEREAS, pursuant to California Environmental Quality Act ("CEQA") Guidelines § 15378 and California Public Resources Code § 21065, the Council finds that this ordinance is not a "project" because its adoption is not an activity that has the potential for a direct physical change or reasonably foreseeable indirect physical change in the environment; and that, even if this ordinance qualified as a "project" subject to CEQA, and pursuant to CEQA Guidelines § 15061(b)(3), there is no possibility that this project will have a significant impact on the physical environment; and

WHEREAS, the City has determined that the amendments would not have a significant impact on the environment and, pursuant to Section 15061(b)(3) of the California Environmental Quality Act Guidelines, would be exempt from the California Environmental Quality Act (CEQA) because the amendments are to implement the provisions of the FCC Declaratory Ruling (CFF18-133). This section exempts those activities covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and

WHEREAS, adoption of this Ordinance is consistent with the City's General Plan policies; and

THE CITY COUNCIL OF THE CITY OF TORRANCE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1

That Section 92.39.020 (General Provisions) of Chapter 2, Article 39 of Division 9 of the Torrance Municipal Code is hereby amended to read in its entirety as follows:

“92.39.020 GENERAL PROVISIONS. a) Applicability.

- 1) These regulations are applicable to telecom facilities providing voice and/or data transmission such as, but not limited to, mobile telephone services, fixed microwave services, and mobile data services.
 - 2) These regulations do not apply to telecom facilities that are regulated by a City Council policy adopted by resolution.
- b) Exempt Facilities. Amateur radio and receiving satellite dish antennas regulated by Section 92.2.8 are exempt from the provisions of this Article.
- c) Permit Required. A permit shall be required for all telecom facilities regulated by this Article in accordance with Section 92.39.060
- d) Other Regulations. All telecom facilities within the City shall comply with the provisions of this Article and the following requirements:
- 1) Conditions in any permit or license issued by a local, state, or federal agency which has jurisdiction over the telecom facility.
 - 2) Rules, regulations, and standards of the Federal Communications Commission (FCC) and the California Public Utilities Commission (CPUC).
 - 3) Easements, covenants, conditions, or restrictions on the underlying real property.
 - 4) The California Building Code, California Fire Code and portions of the Uniform Fire Code, California Mechanical Code, and California Electrical Code, as amended by state or local law or regulation.
- e) Regulations not in Conflict or Preempted. All telecom facilities within the City shall comply with the following requirements unless in conflict with or preempted by the provisions of this Article:
- 1) Design guidelines or standards in any applicable specific plan within the Torrance Zoning Code (Division 9).
 - 2) Requirements established by any other provision of the Municipal Code or by any other ordinance or regulation of the City.
- f) Setbacks. Setbacks shall be measured from the part of the telecom facility closest to the applicable lot line or structure.

- g) Maintenance. The telecom operator shall maintain the telecom facility in a manner consistent with the original approval of the facility.
- h) Non-Conformities. A proposed telecom facility shall not create any new or increased non-conformities as defined in the Zoning Code, such as, but not limited to, a reduction in and/or elimination of, parking, landscaping, or loading zones.”

SECTION 2

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Torrance hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or other portions might subsequently be declared invalid or unconstitutional.

SECTION 3

Any person violating any of the provisions of this ordinance will be guilty of an infraction, and upon conviction will be subject to a fine as provided for in Section 36900 of the California Government Code.

SECTION 4

This ordinance shall take effect 30 days after the date of its adoption. Within 15 days following adoption, this ordinance or a summary of this ordinance if authorized by the City Council, will be published at least once in the Daily Breeze, a newspaper of general circulation, published and circulated in the City of Torrance.

INTRODUCED this 8th day of January, 2019

ADOPTED this 15th day of January, 2019




Mayor Patrick J. Furey

APPROVED AS TO FORM:
PATRICK Q. SULLIVAN, City Attorney



Tatia Y. Strader, Assistant City Attorney

ATTEST:



Rebecca Poirier, MMC, City Clerk

TORRANCE CITY COUNCIL ORDINANCE NO. 3840


STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF TORRANCE) ss

I, Rebecca Poirier, City Clerk of the City of Torrance, California, do hereby certify that the foregoing Ordinance was duly introduced at an adjourned regular meeting of the City Council held on the 8th day of January, 2019 and was duly adopted at a regular meeting of said Council held on the 15th day of January, 2019 by the following roll call vote:

AYES: COUNCILMEMBERS Chen, Griffiths, Herring, Mattucci, Rizzo, and Mayor Furey.
NOES: COUNCILMEMBERS: None.
ABSTAIN: COUNCILMEMBERS: None.
ABSENT: COUNCILMEMBERS: Goodrich.

This ordinance was duly published in accordance with State law (GC 40806).

Date: 1/21/19



Rebecca Poirier, MMC
City Clerk of the City of Torrance