

Ordinance No. 1117

URGENCY ORDINANCE OF THE COUNCIL OF THE CITY OF SEBASTOPOL
ADOPTING AND IMPOSING A MORATORIUM ON THE ESTABLISHMENT OF
NEW SMALL CELL TELECOMMUNICATION SITES AND TELECOMMUNICATIONS
IN THE PUBLIC RIGHT-OF-WAY

THE CITY COUNCIL OF THE CITY OF SEBASTOPOL DOES ENACT AS FOLLOWS:

SECTION 1: Purpose and findings. The purpose of this ordinance is to prohibit the development of new small cell telecommunication facilities and the placement of telecommunication facilities in the public rights-of-way (ROW) within the City of Sebastopol pending enactment of permanent regulations for such uses. The public right-of-way of the City of Sebastopol is a uniquely valuable public resource, closely linked with the City's small town character and natural beauty.

The Council finds and determines that the reasonably regulated and orderly deployment of wireless facilities in the ROW is desirable. Unregulated or disorderly deployment represents an ever-increasing and true threat to the health, welfare, and safety of the community. Unregulated installation of small cell telecommunication facilities and placement of telecommunication facilities in the ROW may be harmful for a variety of reasons, including potential adverse consequences from the unregulated placement of equipment along sidewalks and streets that could have negative impacts on both pedestrian and vehicle safety from visual cluttering and physical impediments stemming from equipment installed in the right-of-way; negative impacts on the City's goal of fostering a pedestrian-oriented environment and the City's urban design and character, including aesthetic and accessibility concerns from intrusive installations of equipment mounted on poles or at ground level; noise impacts from facilities that contain outdoor generators or other equipment.

The City of Sebastopol has previously adopted Telecommunications Ordinance regulations that address the installation of both minor and major antennas, however, these regulations do not anticipate the installation of small cell wireless facilities and do not address installation of telecommunication facilities in the ROW. The regulation of wireless installations in the ROW is necessary to protect and preserve the aesthetics in the community, as well as the values of properties within the City, and to ensure that all wireless facilities are installed using the least intrusive means possible.

The City Council adopted Resolution 6180 at its regularly scheduled meeting of March 20, 2018, approving an update to the City's Telecommunications Ordinance, and the Planning Commission held preliminary discussions at its regularly scheduled meeting of April 24, 2018. Additionally, the Federal Communications Commission adopted new regulations for small cell telecommunication facilities and regulations regarding placement of telecommunication facilities within the public right-of-way on September 26, 2018, and published these regulations on September 27, 2018. These new regulations will require revisions to the City of Sebastopol's Telecommunications Ordinance. The City of Sebastopol, in response to changing State and

Federal law and regulations, has been diligently working on updating its telecommunications regulations.

Review of these issues and enactment of appropriate regulations by the Planning Commission and City Council cannot be accomplished without due deliberation, and it will take an indeterminate length of time to work out the substance and details of such requirements. It would be destructive to any proposed restrictions or regulations if, during the period they are being studied and considered for adoption, parties seeking to avoid their operation and effect are permitted to establish such uses and operation in a manner that might defeat in whole, or in part, the objectives of the potential requirements and regulations. As a result, it is necessary to establish a moratorium and prohibition on the establishment and operation of small cell telecommunication facilities and placement of telecommunication facilities in the public ROW in the City, pending the completion of the City's further review of their impacts and adoption of appropriate regulations.

SECTION 2. Moratorium on Applications for new small cell telecommunication facilities and placement of telecommunication facilities in the public rights-of-way. During the period this ordinance remains in effect, no application for a City of Sebastopol Use Permit, Design Review Permit, or other discretionary Planning permit, or Building Permit shall be processed or issued for telecommunication facilities within the public right-of-way.

Telecommunications applications that are not proposed in the public right-of-way may be submitted and will be processed in accordance with the existing adopted Telecommunications regulations (Sebastopol Municipal Code 17.100).

SECTION 3. Immediate Threat to Health, Safety and Welfare. Based on the findings and conditions set forth and described in Section 1 of this ordinance, the City Council of the City of Sebastopol, declares this ordinance is necessary as an urgency measure to address existing threats to the public health, safety and welfare as described in Section 1. The Council determines that the establishment of telecommunication facilities within the public right-of-way in the absence of adopted allowances or appropriate standards and procedures would result in a further threat to the public health, safety and welfare.

SECTION 4. Conflicting Laws. During the continuation of the effectiveness of this ordinance, the provisions of this ordinance shall govern. If there is any conflict between the provisions of this ordinance and any provisions of the Sebastopol Municipal Code, or any City ordinance, resolution or policy, the provision of this ordinance shall control. If there are any conflicts between the provisions of this ordinance and any provisions of State or Federal law in effect during the same time as this ordinance, the provisions of this ordinance shall be null and void.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 6. Effective Date. This ordinance is declared to be an urgency measure and if adopted by the affirmative date of at least four councilmembers, shall become effective upon its adoption.

This ordinance shall be in full force and effect for a period of forty-five (45) days from the date of its adoption unless extended by the City council in accordance with the provisions of California Government Code 65858.

IN COUNCIL DULY PASSED AND ADOPTED this 30th day of October, 2018.

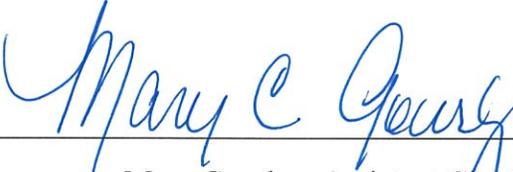
AYES: Councilmembers Carnacchi, Glass, Vice Mayor Hinton and Mayor Slayter

NOES: None

ABSENT: None

ABSTAIN: Councilmember Gurney

APPROVED: 
Mayor Patrick Slayter

ATTEST: 
Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM: 
Larry McLaughlin, City Attorney