



Legislation Text

File #: 352-17, **Version:** 1

Communication: Correspondence from the law office of McLane & Middleton Re: pending petitions for wire and pole location to attach small cell antennas and supporting equipment to existing non-municipal utility poles.

Dear Council President Crowe, Councilor Sica, Councilor Kinnon, and Council Members:

The purpose of this letter is to (1) update the City Council regarding the federal "Shot Clock" governing the Council's review of the pending grant of location applications described above, and (2) confirm Verizon's understanding of the Council's next actions regarding those applications.

As my colleague, Betsy Mason, explained at the December 13, 2016 City Council meeting, the Telecommunications Act of 1996, codified as 47 U.S.C. sec. 332, et. seq. (the "TCA") states that a local government "shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed" (emphasis added). In 2009, the Federal Communications Commission issued ruling No. 09-99 (the "FCC Ruling"), which provides specific time periods to define "a reasonable period of time." For collocations on existing structures, a municipality has 90 days from the date an application is received by the municipality to process and reach a final decision on that application.

The City Council received the pending applications on November 18, 2016. When the Council considered the applications at its meeting on December 13, 2016, 26 days had lapsed from the "Shot Clock," leaving 64 days remaining. At that meeting, the City Council requested further information and materials regarding the proposed Small Cell installations and tabled the applications. Under the FCC Ruling, that request stopped the "shot Clock" until Verizon could respond. On April 11, 2017, the City Council received Verizon's supplemental filing responding to the Council's requests. The Council re-opened the applications at its meeting on June 6, 2017 in order to consider the supplemental filing. At that time, the Council did not make any follow-up requests. The FCC Ruling limits the time period when a municipality may stop the "Shot Clock" by requesting further information and materials to make sure any application for a wireless communications facility is complete. As such, the "Shot Clock" began to run again and will expire on August 9, 2017, 64 days after the Council's June 6, 2017 meeting.

Having said that, Verizon understands that the Council will break for the summer but would also like to perform further review of the applications, as described below, in order to provide the Council with sufficient time to perform the review. Verizon extends the "Shot Clock" through September 30, 2017. By that date, the Council will have had Verizon's completed applications, including the April supplemental filing, for five and a half months, which should be sufficient time for a thorough review.

Per comments from councilors at the December 13, 2016 and June 6, 2017 meetings, it is Verizon's understanding that the Council will coordinate the following review:

- 1) Provide the applications to the Legal Department so that the City Solicitor can review them for consistency under applicable municipal, state, federal law;
- 2) Retain a radio frequency engineer to review the RF affidavit Verizon has submitted to confirm

- Verizon's coverage needs; and
- 3) Consult with the Legal Department regarding the potential for an ordinance to govern future applications for Small Cells

Please feel free to have the Legal Department and/or RF engineer contact me over the summer with any questions or comments.

Thank you for assistance with this matter. I look forward to meeting with the Council at its next available meeting to discuss this further.

Very truly yours,

John F. Weaver

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