




CITY COUNCIL TRANSMITTAL

  
Patrick Leary, Chief of Staff

Date Received: July 27, 2017  
Date sent to Council: July 31, 2017

**TO:** Salt Lake City Council  
Stan Penfold, Chair

**DATE:**

**FROM:** Mike Reberg, Community & Neighborhoods Director 

**SUBJECT:** Small Cell Facility Installations in the Right-of-Way

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**DOCUMENT TYPE:** Information only

**RECOMMENDATION:** At Council's discretion, a briefing on installation of small cell facilities within ROW; future formal briefings to discuss potential ordinance revisions and policy recommendations.

**BUDGET IMPACT:** None

**BACKGROUND/DISCUSSION:** Small cell facilities are being used to increase capacity and eliminate coverage gaps, particularly in densely populated areas. Installing wireless infrastructure in the needed locations improves the network, benefitting the public. These small cell facilities typically consist of an antenna, radio equipment, and a power meter and have a radius of 200-500 feet. They are served by a power line and usually fiber optic cable. Small cell facilities may be owned by cellular companies or by providers that contract with cellular companies to use their facilities.

Small cell facilities are classified by the Federal Communications Commission (FCC) as "telecommunication providers." As such, wireless carriers and other telecommunications providers hold Certificates of Public Convenience and Necessity (CPCN) from the Utah Public Service Commission. Further, pursuant to Section 253 of the Federal Telecommunications Act of 1996, state and local governments cannot prohibit telecommunications companies from providing service in a jurisdiction and accordingly must allow access to the ROW in a competitively neutral, nondiscriminatory basis. This gives them the right to install in the City's rights of way (ROW) (with reasonable access) but they need the City's permission to use the ROW. The City can

regulate the location and manner of installation but cannot create a barrier to entry to installation or treat providers differently as compared to each other.

Over the past two years and with increasing frequency and urgency, the City has been approached by several small cell providers wanting to install small cell facilities on light, traffic and utility poles in the ROW. Throughout the country, there is a rapid growing demand for capacity and bandwidth, due to exponential data growth. This type of equipment installation is needed to accommodate the expanding demand for wireless data services in densely populated areas and with the onset of “Smart City” technology. The new technology presents challenges to the City including balancing the competing interest of regulating the ROW and complying with federal law that requires allowance of small cell technology.

Real Estate Services has been working with various City stakeholders, including Engineering, Finance, Transportation/Streets, Public Utilities, Planning and Zoning, and the City Attorney’s Office, as a steering committee to discuss how these new facilities are treated by current City Code and to develop an action plan to accommodate this new use of the ROW. Together, we have determined applicability of existing City Code, and discussed potential new policies, processes, and a proactive general direction the City could follow that would allow for small cell equipment and installation.

So far, in this competitive telecom marketplace, small cell providers have become increasingly aggressive in their approach to the City in order to be the first to market to stake their claim on their ideal locations (which may vary by provider). Providers have already approached the City requesting installations on 3<sup>rd</sup> party utility poles and City light poles, and to install mono-poles (standalone poles with the antenna and radio equipment attached). The FCC requires that an application be reviewed and responded to within 90 days, or it is deemed complete (this time period is referred to as a “shot clock” and can differ in length depending on the type of installation). As more providers petition the City, we are in a unique position where it would be advantageous to proactively determine City policy and procedures rather than reacting to the demands and potentially, legal claims, of the providers.

**CURRENT CITY CODE AND PROCESS:** Currently, to grant the use of the ROW, the City enters into a Franchise Agreement (authorized by an ordinance adopted by the City Council), or other ROW permit agreement contemplated by the City Code. Once a party has entered into the franchise or other agreement, it is eligible to apply for the necessary City permits.

Current zoning code allows the installation of antennas in the ROW only on existing 3<sup>rd</sup> party owned utility poles. The owner of the utility pole (either Rocky Mountain Power (RMP) or CenturyLink) must also approve an attachment to a utility pole. Poles and overhead lines are not allowed in the Central Business District (CBD).

RMP allows for small cell facilities to be attached to their existing utility poles. Such attachments require a pole attachment agreement with each provider, and once such agreement is in place the provider must submit a pole location plan. RMP does an analysis of each location and determines whether it is an acceptable location.

Relevant code sections:

- SLC §21A.40.090 - Antenna Regulations regulates the placement of antennas in the ROW:
  - Allows antennas to be mounted on *existing* 3<sup>rd</sup> party owned utility poles. [There are no other antenna installations allowed in the ROW].
  - Requires the electric equipment for antennas to be placed underground.
  - Requires that facilities in the ROW be subject to any applicable franchise fees or lease agreement required by City.
- SLC §14.32.425 – Telecommunication Right of Way Permits: allows conduit and cable to be located within the ROW.

### **PROCESS TO ALLOW SMALL CELL FACILITIES:**

We plan to use existing process and code to respond to small cell provider applications, although will change the name of the agreement to grant use of the ROW. The City and small cell provider will enter into an agreement called a “Master License Agreement” (MLA), which is similar in form to the City’s franchise agreement and more specific to small cell technology. The MLA will be authorized by an ordinance adopted by the City Council, just as a franchise agreement is adopted.

Permitting of small cell facilities will comply with existing City Code, and will be limited to installations on existing third party utility poles. Once the MLA is approved, a provider will submit an application for a specific location. The application will be reviewed by each applicable City department in connection with the needed permits. This process would be tracked by the existing Accela database in order to coordinate the multiple City departments engaged in the process. This process is similar to the current process for obtaining permits under a franchise agreement or other ROW agreement.

### **RECOMMENDED FUTURE POLICY STRATEGY AND PROCESS:**

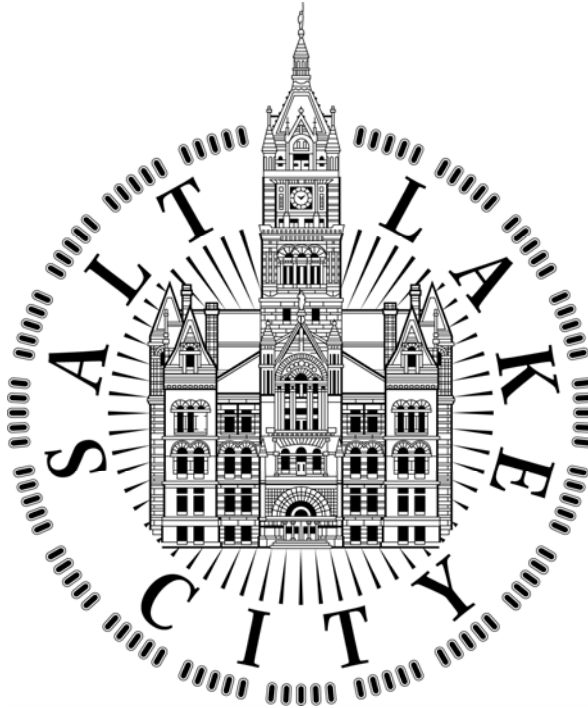
Although the current City Code provides for limited access to the ROW for small cell technology, we anticipate that in order to accommodate future demand for this infrastructure in the City and particularly within the CBD, policy and code revisions will be necessary.

- Consider allowing attachments to City assets, including traffic poles and some light poles (through the adoption of an “attachment” ordinance).
  - Light poles would be allowed or disallowed by category (e.g. attachments may not be allowed on decorative light poles) and would need to coordinate with the enterprise fund.
- Consider allowing mono-poles for antennas.
- Determine appropriate fees for attachments in the ROW.
- Update code regarding wireless facilities, antennas, poles, and franchise agreements.
  - May want to adopt a specific ordinance for small cell and wireless facilities.

Through collaboration with other City departments to address potential concerns, the proposed agreements and ordinances will proactively determine the City’s policies to address this type of infrastructure. It will give the City a framework to handle the influx of applications and be able to accommodate the location of small cell all while remaining compliant with State and federal regulations, allowing for careful technological growth in the City.

**PUBLIC PROCESS:** N/A

**EXHIBITS:** Small Cell Summary Presentation



# Small Cell Policy Development

Community & Neighborhoods/Public Utilities

May 5, 2017

# Technology Overview

# Small-cell Companies

- FCC classified telecommunications provider
- Hold Certificates of Public Convenience and Necessity (“CPCN”) from the Utah Public Service Commission
- Have the right to install in the City (reasonable access) but need City’s permission to use the ROW
- Requested installations on 3<sup>rd</sup> party utility poles, City-owned street lights and traffic poles, and installing monopoles

## Small Cell Participants:

- Extenet
- Crown Castle
- Verizon
- Mobilitie



# Macro vs Small Cell

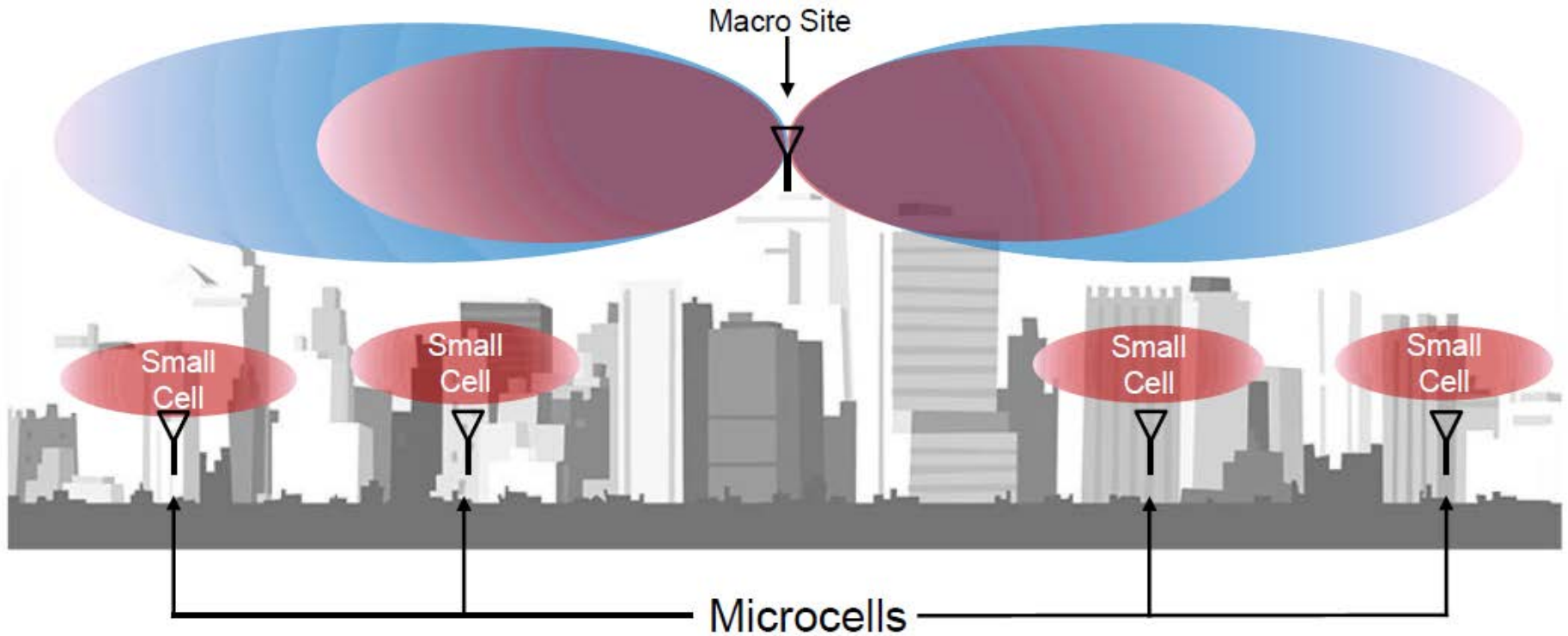
Cell-edge

Mid-cell

Near Cell

Mid-cell

Cell-edge





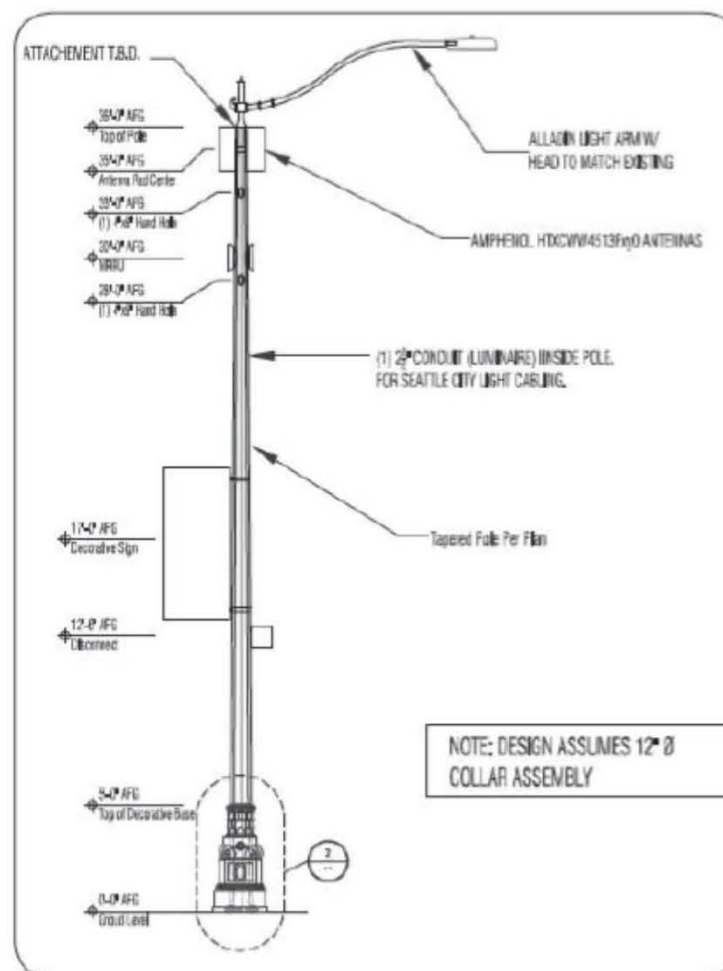
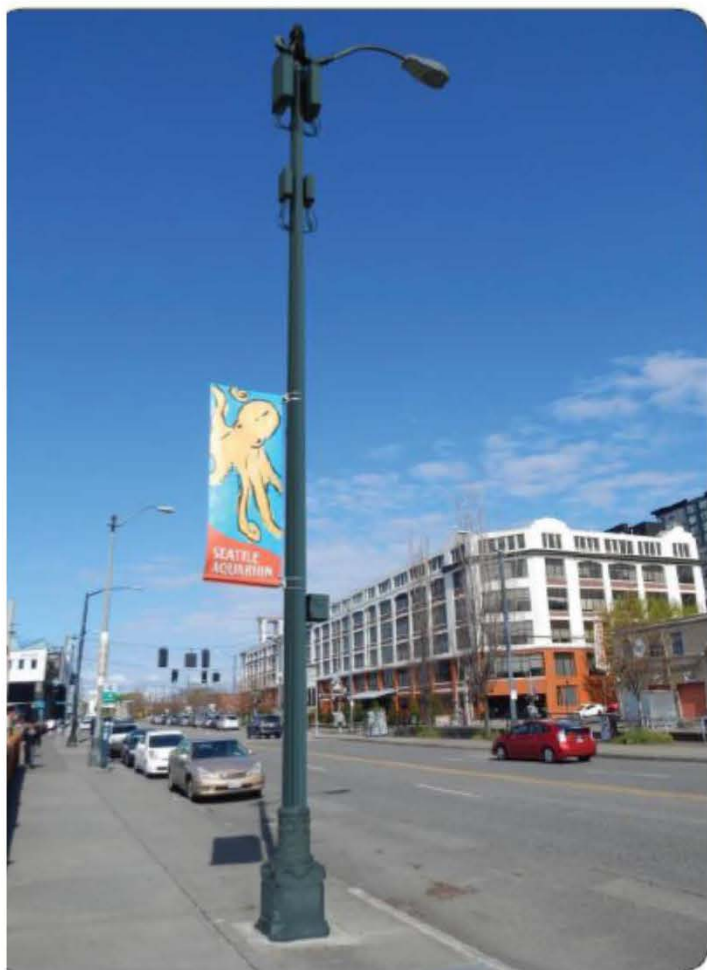
# Components

- ☐ Antenna
- ☐ Radios
- ☐ Power
- ☐ Backhaul

verizon✓



# Small Cell Deployment: Simulation



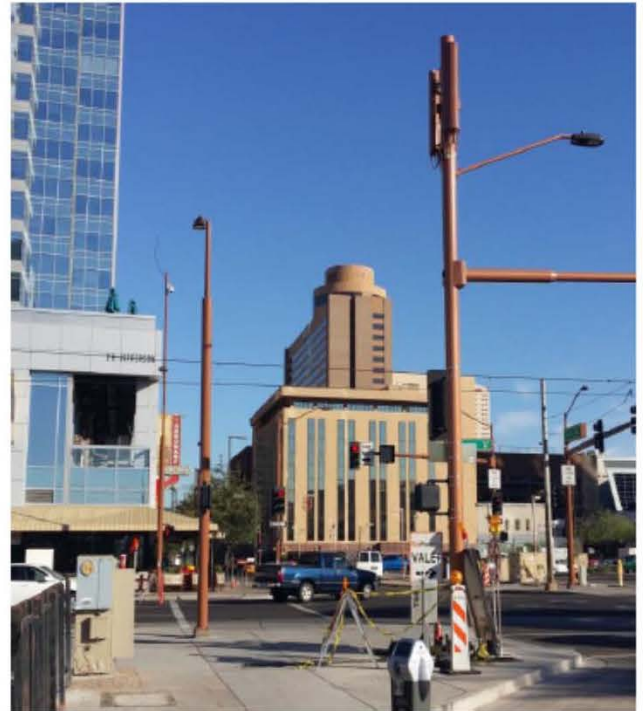
# Design Options



Street Light



Utility Pole



Traffic Control Pole with Cabinet

# Current ROW Agreements

- Franchise Agreement
  - Allows use of ROW by utilities with consumer as end user
- Telecom ROW Permit
  - Agreement to allow cable/conduits in ROW to connect multiple properties – i.e. LDS church HQ to auxiliary sites
- Encroachment ROW Permit
  - For installation of any structure in the ROW



Current City Code

- Wireless Infrastructure
  - Code requires franchise agreement for Video Service Systems (includes transmission of digital signals)
- Zoning
  - Allows antennas only to be located on existing utility poles
  - Electrical boxes for antennas must be underground in ROW



# Rocky Mountain Power Existing Process



# Pole attachment criteria

- Must treat small-cell companies like other telecommunications companies and allow attachment
- Define type of poles where attachments allowed
- Evaluate (and can reject) based on safety, engineering, and reliability standards



# Policy Strategy

# Agreement Structure: Two Agreements

Similar to  
Franchise  
Agreement

**Master License Agreement**  
Grant of Permission to use ROW

**Site License Application**  
Permits specific installation in a  
specific location

Individual  
Permits and  
Use Agreement



# Process Structure

Step 1

Master License  
Agreement Petition

RES/City  
Attorney

Grant of  
Permission

Step 2

Site License  
Application  
Submission

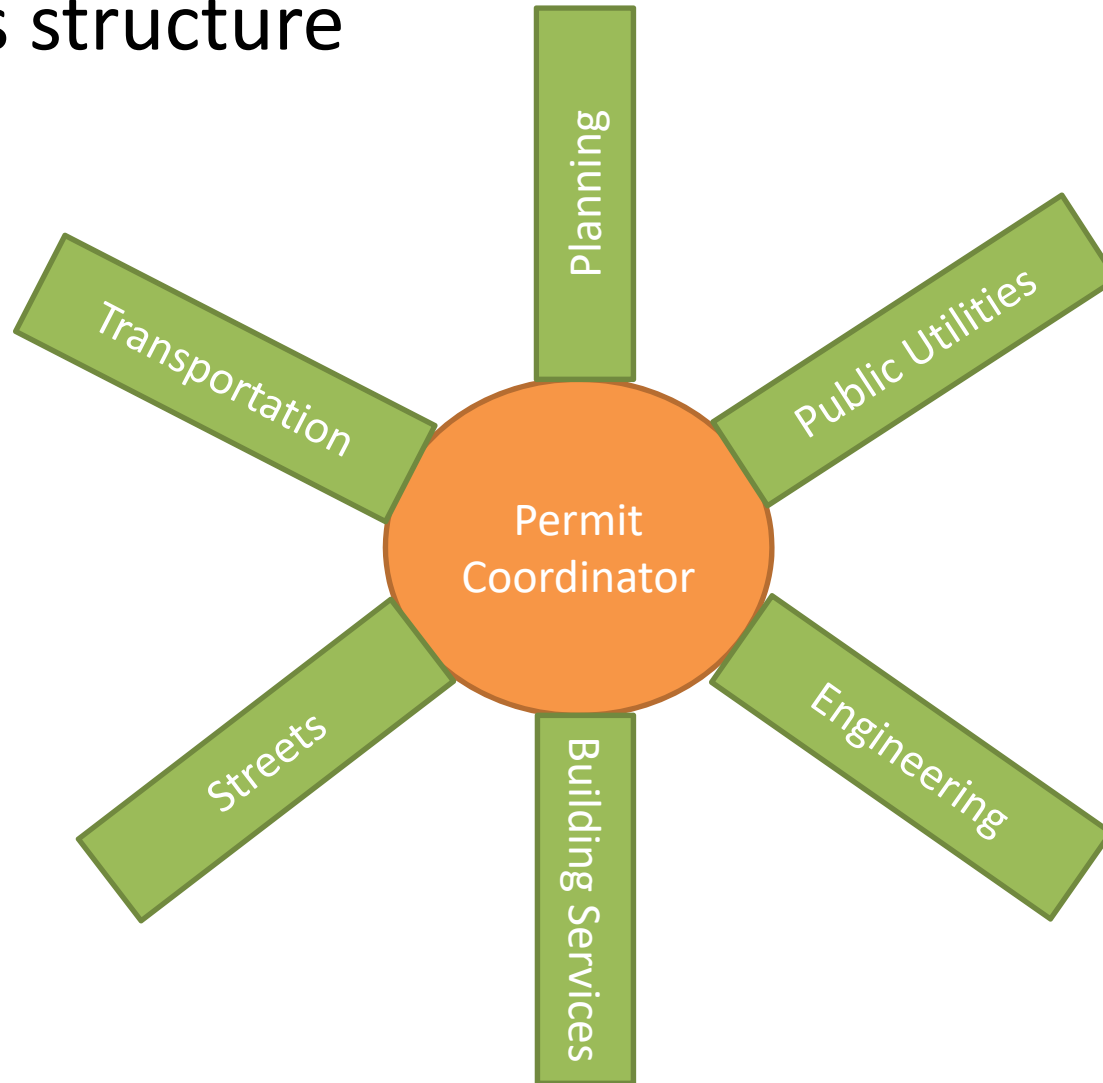
Various  
Depts.

City Permits  
Issued



# Application Flow

# Process structure



What's Next?



# Next Steps

- Interaction with City Council
- Process ownership
- Policy and ordinance updates and revisions



# Interim Process Proposal

- Issue Master License Agreement (MLA) using existing City code
  - Allows attachment to third party utility poles only
  - Use of ROW is like a telecom or encroachment permit
- MLA to be transmitted to City Council with ordinance for approval (same process as a Franchise Agreement)
- Hub and spoke process structure to process Site License application – Accela tracking

