

ORDINANCE NO. 144, 2017
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING ARTICLES 3 AND 5 OF THE LAND USE CODE
REGARDING SMALL CELL FACILITIES

WHEREAS, on December 2, 1997, by its adoption of Ordinance No. 190, 1997, the City Council enacted the Fort Collins Land Use Code (the "Land Use Code"); and

WHEREAS, at the time of the adoption of the Land Use Code, it was the understanding of staff and the City Council that the Land Use Code would most likely be subject to future amendments, not only for the purpose of clarification and correction of errors, but also for the purpose of ensuring that the Land Use Code remains a dynamic document capable of responding to issues identified by staff, other land use professionals and citizens of the City; and

WHEREAS, during the 2017 legislative session, the Colorado General Assembly passed and the Governor signed into law HB17-1193, which expands access to public rights-of-way and City-owned infrastructure in the rights-of-way for placement of small cell wireless communication facilities, and makes such facilities a use by right in all zone districts; and

WHEREAS, notwithstanding the expanded access to municipal rights-of-way and City-owned infrastructure in such rights-of-way for small cell wireless communication facilities, HB17-1193 also preserves the local government's right to exercise police powers to regulate the placement of such facilities, subject to certain limitations; and

WHEREAS, HB17-1193 became effective on July 1, 2017; and

WHEREAS, in addition to the Land Use Code amendments proposed herein, Council is concurrently considering City Code amendments regarding the review of small cell wireless communications facilities proposed to be placed in public rights-of-way; and

WHEREAS, the proposed Land Use Code amendments specify that the review of small cell wireless communications facilities located principally in public rights-of-way are addressed through the proposed City Code regulations; and

WHEREAS, the proposed Land Use Code amendments are in the best interest of the citizens of Fort Collins.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 3.8.13 of the Land Use Code is hereby amended to read as follows:

3.8.13 - Wireless Telecommunication

...

- (D) The regulations contained in this Section shall not apply to the installation, operation, maintenance, or upgrade of a small cell facility by a telecommunications provider principally located within a public highway as the terms small cell facility, telecommunications provider, and public highway are defined in Section 38-5.5-102, C.R.S. The regulation of such activities is addressed in Chapter 23 of the Code of the City of Fort Collins.

Section 3. That the definition of "*Development*" contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

Development shall mean the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or, except as is authorized in Section 1.4.7, the dividing of land into two (2) or more parcels.


...

- (2) *Development* shall *not* include:

- (g) the installation, operation, maintenance, or upgrade of a small cell or broadband facility by a telecommunications provider principally located within a public highway as the terms small cell facility, telecommunications provider, and public highway are defined in Section 38-5.5-102, C.R.S. The regulation of such activities is addressed in Chapter 23 of the Code of the City of Fort Collins.

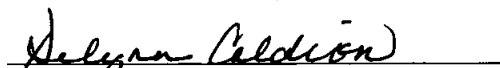
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Introduced, considered favorably on first reading, and ordered published this 21st day of November, A.D. 2017, and to be presented for final passage on the 5th day of December, A.D. 2017.



Mayor


ATTEST:



City Clerk



Passed and adopted on final reading on the 5th day of December, A.D. 2017.



Mayor Pro Tem

ATTEST:



City Clerk

