

FIBER OPTIC ORDINANCE

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck-Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN EMERGENCY ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO PURSUANT TO CHARTER SECTION 295 AND THE URGENCY ORDINANCE PROVISIONS IN CALIFORNIA GOVERNMENT CODE SECTION 65858 EXTENDING TEMPORARY AMENDMENTS TO SAN DIEGO MUNICIPAL CODE CHAPTER 12, ARTICLE 9, DIVISION 7, SECTION 129.0710 AND CHAPTER 14, ARTICLE 1, DIVISION 4, SECTION 141.0420 RELATING TO MINISTERIAL APPROVAL OF CONSTRUCTION OF CERTAIN EQUIPMENT IN PUBLIC RIGHT-OF-WAY.

§129.0710 How to Apply for a Public Right-of-Way Permit

An application for a Public Right-of-Way Permit shall be submitted in accordance with Sections 112.0102 and 129.0105. The submittal requirements for Public Right-of-Way Permits are listed in the Land Development Manual. A *development permit* is required prior to issuance of a Public Right-of-Way Permit for the following:

- (a) If the proposed *encroachment* involves construction of a privately-owned *structure* or facility into the *public right-of-way* dedicated for a *street* or an *alley*, and where the *applicant* is the *record owner* of the underlying fee title, a Neighborhood Development Permit is required in accordance with Section 126.0402(j) except for the following, which are subject to approval by the City Engineer in accordance with Process One:

(1) through (9) [No change in text.]

(10) Encroachment of equipment into the *public right-of-way* by *applicants* for the fiber optic or *wireless communication facility* industries that can demonstrate installation of equipment cannot be undergrounded, as verified by the City Engineer or designee. The equipment shall not exceed 3 feet above the finished *grade* of the curb line and greater than 4 feet in diameter.

(b) If the proposed *encroachment* is erected, placed, constructed, established or maintained in the *public right-of-way* when the *applicant* is not the *record owner* of the property on which the *encroachment* will be located, a Site Development Permit is required in accordance with Section 126.0502(d)(6), except for the following:

(1) through (5) [No change in text.]

(6) Encroachment of equipment into the *public right-of-way* by *applicants* for the fiber optic or *wireless communication facility* industries that can demonstrate installation of equipment cannot be undergrounded, as verified by the City Engineer or designee. The equipment shall not exceed 3 feet above the finished *grade* of the curb line and greater than 4 feet in diameter.

(c) through (d) [No change in text.]

§141.0420 Wireless Communication Facilities

Wireless communication facilities shall comply with the approval process set forth in Section 141.0420(a) through (c) as applicable to the *development*. All *wireless*

communication facilities are subject to the general regulations in Section 141.0420(d), the general design requirements in Section 141.0420(e) and the *Wireless Communication Facilities* Guidelines in the Land Development Manual. Section 141.0420 does not apply to amateur (HAM) radio communication facilities.

(a) Limited Use Regulations

Wireless communication facilities are permitted as a limited use decided in accordance with Process One as follows:

(1) through (4) [No change in text.]

(5) Ground-mounted equipment other than a pole to which *wireless communication facility* is attached meeting the requirements in sections 129.0710(a)(10) and 129.0710(b)(6) located in the *public right-of-way*.

(b) [No change in text.]

(c) Conditional Use Permit Regulations

Wireless communication facilities may be permitted with a Conditional Use Permit as follows:

(1) Decided in accordance with Process Three, where the *development* meets the following locational criteria:

(A) [No change in text.]

(B) In the *public right-of-way* with ground-mounted equipment exceeding 3 feet above the finished *grade* of the curb line and greater than 4 feet in diameter; other than a pole to which the *wireless communication facility* is attached.

(2) [No change in text.]

(d) through (g) [No change in text.]