


City Attorney's Office

OAKLAND CITY COUNCIL

ORDINANCE No. 13085 C.M.S.

ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE TO ADD TITLE 15, CHAPTER 15.10, *PUBLIC NOTICE OF CITY OF OAKLAND'S INTENT TO CONSTRUCT OR INSTALL NEW PUBLIC SAFETY-RELATED TELECOMMUNICATIONS FACILITIES ON CITY-OWNED PROPERTY*, TO ESTABLISH REQUIREMENTS FOR THE CITY OF OAKLAND TO PROVIDE 30 DAYS MAILED AND POSTED NOTICE TO PROPERTY OWNERS AND TENANTS (BOTH RESIDENTIAL AND COMMERCIAL) WITHIN 300 FEET OF A CITY OF OAKLAND-OWNED PROPERTY OF THE CITY'S INTENT TO CONSTRUCT OR INSTALL NEW PUBLIC SAFETY-RELATED TELECOMMUNICATIONS FACILITIES, INCLUDING BUT NOT LIMITED TO TOWERS, POLES OR ANTENNAS, THAT ARE NOT OTHERWISE SUBJECT TO A PUBLIC NOTICE REQUIREMENTS

WHEREAS, the City of Oakland has a vested right to develop its property so as to realize a city-owned property's potential benefits towards the functioning of City operations and resident services; and

WHEREAS, the City has an increasing demand to construct parking lot facilities on City-owned land to meet a growing demand for public parking; and

WHEREAS, the City has an increasing demand to install telecommunications or other type of tower, pole or antennas on City-owned property for the purpose of supporting the City's critical public safety telecommunication infrastructure; and

WHEREAS, the City Council on November 23, 1996, established ordinance No. 11904 C.M.S. , establishing a telecommunications program and amending the Oakland planning code to add regulations pertaining to wireless communications facilities, and to make other related revisions to the Oakland Planning Code to be consistent with the regulations; and

WHEREAS, the City currently has no requirement to provide public notice when it constructs, installs or allows the installation of public safety-related telecommunications equipment and facilities such as towers, poles and antennas on city-owned property, and wishes to provide nearby residents and tenants with public notice of such telecommunications projects when they have an external, visual impact; and

WHEREAS, the City Council adopted Ordinance No. 12658 C.M.S. on may 17, 2005, a green building ordinance which mandates the City to comply with green building standards in the area of site development, water savings, energy efficiency materials, selection and environmental air quality, thus establishing an ordinance for how the City may develop facilities and structures on City-owned property;

NOW, THEREFORE, THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. Recitals.

The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them part of this Ordinance.

Section 2. California Environmental Quality Act Finding.

The City Council finds and determines, that the adoption of this Ordinance is Exempt, each as a separate and independent basis, from California Environmental Quality Act (hereinafter referenced as "CEQA") under Sections 15061(b)(3), 15183, 15268, and/or Section 15303 of the State CEQA Guidelines and authorizes the filing of a Notice of Exemption with the Alameda County Clerk.

Section 3. Add Municipal Code Title 15, Chapter 15.10, Public Notice of City of Oakland's Intent to Construct or Install New Public Safety-related Telecommunications Facilities on City-owned Property.

The Oakland Municipal Code is hereby amended to add the following public notice provisions:

Chapter 15.10 Public Notice of City of Oakland's Intent to Construct or Install New Public Safety-related Telecommunications Facilities on City-owned Property

15.10.010. Purpose.

The purpose of this provision is to provide public notice for improvement or development of City-owned property involving construction or installation, by or on behalf of the City of Oakland, of new public safety-related telecommunications facilities, including, but not limited to, open or enclosed towers, poles and antennas that have an external, visual impact.

15.10.020. Notice Requirement.

City of Oakland will provide 30 days mailed and posted notice to property owners and tenants (both residential and commercial) within 300 feet of a City of Oakland-owned property, when such notice is not otherwise required, of the City of Oakland's intent to construct or install new telecommunications facilities, including, but not limited to, open or enclosed towers, poles and antennas for public safety projects or purposes, excluding such telecommunications facilities installed indoor, outdoor or underground and that do not have any external visual impact.

15.10.020. Notice Procedures.

The City Administrator or his/her designee shall establish procedures and protocols to carry out the mailed notice and posting requirements. To the extent feasible, notice

will be coordinated with project and/or contract approvals involving the construction or installation of new public safety-related telecommunication facilities with an external, visual impact.

15.10.030. Notice Delays.

The purpose of this Ordinance is solely to provide notice of activities not otherwise subject to notification requirements. Nothing herein is intended to establish any right or remedy, including, without limitation, any right to challenge or appeal any action, nor to prohibit the City from constructing or installing the structures or facilities identified in this section on a schedule established under contract for such construction or installation if delay for public notice would or might cause the City to incur additional project costs or damages under contract.

Section 4. Severability.

If any section, subsection, subpart or provision of this Ordinance, or the application thereof to any person or circumstances, is held invalid, the remainder of the provisions of this Ordinance and the application of such to other persons or circumstances shall not be affected thereby.

Section 5. Effective Date.

This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes on final adoption; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 26 2011

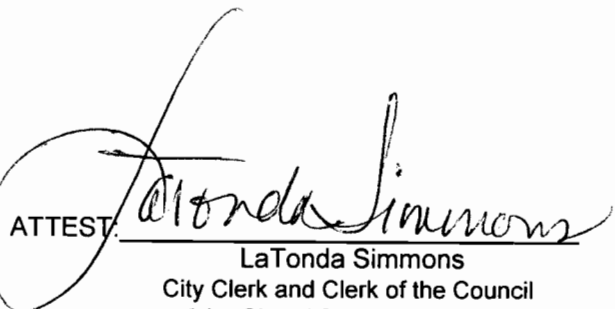
PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF AND PRESIDENT REID - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST. 
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

Introduction Date JUL 19 2011

DATE OF ATTESTATION: July 29, 2011

NOTICE AND DIGEST

ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE TO ADD TITLE 15, CHAPTER 15.10, *PUBLIC NOTICE OF CITY OF OAKLAND'S INTENT TO CONSTRUCT OR INSTALL NEW PUBLIC SAFETY-RELATED TELECOMMUNICATIONS FACILITIES ON CITY-OWNED PROPERTY*, TO ESTABLISH REQUIREMENTS FOR THE CITY OF OAKLAND TO PROVIDE 30 DAYS MAILED AND POSTED NOTICE TO PROPERTY OWNERS AND TENANTS (BOTH RESIDENTIAL AND COMMERCIAL) WITHIN 300 FEET OF A CITY OF OAKLAND-OWNED PROPERTY OF THE CITY'S INTENT TO CONSTRUCT OR INSTALL NEW PUBLIC SAFETY-RELATED TELECOMMUNICATIONS FACILITIES, INCLUDING BUT NOT LIMITED TO TOWERS, POLES OR ANTENNAS, THAT ARE NOT OTHERWISE SUBJECT TO A PUBLIC NOTICE REQUIREMENTS

Adoption of the ordinance will require the City of Oakland to provide 30 days' mailed and posted notice to residents and tenants (residential and commercial) within 300 feet of a newly constructed or installed public safety-related telecommunications facility on City-owned property of the City's intent to construct or install such facilities. The City's intent is to provide public notice for public safety-related telecommunications facilities that have an external, visual impact because they are currently exempt from notice requirements in the City's Planning Code and processes. The ordinance would not require delay in constructing or installing such facilities to meet the notice requirements if delay in constructing or installing such facilities would increase project costs or cause the City to incur damages under contract.