

From: [Adele Henkel](#)
To: [WPCtestimony](#)
Subject: Support Item #4
Date: Monday, December 2, 2024 2:09:10 PM

Dear People,

Please give a FAVORABLE Recommendation to the County Council proposed telecommunications ordinance, BILL 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

Thank you for taking our legitimate concerns to heart!

Adele Henkel
Kailua Kona

From: [Alison Yahna](#)
To: [WPCtestimony](#)
Subject: SUPPORT ITEM #4
Date: Monday, December 2, 2024 10:23:43 AM

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

As a beekeeper on the Island I can attest to the harmful effects of (particularly 5G) electromagnetic pollution honeybees as well as other native species of insects, birds and bats who are sensitive to and utilize geo-magnetism for navigation, migration and other important life processes.

Please consider the health of all living beings and the 'aina which gives us life, and support the regulation of these powerful structures.

From: [Angelika Hofmann](#)
To: [WPCtestimony](#)
Subject: Support Item #4
Date: Monday, December 2, 2024 6:42:12 PM

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

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Aloha~!~

Angelika ("Angie") Hofmann

From: [Anne A](#)
To: [WPCtestimony](#)
Subject: Bill 194
Date: Monday, December 2, 2024 1:26:43 PM

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

Mahalo,

Anne Allison, Hawaii resident

From: [aura wright](#)
To: [WPCtestimony](#)
Subject: Support Item #4
Date: Monday, December 2, 2024 10:57:18 AM

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

Thank you for your consideration. U.S. Citizen in Tennessee
B. L. Wright

From: [Brigitte Otto](#)
To: [WPCtestimony](#)
Subject: Support Item #4
Date: Monday, December 2, 2024 4:11:03 PM

Aloha,

Please support the County-Council-proposed telecommunications ordinance, Bill 194.

Numerous local jurisdictions have implemented similar ordinances to regulate the installation of towers and antennas. Bill 194 is aligned with all applicable Federal and State laws and adds important updates to the code.

Mahalo,
Brigitte Otto

From: [Cindy Evans](#)
To: [WPCtestimony](#)
Subject: Testimony WPC Dec.5, 1p.m. agenda
Date: Monday, December 2, 2024 6:12:33 AM
Attachments: [Evans Testimony Bill 194.docx](#)

Please see attached (4 pages) testimony for:

PL-CCI-2024-000009 (Bill 194)

Testimony PL-CCI-2024-000009 (Bill 194)

December 1, 2024

Aloha Commissioners,

I write as the author of Bill 194 and Councilmember for Council District 9, North Kohala and South Kohala, and ask for your favorable recommendation.

During the fall of 2023 I submitted a draft bill (now known as Bill 194) for review by Corporation Counsel. The bill was a response to numerous meetings with residents of the North Kohala and South Kohala communities who had concerns about lack of requirements for installation of cell towers and antennas. The proposed application requirements and regulations for the installation and up-keep of infrastructure should accommodate this ever-changing technology.

The biggest consideration when I wrote the bill was to find out what a county level ordinance could legally do and not do. I did a broad search of local ordinances across the country for tried and tested regulations. I talked with the FCC(Federal Communication Commission) , FAA (Federal Aviation Administration) , HUD (Federal Housing and Urban Development), DHHL (State Department of Hawaiian Homelands), DLNR (State Department of Land and Natural Resources, PUC (State Public Utility Commission), County Fire department, County Department of Public Works, County Civil Defense, and County Planning Department. Some specific highlights of my research are provided below.

FCC

Regarding the provisions of Bill 194, FCC informed me that FCC's regulations are a "floor" and local governments may enact stricter laws (such as HRS 46-89) to create a higher "ceiling", as long as it didn't give the power to outright prohibit or create a moratorium on broadband infrastructure in anyway. One FCC requirement of note was that, if there are any disputes on the installation of a given broadband infrastructure, they must be resolved within 180 days.

During the November 21 Leeward Planning Commission hearing on Bill 194, County lawyers cited Chapter 47 subsection 7(c)(iv) of the USC that states that "no state or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless services facilities on the basis of the environmental effects of the radio frequency emissions to the extent that such facilities comply with the commission's (FCC) regulations concerning such emissions." During my discussions with the FCC, I raised all the provisions of the bill that were a higher ceiling of regulation currently in USC Chapter 47, Hawai'i County Code or Hawai'i Revised Statutes and they confirmed that they were all permissible under Federal Law because none of them were in any way either a prohibition or moratorium on the installation of broadband infrastructure, nor were they in violation of federal law under USC 47(c)(iv) because none of the requirements proposed in Bill 194 uses a metric for RF (radio frequency) exposure to provide any further regulation of broadband infrastructure. Whereas Bill 194 concerns itself with construction parameters, planning parameters, zoning, disaster preparedness, notification and transparency, as well as preservation of neighborhood characteristics. In short, The plan approval

will never be subject to what the RF (radio frequency) emissions are. The current bill language only requires an affirmation relating to FCC compliance and RF (radio frequency) levels.

CORPORATION COUNSEL

Corporation Counsel, Elizabeth Strance, after reviewing draft bill in late 2023, asked me to pause and wait for the Planning Department who was updating code on broadband related permits in response to update of HRS (Hawaii Revised Statutes) 46-89, more specifically:

“A county shall approve, approve with modification, or disapprove all applications for broadband-related permits within sixty days of submission of a complete permit application and full payment of any applicable fee. If, on the sixty-first day, an application is not approved, approved with modification, or disapproved by the county, the application shall be deemed approved by the county.”

“No action shall be prosecuted or maintained against any county, its officials, or employees on account of actions taken in reviewing, approving, modifying, or disapproving a permit application pursuant to this section, or against public utilities resulting from such actions.”

Corporation Counsel suggested I work with Planning. I agreed.

RESEARCH: Local Ordinances

Staff and I researched municipalities that have passed ordinances that regulate the permitting of broadband infrastructure. Note that many of these provisions go above and beyond what is stated in Bill 194.

Davis CA: Permit approval of broadband infrastructure

- Annual or bi-annual RF emission monitoring report, including any FCC updates.
- At director's discretion, qualified independent RF engineer or consultant review, paid for by the applicant.
- Optional periodic review by county.
- Prohibition in sensitive areas: habitats, school sites, and historical resources.

Calabasas CA: Permit approval of broadband infrastructure

- Provides for noise limits on broadband infrastructure, including a noise study.
- Decommissioning: Site must be restored reasonably close to original condition.
- Requires structural analysis by licensed engineer.
- All planned radio frequency emissions stated in proposal.

Copake NY: Permit approval of broadband infrastructure

- May hire independent consultants, paid for by applicant.
- Provides for monitoring protocol, paid for by applicant, including pre-testing and post testing, to ensure compliance with FCC regulations.
- Requires radiated signal propagation studies, signed by a qualified radio-frequency engineer, paid for by the applicant.
- Requires public hearing.

- 1500 ft setbacks for residences, schools, any public buildings.
- Prohibited in endangered species habitats and other areas; must submit an E.A. where applicable under the National Environmental Policy Act (NEPA).
- Regular structural inspections, paid for by applicant.

Sallisaw OK: Permit approval for broadband infrastructure

- Residence setbacks of 1500 ft for towers having a height of 75 feet or less.

Euclid Ohio: Application Requirements

Written report demonstrating the applicant's review and selection of tower locations in order of priority, demonstrating technological reasons for the preferred site selected and written certification by the applicant's engineer of propagation studies showing the necessity for location of the tower.

Permit fee schedule:

- (a) New wireless communications tower- \$5,000.00
- (b) New wireless communications antenna/array-\$2000,00
- (c) Collocation of wireless communication antenna/array on existing tower or building:
\$2,000.00

Liability Insurance:

Commercial general liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate

Fire Department

- Battalion Chief Palani Kurashige offered comments. Fire department would benefit from having in code a plan approval requirement for cell towers that included MOA agreements with all landowners that access road may cross for easy access through locked gates in emergency situations, video monitoring option at tower in the event of fire or other emergency situations, and vegetation plan for fire prevention. He approves of fire safety plans already as part of the current use permit process for cell towers, so adding new provisions wouldn't be hard to do for the Fire Department.

DPW

- Supervising electrical inspector at DPW offered comments. Bill 194 language goes above and beyond what is used to currently approve cell towers in Chapter 5, Article 3, Section 5-3-1(b)(6): Television or radio communication towers, and that "to erect, construct, enlarge, alter, repair, relocate, convert, or demolish any television or radio communication tower that is not regulated by the public utilities commission. Our 2020 National Electrical code does not regulate communication construction in Article 90.20(B) (4): Installation of communications equipment under the exclusive control of communications utilities located outdoors or in a building spaces used exclusively for such installations. With that being said, if a permit is required, then Section 25-2-74 would be appropriate permitting guidelines.

Planning

- Interacted on several occasions with Planning Director and Deputy Director. Aside from the concerns of current code being in conflict with HRS 46-89, Planning did not provide a draft of their bill. I forwarded my draft bill for review and comment.
- Deputy Director and staff offered comments which I incorporated. Said any public meeting would be “informational only” given the constraints of HRS46-89. Commented my bill had looked at more regulations and standards than what Planning had been considering.
- At the last interaction before introduction of Bill 194, they said their bill was not ready.

HUD

- HUD classifies cell towers as a hazard and a nuisance, requiring appraisers to make adjustments to value due to the effect on market ability

DLNR

- The use of State lands triggers the environmental assessment requirements of Chapter 343, HRS. Please contact the Office of Environmental Quality Control for their opinion of whether an environmental assessment is required and the process to be followed.

In closing, Bill 194 includes important application and plan approval requirements, including:

- a) fire, structural, electrical safety;
- b) setback, separation, and fall zone;
- c) affirmations and statements relating to FCC compliance, and RF levels;
- d) in compliance with HRS 46-89

Mahalo for your consideration.

After December 2, I will be testifying as a resident of Hawai'i County. My Council term ends Noon, December 2. My contact information is:

Cindy Evans

59-048 Olomana Rd

Kamuela, HI 96743

C: 808-345-5810

evans.kohala@gmail.com

Regards,

Cindy Evans

From: [Dawn Singleton](#)
To: [WPCtestimony](#)
Subject: Item #4
Date: Monday, December 2, 2024 3:50:48 PM

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

Thank you
Dawn Singleton

From: [Debra Greene](#)
To: [WPCtestimony](#)
Subject: Support item # 4
Date: Monday, December 2, 2024 4:19:54 PM
Attachments: [Windward written testimony 12-2-24.pdf](#)

Aloha,

Attached please find written testimony for Item #4 (and Item #3) for the upcoming Windward Commission meeting. Mahalo.

Sincerely,

Debra

Debra Greene, PhD
Founding Director
[KeepYourPower.org](#)

PHONE: 808-874-6441
WEBSITE: www.KeepYourPower.org

Sent from my faster, safer, more secure HARDWIRED computer

Aloha Windward Commissioners,

Thank you for your attention to the proposed telecommunications ordinances. I hold a PhD in Communication, and am the Founding Director of Safe Tech Hawaii, a grassroots, all-volunteer coalition, educating and advocating for safe technology across the islands. I'm writing in support of County Council Bill 194.

We're asking for a favorable recommendation for Bill 194 because it represents an ideal balance between the needs of the community for connectivity, while providing important safeguards for tower and antenna deployments. People want cell phones but they don't want towers or antennas because they're unsightly and they emit wireless radiation. But there is a way to minimize exposure to them without compromising connectivity. That's what Bill 194 does.

It accomplishes this by updating the definition of antennas and towers to stay current with these ever-evolving technologies. Hawaii County already has in place a protective Resolution regarding 5G deployments that was adopted four years ago. Bill 194 includes 5G small cell infrastructure, whereas the other bill doesn't. This is a major advantage of Bill 194 as small cells are a novel and untested technology that require regulation for the good of the public. The County Council's ordinance is a follow-up to their already adopted Resolution, and it accomplishes this while bringing County code into compliance with HRS 46-89.

Further, it creates Application Requirements and standards including increased setbacks, and an order of priority for siting the wireless facilities. All of this is fully within the purview of Planning and is similar to ordinances already implemented in dozens of local jurisdictions across the country. Hawaii county has even more reason to regulate towers and antennas because of aesthetics. People value the beauty of nature here. They don't want towers and antennas everywhere, and neither do visitors.

Another important difference between the two bills is that Bill 194 includes application requirements with provisions involving the Hawaii Fire department, a fire safety plan, and access easement for fire suppression purposes. In light of the increasing fire risks on Hawaii island and the devastating fires on Maui, these provisions provide essential protections.

In July 2018, the Hawaii Wireless Fast Track Bill, HB 2651, was signed into law. One of the sponsors was then-legislator Cindy Evans, who wrote and introduced Bill 194 here. HB 2651 codifies Federal law and says that Counties can and should regulate. It lists 15 permitting requirements, and says that County regulation is needed before any of those requirements can be used. That's because ***Federal law grants local jurisdictions the authority to regulate towers and antennas.***

In the Telecommunications Act, Congress preserved local governments authority to regulate the placement, construction and modification of wireless facilities subject only to five constraints.

In implementing regulations, local jurisdictions:

- 1) Can't discriminate among providers
- 2) Can't prohibit personal wireless service
- 3) Must act upon any application in a reasonable amount of time
- 4) Can't regulate on the basis of environmental effects of radiation, to the extent that they still have to comply with FCC emission guidelines (which haven't been updated since 1996 when smart phones and WiFi didn't exist!)
- 5) Must document in writing with substantial evidence any decision to deny an application

Bill 194 fully complies with these requirements and any suggestions to the contrary are entirely arbitrary. Sadly, the former Director, Zendo Kern, gave Bill 194 an unfavorable recommendation while advancing his own ordinance, an ordinance that goes far beyond simply updating the code to bring it into compliance with state law, a law that's actually been on the books for years. We couldn't help but notice that timing.

Council members are elected to enact legislation in a democratic process - we elect them and they represent our needs. Cindy Evans who authored Bill 194 consulted with us, and other community groups, over the course of a year to craft her ordinance. Months of research went into it, using ordinances already adopted in other jurisdictions as examples, and contacting officials at the Federal, State and County levels to make sure it met all legal and policy requirements. It was cross-checked, double-checked and re-checked. It's a good, solid piece of legislation that aligns with others across the country. It deserves a favorable recommendation.

In contrast, we couldn't help but notice that under the "Public Comments" section of the former Director's proposed ordinance, he listed nothing but telecommunications corporations and telecommunications advocacy groups. There was no actual input from the community - only from telecom.

Below I address each of the concerns the former Director used to justify his unfavorable recommendation and show how the majority of them are unfounded.

1) Bill 194 Section 25-2-74(1)

This Subsection requires a plot plan showing the location of the proposed antenna or tower and all buildings and uses within 300 feet thereof. The former Director claimed this requirement is excessive without providing any rationale for his assessment. This is ironic because he stated that lack of a detailed rationale for this requirement was a "particularly significant" concern and grounds for an unfavorable recommendation.

Since both Bill 194 and the former Director's proposed ordinance contain setback requirements for residences and schools, one could easily see how a plot plan showing buildings and uses could be very helpful. Further, the rationale for this requirement could have been easily attained had the former Director simply asked, as the draft

ordinance was shared with Planning over six months before he introduced his ordinance. Cooperation was demonstrated by Council Member Evans, but not by the former Director.

2) Bill 194 Section 25-2-74(5)

This Subsection proposes a report prepared by a licensed professional electrical engineer certifying that the proposed use complies with all applicable standards and regulations, including RF emissions regulations set by the FCC and the state of Hawaii.

The former Director raised three concerns:

First: He stated that the FCC already regulates RF emissions so an additional report is redundant; yet, ironically, his proposed ordinance requires an additional report from the FCC verifying compliance. Why is that not redundant?

Further, his requirement that the FCC provide a statement of compliance or that no compliance is necessary is of grave concern. Obtaining such a statement from the FCC, a Federal agency that is not equipped to provide such statements to local jurisdictions across the U.S., could take weeks and violate the 60-day approval timeline mandated by HRS 4689.

Second: The former Director stated that the proposed report places responsibility on planners who lack technical expertise to review technical engineering reports; however, no such burden would be placed on planners. The responsibility is with the licensed professional who prepared the report. As is customary, planners simply would check a box indicating that the report was provided.

A report by an independent professional is absolutely necessary because the FCC does not send representatives onsite to test RF emissions, so there is no way to verify compliance. According to telecommunications attorney [Andrew Campanelli](#) who has successfully won lawsuits against telecommunications corporations, independent testing done in other jurisdictions has shown instances in which RF emissions exceeded the FCC guidelines. This is deeply troubling for the community because the FCC has some of the most lenient emission standards in the world.

Third: The former Director stated that this report requirement could conflict with federal law as local governments cannot impose stricter RF standards than the FCC. How can a report *certifying compliance with Federal Law* conflict with Federal law? There is absolutely nothing in the proposed ordinance that would impose stricter RF standards than are required by Federal law - quite the opposite. Again, the proposed requirement, as stated, is to ensure compliance with Federal law. To suggest it potentially violates Federal law reflects an inability to properly understand the ordinance. Or maybe there's something else at play?

3) Bill 194 Subsections 25-2-74(6), (7), (8), (12), (13) and 25-4-12(i)(3) & (4)

These Subsections constitute plan approval application requirements. The former Director stated that these sections are outside the purview of Planning but this is not a valid claim as there is nothing unusual about these sections. Conditions such as these are routine for various permit applications here. They include conditions such as flood control, fire prevention, Department of Health requirements, County code compliance, and so forth. In addition, jurisdictions across the country have implemented ordinances such as Bill 194 through their local planning departments. It's common practice here and elsewhere to include such provisions.

4) Bill 194 Subsection 25-4-12(f)

This Section states that "the director **may** [emphasis mine] engage a private consultant to inspect and determine whether the proposed use violates any" FCC standards provided that the consultant's time not count toward the time limit.

The former Director repeatedly and incorrectly stated that Bill 194 includes the "Use of Private Consultants" when there is no required use of private consultants anywhere in the bill. His claim is misleading as the proposed ordinance does not mandate hiring a private consultant. The choice to engage a private consultant is mentioned once, is optional, and is at the discretion of the Director.

Then former Director Kern raised four concerns. First, he stated that "engaging private consultants may significantly raise costs for the County, creating unnecessary financial burdens," but this claim is alarmist and unfounded. Again, the proposed ordinance does not require hiring a private consultant. The choice is optional and at the discretion of the Director.

Second, he stated "the current wording suggests that the consultant's determination occurs after Plan Approval" but this claim is unfounded as the language refers to "the proposed use" which indicates this option is part of an application process and does not occur after Plan Approval. Even if the language needs to be tweaked a bit, that hardly constitutes a "significant concern" that merits an unfavorable recommendation.

Third, the former Director stated that "it would be more logical to hire a consultant before Final Plan Approval rather than afterward" but, again, the language in this Section refers to "the proposed use" which indicates this option is part of an application process and does not occur after Plan Approval.

Fourth, the former Director stated that "relying on private consultants could introduce delays in the approval process" that may violate the 60-day timeframe mandated by HRS 4689. Again, this claim is unfounded and alarmist because nothing in Bill 194 includes "relying on private consultants". The choice to engage a private consultant is mentioned only once, is optional, and is at the discretion of the Director.

5) Bill 194 Section 25-4-12(h)

This Section describes tower siting prioritization. It says:

(h) Telecommunication antennas and towers shall be sited in accordance with the following order of priority:

(1) On building sites with existing telecommunication antennas or towers;

(2) On industrial zoned lands;

(3) All other lands, exclusive of industrial zoned lands and residential zoned lands; and

(4) Residential zoned lands.

The former Director stated five concerns.

First: His stated concern was that it's "unclear how staff should prioritize applications across zoning districts", which is confounding since the proposed Section describes exactly how applications should be prioritized.

Second: He stated it "lacks guidance on whether applicants must analyze unviable lower-priority sites." This statement is baffling. Why would an applicant need guidance about analyzing unviable lower-priority sites? Why was this even a concern? And even if it was a valid concern, telecommunications corporations have endless resources at their disposal. They are free to do any and all analyzing of unviable, low-priority sites if they so choose without that being stipulated in an ordinance.

Third: The former Director stated it's "uncertain if staff must deny applications for underserved areas without proper zoning or suggest alternative sites", a concern that could easily be remedied.

Fourth: He stated that "prioritization could delay permitting, exceeding the 60-day approval timeframe" but he gave no rationale for what could cause such delays, so at this time that claim is purely speculative.

Five: He stated that "Enforcement remains undefined." If Planning is doing its job, they will adhere to the prioritization and no enforcement would be required. Was the Former Director suggesting planners may not adhere to the law and need to be policed, in which case all of the provisions would need enforcement, not just this one?

Finally, the former Director's proposed ordinance exempts eight zoning districts from setbacks. This is of grave concern as several of those zones have residential and schools nearby and even mixed in, so those zones should not be exempted from setbacks. Further, his ordinance requires a 1200-foot setback for residential and schools and, given the proximity issue, this could potentially create a planning nightmare in trying to differentiate the setbacks versus exemptions. Such exemptions could delay permitting and exceed the 60-day approval timeframe mandated by HRS 4689. To avoid this

potential violation, the easy remedy would be to uniformly require setbacks with no exemptions, which is exactly what Bill 194 does.

Thank you for your kind and thoughtful consideration of our comments. Please feel free to reach out with any questions.

Sincerely,

Debra

Debra Greene, PhD
Founding Director
Safe Tech Hawaii
808-874-6441
debra@SafeTechHawaii.com

From: [MESHGLASS](#)
To: [WPCtestimony](#)
Subject: Support Item #4
Date: Monday, December 2, 2024 5:53:09 PM

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

thank you

DMK Kirk

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From: [donna grabow](#)
To: [WPCtestimony](#)
Subject: Item #4, Bill 194 Hawaii County Planning Commission Meeting
Date: Monday, December 2, 2024 9:47:25 AM
Attachments: [Cell Towers.gif](#)

Aloha,

Item #4 is being recommended because it is helpful in insuring undesired health affects caused by over loading airspace with frequency-pollution from Telecommunication super growth.

Please recommend ordinance Item #4 of Bill 194.

There are other local jurisdictions that have implemented ordinances similar to Bill 194, in order to regulate the deployment of towers and antennas.

Mahalo,

Donna Grabow



From: [Dove Sifferlen](#)
To: [WPCtestimony](#)
Subject: Support Item #4
Date: Monday, December 2, 2024 11:07:45 AM

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

Dove M. Sifferlen

Cell: 808-283-0399

104 Kahiapo Place
Haiku, HI 96708

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From: [George Stewart](#)
To: [WPCtestimony](#)
Subject: Support Item #4...
Date: Monday, December 2, 2024 10:02:26 AM

Re: Item #4:

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code. Please support Bill 194. Mahalo.

George S Mycroft (Capt ret'd)

From: [Jamie](#)
To: [WPCtestimony](#)
Subject: Support item #4 please
Date: Monday, December 2, 2024 9:36:48 AM

Good morning,

Please, please, please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

This is for the health and well being of all of us.

Thank you,
Jamie Belmarez
Big Island resident for 20 years

From: [Jessica Main-Villines](#)
To: [WPCtestimony](#)
Subject: Support Item #4
Date: Monday, December 2, 2024 10:18:53 AM

To whom it may concern,

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194.

Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

Jessica Main-Villines

From: [Juhl Rayne](#)
To: [WPCtestimony](#)
Subject: support item #4
Date: Monday, December 2, 2024 10:05:24 AM

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

thank you

Juhl Rayne

From: [kimiko.knight](#)
To: [WPCtestimony](#)
Subject: Item#4
Date: Monday, December 2, 2024 10:28:52 AM

I strongly support Item #4 and favor Bill 194 to regulate the deployment of towers and antennas.

Thank you.

Kimiko Knight
75-5919 Alii Dr., FF-21
Kailua Kona, HI 96740

From: [kirstin morris](#)
To: [WPCtestimony](#)
Subject: support item # 4
Date: Monday, December 2, 2024 10:22:23 AM

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

Mahalo nui loa !

Kirstin Morris

From: [kitty Olsen](#)
To: [WPCtestimony](#)
Subject: Support item#4
Date: Monday, December 2, 2024 9:30:45 AM

Do Not have G5 on Big Iskand

[Sent from Yahoo Mail for iPhone](#)

From: [Laurie West](#)
To: [WPCtestimony](#)
Subject: SUPPORT ITEM #4
Date: Monday, December 2, 2024 9:57:51 AM

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

-Laurie West, resident of the State of Hawai`i

From: [Marcia Hoodwin](#)
To: [WPCtestimony](#)
Subject: Support item 4
Date: Monday, December 2, 2024 9:30:49 AM

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

Sent from my iPhone

From: [Maria Scafidi](#)
To: [WPCtestimony](#)
Subject: Support Item #4
Date: Monday, December 2, 2024 3:30:14 PM

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

Thank You!
Maria Scafidi

From: [Mark Graham](#)
To: [WPCtestimony](#)
Subject: Support Item #4 on the agenda, Bill #194
Date: Monday, December 2, 2024 2:10:47 PM

December 2, 2024

Honorable Planning Commissioners,

My name is Mark Graham. I live in Elk Grove, California, the city that in 2019 adopted the "front yard rule for cell antenna placement" into our zoning code. It's in the P.S. of this message. EGMC section 23.94.050 A. 6. b.

You can read them in the Elk Grove Municipal Code here:

<https://www.codepublishing.com/CA/ElkGrove/#!/ElkGrove23/ElkGrove2394.html#23.94.050>

Radiation from cell antennas is hazardous to our health! The industry knows it. The government knows it. The Telecommunications Act of 1996 (TCA) does not allow you to regulate placement of cell antennas on the basis of the environmental effects of cell antenna radiation BUT it does allow you to prevent the irresponsible placement of cell antennas. You can regulate placement, as we do here in Elk Grove, to protect what the City considers is aesthetic values. Our front yard rule (my name for it) for cell antenna placement has protected about 90% of Elk Grove homes from having a cell antenna placed on a city light pole in front of the house or apartment. The companies are still getting permits and installing antennas, but not right adjacent to our front yards. Telecom has NOT sued the City of Elk Grove. If we can do it then you can do it too. Bill 194 is not the same as our front yard rule but it is a measure intended to protect residents by the County exercising its power, its local zoning authority.

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

This is about:

What: Windward Planning Commission meeting

When: Thursday, December 5, 1:00pm

Where: Hawai'i County Council Chambers in Hilo 25 Aupuni Street, Hilo, HI 96720 (or via Zoom)

Please acknowledge your receipt of this message.

Thank you and best wishes,

Mark Graham
Co-Founder
Keep Cell Antennas Away
A local residents' advocacy group

P.S. Here is the front yard rule for cell antenna placement as in the Elk Grove Municipal Code, the Zoning Code.

23.94.050 Development standards.

A. General Development Standards. Unless otherwise exempt pursuant to EGMC Section 23.94.040, Exemptions, or as otherwise provided in an agreement approved by the Elk Grove City Council pursuant to EGMC Section 23.94.035, Small Cell Wireless Communications Facilities, the following general development standards shall apply to all wireless communications facilities:

6. In a residential zoning district, the following development standards shall apply, unless the applicant can demonstrate with substantial evidence satisfactory to the approving authority that such siting limitation will materially inhibit personal wireless service as to a particular small cell wireless communication facility.

a. No small cell wireless communication facility shall be placed within five hundred (500' 0") feet of another small cell wireless communications facility.

b. No small cell wireless communication facility shall be located immediately adjacent to, nor immediately across the street from, a front yard of any residential dwelling.

Here is the signed version of City of Elk Grove Ordinance No. 19-2019, which approved a new cell antenna policy which includes zoning code amendments and a master license agreement between the City and AT&T / Cingular. You can download it from this page.

[City of EG Ordinance 19-2019](#)

From: [Marsha Andreola](#)
To: [WPCtestimony](#)
Subject: Support Item # 4
Date: Monday, December 2, 2024 12:39:04 PM

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

Thank you!!!!
Marsha Andreola
302 Kealahou Street
Honolulu, HI 96825

From: [Marta Barreras](#)
To: [WPCtestimony](#)
Subject: support Item #4
Date: Monday, December 2, 2024 2:42:44 PM

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

Blessings and Aloha,

Marta Barreras

From: [wildwahine](#)
To: [WPCtestimony](#)
Date: Monday, December 2, 2024 9:40:58 AM

County Council proposed telecommunications ordinance, Bill 194...is the least we can do to keep all the implications of 5G off our beautiful island!!

This is a compromise to NO 5G AT ALL!!

Inhabitants of this beautiful Big Island hope you at least adopt Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

With Aloha,
Michelle Rae

From: [Byrne 5165](#)
To: [WPCtestimony](#)
Subject: Support item#4
Date: Monday, December 2, 2024 10:48:44 AM

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

Nancy Byrne

Sent from my iPad

From: [Naomi Melamed](#)
To: [WPCtestimony](#)
Subject: Support Item #4
Date: Monday, December 2, 2024 3:43:09 PM
Attachments: [WPC Testimony in Support of Item #4 Bill 194.pdf](#)

Aloha, This is a list of attached resources mentioned in my testimony PDF attached:
Mahalo, Naomi Melamed

POLICIES & ORDINANCES

Note: These were compiled from EHT research of various sources and a special thank you to [Physicians for Safe Technology](#), [My Streets My Choice](#), [Scientists for Wired Technology](#) and [Last Tree Laws](#) for their extensive resources utilized on this page. Please be sure to go to these pages for more information.

In addition, Americans For Responsible Technology has created a [Sample Small Cell Ordinance](#) that cities can use as a starting point which incorporates several- although not all- of these issues. Please download their model ordinance and [utilize their extensive resources at this link](#).

New York

White Plains, New York Wireless Ordinance

- *In order to ensure and maintain the safety, property values, and aesthetic qualities of White Plains streets and neighborhoods, the following setback provision shall apply: residential districts, a minimum of 250 feet from the nearest structure;*
- Notifications to property owners located within 500 feet shall be written in a factual manner devoid of marketing promotion and approved by the Commissioner of Public Works;
- All small wireless facilities... shall at all times be operated in compliance with the RF standards established by the Federal Communications Commission. *These RF safety standards shall apply to the aggregate emissions of co-located and nearby facilities not just the emissions of a single antenna;*
- Liability insurance without a pollution exclusion, pollution being defined as any solid, liquid, gaseous or thermal pollutant, irritant or

contaminant including but not limited to artificially produced electric fields, magnetic fields, electromagnetic fields and all artificially produced ionizing and non-ionizing radiation;

- The following unique clause was also inserted: *no new small wireless facilities, as defined in 47 CFR §1.6002 (1), shall be approved unless the applicant can establish that failure to approve such an application would violate federal or state law.* This clause was inserted to allow the City of White Plains to deny an application if federal law continues to uphold the ‘significant gap’ provision. At the same time, it allows the City to approve an antenna if the law changes;
- [Link to White Plains New York Ordinance PDF](#)

Ithaca New York Ordinance

- A 1500 foot setback between antennas (old code: 0 feet)
- A 300 foot setback between antennas and homes (old code: 0 feet)
- Requiring proof of a significant gap in service coverage for any antenna, proven by ‘in-kind’ testing (such as drive-by tests and dropped calls)
- Clarifying that an applicant’s claim that it needs the proposed tower for “future capacity” is not sufficient to establish that it suffers from a significant gap in coverage
- Requiring the least intrusive methods to fill any coverage gap for antennas
- Requiring that a visual impact analysis be submitted for any new proposed antennas
- Requiring General Liability Insurance without a pollution exclusion
- Allowing for random, unannounced radiation testing for all towers done by the City at the expense of the applicant
- Including fall-zone requirements that wireless facilities are maintained at a sufficient distance from other structures and the general public
- Establishing a procedure for any disabled persons suffering from EHS to submit requests/grievances in accordance with the ADA
- Establishing that the codes apply to all wireless transmitting antennas, including any on private homes (OTARD)
- Protecting against reductions in property values of properties situated near wireless facilities
- Requiring that the submittal of key items by the applicant is done so under

oath and penalty of perjury

- [Link to Ithaca New York Wireless Ordinance PDF](#)

Massachusetts

Randolph MA

500 foot setback from any residence or business. Randolph requires a certified engineer to take radio frequency radiation readings of the tower once a year and requires the tower company to recertify it's tower every year. [Link to Code](#)

Lunenburg, MA

500 foot setbacks from any residence. [Link to Code](#)

Great Barrington MA has 500 foot setbacks away from residences AND their zoning ordinances state; "Towers and personal wireless service facilities shall be located so as to minimize the following potential impacts: [Safety from excessive electromagnetic radiation, in case the tower or personal wireless service facility is found to exceed the FCC guidelines.](#)" <https://ecode360.com/28653470>

Stockbridge MA prohibits a tower from being built 1000 feet from a school, park or athletic field and 600 feet away from any residence.

<https://townofstockbridge.com/wp-content/uploads/2017/10/TOWN-OF-STOCKBRIDGE-MASSACHUSETTS-Zoning-Bylaws-2017.pdf>

Florida

RESOLUTION NO. 2021-58: RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF LAVALLETTE CONDITIONALLY APPROVING AN APPLICATION OF VERIZON/TILSON TECHNOLOGY FOR A RIGHT OF WAY PERMIT AT 3 LIGGETT ROAD IN THE BOROUGH OF LAVALLETTE, COUNTY OF OCEAN

The conditional requirement for deployment in Lavallette, and the City expressly made this a condition precedent before deployment: "The applicant shall obtain certification from the Federal Aviation Administration and the United States Department of Defense demonstrating that the installation does not emit RF frequencies which may interfere with avionics

of any approaching civil or military aircraft.” The City also requires the applicant to provide RF meters used by their technicians and training the City employees.

Arkansas

Booneville, Arkansas

- Proposed Ordinance would limit cell towers to 250 ft max; industrial zones
- [Cell tower ordinance read for first time at council meeting, Sept 5, 2018](#)

Danville, California

Proposed Ordinance No. 2018-07: Wireless Communication Facilities

- Aesthetic requirements (design guidelines may be developed and amended from time to time to clarify aesthetic and public safety goals and standards)
- Utilities must be underground to extent feasible. “Meters, panels, disconnect switches and other associated improvements must be placed in inconspicuous locations to the extent possible”.
- Permits valid for initial period of 10 years max
- “Where feasible, the location of wireless communication facilities shall be encouraged to be located on publicly owned or controlled property or right-of-way.”
- Would allow small cells in residential districts:

–“All facilities shall be substantially screened from the view of surrounding properties and the public view or collocated with existing facilities or structures so as not to create substantial additional visual, noise, or thermal impacts. “

–Property owners within 300 ft of proposed site must be notified

[Danville, California: Ordinance No. 2018-07 Wireless Communications Facilities PDF](#)

<http://mystreetmychoice.com/danville.html>

<http://scientists4wiredtech.com/danville/municipal-wireless-code/>

Encinitas, California

- [Urgency Ordinance](#)
- [5G opponents cite health concerns in urging city to limit wireless antennas](#)

Fairfax, California

Urgency Ordinance to Establish New Regulations for Wireless Telecommunications Facilities; Ad hoc committee to study viability of fiber network

Ordinance No.819 An Urgency Ordinance Enacting Title 20 (“Telecommunications”) of the Fairfax Municipal Code to Establish New Regulations for Wireless Telecommunication Facilities [small cell devices a.k.a. 5G]

- [Redlined version](#)
- News: Marin Independent Journal [Fairfax to study fiber-optic broadband amid protest against 5G](#)

Los Altos, California

- installation of small cells on public utility easements in residential neighborhoods is prohibited
- 500 foot setbacks for small cells for multi-family residences in commercial districts
- 500 ft separation from schools
- 1500 ft separation between nodes
- [Los Altos Urgency Ordinance:](#)
- [Los Altos Citing Guidelines:](#)

This ordinance was passed in 2019. Then the Los Altos City Council then rejected 12 applications from AT&T and one from Verizon because they didn’t meet those rules. In response, both cell companies sued in federal court, arguing the denial wasn’t based on evidence. The lawsuit is still pending while consultants hired by the city of Los Altos worked on a new ordinance. The new ordinance, which was reviewed by the Los Altos Planning Commission on Thursday, says that cell nodes can go in residential streets as long as they are

near a main road, within 200 to 500 feet.

According to WireAmerica.org: The new Los Altos ordinance “says the city will grant exceptions if a cell company has evidence they need a site in a residential neighborhood to eliminate a significant gap in telecommunications coverage. The company would have to demonstrate, with substantial evidence in the public record, that not putting the antenna at that location would result in an effective prohibition of telecommunications service — a tough row to hoe for Wireless companies because everyone can make a wireless phone call on every carrier network in Los Altos today. The ordinance has several other restrictions on things like height, noise and Wireless Telecommunications Facility (WTF) design. Attorney Deborah Fox, who is representing the city against AT&T and Verizon, said the ordinance is “state of the art” and she is confident that it meets federal law.”

Marin County, California

Draft as of June 21, 2019 The city is mapped to show where the cell towers are allowed. [*Marin drafts preferences for 5G rollout*](#), Point Reyes Light

- “Marin’s draft rules select industrial, commercial or agricultural sites, or sites near public facilities, as preferred locations for the antennas; residential and mixed-use sites and areas within 1,500 feet of schools and daycare centers are the least-preferred locations. The draft favors placing antennas on existing street poles or traffic lights, versus new poles or small cell facilities. It limits antennas to one per pole and stipulates they must be at least 1,000 feet apart. It also includes aesthetic requirements that aim to blend equipment, and prohibits equipment on historic buildings.”

Mill Valley, California

Urgency Ordinance No 18, September 6, 2018

- New or updated facilities prohibited in residential zones. Commercial only.
- Facilities installed on poles in public right of way must be 1,500 feet apart
- Design, noise standards
- Facilities in public right of way that would interfere with future projects / improvements must be relocated

- Promptly remove facilities when no longer needed; replace with smaller facilities as feasible
- Defend and indemnify the City
- [Mill Valley, California: Urgency Ordinance No 18, September 6, 2018](#)
- [Tech Crunch” Bay Area Blocks 5G Deployment Over Cancer Concerns](#)
- [Marin Post Mill Valley Council Adopts Wireless Ordinance Protects Community](#)

Palo Alto, California

City Council voted unanimously to approve a Resolution and amended Wireless Ordinance that City Staff had proposed. Council *also* voted unanimously in favor of a motion to direct City Staff “to come back as soon as possible but [in] no more than [one year], with an updated Ordinance/Resolution that considers” (and e summarizing):

1. Disfavoring the placement of cell towers in, for example, residential zones and near schools;
2. Minimum setbacks for cell towers from homes and schools, and minimum distances between cell towers;
3. Creating a list of city-owned buildings that would be appropriate sites for macro cell towers (i.e., as an alternative to small cell node cell towers next to people’s homes);

Council also voted to direct City Staff to return to Council with a recommendation for “best practices” with respect to inspecting antennas.

“Seeking to strike a balance between federal requirements and resident concerns, Palo Alto approved on Monday night new rules for reviewing the flurry of applications that the city has been receiving from telecommunication companies seeking to install antennas on local streetlights and utility poles.

By a 6-0 vote, with Councilman Greg Tanaka absent, the council adopted a set of “objective standards” for wireless communication facilities, including a menu of preferred design alternatives for radio equipment and antennas. And in a nod to the dozens of residents who have raised alarms about the proliferation of cellular facilities on their blocks, the council launched a new effort to further restrict where such technology can be installed and to explore “minimum

distance” requirements for wireless equipment in relation to local schools and homes.”

Palo Alto looks to distance cell antennas from homes, schools

Palos Verdes, California

According to citizens of the city, after citizen uproar, Crown Castle began complying with municipal aesthetic requirements and moving proposed locations out of neighborhoods and away from homes. The ordinance has four key components, if these are met the site will almost certainly be approved:

- Minimal antenna size with screening
- All accessory equipment underground (everything except the antenna)
- Combining sites with existing vertical infrastructure (streetlights, traffic signals, etc.)
- Strict location restrictions, no sites on local, residential streets without an exception granted

If they don't comply with these, then the applicant must demonstrate the site is required to fill a significant gap and there is no less intrusive alternative to receive an exception. This is not simply checking a box (i.e. the applicant just claiming these conditions exist) but has to be demonstrated to the City planning commission via engineering analysis.

**Palos Verdes, California Ordinance Chapter 12.18 – WIRELESS
TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHT-OF-WAY**

Petaluma, California

Ordinance of the City Council of Petaluma

- Protect environmental resources; protect residents against adverse health effects
- Protect visual character; don't create visual blight
- Protect environmental resources; protect residents against adverse health effects
- Commercial or industrial zones

- Antennas must connect to an already existing utility pole that can support its weight.
- Servicing wires must be installed within the width of the existing utility.
- All ground-mounted equipment not to be installed inside the pole must be undergrounded, flush to the ground, within three (3) feet of the utility pole.
- Dedicated power source to be installed and metered separately.
- 1,500 feet minimum between each Small Cell facility.
- No Small Cell shall be within 500 feet of any residence.
- An encroachment permit must be obtained for any work in the right-of-way.
- [Petaluma, California: Ordinance of the City Council of Petaluma PDF](#)

Ross Valley, California

Wireless Telecommunications Facilities

- Modeled after Mill Valley's
- Adopted regulations prohibit facilities in residential and downtown zoning district.
- Facilities proposed in the public right-of-way subject to separate design criteria.
- Limits height and width of facilities to a minimum necessary for property function.
- Maximum height of 24 feet above the height of the existing utility pole and 7 feet above a street light standard.
- Requires equipment to be placed underground.

[Ross Valley, California: Wireless Telecommunications Facilities PDF](#)

SAN ANSELMO, CALIFORNIA

Council Policy

- People within 300 feet of proposed antenna will be notified
- Town is entitled to employ independent consultant at applicant's expense to evaluate exceptions
- [San Anselmo, California PDF](#)

San Diego County, California

Draft ordinance (5-31-2019) for small cell antenna sites in San Diego County has the following requirement:

“SCWs shall not be located within 1,000 feet of schools, child care centers, hospitals, or churches. Distance, without regard to intervening structures, shall be a straight line measured from the closest property lines.”

San Diego County Ordinance

San Jose, California

Negotiated agreement

“officials made improved access to areas with low internet participation a precondition for reducing fees...agreement set tiered costs per network node installation, with lower fees for companies deploying more nodes. Along with this incentive, three companies pledged to contribute a total of \$24 million over the next decade to a digital inclusion fund.” ([GovTech](#))

- News Stories [The Future of 5G: The Bitter Battle for Local Control](#)

Suisin CA

500 ft setback and all facilities permitted pursuant to this chapter shall comply with the ADA.

San Anselmo, CA

300ft setback residents notified

Calabasas, CA

1000 feet setback for small cells.

Westlake, CA

500 feet setback

San Clemente, CA

500 feet setback

San Rafael, California

City Council Report

Dec. 5, 2018 front page news

story: <https://www.marinij.com/2018/12/04/san-rafael-officials-work-to-tighten-5g-antenna-rules/>

Dec. 18, 2018 front page story: <https://www.marinij.com/2018/12/18/san-rafael-adopts-urgency-ordinance-to-keep-grip-on-5g-proliferation/>

- City Staff Report: URGENCY ORDINANCE AMENDING THE SAN RAFAEL MUNICIPAL CODE TITLE 14 (ZONING) AND ACCOMPANYING POLICY RESOLUTION TO ESTABLISH PROVISIONS AND PROCEDURES FOR REGULATING THE PLACEMENT OF SMALL WIRELESS FACILITIES
- San Rafael, California: December 2018 Documentation for City Action on 12/18/2018

"I want the city and county government to clearly say no to the FCC," said resident Arthur Saftlas. "No 5G installations of any kind in Marin, until it can be proven safe for us and the environment." - San Rafael, Calif., Officials Work to Tighten 5G Regulation

- San Rafael Residents Take Pre-emptive Strike Against 5G

Sebastopol, California

City Council Agenda Item Report and Urgency Ordinance (Recommended)

- Purpose: Institute a moratorium on applications for small cells in the public right-of-way until adoption of a permanent ordinance

Previous regulations on telecommunications facilities (according to the recommended urgency ordinance, these did not anticipate 5G and do not address installation of telecommunications facilities in the right-of-way):

- Purpose: Protect visual character, inhabitants, environmental resources

Cannot be located in any required yard setback area

- Facilities within 400 feet of residential areas, schools, churches, hospitals etc must comply with NIER standards
- Minor facilities must be 75 feet away from a “residential dwelling unit” except 1 single family residence on the property where it is located

Sebastopol, California: City Council Agenda Item Report and Urgency Ordinance Establishing a Moratorium on Small Cells in the Public Right of Way

Other Links

- <http://scientists4wiredtech.com/sebastopol/sb-muni-code/>
- <http://mystreetmychoice.com/sebastopol.html>

Sonoma, California

Report and Urgency Ordinance

On Nov 5, 2018 Sonoma **approved** their 5G urgency ordinance.

500 ft setback and residents notified.

“Based on the foregoing, the City Council finds and determines that the immediate preservation of the public health, safety and welfare requires that this Ordinance be enacted as an urgency ordinance pursuant to Government Code Section 36937(b), and take effect immediately upon adoption. Therefore, this Ordinance is necessary for the immediate preservation of the public peace, health, safety and welfare and its urgency is hereby declared.”

- The City also has a [Small Cell Tower](#) page.
- [Sonoma California Ordinance on 5G](#)

WALNUT CITY, CALIFORNIA

- “Telecommunication towers and antennas shall not be located within 1,500 feet of any school (nursery, elementary, junior high, and high school), trail,

park or outdoor recreation area, sporting venues, and residential zones.”

- **Screenshot of Ordinance from Walnut Website,**
- To see the code online go to <https://qcode.us/codes/walnut/>, Click on “Title 6: Planning and Zoning” Click on “Chapter 6.88 ANTENNAS AND COMMUNICATION FACILITIES”, Click on “6.88.060 Design standards, See Item “O.

Warren, Connecticut

This policy defines adequate coverage and adequate capacity. It details that it was designed “to locate towers and/or antennas in a manner which protects property values, as well as the general safety, health, welfare and quality of life of the citizens of Warren and all those who visit this community, minimize the total number and height of towers throughout Warren, and provide standards and requirements for the regulation, placement, design, appearance, construction, monitoring, modification and removal of telecommunications facilities and towers.”

- “Coverage is considered to be “adequate” within that area surrounding a Base Station where the predicted or measured median field strength of the transmitted signal is such that the majority of the time, transceivers properly installed and operated will be able to communicate with the base station. In the case of cellular communications in a rural environment like Warren, this would be a signal strength of at least -90 dBm for at least 75% of the coverage area. It is acceptable for there to be holes within the area of Adequate Coverage where the signal is less than -90 dBm, as long as the signal regains its strength to greater than -90 dBm further away from the Base Station.”
- “Capacity is considered to be “adequate” if the Grade of Service (GOS) is p.05 or better for median traffic levels offered during the typical busy hour, as assessed by direct measurement of the Personal Wireless Service Facility in question.”

**TOWN OF WARREN SECTION 29 – SPECIAL PERMIT FOR
TELECOMMUNICATIONS: FACILITIES AND TOWERS December 11,
2012, Warren website link**

BURLINGTON, MASSACHUSETTS

Town of Burlington Policy Applications for Small Cell Wireless Installations,
October 22, 2018

- Small Cell Committee drafted a policy with annual recertification fees. Verizon withdrew its application, concerned by the precedent it would set and questioning its legality.
- Verizon attorney Mr. Klasnick stated “My client respectfully requests to withdraw the petition rather than have a fee,” he said.(BCATTV)

[The Town of Burlington Policy / Application for Small Cell Wireless Installations approved by the Burlington Board of Selectmen on October 22, 2018 PDF.](#)

According to BCATTV [Verizon Drops Small Cell Wireless Booster Application in Face of Fees:](#)

“This week Selectman Jim Tigges, the board’s representative on the Small Cells Committee, said the group had come up with a new policy for small cell applications. The policy contains a number of provisions while filing an application, including setting installation fees, listing the town department that must receive a copy for review and setting up the timeline for approval.

The Verizon application, however, would not be subject to the policy because it was submitted before its adoption. However, Tigges and the committee did have a number of conditions for the project it recommended to the board. They included:

- No apparatus on double poles
- An agreement to annual recertification
- Equipment shall be located on top of the poles, colored similarly to the pole so as to blend in.
- Equipment shall not interfere with other equipment on the pole, nor obstruct or interfere with access to or operation of street lights or traffic controls devices on the pole.

– Poles must meet ADA standards.”

-NEWS: **Verizon Drops Small Cell Wireless Booster Application in Face of Fees**,
October 23, 2018

Holyoke, Massachusetts

- Draft policy \$500 fee for city inspection of rooftop poles/roofs every 2 years
- Holyoke has submitted an order from councilor Bartley Roman to limit equipment and require \$500 apiece per small cell–\$500 may exceed FCC limits. At-large councilor Rebecca Lisi, on behalf of a Holyoke resident, recently submitted to the town lawyer a copy of the ordinance drafted by Pittsfield.

Information from <https://www.lasttreelaws.com/ordinances.html>

Pittsfield, Massachusetts

Proposed Section: Wireless Communications Facilities

- Telecom company must prove preferred site/existing structure does not work
- Above ground aesthetic requirements
- Sound and light restrictions with emphasis on industry proving compliance

Pittsfield, Massachusetts: Proposed Section: Wireless Communications Facilities PDF

Little Silver, New Jersey

- Carriers should provide notice to property owners within five hundred (500') feet of the proposed Telecommunications Facility.
- The applicant must demonstrate to the reasonable satisfaction of the Borough that no existing personal wireless Telecommunication Service Facility within a reasonable distance can accommodate needs.
- Indemnification clause: “Each license grantee shall indemnify and hold the Borough and its officers, employees, agents and representatives harmless from and against any and all damages, losses and expenses, including reasonable attorney’s fees and costs of suit or defense, arising out of,

resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the grantee or its affiliates, officers, employees, agents, contractors or subcontractors in the construction, operation, maintenance, repair or removal of its Telecommunications Facilities, and in providing or offering Telecommunications Services over the facilities, whether such acts or omissions are authorized, allowed or prohibited by this Chapter or by a grant agreement made or entered into pursuant to this Chapter.”

- **“Little Silver New Jersey: AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 16A “LAND USE AND DEVELOPMENT ORDINANCE” OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF LITTLE SILVER, COUNTY OF MONMOUTH, STATE OF NEW JERSEY AMENDING SECTION 16A-2 “DEFINITIONS” AND 16A-5 GENERAL PROVISION ADDING NEW SUBSECTION 5-28 “PLACEMENT OF TELECOMMUNICATIONS FACILITIES”**

New York

Ithaca , New York

Ithaca's code of 250 feet

- A 1500 foot setback between antennas (old code: 0 feet)
- A 250 foot setback between antennas and homes/schools (old code: 8 feet)
- Requiring proof of a significant gap in service coverage for any antenna, proven by ‘in-kind’ testing (such as drive-by tests and dropped calls)
- Clarifying that an applicant’s claim that it needs the proposed tower for “future capacity” or to “improve coverage” is not sufficient to establish that it suffers from a significant gap in coverage
- Requiring the least intrusive methods to fill any coverage gap for antennas
- Requiring that a visual impact analysis be submitted for any new proposed antennas
- Requiring General Liability Insurance without a pollution exclusion
- Allowing for random, unannounced radiation testing for all towers done by the City at the expense of the applicant
- Including fall-zone requirements that wireless facilities are maintained at a sufficient distance from other structures and the general public

Allowing for revocability (a clause allowing the voiding of any contract requiring its modification in the event of a regulatory change)

- Mandating certified mail notices of any proposed tower be sent to people living near a proposed site before approval, paid for by the applicant.
- Establishing a procedure for any disabled persons suffering from EHS to submit requests/grievances in accordance with the ADA
- Establishing that the codes apply to all wireless transmitting antennas, including any on private homes (aimed at the OTARD challenge)
- Deputizing any citizen to test for RF emissions
- Protecting against reductions in property values of properties situated near wireless facilities
- Requiring that everything submitted by the applicant is done so under oath and penalty of perjury
- [Download PDF of Ithaca code here.](#)

Scarsdale, New York

Scarsdale, New York Passed a [Wireless Ordinance](#) To Limit Cell Antennas 500 Feet From Homes, Schools and Daycares

1. Pre- and post-installation RF testing requirements by independent contractor; additionally, routine annual monitoring
2. Pre-notification of small cell application to residents within a 1,000-foot radius of proposed installation
3. Pre-notification of small cell application to President-At-Large of the neighborhood association and to the president of neighborhood association in which the wireless facility is proposed
4. Location preferences (restricted zones) that require special exceptions for installations
 - Any location within 500 feet from a residential dwelling unit
 - Any location within 500 feet from a daycare facility or school
 - Any location within 500 feet from a house of worship
 - Any location within parkland
5. Village is insured against any liability for personal injury or property damage

or claims pertaining to RF exposure

6. Existence of appeals process (de novo hearing in front of Planning Board)

Copake New York

([Link to Copake NY code](#))

Pretesting and post testing by RF engineer

Annual monitoring of RF emissions by the independent RF engineer using actual field measurements

Hempstead, New York

Wireless Communications Facilities

- Requires a special use permit for cell towers that encourages location of new wireless facilities so as to minimize their impact on historically sensitive areas around residences, schools, houses of worship, day-care centers. Seven consideration factors are listed in order from more to least preferred, with existing towers being most preferred and new towers in residential zones least preferred.
- Prohibits towers from exceeding a height that permits it to operate without artificial lighting
- Allows the town to hire consultants and do inspections
- Set a fee schedule of \$500 per pole
- Requires a 4 foot warning sign on the pole
- Utilities at wireless installations should be underground when possible
- [Hempstead, New York: Wireless Communications Facilities Ordinance eCodeChapter 142](#)
- Other Links
- <https://mdsafetech.org/cell-tower-and-city-ordinances/>
- <https://hempsteadny.gov/permits-and-applications/wireless-telecom-ordinance>

Mason, Ohio

Zoning Ordinance – Wireless Communications Systems

- No small cells in residential areas or within 100 feet of property used for residential use
- Small cells must be 2000 feet apart (unless colocated)
- Small cells are between 20-30 ft high (may be able to exceed 30 ft if colocated)
- Every attempt shall be made to locate small cells on existing structures; if not available, within public right of way
- All related equipment should be underground or wholly contained so not visible
- Each facility shall consist of no more than 1 antenna/user and capable of providing communication for at least 2 users

[Mason, Ohio Zoning Ordinance PDF](#)

Lancaster, Pennsylvania

Zoning Changes via Ordinance 9-2016

- City Council rushed through zoning changes to declare many streets off limits to new poles (said they could be much taller than existing ones)
- Public Utility Commission stripped Mobilitie and other distributed-antenna companies of utility status, meaning that they would not get any more “certificates of public convenience” in Pennsylvania.

[Lancaster, Pennsylvania Ordinance No. 9-2016 PDF](#)

News Stories

- <http://www.philly.com/philly/business/comcast/philly-and-suburbs-brace-for-attack-of-the-small-cells-20170601.html?arc404=true>
- <http://www.govtech.com/dc/articles/Philadelphia-Braces-For-Small-Cell-Future.html>

Note: This list was compiled from EHT research of various sources and a special thank you to [Physicians for Safe Technology](#), [My Streets My Choice](#) and [Last Tree Laws](#) for their extensive resources.

Sent with [Proton Mail](#) secure email.

Testimony in Support of Bill 194

Aloha Commissioners,

Mahalo for your time and dedication in reviewing the updated solution for wireless infrastructure on the Big Island. My name is Naomi Melamed, and I am a Hawaii Island leader for Safe Tech Hawaii, a voluntary group that has been serving statewide for several years. Our mission is to educate and support our local community by engaging with the legislative process to promote a balance between connectivity and safety in Hawaii. We are composed of thousands of local members who deeply care about Hawaii.

Request for Favorable Recommendation

I kindly request that the planning department favorably recommend Bill 194 to the council, allowing council members to address any differences between the two bills through their established process. Both the planning department's proposed ordinance and Bill 194 contain language that requires revision, and it doesn't make sense to recommend one over the other at this stage. The initial attempt by the councilmember introducing Bill 194 to collaborate was not honored, but I appreciate that both bills are now being considered together, allowing for thoughtful deliberation.

Compliance and Transparency

Although I am not an authority on county code, I have included links to dozens of other jurisdictions with more protective ordinances around the US. Bill 194 complies with USC 47 section 332, C-7-b-4, as it does not excessively request information from applicants, like EMF levels. Instead, it encourages transparency and provides valuable information, considering those with EMF exposure sensitivities. Our group has conducted a statewide monitor of EMF emissions from towers, revealing excessively high levels. This is a genuine concern for our population, irrespective of zoning.

Expertise and Precedent

Many electricians and field technicians already use measuring meters, similar to those used by local utility companies. The meters may be, though language refinement may be beneficial. Furthermore, a federal court ruling in 2020 criticized the FCC for not updating their EMF exposure levels, deeming their inaction "arbitrary and capricious."

Bill 194 does not impose stricter EMF standards than the FCC but seeks to document emissions and outline measurement processes.

Addressing Concerns about FCC Standards

As highlighted by other testifiers, a significant federal court ruling in 2020 criticized the FCC for failing to update their EMF exposure levels for humans and the environment. The court deemed this oversight "arbitrary and capricious," emphasizing that the FCC neglected to consider substantial evidence, totaling over 11,000 pages, from multiple reputable sources during their review. This ruling places the FCC under scrutiny, questioning the reliability of their outdated regulations.

Importance of Updated EMF Measurements

Bill 194 does not impose stricter EMF standards than those currently set by the FCC. Instead, it aims to document emissions and establish a clear process for measuring them. This initiative is crucial, as it ensures transparency and provides essential data, particularly for community members with EMF exposure sensitivities. While the language of the bill could be refined to enhance clarity, it does not warrant an unfavorable recommendation.

Maintaining Lawfulness and Safety

The ordinance remains solid in its legal foundation, aligning with existing laws while acknowledging the need for updated information on emissions. By focusing on measurement and transparency, Bill 194 responsibly addresses the community's concerns without contravening federal guidelines.

Addressing Safety Concerns

Council member Evans' bill includes detailed fire plans and site approval requirements, providing reassurance to residents.

While Bill 194 does **not** regulate cell towers and antennas based on environmental concerns, it highlights a crucial issue that local jurisdictions must address to protect their constituents' interests. The bill balances community needs within the necessary legal framework of the state and USC **47 section 332, C-7-b-4**. I hope the planning commission recognizes this and recommends Bill 194 favorably.

Robust Legislation

Bill 194 has been in development for about a year, incorporating input from diverse community members and groups. Although the planning department was approached for collaboration, they chose a different path. Nonetheless, our group is pleased to offer our expertise, particularly in documenting other jurisdictions with protective ordinances.

Bill 194 is robust legislation reflecting the will of island residents over external business interests while ensuring connectivity for all. I understand that having two bills on the same topic can be confusing, but I encourage the commission to recommend Bill 194, allowing elected council members to evaluate both bills equally.

Importance of Small Cell Regulation

Technology is evolving rapidly, and one valuable aspect of Bill 194 is its inclusion of small cells regulation, a new and untested component of 5G. These cells pose increased exposure risks due to their buildout and must be included in modern-day legislation. The planning director's proposed bill does not mention small cells, making this an important distinction.

Concerns with the Director's Bill

The director's bill raises questions about surveillance camera operators, potentially implying the use of private consultants? It is unclear because it's yet to be determined. Additionally, while it mentions decommissioning, it lacks a clear process for deconstruction, unlike Bill 194.

Co-location Documentation

Bill 194's co-location documentation requirement is commendable. It mandates plan approval for co-location, whereas the PD Bill only requires new plan approval for "substantial changes," as defined by the FCC. Without new permits at co-location points, there's no regulation or knowledge of EMF emissions from updated towers. This oversight could lead to fire or fall hazards, as unregistered pre-existing towers co-locate without scrutiny.

Conclusion

The Big Island greatly needs Bill 194 to protect its beauty, safety, well-being, and property values. Council member Evans' bill includes detailed fire plans and site approval requirements, providing reassurance to residents.

In conclusion, the call for transparency and documentation in Bill 194 is a reasonable and necessary step forward. This approach aligns with both legal standards and community safety needs, advocating for a balanced consideration rather than an unfavorable recommendation.

Mahalo for reading my testimony and for your consideration.

Naomi Melamed

Safe Tech Hawaii, Hawaii Island Leader

From: [Sarah Hoffman](#)
To: [WPCtestimony](#)
Subject: Support Item #4
Date: Monday, December 2, 2024 2:50:02 PM

Hello,

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

Thank you!
Sarah Hoffman

From: [seth mcdonough](#)
To: [WPCtestimony](#)
Subject: Support item #4
Date: Monday, December 2, 2024 11:09:34 AM

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

Mahalo

Seth

Sent from my iPhone

From: [Susan Bland](#)
To: [WPCtestimony](#)
Subject: Support Item #4
Date: Monday, December 2, 2024 9:34:35 AM

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

Mahalo,
Susan Anderson

From: [susan higa](#)
To: [WPCtestimony](#)
Subject: support #4
Date: Monday, December 2, 2024 1:32:15 PM

Dear Planning Commission,

Unchecked proliferation of cell towers and antennas are of greater and greater concern.

Pls give favorable recommendation to the County Council proposed telecommunications ordinance, Bill 194.

Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas.

It is aligned with all applicable Federal and State laws and offers important updates to the code.

Thank you for your attention to this deep concern.

sincerely
susan higa
wailuku

From: [Darlene Waddell](#)
To: [WPCtestimony](#)
Subject: Support Item 4
Date: Monday, December 2, 2024 12:25:29 PM

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

Mahalo Nui Loa,
The Waddell Ohana

From: [Yahoo Mail](#)
To: [WPCtestimony](#)
Subject: PLEASE....SUPPORT ITEM # 4
Date: Monday, December 2, 2024 10:40:49 AM

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code. THANK YOU!

From: [Vic L](#)
To: [WPCtestimony](#)
Subject: Support item 4
Date: Monday, December 2, 2024 11:53:35 AM

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

From: [Vickie Wangberg](#)
To: [WPCtestimony](#)
Subject: Support item #4
Date: Monday, December 2, 2024 11:02:33 AM

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

Mahalo,
Vickie B. Wangberg
mvwangberg2@gmail.com

From: [Zain Yamani](#)
To: [WPCtestimony](#)
Subject: Support Item 4
Date: Monday, December 2, 2024 10:04:18 AM

Please give a Favorable Recommendation to the County Council proposed telecommunications ordinance, Bill 194. Dozens of local jurisdictions have implemented ordinances similar to Bill 194 to regulate the deployment of towers and antennas. It is aligned with all applicable Federal and State laws and offers important updates to the code.

Thank you,
Zain Yamani