



# City of Emeryville

CALIFORNIA

## MEMORANDUM

**DATE:** April 4, 2017

**TO:** Mayor and City Council

**FROM:** Carolyn Lehr, City Manager

**SUBJECT:** Resolution Of The City Council Of The City Of Emeryville Authorizing The Mayor To Sign A Letter Opposing SB 649, Wireless Telecommunications Facilities And Proposed Amendments To Install Small Cells By Right

### RECOMMENDATION

Staff recommends the City Council adopt the attached resolution authorizing the Mayor to sign a letter opposing SB 649 and proposed amendments to install “small cells” by-right.

### BACKGROUND

The California League of Cities is seeking support in opposition to SB 649 and amendments in RN 17 08941 related to the permitting of wireless and small cell telecommunications facilities. This proposal will unnecessarily and unconstitutionally strip local authority over public property, shut out public input, and preclude local discretion by eliminating consideration of aesthetic and environmental impacts of small cells.

### DISCUSSION

SB 649 and amendments as proposed require local government to make public property sites available for the installation of small cells. SB 649’s use of Federal Communications Commission defines “small cells” to include equipment such as electric meters, concealments, telecom demarcation boxes, ground-based enclosures, battery backup power systems, grounding equipment, power transfer switches, cut-off switches, cables, or conduits. The proposal allows for an unlimited number of antennas of less than three cubic feet each or six cubic feet for all antennas without placing height restrictions on the pole.

The proposed bill would prohibit local discretionary review of small cell wireless antennas, including equipment collocated on existing structures or on new poles, structures, or non-pole structures. Adopted local and use plans are preempted by mandating that small cells be allowed in all zones, including residential zones, as a use by-right. Local governments are required to make city-owned property available for small cell installation.

The proposed measure provides a de facto exemption of the California Environmental Quality Act (CEQA) for installing such facilities and precludes consideration by the public of the aesthetic, nuisance, and environmental impacts of these facilities, particularly of importance when the facilities are placed within a residential zone. In effect, this measure unconstitutionally gives control of public property to private telecommunication companies and precludes local governments from leasing or licensing publicly-owned property. SB 649 goes too far in requiring local governments to approve small cells in all land use zones through a ministerial permit which shuts the public out of decisions that could affect the aesthetics of their community and quality of their environment.

### **FISCAL IMPACT**

Approval of this letter will not result in a fiscal impact to the City.

**PREPARED BY:** Carolyn Lehr, City Manager

**APPROVED AND FORWARDED TO THE  
CITY COUNCIL OF THE CITY OF EMERYVILLE:**



---

Carolyn Lehr, City Manager

### **ATTACHMENTS:**

1. Resolution
2. SB 649 -Small Cell Opposition Letter