Jenny Leinen <leinen@monterey.org>

Wireless subcomm comments -- please forward

1 message

[redacted] Thu, Aug 30, 2018 at 11:55 AM
To: leinen@monterey.org
Cc: roberson@monterey.org, albert@monterey.org, barrett@monterey.org, haffa@monterey.org, smith@monterey.org, [redacted]

Ms. Leinen:

Please forward to the Wireless Ordinance Subcommittee and the Planning Commission. Thank you.

Nina Beety

August 30, 2018

Comments to the Wireless Ordinance Subcommittee

Dear Subcommittee members:

Verizon throttling down data speeds for firefighters is important background for your deliberations. Safety and protective rules for our community are our responsibility.

Issues for creating a strong wireless ordinance:

- PUC 7901.7901.1 – assert our powers

7901. Telegraph or telephone corporations may construct lines of telegraph or telephone lines along and upon any public road or highway, along or across any of the waters or lands within this State, and may erect poles, posts, piers, or abutments for supporting the insulators, wires, and other necessary fixtures of their lines, in such manner and at such points as not to incommode the public use of the road or highway or interrupt the navigation of the waters.

7901.1. (a) It is the intent of the Legislature, consistent with Section 7901, that municipalities shall have the right to exercise reasonable control as to the time, place, and manner in which roads, highways, and waterways are accessed.
(b) The control, to be reasonable, shall, at a minimum, be applied to all entities in an equivalent manner.
(c) Nothing in this section shall add to or subtract from any existing authority with respect to the imposition of fees by municipalities.

- These new “small cells” are not about telecommunications or about safety. They are for entertainment. These are equivalent of allowing multiplexes everywhere. Wireless companies are trying to take entertainment business away from cable companies by providing faster video download speeds[i].
- Retain from the residents’ draft ordinance
  - Severability – otherwise, the entire ordinance is invalidated.
  - Notification for all residents. Mailing lists should be available from the USPS, and commercial providers certainly have these. The county may also have these.
  - 1000 foot radius notification zone, which should also be instituted separately for all land use projects in the PROW.
  - Application requirements spelled out in the ordinance. This provides transparency for the public and clarity to the applicant. Forms are not good enough. It is necessary to spell it out in this document so it is up front.

    - Immediate rejection of wireless facilities applications if incomplete. With application requirements clear and an urgent shot clock (in contrast to other types of land use projects), there can be no hesitation, especially with this unethical and hazardous industry gaming the system to run out the shot-clock. So, stop the games here. Please put in the ordinance: Monterey doesn't accept incomplete applications. Also state: It is the applicant's responsibility to ascertain it is complete at the time of submission. It is not the city's responsibility to advise the applicant on whether it is complete or not. This levels the playing field a little since this industry receives substantial discriminatory and preferential industry-specific land use rules, including the shot-clock, and preemption of some local authority.
    - Full-scale model. Perhaps the appropriate place would be on city property next to a building (Parks and Recreation offices or the public library) as it would be accessible. A virtual model is not appropriate, because photo sims and charts are routinely false by this class of applicant, and even the city staff made false statements about the photo sims. False dimensions were also given for equipment. Real models are the only way.
    - Mr. Van Eaton claims the "purpose" drafted by residents reads as hostile. Why? The purpose statement was clarified, and pro-industry marketing language was omitted to make it neutral. If you read the modified language, you will see that.
    - Subject matter experts must be picked by the city council with public input. CTC hedged the truth, and maybe lied. What residents have seen is staff picking "experts" that give biased, industry-friendly answers, not objective or independent answers.
- Additional requirements:
    - A notice before a wireless facilities application is filed
    - A prohibition of towers built on spec
    - A statement of the primary purpose of the PROW, as in the SF guidelines, and that all other uses such as these are secondary.
    - No exemption for COWs and other temporary wireless structures from permit or public hearing. Life threatening health effects don't make this an option for the public. Mr. Van Eaton states that COWS will be certified as compliant by FCC and therefore don't need an RF report, but he is apparently ignorant about the national surveys that cell towers routinely exceed FCC limits and are out of compliance.[ii]
    - A webpage where applications are viewable by public, and a map of existing facilities. In addition, easy ability to subscribe to receive all updates on cell tower applications in city.
- "Is there a size where you don't care? A size that triggers your authority?" asks Mr. Van Eaton. No. Size doesn't matter, especially in regards to ADA. The technology is being miniaturized while emission output has increased. All wireless facilities must go through this process, especially wireless devices in the PROW and wireless devices intended to provide ambient or outdoor coverage – such as Xfinity. If it is wireless equipment in the public right of way, or commercial deployment specifically intended to transmit from private land onto right of way and over the general area by wireless carriers, it gets regulated. Think peanuts and peanut sensitivities, regarding ADA, public impacts, and access. Do not allow an open door in this ordinance for any new deployments like AT&T AirGig. Rules should include wireless and wireless-related equipment on electrical strands or poles, and boxes on the ground.
- Attached is the California Board of Realtors' Seller Property Questionnaire, with a question about cell towers on p. 3-4. This committee heard testimony about reduced property values and a house already selling for $100,000 less than is normal in this neighborhood.
- Written findings and shotclock: The March 15 PC hearing was cited as an example of shot-clock tight deadlines creating a problem. However, it was staff that created that problem. Even with that, it proved very doable to write up findings on the spot at the meeting. Staff's recommendations should have been based on the evidence and city rules, and if there had been an appropriate resolution and findings, there would have been no issue. Instead, staff went against city rules and evidence. The PC was in a bind because of staff's improper actions, but was still able to comply.
- One-touch pole rules allows less protection for the city, and mean that Monterey must make even more requirements for PROW cell towers.
- A "carrot and stick approach" is a pro-industry approach. It favors telecom, not the residents' needs.
- ADA rules: 5 people in Monterey have testified at these hearings of being electromagnetically sensitive (EMS). This committee must consider ADA in crafting a wireless ordinance. I will send the subcommittee additional information later, but there are issues of discrimination, access barriers, and reasonable accommodation for people like me.[iii] Based on CDPH 1998 prevalence stats, there are likely 100s to several thousand EMS residents in Monterey alone, let alone adjoining cities. Many of these people would be unable to attend these meetings because the city council hearing room is not ADA accessible to them. This radiation can cause life-threatening health effects including seizures, excruciating pain or burning, blacking out, heart pain, and heart rhythm disturbances. People's lives and the use and enjoyment of their homes and private property are at stake. When Mr. Van Eaton speaks of zones, he really asks, where is an EMS person allowed to travel, walk, shop, see the doctor, go to church, visit friends, or live in the city?, and where will all these people be prohibited to go or live in Monterey?
- If fire or police have safety issues regarding gaps, they are responsible for deploying an antenna where there is a problem. The city shouldn't be comingling itself with commercial broadband by ordinance.

- Real Estate Disclosure is attached
- The current FCC is chaired by Verizon attorney Ajit Pai. The previous chair chosen by President Obama, Tom Wheeler, was the chief lobbyist for the wireless industry and head of the CTIA.

Mr. Van Eaton advised not spelling out significant coverage gap but rather, letting carriers litigate it. This is astounding. Does Monterey look like a wealthy city that can afford to waste staff time and spend money on lawsuits? This would be expensive for the city and difficult especially if Monterey gets an avalanche of applications. How would he propose handling that?

The city staff's use of an attorney not licensed to practice law in California seems highly irregular and improper. An ordinance based on his recommendations would seem to leave the city open to lawsuits by the telecom industry. Mr. Van Eaton also lacks knowledge on fundamental aspects of microwave radiation and scientific research. I would expect a subject matter expert to have greater background than this, yet he appears to be largely ignorant.

Monterey would be in a different position if staff were not pro-telecom. During the ExteNet/Verizon debacle, Monterey residents repeatedly found they could not count on city staff to abide by existing city rules. That is why everything must be spelled out in the wireless ordinance revision.

Sincerely,

Nina Beety

Additional background info on small cells and wireless technology:
www.whatis5g.info
www.mystreetmychoice.com
www.mdsafetech.org
www.saferemr.com
www.scientists4safetech.com

Attached:
California Board of Realtors Seller Property Questionnaire. p. 3-4, K. Neighborhood

Background
https://ecfsapi.fcc.gov/file/7022117660.pdf
FCC comments, description of firefighter study on disabling neurological effects from cell tower radiation, Susan Foster
https://olis.leg.state.or.us/liz/2013I1/Downloads/CommitteeMeetingDocument/42624
"Biological and Health Effects of Microwave Radio Frequency Transmissions: A Review of the Research Literature", Paul Dart MD (lead author), June 3, 2013
https://www.degruyter.com/view/j/reveh.2016.31.issue-3/reveh-2016-0011/reveh-2016-0011.xml
European Academy of Environmental Medicine, "EUROPAEM EMF: Guideline 2016 for the prevention, diagnosis and treatment of EMF-related health problems and illnesses" (based on a 2012 report from the Austrian Medical Association)
http://sccounty01.co.santa-cruz.ca.us/bds/Govstream/BDSvData/non_legacy/agendas/2012/20120124/PDF/041.pdf
Santa Cruz County Board of Supervisors, County Health Officer report
"Currently, research has demonstrated objective evidence to support the EHS [EMS] diagnosis defining pathophysiological mechanisms including immune dysregulation in vitro, with increased production of selected cytokines and disruption and dysregulation of catecholamine physiology."

i http://fortune.com/2016/12/06/verizon-5g-test-small-towns/
"Verizon is getting close to its first large scale trials of a high-speed wireless video service to compete with cable television."

ii http://www.marketwire.com/press-release/-1770139.htm
http://www.wsj.com/articles/cellphone-boom-spurs-antenna-safety-worries-1412293055
Also, https://ehtrust.org/cell-phone-radiation-violates-safety-limits-cbc-investigation/

iii https://www.access-board.gov/research/completed-research/indoor-environmental-quality
Access Board Indoor Environmental Quality report, 2005 excerpts
p. 4-5
As stated in the Background for its Final Rule Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities; Recreation
Facilities: http://www.access-board.gov/recreation/final.htm
"The Board recognizes that multiple chemical sensitivities and electromagnetic sensitivities may be considered disabilities under the ADA if they so severely impair the neurological, respiratory or other functions of an individual that it

substantially limits one or more of the individual's major life activities. The Board plans to closely examine the needs of this population, and undertake activities that address accessibility issues for these individuals.
The Board plans to develop technical assistance materials on best practices for accommodating individuals with multiple chemical sensitivities and electromagnetic sensitivities. The Board also plans to sponsor a project on indoor environmental quality. In this project, the Board will bring together building owners, architects, building product manufacturers, model code and standard-setting organizations, individuals with multiple chemical sensitivities and electromagnetic sensitivities, and other individuals. This group will examine building design and construction issues that affect the indoor environment, and develop an action plan that can be used to reduce the level of chemicals and electromagnetic fields in the built environment."
This report and the recommendations included within are a direct outgrowth from that public comment process. The Access Board contracted with the National Institute of Building Sciences (NIBS) to establish this Indoor Environmental Quality Project as a first step in implementing that action plan…
The overall objectives of this project were to establish a collaborative process among a range of stakeholders to recommend practical, implementable actions to both improve access to buildings for people with MCS and EMS while at the same time raising the bar and improving indoor environmental quality to create healthier buildings for the entire population.
This IEQ project supports and helps achieve the goals of the Healthy Buildings, Healthy People project, which acknowledges that "We will create indoor environments that are healthier for everyone by making indoor environments safer for the most vulnerable among us, especially children." (p.17)

Page 11
Electromagnetic Fields
For people who are electromagnetically sensitive, the presence of cell phones and towers, portable telephones, computers, fluorescent lighting, unshielded transformers and wiring, battery re-chargers, wireless devices, security and scanning equipment, microwave ovens, electric ranges and numerous other electrical appliances can make a building inaccessible.

Real Estate Seller Property Questionaire, reduced 12-17.pdf
933K

CALIFORNIA ASSOCIATION OF REALTORS®

SELLER PROPERTY QUESTIONNAIRE

(C.A.R. Form SPQ, Revised 12/16)

This form is not a substitute for the Real Estate Transfer Disclosure Statement (TDS). It is used by the Seller to provide additional information when a TDS is completed. If Seller is exempt from completing a TDS, Seller should complete an Exempt Seller Disclosure (C.A.R. Form ESD) or may use this form instead.

I. Seller makes the following disclosures with regard to the real property or manufactured home described as *Mar Vista Neighborhood*, Assessor's Parcel No. _____, situated in _____, County of _____ California ("Property").

II. **The following are representations made by the Seller and are not the representations of the Agent(s), if any. This disclosure statement is not a warranty of any kind by the Seller or any agents(s) and is not a substitute for any inspections or warranties the principal(s) may wish to obtain. This disclosure is not intended to be part of the contract between Buyer and Seller. Unless otherwise specified in writing, Broker and any real estate licensee or other person working with or through Broker has not verified information provided by Seller. A real estate broker is qualified to advise on real estate transactions. If Seller or Buyer desires legal advice, they should consult an attorney.**

III. **Note to Seller:** PURPOSE: To tell the Buyer about known material or significant items affecting the value or desirability of the Property and help to eliminate misunderstandings about the condition of the Property.
- Answer based on actual knowledge and recollection at this time.
- Something that you do not consider material or significant may be perceived differently by a Buyer.
- Think about what you would want to know if you were buying the Property today.
- Read the questions carefully and take your time.
- If you do not understand how to answer a question, or what to disclose or how to make a disclosure in response to a question, whether on this form or a TDS, you should consult a real estate attorney in California of your choosing. A broker cannot answer the questions for you or advise you on the legal sufficiency of any answers or disclosures you provide.

IV. **Note to Buyer:** PURPOSE: To give you more information about known material or significant items affecting the value or desirability of the Property and help to eliminate misunderstandings about the condition of the Property.
- Something that may be material or significant to you may not be perceived the same way by the Seller.
- If something is important to you, be sure to put your concerns and questions in writing (C.A.R. form BMI).
- Sellers can only disclose what they actually know. Seller may not know about all material or significant items.
- Seller's disclosures are not a substitute for your own investigations, personal judgments or common sense.

V. **SELLER AWARENESS: For each statement below, answer the question "Are you (Seller) aware of..." by checking either "Yes" or "No." Explain any "Yes" answers in the space provided or attach additional comments and check section VI.**

A. STATUTORILY OR CONTRACTUALLY REQUIRED OR RELATED: ARE YOU (SELLER) AWARE OF...

1. Within the last 3 years, the death of an occupant of the Property upon the Property . . . . . [ ] Yes [ ] No
2. An Order from a government health official identifying the Property as being contaminated by methamphetamine. (If yes, attach a copy of the Order.) . . . . . [ ] Yes [ ] No
3. The release of an illegal controlled substance on or beneath the Property . . . . . [ ] Yes [ ] No
4. Whether the Property is located in or adjacent to an "industrial use" zone . . . . . [ ] Yes [ ] No (In general, a zone or district allowing manufacturing, commercial or airport uses.)
5. Whether the Property is affected by a nuisance created by an "industrial use" zone. . . . . [ ] Yes [ ] No
6. Whether the Property is located within 1 mile of a former federal or state ordnance location. . . . . [ ] Yes [ ] No (In general, an area once used for military training purposes that may contain potentially explosive munitions.)
7. Whether the Property is a condominium or located in a planned unit development or other common interest subdivision. . . . . [ ] Yes [ ] No
8. Insurance claims affecting the Property within the past 5 years . . . . . [ ] Yes [ ] No
9. Matters affecting title of the Property . . . . . [ ] Yes [ ] No
10. Material facts or defects affecting the Property not otherwise disclosed to Buyer . . . . . [ ] Yes [ ] No
11. Plumbing fixtures on the Property that are non-compliant plumbing fixtures as defined by Civil Code Section 1101.3 . . . . . [ ] Yes [ ] No

Explanation, or [ ] (if checked) see attached; _____

Buyer's Initials (_____) (_____) Seller's Initials (_____) (_____)

EQUAL HOUSING OPPORTUNITY

Monte Vista

B. REPAIRS AND ALTERATIONS: **ARE YOU (SELLER) AWARE OF...**

1. Any alterations, modifications, replacements, improvements, remodeling or material repairs on the Property (including those resulting from Home Warranty claims) . . . . . [ ] Yes [ ] No
2. Any alterations, modifications, replacements, improvements, remodeling, or material repairs to the Property done for the purpose of energy or water efficiency improvement or renewable energy? . . . . . [ ] Yes [ ] No
3. Ongoing or recurring maintenance on the Property (for example, drain or sewer clean-out, tree or pest control service) . . . . . [ ] Yes [ ] No
4. Any part of the Property being painted within the past 12 months. . . . . [ ] Yes [ ] No
5. If this is a pre-1978 Property, were any renovations (i.e., sanding, cutting, demolition) of lead-based paint surfaces completed in compliance with the Environmental Protection Agency Lead-Based Paint Renovation Rule. . . . . [ ] Yes [ ] No

Explanation: _____

C. STRUCTURAL, SYSTEMS AND APPLIANCES: **ARE YOU (SELLER) AWARE OF...**

1. Defects in any of the following, (including past defects that have been repaired): heating, air conditioning, electrical, plumbing (including the presence of polybutylene pipes), water, sewer, waste disposal or septic system, sump pumps, well, roof, gutters, chimney, fireplace, foundation, crawl space, attic, soil, grading, drainage, retaining walls, interior or exterior doors, windows, walls, ceilings, floors or appliances . . . . . [ ] Yes [ ] No
2. The leasing of any of the following on or serving the Property: solar system, water softener system, water purifier system, alarm system, or propane tank (s) . . . . . [ ] Yes [ ] No
3. An alternative septic system on or serving the Property. . . . . [ ] Yes [ ] No

Explanation: _____

D. DISASTER RELIEF, INSURANCE OR CIVIL SETTLEMENT: **ARE YOU (SELLER) AWARE OF...**

1. Financial relief or assistance, insurance or settlement, sought or received, from any federal, state, local or private agency, insurer or private party, by past or present owners of the Property, due to any actual or alleged damage to the Property arising from a flood, earthquake, fire, other disaster, or occurrence or defect, whether or not any money received was actually used to make repairs . . . . . [ ] Yes [ ] No

Explanation: _____

E. WATER-RELATED AND MOLD ISSUES: **ARE YOU (SELLER) AWARE OF...**

1. Water intrusion into any part of any physical structure on the Property; leaks from or in any appliance, pipe, slab or roof; standing water, drainage, flooding, underground water, moisture, water-related soil settling or slippage, on or affecting the Property . . . . . [ ] Yes [ ] No
2. Any problem with or infestation of mold, mildew, fungus or spores, past or present, on or affecting the Property . . . . . [ ] Yes [ ] No
3. Rivers, streams, flood channels, underground springs, high water table, floods, or tides, on or affecting the Property or neighborhood . . . . . [ ] Yes [ ] No

Explanation: _____

F. PETS, ANIMALS AND PESTS: **ARE YOU (SELLER) AWARE OF...**

1. Pets on or in the Property . . . . . [ ] Yes [ ] No
2. Problems with livestock, wildlife, insects or pests on or in the Property . . . . . [ ] Yes [ ] No
3. Past or present odors, urine, feces, discoloration, stains, spots or damage in the Property, due to any of the above . . . . . [ ] Yes [ ] No
4. Past or present treatment or eradication of pests or odors, or repair of damage due to any of the above. . . . . [ ] Yes [ ] No
   If so, when and by whom _____

Explanation: _____

Property Address: *Mar Vista Neighborhood, ,* Date: _____

G. BOUNDARIES, ACCESS AND PROPERTY USE BY OTHERS: **ARE YOU (SELLER) AWARE OF...**

1. Surveys, easements, encroachments or boundary disputes . . . . . [ ] Yes [ ] No
2. Use or access to the Property, or any part of it, by anyone other than you, with or without permission, for any purpose, including but not limited to, using or maintaining roads, driveways or other forms of ingress or egress or other travel or drainage . . . . . [ ] Yes [ ] No
3. Use of any neighboring property by you . . . . . [ ] Yes [ ] No

Explanation: _____

H. LANDSCAPING, POOL AND SPA: **ARE YOU (SELLER) AWARE OF...**

1. Diseases or infestations affecting trees, plants or vegetation on or near the Property . . . . . [ ] Yes [ ] No
2. Operational sprinklers on the Property . . . . . [ ] Yes [ ] No
   (a) If yes, are they [ ] automatic or [ ] manually operated.
   (b) If yes, are there any areas with trees, plants or vegetation not covered by the sprinkler system . . . . [ ] Yes [ ] No
3. A pool heater on the Property . . . . . [ ] Yes [ ] No
   If yes, is it operational? . . . . . [ ] Yes [ ] No
4. A spa heater on the Property . . . . . [ ] Yes [ ] No
   If yes, is it operational? . . . . . [ ] Yes [ ] No
5. Past or present defects, leaks, cracks, repairs or other problems with the sprinklers, pool, spa, waterfall, pond, stream, drainage or other water-related decor including any ancillary equipment, including pumps, filters, heaters and cleaning systems, even if repaired . . . . . [ ] Yes [ ] No

Explanation: _____

I. CONDOMINIUMS, COMMON INTEREST DEVELOPMENTS AND OTHER SUBDIVISIONS:
ARE YOU (SELLER) AWARE OF...

1. Any pending or proposed dues increases, special assessments, rules changes, insurance availability issues, or litigation by or against or fines or violations issued by a Homeowner Association or Architectural Committee affecting the Property. . . . . [ ] Yes [ ] No
2. Any declaration of restrictions or Architectural Committee that has authority over improvements made on or to the Property . . . . . [ ] Yes [ ] No
3. Any improvements made on or to the Property without the required approval of an Architectural Committee or inconsistent with any declaration of restrictions or Architectural Commitee requirement. . . . . [ ] Yes [ ] No

Explanation: _____

J. TITLE, OWNERSHIP LIENS, AND LEGAL CLAIMS: **ARE YOU (SELLER) AWARE OF...**

1. Any other person or entity on title other than Seller(s) signing this form . . . . . [ ] Yes [ ] No
2. Leases, options or claims affecting or relating to title or use of the Property . . . . . [ ] Yes [ ] No
3. Past, present, pending or threatened lawsuits, settlements, mediations, arbitrations, tax liens, mechanics' liens, notice of default, bankruptcy or other court filings, or government hearings affecting or relating to the Property, Homeowner Association or neighborhood . . . . . [ ] Yes [ ] No
4. Any private transfer fees, triggered by a sale of the Property, in favor of private parties, charitable organizations, interest based groups or any other person or entity . . . . . [ ] Yes [ ] No
5. Any PACE lien (such as HERO or SCEIP) or other lien on your Property securing a loan to pay for an alteration, modification, replacement, improvement, remodel or material repair of the Property? . . [ ] Yes [ ] No
6. The cost of any alteration, modification, replacement, improvement, remodel or material repair of the Property being paid by an assessment on the Property tax bill? . . . . . [ ] Yes [ ] No

Explanation: _____

K. NEIGHBORHOOD: **ARE YOU (SELLER) AWARE OF...**

1. Neighborhood noise, nuisance or other problems from sources such as, but not limited to, the following: neighbors, traffic, parking congestion, airplanes, trains, light rail, subway, trucks,

freeways, buses, schools, parks, refuse storage or landfill processing, agricultural operations, business, odor, recreational facilities, restaurants, entertainment complexes or facilities, parades, sporting events, fairs, neighborhood parties, litter, construction, air conditioning equipment, air compressors, generators, pool equipment or appliances, underground gas pipelines, cell phone towers, high voltage transmission lines, or wildlife . . . . . [ ] Yes [ ] No

Explanation: _____

L. GOVERNMENTAL: **ARE YOU (SELLER) AWARE OF...**

1. Ongoing or contemplated eminent domain, condemnation, annexation or change in zoning or general plan that applies to or could affect the Property . . . . . [ ] Yes [ ] No
2. Existence or pendency of any rent control, occupancy restrictions, improvement restrictions or retrofit requirements that apply to or could affect the Property. . . . . [ ] Yes [ ] No
3. Existing or contemplated building or use moratoria that apply to or could affect the Property . . . . . [ ] Yes [ ] No
4. Current or proposed bonds, assessments, or fees that do not appear on the Property tax bill that apply to or could affect the Property . . . . . [ ] Yes [ ] No
5. Proposed construction, reconfiguration, or closure of nearby Government facilities or amenities such as schools, parks, roadways and traffic signals . . . . . [ ] Yes [ ] No
6. Existing or proposed Government requirements affecting the Property (i) that tall grass, brush or other vegetation be cleared; (ii) that restrict tree (or other landscaping) planting, removal or cutting or (iii) that flammable materials be removed . . . . . [ ] Yes [ ] No
7. Any protected habitat for plants, trees, animals or insects that apply to or could affect the Property . . . . . [ ] Yes [ ] No
8. Whether the Property is historically designated or falls within an existing or proposed Historic District . . . . . [ ] Yes [ ] No
9. Any water surcharges or penalties being imposed by a public or private water supplier, agency or utility; or restrictions or prohibitions on wells or other ground water supplies . . . . . [ ] Yes [ ] No

Explanation: _____

M. OTHER: **ARE YOU (SELLER) AWARE OF...**

1. Reports, inspections, disclosures, warranties, maintenance recommendations, estimates, studies, surveys or other documents, pertaining to (i) the condition or repair of the Property or any improvement on this Property in the past, now or proposed; or (ii) easements, encroachments or boundary disputes affecting the Property whether oral or in writing and whether or not provided to the Seller. . . . . [ ] Yes [ ] No
   (If yes, provide any such documents in your possession to Buyer.)
2. Any occupant of the Property smoking on or in the Property. . . . . [ ] Yes [ ] No
3. Any past or present known material facts or other significant items affecting the value or desirability of the Property not otherwise disclosed to Buyer . . . . . [ ] Yes [ ] No

Explanation: _____

VI. [ ] (IF CHECKED) ADDITIONAL COMMENTS: The attached addendum contains an explanation or additional comments in response to specific questions answered "yes" above. Refer to line and question number in explanation.

Seller represents that Seller has provided the answers and, if any, explanations and comments on this form and any attached addenda and that such information is true and correct to the best of Seller's knowledge as of the date signed by Seller. Seller acknowledges (i) Seller's obligation to disclose information requested by this form is independent from any duty of disclosure that a real estate licensee may have in this transaction; and (ii) nothing that any such real estate licensee does or says to Seller relieves Seller from his/her own duty of disclosure.

Seller _____ Date _____

Seller _____ Date _____

By signing below, Buyer acknowledges that Buyer has read, understands and has received a copy of this Seller Property Questionnaire form.

Buyer _____ Date _____

Buyer _____ Date _____

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525 South Virgil Avenue, Los Angeles, California 90020

Reviewed by _____ Date _____

Jenny Leinen <leinen@monterey.org>

Wireless Sub-Committee

1 message

Kristin Dotterrer <[redacted]> Thu, Aug 30, 2018 at 10:49 AM
To: roberson@monterey.org, barrett@monterey.org, albert@monterey.org, haffa@monterey.org, smith@monterey.org, Jenny Leinen <leinen@monterey.org>

Dear Mayor, Council Members, Planning Commissioners, and Wireless Sub-Committee Members, and Ms. Leinen:

Please see attached my letter regarding the Wireless Sub-Committee and changes to the city's wireless ordinance. Ms. Leinen, would you please include the attached letter in the packet materials for the Wireless Sub-Committee and forward it to all Planning Commissioners and Wireless Sub-Committee Members? Thank you very much.

Best,
Kristin Dotterrer

Letter from K. Dotterrer to City 8.30.pdf
27K

Kristin & Daniel Dotterrer
339 Via Paraiso
Monterey, CA 93940

August 30, 2018

Mayor Clyde Roberson; Council Members Timothy Barrett, Ed Smith, Dan Albert, Alan Haffa; Planning Commissioners; and Wireless Sub-Committee Members

Re: City of Monterey Wireless Ordinance Update

Dear Mayor Roberson,Council Members, Planning Commissioners, and Wireless Sub-Committee Members:

First thank you to the City Council for directing that the Planning Commission strengthen the city's wireless ordinance so that the residents do not have to face a continued onslaught of applications for small cell towers in residential districts. I understand that the Wireless Sub-Committee was formed to do just that, but have been concerned about its inaccessibility to the residents and to their interests. I am not in favor of the Sub-Committee recommending adoption draft ordinance that city consultant, Joseph Van Eaton, submitted, which draws from ordinance examples that are not compatible with our state's laws and in most cases actually amounts to weakening our ordinance.

I believe the starting point for the Sub-Committee should be the well-researched draft put forth by Monterey Vista Neighborhood Association (MVNA) members. The MVNA draft would assure a more rigorous and transparent application process. Requirements would be added that residential districts be a prohibited location for wireless facilities to the greatest extent allowable under State and Federal laws. That residential locations be prohibited is my primary wish for any changes to the ordinance. With all the legal research that Sub-Committee Member, Susan Nine, has done, and her experience with running meetings, it makes clear sense that she was fit to chair the committee. This did not happen, so it is of utmost important that if this committee is not to be resident-chaired it should be resident-focused in other ways.

Also in terms of the Sub-Committee meetings, please do what you can to change the meeting times so that working individuals can attend, and place the videos of the meetings "on-demand" on the city's website. In terms of the wireless facility application requirements, I would like to see notification to both owners and renters within an increased geographical radius. That the applicant must prove a "significant coverage gap" and prove that alternative locations are unfeasible must remain in the law. The City must have the ability to refute the applicants' claims on those two matters, with the City Council, not the City Manager, selecting any consultants used. Fire safety requirements should be added for all new wireless facilities in every location. These are just some of the important and essential changes included in the MVNA draft that should be discussed before the Van Eaton draft and ultimately adopted by the Sub-Committee, Planning Commission, and Council. Thank you very much for your attention to this quality of life issue.

Sincerely,

Kristin & Daniel Dotterrer

Jenny Leinen <leinen@monterey.org>

Cell Towers

1 message

xxxxxxxx xxxxxxxx Wed, Aug 29, 2018 at 9:56 PM
To: roberson@monterey.org, barret@monterey.org, albert@monterey.org, haffa@monterey.org, smith@monterey.org, leinen@monterey.org

Hello City Council members, Sub Committee and Planning Commission,

We live at 93 Via Encanto, Monterey and are concerned about the proposed cell phone towers to be put up near our home.

We have been out of town frequently and unable to attend the meetings and so ask that the meetings please be filmed so that we, and others, can watch.

We ask that the upmost caution be taken when considering these cell phone towers. The technology is still new and the long term effects aren't known. We have heard concerns about the long term effects of the cell phone towers and ask that the City Council and Planning Commission err on the side of caution.

We believe that all sides need to be heard and valued in this conversation and ask that the City please listen and consider other alternatives that don't pose any kind of threat to the health of the citizens of Monterey.
If there's even a chance that there is potential harm that could be caused from these cell phone towers, then the city needs to be responsible and look for other options.

Sincerely,
Craig and Ellen Collord

-----Original Message-----
From: Stop Dangerous Cell Towers <xxxxxxxxxxxxxxxxxxxx>
To: Kristin Dotterrer <xxxxxxxxxxxxxxxxxx>
Sent: Wed, Aug 29, 2018 9:26 am
Subject: Tomorrow's Wireless Meeting & Actions for You to Take

Upcoming wireless ordinance subcommittee meeting
Thursday Aug. 30, 2 pm.
City Hall

Please attend if possible and ask the city council and the subcommittee for a more convenient time for the public to attend, eg. evening meetings.

Also, ask the city to televise these meetings. After several requests, the city staff is looking into televising this upcoming meeting, but they need to hear from many more people to expedite it.

As a result of several requests, staff has posted the audio recording of the first wireless subcommittee meeting on Aug. 23 here, under the Aug. 23 meeting info:
www.monterey.org/wireless

Please send your comments about the ordinance revision to the subcommittee, and send a copy to the city council. The comments the committee has received so far are posted on the city's website above

Aug. 23 subcommittee meeting

The wireless ordinance subcommittee meeting ran 4 hours last week – from 2-6 pm. It was not televised, so virtually invisible. A citizen-taped version was done and will hopefully be available soon, either on YouTube or AMP Media

Unless the meetings are moved to an evening time, the public will not be able to participate.

The chambers were virtually empty. 7 neighbors attended, and 6 spoke. Rudy Fischer, PG city councilman and candidate for PG mayor, also attended and spoke, because PG is interested in our draft wireless ordinance.

Many important issues were discussed. Consultant Joseph Van Eaton says the FCC may shorten the shot-clock and make other moves to limit city authority to regulate these cell towers this fall.

Please lobby Congressman Jimmy Panetta, and Senators Harris and Feinstein to reject S.3157 and other similar bills limiting local authority, and oppose FCC moves. This issue was raised at Panetta's town hall meeting in Monterey, but it's not clear he knows anything or is taking it seriously. He needs to hear from many people opposed to an invasion of cell towers.

Mike Dawson was voted chair of the subcommittee by a voting bloc of Dawson, Brassfield, Peterson, and Breedlove, who voted against Susan Nine's nomination to be Chair. Dawson is also chairman of the Planning Commission.

Dawson, Peterson, and Breedlove all have tech/wireless backgrounds, which could lead to a looser ordinance. Peterson also is a retired city planner, and may be biased toward staff recommendations.

Your involvement in this process is essential.

To email city council:
roberson@monterey.org, barrett@monterey.org, albert@monterey.org, haffa@monterey.org, smith@monterey.org,

To email wireless ordinance subcommittee and the Planning Commission (ask her to forward)
leinen@monterey.org

Jenny Leinen <leinen@monterey.org>

Wireless subcomm. problems

1 message

[redacted] Mon, Aug 27, 2018 at 2:32 PM
To: leinen@monterey.org
Cc: caracker@monterey.org, cole@monterey.org

Please forward to the Planning Commission and the wireless ordinance subcommittee. Thank you.

Dear Mayor, City Council and Planning Commission:

I am concerned about the lack of transparency and opportunity for public participation in the new Wireless Ordinance Subcommittee meetings. The meetings are of great public interest.

The meeting last week was not recorded and televised by the city, and there are apparently no plans to do so. That renders these meetings and their deliberations invisible and secret to Monterey residents, including those who lobbied for this subcommittee.

In addition, the meetings are inaccessible to most of the public because they are at 2 pm -- in the afternoon on a weekday. The public is, therefore, extremely limited in being able to participate and observe.

Most of the public will have no direct knowledge of the proceedings as a result. The very inconvenient meeting time and no televised recording are in contradiction to the spirit of the Brown Act which was enacted to stop secret deliberations and to ensure public participation.

Since this subcommittee's work has a major impact on this community, affecting all residents, property owners, and neighborhoods in far-reaching ways, I urge you to correct this situation on this subcommittee that you established.

Thank you.

Sincerely,

Nina Beety

Jenny Leinen <leinen@monterey.org>

Wireless Subcommittee communication

1 message

LJ Hansen <[redacted]> Sun, Aug 26, 2018 at 3:31 PM
To: "cole@monterey.org" <cole@monterey.org>, "caraker@monterey.org" <caraker@monterey.org>
Cc: City of Monterey <leinen@monterey.org>

hi Kim and Elizabeth;

At our Aug 23rd Wireless Subcommittee meeting, I mentioned 4 California city wireless ordinances or draft ordinances. I like those ordinances because they are more local than the ones placed into the agenda packet for our first meeting. They show what other California towns have done to strongly protect their localities. However, in retrospect I think it is better not to get too far afield of the Monterey ordinance. Personally, I have always thought that the current Monterey ordinance has sufficient verbiage to protect the city while providing reasonable freedom for use of discernment on particular points. In my opinion, we wouldn't be here today (in the subcommittee) if that freedom had not been used to give away our residential districts to telecom industry products and interests. But with what Mr. Van Eaton and the neighborhood group has offered in terms of drafts, I will encourage the committee to work through those in Phase 1. If the materials I mentioned on the 23rd are appropriate to assist in a point of discussion, I can share from these materials at that time. If you want to put the documents into the next agenda packet, that is fine, too. Three PDFs are given above. I left out Petaluma because I could not actually identify what I was looking at as a wireless draft ordinance that was current or as inclusive as we might need. It did have lots of good ideas but perhaps what we have is enough for the moment.

On another topic, because our meetings are 2 - 5p.m., many people cannot attend; and because the meetings are longish, I would like to see the people that do come to the meetings to have more opportunities for input. Nina Beety waited a long time – 3 hours -- to say a fraction of what she had to say. That's just too long. This is a community effort here, not just a subcommittee effort. It is my suggestion that we break from our discussion every 45 minutes to allow public input, which might also be a back and forth of discussion for 15 minutes. If there is no public comment to fill that time, we can move on. I will share this at our next meeting and see if we can make this subcommittee more welcoming to public input.

In keeping with our efforts to be totally transparent in our wireless ordinance draft improvements, I am submitting this email into the public record through Jenny Leinen.

Lois Hansen,

Resident representative

Monterey Wireless Subcommittee

3 attachments

Burbank Wireless Ordinance draft.pdf
433K

City of Rancho Palos Verdes Wireless Ord draft.pdf
118K

Palos Verdes Estates Wireless Ord.docx
77K

Wireless Telecommunications Facilities Ordinance Update
Proposed Ordinance and Staff Discussion

The Planning & Transportation Division has prepared a draft update to the City of Burbank's Wireless Telecommunications Facilities ordinance. The update is intended to address the potential negative aesthetic impacts of wireless facilities while providing for the communication needs of Burbank residents and businesses. Planning & Transportation staff invites all interested parties to submit comments on the proposed ordinance.

A summary of community concerns and the proposed code sections which address these concerns are included at the beginning of this document. Actual changes to the ordinance are noted in **bold underlined text** and ~~strikethroughs~~.

The review and comment period is from: December 9, 2014 to January 9, 2015.

Following the review period a community meeting will be held on January 14, 2015 at 6:00 PM at the Buena Vista Public Library located at 300 North Buena Vista Street, Burbank, CA 91505.

Public hearings with the Planning Board and City Council are tentatively scheduled for February and March, respectively. There will be additional opportunities to comment on the proposed ordinance prior to and at these hearings.

Written comments may be directed to:

Amanda Landry, Associate Planner
150 North Third Street
Burbank CA, 91502

By telephone at 818-238-5250

Or by e-mail at:
alandry@burbankca.gov

Thank you for your interest in the Wireless Telecommunications Facilities ordinance update, we look forward to hearing from you.

Summary of Private Property Community Concerns and the Proposed Code Sections Which Address These Concerns

1. **Issue: Setbacks from and within residential zones**

   Council Direction: Site specific setbacks will be imposed through a Conditional Use Permit (CUP) and City will continue to rely on existing requirement of a 20 foot separation between commercial/industrial and residential zones.

2. **Issue: Preferred and non-preferred zones**

   Council Direction: For institutional uses in R-1, require CUP but allow only on showing of:

   i. *Significant gap.*
   ii. *No feasible less intrusive alternative.*
   iii. *Imposition of impact-minimizing conditions.*

   Proposed Code Text: 10-1-1118 C (3) and (5)

3. **Issue: Inspections and RF Testing**

   Council Direction: Require independent certification every five years to offset increased amount of staff resources needed.

   Proposed Code Text: 10-1-1118 E (2)

4. **Issue: Length of Permit**

   Council Direction: Require 10 year expirations for CUPs.

   Proposed Code Text: 10-1-1118 C (4)

5. **Issue: Noise Pollution**

   Council Direction: Require more information on potential noise impacts on the application form.

   Proposed Code Text: 10-1-1118 D (3) (c)

   Also, see Revised Application Form

Note: Staff may recommend the City Council separately reexamine the Noise Element to assess on a community level noise impacts and re-evaluate the efficacy of the existing thresholds.

6. **Issue: Hazardous Materials/Equipment Disclosures**

   Council Direction: Require more information on hazardous materials and equipment disclosures on the application form.

   See Revised Application Form

7. **Issue: Noticing and Signage**

   Council Direction: 10 ***business*** *days' notice (similar to right-of-way sites).*

   CURRENTLY IN EFFECT

   Council Direction: Post 3' x 4' sign at site of proposed installation for projects requiring CUPs and Administrative Use Permits.

   Proposed Code Text: All discretionary permit procedures are proposed to be modified to include the following language: "One four (4) foot by eight (8) foot sign, approved by the Community Development Director, shall be posted on the subject property. The sign shall be posted no less than ten (10) business days prior to the scheduled hearing or decision date"

10-1-1118: WIRELESS TELECOMMUNICATIONS FACILITIES. REGULATIONS AND DEVELOPMENT STANDARDS:

A. PURPOSE.

The purpose of this Section is to provide uniform standards for the placement, design, monitoring, and permitting of Wireless Telecommunications Facilities (WTFs) consistent with applicable federal and state requirements. These standards are intended to address the adverse visual impacts of these facilities through appropriate design, siting, screening techniques, and locational standards, while providing for the communication needs of residents and businesses. This Section is not intended to, and does not; regulate those aspects of WTFs that are governed by the Federal Communications Commission (FCC).

B. APPLICABILITY AND EXEMPTIONS.
The requirements of this Section apply to all WTFs as defined in Section 10-1-203, except as exempted. The following are exempt from the provisions of this Section:

1. Radio or Television Antenna: Any ground- or building-mounted antenna that receives radio or television signals for use only by owners or occupants of the property or development on which the antenna is located that does not exceed a height of 15 feet above the maximum allowable building height for the zone in which the antenna is located.

2. Satellite Dish Antenna: Ground- or building-mounted dish antenna that receives radio or television signals for use only by of owners or occupants of the property or development on which the dish is located that does not exceed one meter in diameter.

3. Private Antenna: Any antenna operated by a business for the purpose of sending or receiving radio, television, data, or other wireless signals directly between two business locations or to satellites for re-transmission. Such facilities are regulated by the applicable commercial and industrial development standards including but not limited to Section 10-1-1113.1 and 10-1-1301.

4. Amateur Radio Antenna: Any antenna, including its support structure, used by an authorized amateur radio operator licensed by the FCC that does not exceed a height of 15 feet above the maximum allowable building height of the zone in which it is located. For the purpose of this section, amateur radio means the licensed non-commercial, non-professional, private use of designated radio bands for purposes of private recreation including the non-commercial exchange of messages and emergency communication. This includes HAM radio and citizens band antenna.

5. Government Antenna: Any antenna, dish, or similar equipment owned and/or operated by any government entity.

C. PERMITTING PROCESS.

1. An application is required for all WTFs. Applications for WTFs requiring a land use permit must be accompanied by the applicable permit application. The Director is required to maintain a list of required application forms and materials and a written procedure for processing WTF applications, which may be amended from time to time. The application must be accompanied by a fee if specified in the Fee Resolution. A WTF application must include documentation of compliance with FCC regulations pertaining to radio frequency emissions, including cumulative emissions from any existing WTFs on the site and the proposed WTF, in a manner deemed appropriate by the Director.

2. Table 10-1-1118(C) provides the locations where WTFs are allowed and the land use permit, if any, required for the WTF. WTFs in the public right-of-way are subject to the requirements in Section 7-3-708.

Table 10-1-1118 (C)

Symbol	**Meaning**			
P	Permitted			
AUP	Administrative Use Permit required			
[AUP]	Administrative Use Permit required if residentially adjacent			
CUP	Conditional Use Permit required			
--	Prohibited			
WTF Type	**Institutional Use[1] in Single Family Residential Zone**	**Multifamily Residential Zone**	**Non-Residential Zone (except OS)**	**OS Open Space Zone**
Building Mounted Co-Location	AUP	AUP	P	P [AUP]
Building Mounted	CUP	CUP	P [AUP]	AUP
Freestanding Co-Location	--	--	P [AUP]	AUP
Freestanding	--	--	CUP	CUP
All other WTFs not listed above or not exempted by 10-1-1118(B)	CUP	CUP	CUP	CUP

Footnotes
1. For the purposes of this Section, institutional use means a public or private school, religious institution, hospital, library, museum, government building, public utility, or other similar public or semi-public facility.
2. A CUP is also required to exceed WTF height limitations per Subsection D.

3. Conditions:
The Council, Board, or Director upon approving a Conditional Use Permit or Administrative Use Permit for a WTF may include any other impact

minimizing conditions as deemed appropriate to address an identified impact.

4. Duration of Permit
Approved Conditional Use Permits and Administrative Use Permits for WTFs shall expire after 10 years. The applicant may re-apply for a new Conditional Use permit or adminstrative use permit as required by this Article to continue to use and operate the existing facility, but may, upon review, be required to upgrade it to comply with such additional standards, and incorporate such additional technologies, as the City may lawfully impose through its evaluation and approval of such re-application.

5. Requirements for WTFs in the Single Family Residential Zone.
The Council, Board, or Director upon approving a Conditional Use Permit or an Administrative Use Permit must find that:

a. The WTF is necessary to address a significant gap in coverage.
b. There are no other feasible alternative locations or design configurations that would be less intrusive.

6. Eligible Facilities Requests:
Eligible Facilities Requests that do not require a Substantial Change in Physical Dimensions shall be processed in accordance with 47 U.S.C. § 1455, and any duly authorized implementing orders and regulations of the Federal Communications Commission. In reviewing permits for qualifying Eligible Facilities Requests, the Council, Board, or Director shall be required to approve applications, but shall retain discretion to enforce and condition approval on compliance with generally applicable building, structural, electrical, and safety codes and with other laws (including, without limitation, this Article) codifying objective standards reasonably related to health and safety.

D. DEVELOPMENT AND DESIGN STANDARDS.
All WTFs approved pursuant to this Article shall be subject to the following development and design standards, which are designed to, among other things, promote and constitute concealment elements for towers and base stations.

1. New Facilities.
All ~~new~~ WTFs **approved pursuant to this Article** must comply with the following development and design standards except when impractical or technologically infeasible. The burden shall be on the applicant to provide evidence as part of the application showing why and how complying with the standard would be impractical or technologically infeasible. In such event, the Director may hire an independent, qualified consultant to evaluate any technical aspect of the proposed WTF and any proposed exceptions from these development standards

at the applicant's sole cost. The applicant shall submit a deposit to pay for such independent third party review as set forth in the City's Fee Resolution.

2. Existing Facilities.
All WTFs approved with a Conditional Use Permit or building permit as of the date of adoption of the ordinance codified in this Section are not required to comply with the development and design standards unless the WTF or any portion thereof is replaced or modified**, and such replacement or modification is not otherwise exempt from compliance with the Article codified in this Section (as it may be amended from time to time)**. Any replacement or modification shall be ~~done~~ consistent with these standards to the extent ~~practical and technologically~~ feasible, based on the scope of the replacement or modification. The burden shall be on the applicant to provide evidence as part of the application showing why and how complying with the standard would be ~~impractical or technologically~~ infeasible. In such event, the Director may hire an independent, qualified consultant to evaluate any ~~technical~~ aspect of the proposed replacement or modification and any proposed exceptions from these development standards at the applicant's sole cost. The applicant shall submit a deposit to pay for such independent third party review as set forth in the City's Fee Resolution. This provision is not intended for the addition of generators for **temporary** emergency power.

3. Requirements for All WTFs.

a. Where practical, WTFs shall be integrated into existing or newly developed facilities that are functional for other purposes.

b. WTFs shall incorporate stealth design so as to minimize aesthetic impacts on surrounding land uses. Stealth design means that the WTF is designed to closely blend into the surrounding environment and to be minimally visible. Antennas and related equipment are either not readily visible beyond the property on which it is located, or, if visible, appear to be part of the existing landscape or environment rather than the wireless communications facility. The WTF may appear as a natural feature, such as a tree or rock or other natural feature, or may be incorporated into an architectural feature such as a steeple, parapet wall, or light standard, or be screened by an equipment screen, landscaping, or other equally suitable method. Related equipment shall be designed to match the architecture of adjacent buildings and/or be screened from public view by walls, fences, parapets, landscaping, and similar treatments.

c. Related equipment for co-located WTFs shall be co-located within an existing equipment enclosure, or if not possible then located **within a new equipment enclosure** as close to the existing equipment enclosure as possible.

d. Monopoles, antennas, and support structures for antennas shall be no greater in diameter or any other cross-sectional dimension than is reasonably necessary for the proper functioning and physical support of the WTF and future co-location of additional WTFs.

e. Cable Trays and Runs.

1. All cable trays and cable runs for building-mounted WTFs shall be located within existing building walls.

2. Any facade-mounted cable trays and runs shall be painted and textured to match the building and shall be mounted as close to the facade surface as possible, with no discernible gap between.

3. Cable trays and runs on a roof deck shall be mounted below or otherwise screened by the parapet wall or screening device.

4. Cable trays and runs for freestanding WTFs shall be located inside the pole and underground.

f. Stealth WTF's designed to resemble natural features such as trees or rocks shall be integrated into the surrounding environment through the planting of trees and/or shrubs distributed around the entire facility to appear as a naturally occurring or integrated landscape element.

g. Whenever landscaping is used in conjunction with a WTF for stealth design, to screen related equipment, or for another purpose, the following requirements apply:

1. Any new or replanted landscaping shall be of a type and variety that is compatible with existing landscaping.

2. Any tree removed shall be replaced with one or more trees of similar quality and size.

3. When used for screening, the landscaping shall be of a type, variety, and maturity to adequately screen the related equipment.

4. Newly installed trees shall be a minimum size of 36 inch box.

5. Palm trees shall have a minimum brown trunk height of 16 feet.

6. Newly planted shrubs shall have a minimum size of five gallons.

7. Live landscaping shall be provided with adequate and permanent irrigation to support continued growth.

h. Fences and Walls.

1. Chain link fencing material is only permitted in association with a WTF in an industrial zone where the fence is not visible from the public right-of-way or adjacent non-industrial zone.

2. Block walls must be covered with stucco or plaster except in industrial zones.

i. Signs.

1. All WTFs shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency.

2. No signs, flags, banners, or any form of advertising shall be attached to a WTF except for government-required certifications, warnings, or other required seals or signs.

j. No WTF or any portion thereof may be located within a required setback area.

k. WTFs operating in excess of the maximum sound levels permitted by the City's noise ordinance shall be enclosed to achieve compliance with the noise ordinance. Backup generators or similar equipment that operates only during power outages or other emergencies are exempt from this requirement. Testing of such backup generators or similar equipment may only occur during standard **daylight** hours**, and in no event prior to 7:00 a.m. Monday through Friday and 8 a.m on Saturday.**

l. No WTF may, by itself or in conjunction with other WTFs, generate radio frequency emissions and/or electromagnetic radiation in excess of FCC standards and any other applicable regulations. All WTFs must comply with all standards and regulations of the FCC, and any other agency of the State or Federal government agency with the authority to regulate wireless telecommunications facilities.

m. Within 30 days after discontinuation of use, the WTF operator shall notify the Director in writing that use of the WTF has been discontinued.

n. A WTF must be completely removed, and the site returned to its pre-WTF condition within 180 days of discontinuation of use.

o. All WTF application approvals shall indicate that the approved WTF configuration was designed to conceal elements of the tower or base station to the extent feasible, and that further expansion of the WTF or its associated facilities would defeat those concealment elements.

4. Additional Requirements for Building-Mounted WTFs.

a. **New** Building-mounted WTFs, including any screening devices, ~~may~~ **shall** not exceed a height of 15 feet above the roof or parapet, whichever is higher, of the building on which it is mounted unless approved through a Conditional Use Permit.

b. Building-mounted WTFs shall be architecturally integrated into the building design and otherwise made as unobtrusive as possible. Antennas shall be located entirely within an existing or newly created architectural feature so as to be completely screened from view.

c. Building-mounted WTFs shall be located on the facade of the building, parapet, or rooftop penthouse whenever practical.

d. Facade-mounted WTFs shall not extend more than 24 inches out from the building face. If a building mounted WTF is mounted flush against a building wall, the color and material of the antenna and other equipment shall match the exterior of the building. If there is a discernable gap between the antenna and the facade, the antenna shall be screened so as to hide the gap.

e. Roof-mounted WTFs shall be fully screened from public view using screening devices that are compatible with the existing architecture, color, texture, and/or materials of the building. Roof-mounted WTFs shall also be screened from above, if visible from adjacent properties.

f. Roof-mounted WTFs shall be located as far from the edge of the building as feasible.

5. Additional Requirements for Freestanding WTFs (Except for Amateur Radio Antennas).

a. An applicant for a freestanding WTF shall demonstrate as part of the application that a proposed WTF cannot be placed on an existing building or co-located.

b. Freestanding WTFs, including any camouflage or screening devices, may not exceed a height of 35 feet above the ground surface unless approved through a Conditional Use Permit.

c. Freestanding WTFs shall be compatible with the architecture, color, texture, and/or materials of nearby buildings and the surrounding area and landscaping.

d. Freestanding WTFs shall be located in areas where existing topography, vegetation, buildings or other structures provide the greatest amount of screening so as to minimize aesthetic impacts on surrounding land uses.

e. Freestanding WTF's shall be designed to allow for co-location of additional antennas, for example by having a foundation and pole capable of accommodating a height extension. The operator and owner of the freestanding WTF shall lease space on the tower, at a fair market rent, to other WTF providers to the maximum extent consistent with the operational requirements of the WTF.

f. Any mono-tree shall incorporate enough architectural branches (including density and vertical height), three dimensional bark cladding, and other design materials or appropriate techniques to cause the structure to appear a natural element of the environment.

g. Freestanding WTFs may not utilize guy wires or other diagonal or horizontal support structures.

h. Exterior lighting of freestanding WTF's is prohibited unless required by the FAA or other government agency.

i. Freestanding WTF's that simulate the appearance of a flag pole shall be tapered to maintain the appearance of an actual flag pole. A flag shall be flown from the WTF and properly maintained at all times.

E. RADIO FREQUENCY EMISSIONS COMPLIANCE.

1. Within thirty (30) calendar days following the activation of any WTF, the applicant shall provide **a** ~~FCC~~ **radio frequency emissions compliance report** ~~documentation~~ to the Director ~~indicating~~ **certifying** that the unit has been inspected and tested in compliance with FCC standards. **Such** ~~documentation~~ **report and certification** shall include:

a. The make and model (or other identifying information) of the unit tested.

b. The date and time of the inspection, the methodology used to make the determination,

c. The name and title of the person(s) conducting the tests, and a certification that the unit is properly installed and working within applicable FCC standards.

d. As to DAS installations, the required ~~FCC~~ **radio frequency emissions compliance report** ~~documentation~~ certification shall be made only by the wireless carrier(s) using the DAS system ~~rather than the DAS system provider.~~

e. **The report and certification** ~~Documentation~~ shall also indicate that cumulative levels of radio frequency emissions from the WTF and all co-located WTFs are in compliance with FCC standards, including but not limited

to FCC Office of Engineering Technology Bulletin 65, Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields, as amended.

2. Every five years following compliance with 1-1-1118 E (1) above, the aplicant shall, at the WTF owners sole cost, prepare and submit to the City an updated radio frequency emissions compliance report and certification, shall certify that the WTF complies with all applicable FCC standards as of the date of the update.

3. If the **radio frequency emissions compliance report** and **certification, and/or any update thereto,** demonstrates that the cumulative levels of radio frequency emissions exceed or may exceed FCC standards, the Director may require the applicant to modify the location or design of the WTF and/or implement other mitigation measures to ensure compliance with FCC standards. The Director may require additional independent technical evaluation of the WTF, at the applicant's sole cost, to ensure compliance with FCC standards.

F. PREEMPTION.

1. Notwithstanding any other provision of this Code to the contrary**, an applicant may request a variance to excuse it from having to comply with this Section, or may appeal from the denial of an application reviewed under this Section, on the ground that the requirement or action taken by the City would violate state or federal law. The City shall grant the variance or appeal, or excuse an applicant from compliance with all or a portion of this Section, if it finds based on substantial evidence in the record that the challenged requirement or action is preempted by state or federal law.**

[Added by Ord. No. 3439, eff. 7/22/96; Amended by Ord. No. 3817, eff. 10/14/11; 3810; 3791.]

Definitions

FREESTANDING WTF: Means a wireless telecommunications facility with its support structure placed directly on the ground. Monopoles, **towers**, and self-supported or of lattice construction are examples of this type of structure. Building mounted antennas are excluded from this definition.

BUILDING MOUNTED WTF: Means a wireless telecommunications facility whose support structure is mounted to a building or rooftop.

CO-LOCATION: Means the location of two or more wireless telecommunications facilities on a single freestanding support structure or building. Co-location shall also include the location of wireless telecommunications facilities with other utility facilities and structures including, but not limited to, water tanks, transmission towers, and light poles.

ELIGIBLE FACILITIES REQUEST: means a request for modification of an existing wireless tower or base station that involves (a) a co-location of new transmission equipment, (b) removal of transmission equipment, or (c) replacement of transmission equipment

SUBSTANTIAL CHANGE IN PHYSICAL DIMENSIONS: means a change in the physical dimensions or configuration of a WTF that defeats the concealment elements of the originally permitted WTF, that result in public safety, visual, noise, or other impacts that are materially greater than those that would have existed if the WTF were installed as originally permitted, or that otherwise falls within criteria established for defining a "Substantial Change in Physical Dimensions" by a duly authorized agency of the United States. The determination of whether or not a proposed modification to a WTF constitutes a substantial change in physical dimensions shall be made by the Director or his/her designee.

Summary of Public Right-of-Way Concerns and the Proposed Code Sections Which Address the Concerns

1. **Issue: WTF Type Preferences**

   Council Direction: Increase the burden of proof for applicants and only allow new poles upon showing:

   i. *Significant gap.*
   ii. *No feasible less intrusive alternative.*
   iii. *Imposition of impact-minimizing conditions.*

   Proposed Code Text: 7-3-708 B (5) (v)

2. **Issue: Siting in Residential Zones**

   Council Direction: Increase the burden of proof for applicants and only allow WTFs adjacent to residential zones upon showing:

   i. *Significant gap.*
   ii. *No feasible less intrusive alternative.*
   iii. *Imposition of impact-minimizing conditions.*

   Proposed Code Text: 7-3-708 A (1) (2) (3)

3. **Issue: Aesthetics and Underground Equipment**

   Council Direction: No change from existing ordinance, which requires compliance with the aesthetic regulations found in Title 10, unless impractical or technologically infeasible.

   Note: Due to the abundance of existing underground infrastructure the likelihood of utility conflicts and secondary impacts such as increased noise it is likely that in most cases, it will be determined that is not feasible to underground equipment in the PROW. However, the community concerns about above ground utility boxes in general, and not just equipment associated with WTFs, have been recognized by City Council and the issue has been separated from the WTF Ordinance update in order to more closely examine the issue and determine what possible solutions may exist to address community concerns.

4. **Issue: Discretionary Permits for WTFs in PROW**

   Council Direction: The Encroachment Permit includes appeal rights to the City Council. Increase the burden of proof for applicants. Permit WTFs in or adjacent to single-family residential zones only upon showing:

   i. Significant gap.

   ii. No feasible less intrusive alternative.

   iii. Imposition of impact-minimizing conditions.

   Proposed Code Text: 7-3-708 A (1) (2) (3)

5. **Issue: Inspections and Radio Frequency Testing**

   Council Direction: Require independent testing every five years to offset increased amount of staff resources needed

   Refers back to Proposed Code Text: 10-1-1118 E (2)

6. **Issue: Length of Permit**

   Council Direction: Require 10 year permit reviews for Encroachment Permits

   Proposed Code Text: 7-3-708 A (1) (2) (3)

7. **Issue: Noise Pollution**

   Council Direction: Additional information must be provided as part of the application process, applicant must demonstrate compliance with the Noise Ordinance. All equipment must be in an enclosure.

   Proposed Code Text: 10-1-1118 D (3) (c)

   Also, see Revised Application Form

   Note: Staff may recommend the City Council separately reexamine the Noise Element to assess on a community level noise impacts and re-evaluate the efficacy of the existing thresholds.

8. **Issue: Safety**

   Council Direction: Require demonstration of compliance with General Order 95 (state regulations regarding overhead utility design and operational safety requirements) prior to installation

   Note: Applicant must demonstrate compliance as part of the Encroachment Permit application process.

9. **Issue: Noticing and Signage**

Council Direction: Current Ordinance has already been changed to require 10 business days and a 1,000 foot mailed noticing radius. No change from existing ordinance due to safety issue with signage in the PROW.

i. *Note: Although not required by Code, staff has already committed to using fluorescent orange or yellow postcards for mailed notices.*

10. **Issue: Enhanced Encroachment Permit for the Public Right-of-Way to be similar to the AUP.**

City Council Direction: Applications for WTF Encroachment Permits will increase the burden of proof for applicants. Applicants for new poles and for WTFs adjacent to residential zones must demonstrate:

i. Significant gap

ii. No feasible less intrusive alternative.

iii. Imposition of impact-minimizing conditions

Proposed Code Text: 7-3-708 A (1) (2) (3)

7-3-708: ENCROACHMENT PERMIT FOR WIRELESS TELECOMMUNICATIONS FACILITIES (WTFs) IN THE PUBLIC RIGHT-OF-WAY (PROW):

A. A WTF Encroachment Permit shall be required prior to the installation, construction or development of any WTF in the PROW.

1. The Director may impose impact minimizing conditions on a WTF Encroachment Permit to mitigate potential noise or aesthetic impacts.

2. WTF Encroachment Permits shall be reviewed every 10 years to determine whether the equipment is no longer needed and or useful, or whether new means exist to further reduce noise and or aesthetic impacts that are materially greater than those that would have existed when the WTF was installed as originally permitted.

a. The Director may require facility upgrades and/or additional mitigations to reduce impacts of such facilities unless the applicant demonstrates that the mitigations are not feasible.

3. When the PROW abuts or is adjacent to an R-1, Single Family Residential Zone, the Director, in granting an Encroachment Permit must find that

a. The WTF is necessary to address a significant gap in coverage.
b. The WTF is necessary because no feasible less intrusive alternative is available.

4. Eligible Facilities Requests: Eligible Facilities Requests that do not require a Substantial Change in Physical Dimensions shall be processed in accordance with 47 U.S.C. § 1455, and any duly authorized implementing orders and regulations of the Federal Communications Commission. In reviewing WTF Encroachment Permits for qualifying Eligible Facilities Requests, the Director shall be required to approve applications, but shall retain discretion to enforce and condition approval on compliance with generally applicable building, structural, electrical, and safety codes and with other laws (including, without limitation, this Article) codifying objective standards reasonably related to health and safety.

B. Development standards for PROW. In addition to all other applicable development standards as set forth in 10-1-1118, WTFs in the PROW shall comply with the following standards:

1. The Public Works Director or his/her designee shall determine the time, place, and manner of construction for all WTFs located within the PROW consistent with Public Utilities Code.

2. WTFs shall have subdued colors and non-reflective materials which blend in with the surrounding area to the satisfaction of the Public Works Director or his/her designee.

3. In residential areas, WTFs shall not be located within one standard block width of another wireless telecommunications facility; this does not include co-location of sites.

4. All WTFs shall be built in compliance with the Americans with Disabilities Act (ADA), including but not limited to surface access in and around facilities.

5. Utility and Light Poles.

a. The maximum height of any antenna shall not exceed 24 inches above the height of an existing utility pole and no portion of the antenna or equipment mounted on a pole shall be less than 16 feet above any

drivable road surface. All installations on utility poles shall fully comply with California Public Utilities Commission General Order 95.

b. The maximum height of any antenna or antenna radome shall not exceed six feet above the height of an existing light pole.

c. Pole-mounted equipment shall not exceed six cubic feet.

d. Antennas shall be installed on existing utility or light poles, except when impractical or technologically infeasible. No new poles may be installed except as replacements for existing poles, or when the applicant provides evidence as part of the application showing why and how complying with the foregoing standard would be impractical or technologically infeasible. In such event, the Public Works Director may hire an independent, qualified consultant to evaluate any technical aspect of the proposed replacement or modification and any proposed exceptions from these development standards at the applicant's sole cost. The applicant shall submit a deposit to pay for such independent third party review as set forth in the City's Fee Resolution.

e. WTF Encroachment Permits granted for any new poles shall be processed in accordance with the following procedures:

i. PUBLIC NOTICE. Prior to the Public Works Director's decision on a WTF Encroachment Permit application, public notice shall be mailed to every property owner and occupant within 1,000 feet of the proposed WTF site. Such notice shall be mailed no less than ten (10) business days prior to the scheduled Director's decision date and shall include information about the proposed project, the Director's pending decision, and information about when and how an appeal may be filed.

ii. DECISION DATE. If circumstances require, the Director's decision may occur on a date later than the date provided in the public notice The decision may not occur on a date earlier than the date provided in the public notice.

iii. APPEALS. The Director's decision regarding a WTF Encroachment Permit application may be appealed in accordance with the procedures set forth in Section 07-3-708.5.

iv. EXEMPTION. Any WTF used exclusively for the collection and/or transmission of utility customer meter data shall be exempt from the provisions this subsection e. This exemption shall expire and become inoperative on August 7, 2013.

v. The Director, in granting an Encroachment Permit for any new pole must find that

a. The WTF is necessary to address a significant gap in coverage.

b. The WTF is necessary because no feasible less intrusive alternative is available.

c. Additionally, the Director may impose impact minimizing conditions on an encroachment permit to mitigate potential noise or aesthetic impacts.

6. Equipment Location.

a. Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise inconvenience public use of the right-of-way, or create safety hazards to pedestrians and/or motorists as determined by the Public Works Director or his/her designee.

b. In no case shall ground-mounted equipment, walls, or landscaping be located within 18 inches of the face of the curb.

c. Ground-mounted equipment shall not exceed a height of six feet and a total footprint of 20 square feet, excluding the required electric meter.

d. Ground-mounted equipment that cannot be undergrounded shall be screened, to the fullest extent possible, through the use of landscaping, walls, or other decorative features, to the satisfaction of the Public Works Director or his/her designee.

e. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Public Works Director or his/her designee.

f. All graffiti on WTF must be removed at the sole expense of the applicant within 48 hours of notification.

g. Underground vaults will be reviewed and approved by the Public Works Director or his/her designee. Review may include but not be limited to: safe clearance from other utilities, ADA compliance, aesthetic impact and quiet mechanical heating, air conditioning or ventilation systems.

7. Within 30 days after discontinuation of use, the WTF operator shall notify the Director in writing that use of the WTF has been discontinued.

8. A WTF must be completely removed, and the site returned to its pre-WTF condition within 180 days of discontinuation of use.

C. City Changes to the PROW

The permittee shall modify, remove, or relocate its WTF, or portion thereof, without cost or expense to the City, if and when made necessary by any abandonment, change of grade, alignment or width of any street, sidewalk or other public facility, including the construction, maintenance, or operation of any other City underground or aboveground facilities including but not limited to sewers, storm drains, conduits, gas, water, electric or other utility systems, or pipes owned by City or any other public agency. Said modification, removal, or relocation of a wireless telecommunications facility shall be completed within a reasonable relocation time frame as determined by the Public Works Director. In the event a wireless telecommunications facility is not modified, removed, or relocated within said period of time, City may cause the same to be done at the sole expense of applicant. Further, in the event of an emergency, the City may modify, remove, or relocate wireless telecommunications facilities without prior notice to applicant provided applicant is notified within a reasonable period thereafter. [Added by Ord. No. 3817, eff. 10/14/11; Amended by Ord. No. 3835, eff. 2/8/13.]

D. Preemption

Notwithstanding any other provision of this Code to the contrary, an applicant may request a variance to excuse it from having to comply with this Section, or may appeal from the denial of an application reviewed under this Section, on the ground that the requirement or action taken by the City would violate state or federal law. The City shall grant the variance or appeal, or excuse an applicant from compliance with all or a portion of this Section, if it finds based on substantial evidence in the record that the challenged requirement or action is preempted by state or federal law.

7-3-708.5: APPEAL OF DIRECTOR'S DECISION ON WIRELESS TELECOMMUNICATIONS FACILITY ENCROACHMENT PERMITS:

A. DECISION PROCEDURE.

1. ~~A decision that requires the Public Works Director to approve~~, **Any approval, conditional approval or denial of** ~~conditionally approve, or deny~~ a Wireless Telecommunication Facility Encroachment Permit application may be appealed to the City Council as provided in this section.

A Director's decision is not final unless and until the specified appeal period passes and no appeal is filed, or all appeals are withdrawn per Subsection (E).

2. If an appeal of a Director's decision is filed, the City Council must hold a de novo hearing to consider and act on the application and appeal pursuant to the procedures established for Wireless Telecommunications Facility Encroachment Permits.

B. PERSONS WHO MAY APPEAL.

1. Any person, including the project applicant, may appeal a decision by the Director to approve, conditionally approve, or deny a Wireless Telecommunication Facility Encroachment Permit application.

2. If a City Council member files an appeal, the Council member may not participate as a decision maker in the City Council public hearing.

3. The City Council may appeal or otherwise request to review a Director's decision.

C. TIME AND MANNER OF APPEAL.

1. An appeal of the Director's decision must be submitted by 5:00 p.m. on the 15th day following the date that the Director's decision is issued. If the 15th day following the Director's decision date occurs on a day when City offices are closed, the appeal must be submitted by 5:00 p.m. on the next day that City offices are open.

2. An appeal must be submitted in person to the office of the Public Works Director and must include a statement of the reasons for the appeal. Mailed, emailed or faxed appeals will not be accepted.

3. The appeal must be accompanied by the appeal fee specified in the City of Burbank Fee Resolution, as may be amended from time to time, except that City Council members are not required to pay the appeal fee.

D. MULTIPLE APPEALS.

1. No one should forego filing an appeal in reliance on another individual's appeal. Anyone who objects to a Director's decision, or any conditions placed upon a conditional approval, should file an appeal to ensure that its concerns are heard in the event that other appeals are withdrawn per Subsection (E).

2. Multiple individuals may collectively act as one appellant, and submit a single appeal with a single set of reasons for appeal. In such case, payment of only one (1) appeal fee is required, and the appellants may divide the cost of the fee among themselves at their discretion.

3. Alternatively, multiple individuals may act as individual appellants, and each file its own individual appeal. In such case, payment of the full appeal fee is required for each individual form submitted.

4. All appeals filed whether as a single appeal or multiple appeals, must be considered together at a single hearing and acted upon by the City Council at the same time.

E. WITHDRAWAL OF APPEAL.

1. Any person who has filed an appeal may withdraw the appeal as a matter of right, until the City Clerk has scheduled the City Council hearing. In such case, an appeal may not be withdrawn on or after the 20th day prior to the scheduled City Council hearing.

2. A request to withdraw an appeal must be submitted in person to the office of the Public Works Director in writing and signed by the appellant. Mailed, emailed or faxed requests for withdrawal will not be accepted.

3. If multiple individuals collectively submitted a single appeal form, all individuals signing the appeal form must sign and submit a written request to withdraw the appeal within the time specified in Subsection (1) for the appeal to be considered withdrawn.

4. If all appeals are withdrawn and no subsequent appeals are filed within the times specified in Subsections (C) and (F), then the application will be removed from the City Council scheduled agenda, and the City Council will not consider or act upon the application. The Director’s decision thereafter becomes final and may not be further appealed.

F. SECONDARY APPEAL PERIOD.

1. Upon the withdrawal of an appeal (and only if no other appeals remain outstanding), a secondary ten (10)-day appeal period shall automatically commence to provide an additional opportunity to appeal (the “Secondary Appeal Period”).

2. The first day of the Secondary Appeal Period is the latter of the following: 1) first day after the appeal was withdrawn, whether or not that day is a business day, or 2) the first day after the expiration of the initial 15-day appeal period provided in Subsection (C), whether or not that day is a business day. The latter date only applies to those appeals which are withdrawn during the initial appeal time period.

3. Appeals submitted during the Secondary Appeal Period must be submitted in accordance with this Section, including but not limited to the 5:00 p.m. deadline for the filing of any appeal. If the last day of the Secondary Appeal Period occurs on a day City offices are closed, then the last day for filing shall be extended to 5:00 p.m. on the next day that the City offices are open.

4. Appeals submitted during this Secondary Appeal Period may be withdrawn in accordance with Subsection (E); however, only one (1) Secondary Appeal Process is allowed on any application. Withdrawal of an appeal made during the Secondary Appeal Period will not lead to any additional appeal periods.

5. Notice of the Secondary Appeal Period will be provided to any person who requests in writing such notice. A request shall be made to the Director on any individual application at any time; however, only those individuals on record at the time of a withdrawal that triggers a Secondary Appeal Period shall receive notice. Notice may be provided in the manner specifically requested (telephone or electronic mail), and must also be posted at the Public Works counter. Additional notice may be provided through any other additional means deemed appropriate by the Director. [Added by Ord. No. 3835, eff. 2/8/13.]

Changes to Public Noticing Requirements

10-1-1921: CITY PLANNER SETS HEARING AND GIVES NOTICE:
5. One four (4) foot by eight (8) foot sign, approved by the Community Development Director, shall be posted on the subject property. The sign shall be posted no less than ten (10) business days prior to the scheduled hearing

10-1-1942: CITY PLANNER SETS A HEARING AND GIVES NOTICE:
5. One four (4) foot by eight (8) foot sign, approved by the Community Development Director, shall be posted on the subject property. The sign shall be posted no less than ten (10) business days prior to the scheduled hearing

10-1-1959: DETERMINATION ON ADMINISTRATIVE USE PERMIT; NOTICE AND HEARING:
B. DECISION AND NOTICE.

Additionally, one four (4) foot by eight (8) foot sign, approved by the Community Development Director, shall be posted on the subject property. The sign shall be posted no less than ten (10) business days prior to the scheduled decision date.

10-1-1964: NOTICE OF HEARING:
4. One four (4) foot by eight (8) foot sign, approved by the Community Development Director, shall be posted on the subject property. The sign shall be posted no less than ten (10) business days prior to the scheduled hearing

G. PLANNING BOARD HEARING.

3. One four (4) foot by eight (8) foot sign, approved by the Community Development Director, shall be posted on the subject property. The sign shall be posted no less than ten (10) business days prior to the scheduled hearing.

Chapter 18.55
WIRELESS COMMUNICATIONS FACILITIES

Sections:

Prior legislation: Ords. 635 and 700.

18.55.010 Purpose.

A. The purpose of this chapter is to reasonably regulate, to the extent permitted under California and federal law, the installations, operations, collocations, modifications, replacements and removals of various wireless communications facilities ("WCFs") in the city recognizing the benefits of wireless

communications while reasonably respecting other important city needs, including the protection of public health, safety, and welfare, aesthetics and local values.

B. The overarching intent of this chapter is to make wireless communications reasonably available while protecting scenic views and preserving the rural character and aesthetics of the city. This will be realized by:

1. Minimizing the visual and physical effects of WCFs through appropriate design, siting, screening techniques and location standards;

2. Encouraging the installation of visually unobtrusive WCFs at locations where other such facilities already exist; and

3. Encouraging the installation of such facilities where and in a manner such that potential adverse aesthetic impacts to the community are minimized.

C. To allow the city to better preserve the established rural character, it is the intent to limit the duration of WCF permits, in most cases, to terms of ten years, and to reevaluate existing WCFs at the end of each term for purposes of further minimizing aesthetic impacts on the community.

D. It is not the purpose or intent of this chapter to:

1. Prohibit or to have the effect of prohibiting wireless communications services; or

2. Unreasonably discriminate among providers of functionally equivalent wireless communications services; or

3. Regulate the placement, construction or modification of WCFs on the basis of the environmental effects of radio frequency ("RF") emissions where it is demonstrated that the WCF does or will comply with the applicable FCC regulations; or

4. Prohibit or effectively prohibit collocations or modifications that the city must approve under state or federal law.

E. The provisions in this chapter shall apply to all permit applications to install, operate or change, including, without limitation, to collocate, modify, replace or remove, any new or existing wireless tower or base station within the city. This chapter does not apply to WCFs owned by or exclusively operated for government agencies, amateur radio stations, satellite dish or other television antennas or other OTARD antennas, or towers, except to the extent that such towers may be used to support WCFs.

F. Nothing in this chapter is intended to allow the city to preempt any state or federal law or regulation applicable to a WCF.

G. The provisions of this chapter are in addition to, and do not replace, any obligations a WCF permit holder may have under any franchises, licenses, or other permits issued by the city.

H. PVEMC 18.55.010 through 18.55.200 are applicable to PVEMC 18.55.210 through 18.55.230. (Ord. 722 § 1, 2017)

18.55.020 Definitions.

For the purpose of this chapter, the following words and phrases shall be defined as follows:

"Antenna" means any system of wires, poles, rods, reflecting discs, dishes, whips, or other similar devices used for the transmission or reception of electromagnetic waves.

"Antenna height" means the distance from the grade of the property at the base of the antenna or, in the case of a roof-mounted antenna, from the grade at the exterior base of the building to the highest point of the antenna and its associated support structure when fully extended.

"Array" means one or more antennas mounted at approximately the same level above ground on tower or base station.

"Base station" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(1), as may be amended, which defines that term as follows:

> A structure or equipment at a fixed location that enables [FCC]-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in [47 C.F.R. § 1.40001(b)(9)] or any equipment associated with a tower.
>
> (i) The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
>
> (ii) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).

(iii) The term includes any structure other than a tower that, at the time the relevant application is filed with the State or local government under this section, supports or houses equipment described in paragraphs (b)(1)(i) through (ii) of [47 C.F.R. § 1.40001] that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

(iv) The term does not include any structure that, at the time the relevant application is filed with the State or local government under this section, does not support or house equipment described in paragraphs (b)(1)(i) – (ii) of [47 C.F.R. § 1.40001].

Note: As an illustration and not a limitation, the FCC's definition refers to any structure that actually supports wireless equipment even though it was not originally intended for that purpose. Examples include, but are not limited to, wireless communications facilities mounted on buildings, utility poles and transmission towers, light standards or traffic signals. A structure without wireless equipment replaced with a new structure designed to bear the additional weight from wireless equipment constitutes a base station.

"Camouflaged" or "concealed WCF" means a wireless communications facility that (1) is integrated as an architectural feature of an existing structure such as (but not limited to) a cupola, or (2) is integrated in an outdoor fixture such as (but not limited to) a flagpole; or (3) uses a design which mimics and is consistent with nearby natural, or architectural features, or is incorporated into or replaces existing permitted facilities (including but not limited to stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not readily apparent.

"City-owned structure" without limitation means any pole, building, facility, transportation or traffic sign or other structure owned by the city.

"Collocation" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(2), as may be amended, which defines that term as "[t]he mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes." As an illustration and not a limitation, the FCC's definition effectively means "to add" new equipment to an existing facility and does not necessarily refer to more than one wireless communications facility installed at a single site.

"CPUC" means the California Public Utilities Commission or its successor agency.

"Director" means the city manager or the designee of the city manager.

"Distributed antenna system" or "DAS" means a network of one or more antennas and related fiber optic nodes typically mounted to or located at streetlight poles, utility poles, sporting venues, arenas or convention centers which provide access and signal transfer for wireless service providers. A distributed antenna system also includes the equipment location, sometimes called a "hub" or "hotel" where the DAS network is interconnected with one or more wireless service provider's facilities to provide the signal transfer services.

"Eligible facilities request" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(3), as may be amended, which defines that term as "[a]ny request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) [c]ollocation of new transmission equipment; (ii) [r]emoval of transmission equipment; or (iii) [r]eplacement of transmission equipment."

"Eligible facility permit" or "EFP" means a permit for an eligible facilities request that meets the criteria found in PVEMC 18.55.230.

"Eligible support structure" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(4), as may be amended, which defines that term as "[a]ny tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the State or local government under this section."

"Existing" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(4), as may be amended, which provides that "[a] constructed tower or base station is existing for purposes of [the FCC's Section 6409(a) regulations] if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition."

"Facility" means an installation used to transmit signals over the air from facility to facility or from facility to user equipment for any wireless service and includes, but is not limited to, personal wireless services facilities.

"FCC" means the Federal Communications Commission or its successor agency.

"Mock-up" means a temporary, full-sized, structural model built to scale chiefly for study, testing, or displaying a wireless communications facility. It is nonfunctional and has no power source.

"Monopole" means a single freestanding, nonlattice, tubular tower that is not camouflaged and that is used to act as or support an antenna or antenna arrays.

"Nonresidential zone" means any zoning district other than the R-1, single-family residential zone, or R-M, multifamily residential zone.

"OTARD antenna" means antennas covered by the "over-the-air reception devices" rule in 47 C.F.R. Section 1.4000 et seq., as may be amended.

"Personal wireless service facilities" means facilities for the provision of personal wireless services, as defined in 47 U.S.C. Section 332(c)(7).

"Personal wireless services" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined in 47 U.S.C. Section 332(c)(7).

"Private property" means any property owned by a private individual or entity.

"Public property" means the same as set forth in PVEMC 12.04.010, which defines the term as "property owned in fee by the city or dedicated for public use."

"Public rights-of-way" means the same as set forth in PVEMC 12.04.010, which defines the term as "public easements or public property that are used for streets, alleys or other public purposes." This definition excludes (1) any other public property that is not used primarily for roadways, or (2) other fee-owned public property.

"RF" means radio frequency.

"Screening" means the effect of locating an antenna behind a building, wall, facade, fence, landscaping, berm, and/or other specially designed device so that view of the antenna from adjoining and nearby public street rights-of-way and private properties is eliminated or minimized.

"Section 6409(a)" means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. Section 1455(a), as may be amended.

"Section 6409(a) modification" means a collocation or modification of transmission equipment at an existing wireless tower or base station that does not result in a substantial change in the physical dimensions of the existing wireless tower or base station. For the purposes of a Section 6409(a) modification, the term "substantial change" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(7), as may be amended, which defines that term differently based on the particular

facility type and location. Note: The thresholds for a substantial change in 47 C.F.R. Section 1.4000(b)(7) above are disjunctive. The failure to meet any one or more of the applicable thresholds means that a substantial change would occur. The thresholds for height increases are cumulative limits. For sites with horizontally separated deployments, the cumulative limit is measured from the originally permitted support structure without regard to any increases in size due to wireless equipment not included in the original design. For sites with vertically separated deployments, the cumulative limit is measured from the permitted site dimensions as they existed on February 22, 2012, the date that Congress passed Section 6409(a).

"Site" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(6), as may be amended, which provides that "[f]or towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground."

"Temporary wireless facilities" means portable wireless communications facilities intended or used to provide personal wireless services on a temporary or emergency basis, such as a large-scale special event in which more users than usual gather in a confined location or when a disaster disables permanent wireless facilities. Temporary wireless facilities include, without limitation, cells-on-wheels ("COWs"), sites-on-wheels ("SOWs"), cells-on-light-trucks ("COLTs") or other similarly portable wireless communications facilities not permanently affixed to the land.

"Tower" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(9), as may be amended, which defines that term as "[a]ny structure built for the sole or primary purpose of supporting any [FCC]-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site." Examples include, but are not limited to, monopoles, mono-trees and lattice towers.

"Transmission equipment" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(8), as may be amended, which defines that term as "[e]quipment that facilitates transmission for any [FCC]-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul."

"Unconcealed" means a wireless communications facility that is not a camouflaged facility and has no or effectively no camouflage techniques applied such that the wireless equipment is plainly obvious to the observer.

"Unlicensed wireless service" means the offering of telecommunications services, using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services, as defined in 47 U.S.C. Section 332(c)(7).

"Utility pole" means any utility pole used by one or more CPUC-regulated utilities.

"Wireless" means any FCC-licensed or authorized wireless communication service transmitted over frequencies in the electromagnetic spectrum.

"Wireless communications facility" or "WCF" means a facility used to provide personal wireless services as defined in 47 U.S.C. Section 332(c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services; or any other FCC licensed or authorized service. A WCF does not include a facility entirely enclosed within a permitted building outside of the rights-of-way where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of this code. A WCF consists of an antenna or antennas, including, but not limited to, directional, omni-directional and parabolic antennas, base station, support equipment, and (if applicable) a wireless tower. It does not include the support structure to which the WCF or its components is attached. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or hand held radios/telephones and their associated transmitting antennas, nor does it include other facilities specifically excluded from the coverage of this chapter.

"Wireless facilities provider" means an entity utilized by a wireless service provider to construct and/or operate the wireless service provider's wireless facility.

"Wireless facility permit, administrative" or "AWFP" means any new facility or collocation or modification to an existing facility that is camouflaged in a nonresidential zone and integrated into the facade and design of an existing structure or building. If on an existing utility pole in a nonresidential zone, the facility must be integrated into the pole, well designed, and does not substantially change the appearance of the pole as determined by the director.

"Wireless facility permit, conditional" or "CWFP" means any new facility, collocation, or modification to an existing facility not subject to PVEMC 18.55.230 located in a public rights-of-way or on private property

that is unconcealed, located in a less preferred location, unconcealed in a preferred location, or does not meet the criteria for either an administrative wireless facility permit or an eligible facility permit.

"Wireless service provider" means the FCC licensed or authorized entity actually offering wireless services to the public. (Ord. 722 § 1, 2017)

18.55.030 Standards generally applicable to all wireless communications facilities.

A. Height Restrictions.

1. No tower or antenna of any wireless communications facility shall exceed the zone height limit of the zone upon which the wireless communications facility is located.

2. No wireless communications facility located in the public rights-of-way or public property shall exceed seventeen feet in height above ground level, unless otherwise approved pursuant to PVEMC 18.55.070; and except that a WCF on an existing utility pole cannot exceed six feet above the height of the existing pole.

3. The height limitations in subsections (A)(1) and (2) of this section are subject to preemption pursuant to 47 U.S.C. Section 14000.

B. Installation of WCFs. Prior to the installation of a new wireless communications facility or a modification or collocation to an existing wireless communications facility that does not constitute an "eligible facilities request" nor qualify for an eligible facility permit, the owner, or occupant with written permission from the owner of the lot, premises, parcel of land or building on which a wireless communications facility is to be located shall first obtain a conditional wireless facility permit or administrative wireless facility permit from the city pursuant to this chapter.

C. Installation of Eligible Facilities. Unless specifically exempt by federal or state law, all applications for the installation of wireless communications facilities that constitute "eligible facilities requests" within the meaning of 47 U.S.C. Section 1455(a) require the approval of an eligible facility permit as described in PVEMC 18.55.230 prior to construction of such eligible facility.

D. Exempted Facilities. This chapter does not apply to the following:

1. Amateur radio facilities;

2. OTARD antennas;

3. Facilities owned and operated by the city for its use; or

4. Facilities owned and operated by CPUC-regulated electric companies authorized to deliver electrical power in the city for use in connection with electrical power generation, transmission and distribution facilities subject to CPUC General Order 131-D.

E. Encroachment Permit. In addition to the subsections above, installation of a wireless communications facility on public property or public rights-of-way requires an encroachment permit.

F. Required Permits. All proposed facilities and collocations or modifications to facilities governed under this chapter shall be subject to either a conditional wireless facility permit or an administrative wireless facility permit from the city, unless exempted from this chapter as an eligible facility permit under PVEMC 18.55.230.

1. Conditional Wireless Facility Permit.

a. A conditional wireless facility permit is required for any new facility, collocation, or modification to an existing facility located in a public rights-of-way, public property or on private property as follows:

(1) All facilities in less preferred locations, as defined in PVEMC 18.55.210(C)(1)(b) and 18.55.220(E)(2);

(2) All unconcealed facilities in preferred locations, as defined in PVEMC 18.55.210(C)(1)(a) and 18.55.220(E)(2); and

(3) All other facilities that do not meet the criteria for either an administrative wireless facility permit described herein or an eligible facility permit described in PVEMC 18.55.230.

b. Approval of a conditional wireless facility permit for a wireless communications facility shall be subject to the following:

(1) All standards and regulations contained in PVEMC 18.55.210 and 18.55.220, and any amendments or modifications to the facility as approved by resolution of the planning commission at a noticed public hearing;

(2) No wireless communications facility proposed within two hundred feet from any dwelling used or approved for a residential use may be approved unless the proposed facility meets all of the following criteria:

(a) The proposed wireless communications facility is located on public property or public rights-of-way;

(b) All nonantenna equipment associated with the proposed wireless communications facility is placed underground, unless otherwise approved by the planning commission;

(c) No individual antenna on the proposed wireless communications facility exceeds three cubic feet in volume, unless the planning commission otherwise approves camouflage techniques that would justify an alternative size;

(d) The cumulative antenna volume on any single pole does not exceed nine cubic feet, unless the planning commission otherwise approves camouflage techniques that would justify an alternative size;

(e) The proposed wireless communications facility is located a minimum of two hundred feet from any other wireless communications facility located along the same side of the street, unless otherwise approved pursuant to PVEMC 18.55.070; and

(f) The proposed wireless communications facility is located a minimum of two hundred feet from any intersection along any street, unless the city in its proprietary capacity has granted a license or other access agreement for a wireless communications facility to use a city-owned, nondecorative traffic or safety sign pole at such an intersection, in which case no more than one city-owned, nondecorative traffic signal pole at any such intersection shall be permitted to be used to accommodate wireless communications facilities, unless otherwise approved pursuant to PVEMC 18.55.070.

c. A wireless communications facility application must include all of the contents described in PVEMC 18.55.040.

d. All decisions for a wireless communications facility must be in writing and contain the reasons for approval or denial.

e. All approved or deemed-approved wireless communications facilities shall be subject to all the conditions imposed by the planning commission.

f. Noticing requirements and appeal provisions shall follow the procedures described in PVEMC 17.04.100.

2. Administrative Wireless Facility Permit.

a. An administrative wireless facility permit is required for any new facility or collocation or modification to an existing facility as follows:

(1) All camouflaged facilities in a nonresidential zone that are integrated into the facade and design of an existing building;

(2) All camouflaged facilities on an existing structure, other than a utility pole, in a nonresidential zone;

(3) Any camouflaged facility on a utility pole in a nonresidential zone, excluding public rights-of-way, that is integrated into the pole, well designed, and does not substantially change the appearance of the pole as determined by the director; or

(4) Wireless telecommunication equipment that is incidental to and part of the provision of a public utility, including electrical power, gas, and sewerage, in accordance with a franchise agreement with the city.

b. Approval of an administrative wireless facility permit shall be subject to the following:

(1) All standards and regulations described in PVEMC 18.55.040 and 18.55.210, and any amendments or modifications to the facility as approved by the director.

(2) No camouflaged wireless communications facility proposed within two hundred feet from any dwelling used or approved for a residential use may be permitted unless the proposed facility meets all of the following criteria:

(a) All nonantenna equipment associated with the proposed wireless communications facility is placed underground or concealed into the facade or design of a building;

(b) No individual antenna on the proposed wireless communications facility exceeds three cubic feet in volume;

(c) The cumulative antenna volume on any single pole does not exceed nine cubic feet; and

(d) For facilities not concealed within a building, the proposed wireless communications facility must be located a minimum of two hundred feet from any other wireless communications facility located along the same side of a street, unless the existing facility is concealed into the facade or design of a building, and a minimum of two hundred feet from any street intersection.

c. All approved or deemed-approved wireless communications facilities shall be subject to all the conditions imposed by the director.

d. All decisions for an administrative wireless facility permit must be in writing and contain the reasons for approval or denial. Each decision of the director to approve or deny an administrative wireless facility permit shall be reported to the city council and the planning commission according to procedures established by the director. Notice of the decision shall be mailed to the applicant and all owners of real property abutting, across the street or alley from, or having a common corner with the subject site.

e. An interested party may appeal a decision of the director under this section to the planning commission by filing a written appeal with the director within fifteen days after such decision and paying the established appeal fee. The planning commission shall approve, approve with conditions, or disapprove the application in accordance with applicable criteria and requirements specified by law. The planning commission determination shall be final unless appealed to the city council. (Ord. 722 § 1, 2017)

18.55.040 Application content.

A. The director shall develop and publish and from time to time modify and republish an application or applications to be used to apply for permits or extensions thereof.

B. At a minimum, the director shall include in every application the following information:

1. Legal Description. A legal description of the property where the wireless communications facility is to be installed.

2. Radius Map and Certified List. A radius map and a certified list of the names and addresses of all property owners within three hundred feet of the exterior boundaries of the property involved, as shown on the latest assessment roll of the county assessor. For wireless

communications facilities in the public rights-of-way, the three hundred feet shall be measured from any portion of a base station, including antennas, cables, and equipment. The radius map and certified list may be reduced for AWFP and EFP applications at the discretion of the director.

3. Plot Plan. A plot plan of the lot, premises or parcel of land showing the exact location of the proposed wireless communications facility (including all related equipment and cables), exact location and dimensions of all buildings, parking lots, walkways, trash enclosures, and property lines.

4. Elevations and Roof Plan. Building elevations and roof plan (for building- and/or rooftop-mounted facilities) indicating exact location and dimensions of equipment proposed. For freestanding facilities, indicate surrounding grades, structures, and landscaping from all sides.

5. Screening. Proposed landscaping and/or nonvegetative screening (including required safety fencing) plan for all aspects of the facility.

6. Manufacturer's Specification. Manufacturer's specifications, including installation specifications, exact location of cables, wiring, materials, color, and any support devices that may be required.

7. Good-Faith Letter. Written documentation demonstrating a good faith effort to locate the proposed facility in the least intrusive location and screened to the greatest extent feasible in accordance with the site selection and visual impact criteria of PVEMC 18.55.210 and 18.55.220.

8. Reasonable Efforts to Collocate Required. Applicants proposing new wireless communications facilities must demonstrate that reasonable efforts have been made to locate on existing facilities. The applicant must provide written documentation of all efforts to collocate the proposed facility on an existing facility, or antenna mounting structure, including copies of letters or other correspondence sent to other carriers or tower owners requesting such location and any responses received. This should include all relevant information as applicable regarding existing towers or base stations in the area, topography, signal interference, signal propagation and available land zoning restrictions.

9. Photographs and Photo Simulations. Photographs and photo simulations that show the proposed facility in context of the site from reasonable line-of-sight locations from public streets or other adjacent viewpoints, together with a map that shows the photo location of each view angle.

10. Master Plan. A master plan which identifies the location of the proposed facility in relation to all existing and potential facilities maintained by the wireless service provider intended to serve the city. The master plan shall reflect all potential locations that are reasonably anticipated for construction within two years of submittal of the application. Applicants may not file, and the city shall not accept, applications that are not consistent with the master plan for a period of two years from approval of a conditional wireless facility permit or administrative wireless facility permit unless: (a) the applicant demonstrates materially changed conditions which could not have been reasonably anticipated to justify the need for a wireless communications facility site not shown on a master plan submitted to the city within the prior two years, or (b) the applicant establishes before the planning commission that a new wireless communications facility is necessary to close a significant gap in the applicant's service area, and the proposed new installation is the least intrusive means to do so.

A significant gap is deemed by the courts to be fact specific, and defies any bright line legal rule. Where an applicant claims a significant gap, it bears the burden to provide technically sufficient information as part of its application disclosing the nature and location of such gap, the base or basis of the claim, and the further burden to disclose all of the elements and/or factors that contributed to the applicant's assertion thereof. The presumption shall be that no significant gap exists absent the showings required herein. Where the applicant is a wireless facilities provider that is not a wireless service provider for the services to be provided from the site under consideration and a significant gap is asserted, the information required shall be provided only by the wireless service provider, shall be provided under penalty of perjury, and shall be signed by an authorized employee of the wireless service provider. The director shall incorporate these requirements in each wireless application.

11. Alternative Analysis. A siting analysis which identifies a minimum of five other feasible locations within or outside the city which could serve the area intended to be served by the facility, unless the applicant provides compelling technical reasons for providing fewer than the minimum. The alternative site analysis should include at least one collocation site, if feasible.

12. Noise Study. A noise study prepared and certified by an acoustical engineer licensed by the state of California for the proposed facility and all associated equipment including all environmental control units, sump pumps, temporary backup power generators, and permanent backup power generators demonstrating compliance with the city's noise regulations. The noise study must also include an analysis of the manufacturers' specifications for all noise-emitting equipment and a depiction of the proposed equipment relative to all adjacent property lines. In lieu of a noise study, the applicant may submit evidence from the equipment manufacturer that

the ambient noise emitted from all the proposed equipment will not, both individually and cumulatively, exceed a one dba increase over ambient noise levels as measured from the property line of any residential property. Within residential zones and properties adjacent to residential zones, soundproofing measures shall be used to reduce noise caused by the operation of a wireless communications facility and all accessory equipment to a level which would have a no-net increase in ambient noise level as measured from the property line of any residential property.

13. Certificate of Public Convenience and Necessity. Certification that applicant is a telephone corporation or a statement providing the basis for its claimed right to enter the public rights-of-way. If the applicant has a certificate of public convenience and necessity (CPCN) issued by the California Public Utilities Commission, it shall provide a true and complete copy of its CPCN.

14. Mock-Up. A mock-up including all proposed antenna structures, antennas, cables, hardware and related accessory equipment shall be constructed prior to notice being given to the public and at least fifteen calendar days prior to a public hearing, in order for the planning commission or the director to assess aesthetic impacts to surrounding land uses and public rights-of-way. This requirement may be waived by the director.

Installation of a mock-up can occur prior to submittal of a formal application; provided, that the public works director has reviewed the plans for the mock-up and grants approval of an encroachment permit or other valid permit. Prior to installation of a mock-up, the applicant shall provide notice to all residents and homeowners within three hundred feet of the proposed mock-up at least forty-eight hours in advance, and shall provide proof of notice to the public works director.

15. RF Exposure Compliance Report. An RF exposure compliance report prepared and certified by an RF engineer licensed by the state of California that certifies that the proposed facility, as well as any collocated facilities, will comply with applicable federal RF exposure standards and exposure limits. The RF report must include the actual frequency and power levels (in watts effective radio power (ERP)) for all existing and proposed antennas at the site and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.

16. Written Authorization from Property Owner Required. Every applicant applying for authorization to construct, modify, or remove a wireless communications facility located on private or public property must include with its application a written authorization signed by the owner of the property.

17. Other Information. Any other information as deemed necessary by the city in order to consider an application for a wireless communications facility.

18. Fees. The application shall be accompanied by the appropriate fee in an amount as established by resolution of the city council.

19. Community Meeting. In addition to any other action otherwise required by law pertaining to the processing of a conditional wireless facility permit application, the applicant for which such review is being sought shall take all of the following actions:

a. Send written notice to both the owner(s) of real property, as shown on the latest equalized assessment roll, within three hundred feet of the proposed wireless communications facility, and the city planning department, of the pendency of the filing of such an application, including with such notice copies of preliminary drawings of the proposed project at a scale no smaller than one inch equals sixteen feet. No application for neighborhood review will be accepted as complete unless it contains evidence acceptable to the director that such notice has been sent.

b. Hold a community meeting at least four weeks before the date of the planning commission meeting at which the application will be heard, and invite the persons entitled to notice pursuant to subsection (B)(19)(a) of this section to attend such meeting to discuss the proposed application. The community meeting shall be held on a nonholiday weekend or during daylight hours and before nine a.m. or after five p.m. on a weekday. The meeting shall be held at the subject site; provided, however, that if the occupancy of the subject site by a tenant or physical conditions at the subject site make it unsafe or infeasible to provide a table and chairs at the subject site, the meeting may be held at another location within the city. The mock-up of the proposed project shall be erected at the subject site before the meeting. The primary location and all alternative sites shall be presented to the community as well as the reasons for the selection of the primary location. Notice of the date, time and place of such meeting shall be sent at least seven days before the meeting and shall be filed with the planning department.

c. If the hearing on the application is continued by the planning commission, the applicant is encouraged, but not required, to hold a further meeting with the persons entitled to notice pursuant to (a) of this subsection at least one week prior to the continued hearing.

d. If a meeting pursuant to subsection (B)(19)(b) of this section results in any modifications to the project prior to the planning commission hearing on the project, the applicant shall (1) notify the director of the proposed modifications, and (2) explain to the planning commission at the hearing on the matter any discrepancy between the project as proposed in the notice sent pursuant to subsection (B)(19)(a) of this section and the project as presented to the planning commission.

A community meeting may be required at the discretion of the director for an application for an administrative wireless facility permit or an eligible facility permit.

C. Appeals. No decision on any wireless communications facility application shall be considered final until and unless all appeals have been taken or are time-barred.

D. Effect of State or Federal Law Change. In the event a subsequent state or federal law prohibits the collection of any information described herein, the director is authorized to omit, modify or add to that request from the city's application form. (Ord. 722 § 1, 2017)

18.55.050 Independent consultant review.

A. Authorization. The city council authorizes the director to, in his or her discretion, select and retain an independent consultant with expertise in communications satisfactory to the director in connection with any permit application.

B. Scope. The director may require the independent consultant to review and comment on any issue that involves specialized or expert knowledge in connection with the application. Such issues may include, but are not limited to:

1. Permit application completeness or accuracy;

2. Planned compliance with applicable federal RF exposure standards;

3. Whether and where a significant gap exists or may exist, and whether such a gap relates to service coverage or service capacity;

4. Whether technically feasible and potentially available alternative locations and designs exist;

5. The applicability, reliability and sufficiency of analyses or methodologies used by the applicant to reach conclusions about any issue within this scope; and

6. Any other application issue or element that requires expert or specialized knowledge.

C. Deposit. The applicant must pay for the cost of any review required under subsection B of this section and for the technical consultant's testimony in any hearing as requested by the director and must provide a reasonable advance deposit of the estimated cost of such review with the city prior to the commencement of any work by the technical consultant. The applicant must provide an additional advance deposit to cover the consultant's testimony and expenses at any meeting where that testimony is requested by the director. Where the advance deposit(s) are insufficient to pay for the cost of such review and/or testimony, the director shall invoice the applicant who shall pay the invoice in full within ten calendar days after receipt of the invoice. No permit shall issue to an applicant where that applicant has not timely paid a required fee, provided any required deposit or paid any invoice as required in the code. (Ord. 722 § 1, 2017)

18.55.060 Collocation and modification standards.

The following additional development and design criteria apply to collocation and modifications to existing wireless communications facilities. The modification or collocation of wireless facilities not subject to the provisions of PVEMC 18.55.230 shall be disapproved if any of the following will occur:

A. The proposed collocation or modification involves excavation outside the current boundaries of the leased or owned property surrounding the wireless tower, including any access or utility easements currently related to the site;

B. The proposed collocation or modification would diminish the existing concealment elements of the support structure as determined by the director;

C. The proposed collocation or modification violates any section of the PVEMC, or any prior condition of approval for the site;

D. If the site is not presently camouflaged, the proposed collocation or modification does not provide for camouflage. (Ord. 722 § 1, 2017)

18.55.070 Exemptions to prevent an effective prohibition.

All requests granted under this chapter are subject to review and consideration by the planning commission. The applicant always bears the burden to demonstrate why an exemption should be granted. An applicant seeking an exemption under this section on the basis that a permit denial would

actually or effectively prohibit the provision of the telecommunications service to be provided by the wireless communications facility must demonstrate by clear and convincing evidence all of the following:

A. A significant gap in the applicant's service coverage exists; and

B. All alternative designs and locations are either technically infeasible or not available. (Ord. 722 § 1, 2017)

18.55.080 Compliance report.

A. Within thirty days after installation or modification of a WCF, the applicant shall deliver to the director a written report that demonstrates that its WCF as constructed and normally operating fully complies with the conditions of the permit, including height restrictions, and applicable safety codes, including structural engineering codes. The demonstration shall be provided in writing to the director containing all technical details to demonstrate such compliance, and certified as true and accurate by qualified professional engineers, or, in the case of height or size restrictions, by qualified surveyors. This report shall be prepared by the applicant and reviewed by the city at the sole expense of the applicant, which shall promptly reimburse the city for its review expenses. The director may require additional proofs of compliance as part of the application process and on an ongoing basis to the extent the city may do so consistent with federal law.

B. If the initial report required by this section shows that the WCF does not so comply, the permit shall be deemed suspended, and all rights thereunder of no force and effect, until the applicant demonstrates to the city's satisfaction that the WCF is compliant. Applicant shall promptly reimburse the city for its compliance review expenses.

C. If the initial report required by this section is not submitted within the time required, the city may, but is not required to, undertake such investigations as are necessary to prepare the report described in subsection A of this section. Applicant shall within five days after receiving written notice from the city that the city is undertaking the review, deposit such additional funds with the city to cover the estimated cost of the city obtaining the report. Once said report is obtained by the city, the city shall then timely refund any unexpended portion of the applicant's deposit. The report shall be provided to the applicant. If the report shows that the applicant is noncompliant, the city may suspend the permit until the applicant demonstrates to the city's satisfaction that the WCF is compliant. During the suspension period, the applicant shall be allowed to activate the WCF for short periods, not to exceed one hundred twenty minutes during any twenty-four-hour period, for the purpose of testing and adjusting the site to come into compliance.

D. If the WCF is not brought into compliance promptly, the city may revoke the permit and require removal of the WCF. (Ord. 722 § 1, 2017)

18.55.090 Maintenance.

The site and the facility, including but not limited to all landscaping, fencing and related transmission equipment, must be maintained in a neat and clean manner and in accordance with all approved plans and conditions of approval. (Ord. 722 § 1, 2017)

18.55.100 Amortization of nonconforming facilities.

A. Any nonconforming facilities in existence at the time this chapter becomes effective must be brought into conformance with this chapter in accordance with the amortization schedule in this section. As used in this section, the "fair market value" will be the construction costs listed on the building permit application for the subject facility and the "minimum years" allowed will be measured from the date on which this chapter becomes effective.

Fair Market Value on Effective Date	Minimum Years Allowed
Less than $50,000	5
$50,000 to $500,000	10
Greater than $500,000	15

B. The director may grant a written extension to a date certain not greater than one year when the facility owner shows (1) a good faith effort to cure nonconformance, and (2) extreme economic hardship would result from strict compliance with the amortization schedule. Any extension must be the minimum time period necessary to avoid such extreme economic hardship. The director must not grant any permanent exemption from this section.

C. Nothing in this section is intended to limit any permit term to less than ten years. In the event that the amortization required in this section would reduce the permit term to less than ten years for any permit granted on or after July 21, 2017, then the minimum years allowed will be automatically extended by the difference between ten years and the number of years since the city granted such permit. Nothing in this section is intended or may be applied to prohibit any collocation or modification covered under 47 U.S.C. Section 1455(a) pursuant to PVEMC 18.55.230 on the basis that the subject wireless communications facility is a legal nonconforming facility. (Ord. 722 § 1, 2017)

18.55.110 Permit extensions.

An existing wireless communications permit that is subject to term expiration may be extended for a maximum of two additional five-year terms upon the following conditions:

A. Every application for a five-year extension shall be:

1. Made on the extension application form provided by the city; and

2. Accompanied by a fee in an amount as established by resolution of the city council.

B. The extension application shall be developed and revised from time to time at the director's discretion. The extension application shall at a minimum require the following:

1. The identification of the wireless site requested to be extended; and

2. A true and complete copy of all city-issued permits for the site including any collocations at the site.

C. The extension application shall be approved by the director only upon the following mandatory showings:

1. That the site as it exists at the time the extension application is tendered is in all respect compliant with all applicable city permits for the site, including collocations; and

2. If the site as it exists at the time the extension application is tendered would be approvable consistent with the city's code in existence at that time. (Ord. 722 § 1, 2017)

18.55.120 Temporary wireless facilities.

A. Temporary wireless facilities may be placed and operated within the city without an administrative temporary use permit only when a duly authorized federal, state, county or city official declares an emergency within the city, or a region that includes the city in whole or in part at the location of the temporary wireless facility.

B. By placing a temporary wireless facility pursuant to this section the entity or person placing the temporary wireless facility agrees to and shall defend, indemnify and hold harmless the city, its agents, officers, officials, employees and volunteers from any and all damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, lawsuits, writs and other actions or proceedings ("claims") brought against the city or its agents, officers, officials, employees or volunteers for any and all claims of any nature related to the installation, use, nonuse, occupancy, removal, and disposal of the temporary wireless facility.

C. The temporary wireless facility shall prominently display upon it a legible notice identifying the entity responsible for the placement and operation of the temporary wireless facility.

D. Any temporary wireless facilities placed pursuant to this section must be removed within the earlier of (1) five days after the date the emergency is lifted or (2) upon three days' written notice from the director or city manager, or (3) within one hour if required for public safety reasons by city police or fire officials. In the event that the temporary wireless facility is not removed as required in this section, the city may at its sole election remove and store or remove and dispose of the temporary wireless facility at the sole cost and risk of the person or entity placing the temporary wireless facility.

E. Any person or entity that places temporary wireless facilities pursuant to this section must send the director or city manager an email notice or deliver a written notice by hand within thirty minutes of the placement followed by a written notice dispatched within twelve hours to the director or city manager via prepaid U.S. mail first overnight delivery, such as U.S. Postal Express Mail or its equivalent, that identifies the site location of the temporary wireless facility and person responsible for its operation. (Ord. 722 § 1, 2017)

18.55.130 Revocation. 

A. Grounds for Revocation. A permit granted under this chapter may be revoked for noncompliance with any enforceable permit, permit condition or law provision applicable to the facility.

B. Revocation Procedures.

1. When the director finds reason to believe that grounds for permit revocation exist, the director shall send written notice by certified U.S. mail, return receipt requested, to the permittee at the permittee's last known address that states the nature of the noncompliance as grounds for permit revocation. The permittee shall have a reasonable time from the date of the notice, but no more than thirty days unless authorized by the director, to cure the noncompliance or show that no noncompliance ever occurred.

2. If after notice and opportunity to show that no noncompliance ever occurred or to cure the noncompliance, the permittee fails to cure the noncompliance, the city council shall conduct a noticed public hearing to determine whether to revoke the permit for the uncured noncompliance. The permittee shall be afforded an opportunity to be heard and may speak and submit written materials to the city council. After the noticed public hearing, the city council may revoke or suspend the permit when it finds that the permittee had notice of the noncompliance and an enforceable permit, permit condition or law applicable to the facility. Written notice of the city council's determination and the reasons therefor shall be dispatched by certified U.S. mail, return receipt requested, to the permittee's last known address. Upon revocation, the city

council may take any legally permissible action or combination of actions necessary to protect public health, safety and welfare. (Ord. 722 § 1, 2017)

18.55.140 Decommissioned or abandoned wireless communications facilities.

A. Decommissioned Wireless Facilities. Any permittee that intends to decommission a wireless communications facility must send thirty days' prior written notice by United States certified mail to the director. The permit will automatically expire thirty days after the director receives such notice of intent to decommission, unless the permittee rescinds its notice within the thirty-day period.

B. Procedures for Abandoned Facilities or Facilities Not Kept in Operation.

1. To promote the public health, safety and welfare, the director may declare a facility abandoned when:

a. The permittee notifies the director that it abandoned the use of a facility for a continuous period of ninety days; or

b. The permittee fails to respond within thirty days to a written notice sent by certified U.S. mail, return receipt requested, from the director that states the basis for the director's belief that the facility has been abandoned for a continuous period of ninety days; or

c. The permit expires and the permittee has failed to file a timely application for renewal.

2. After the director declares a facility abandoned, the permittee shall have ninety days from the date of the declaration (or longer time as the director may approve in writing as reasonably necessary) to:

a. Reactivate the use of the abandoned facility subject to the provisions of this chapter and all conditions of approval;

b. Transfer its rights to use the facility, subject to the provisions of this chapter and all conditions of approval, to another person or entity that immediately commences use of the abandoned facility; or

c. Remove the facility and all improvements installed solely in connection with the facility, and restore the site to a condition compliant with all applicable codes consistent with the then-existing surrounding area.

3. If the permittee fails to act as required in subsection (B)(2) of this section within the prescribed time period, the city council may deem the facility abandoned and revoke the underlying permit(s) at a noticed public meeting in the same manner as provided in subsection (B)(2) of this section. Further, the city council may take any legally permissible action or combination of actions reasonably necessary to protect the public health, safety and welfare from the abandoned wireless communications facility. (Ord. 722 § 1, 2017)

18.55.150 Wireless communications facilities removal or relocation.

A. Removal by Permittee. The permittee or property owner must completely remove the wireless communications facility and all related improvements, without cost or expense to the city, within ninety days after:

1. The permit expires; or

2. The city council properly revokes a permit pursuant to PVEMC 18.55.130(B); or

3. The permittee decommissions the wireless communications facility; or

4. The city council properly deems the wireless communications facility abandoned pursuant to 18.55.140(B); or

5. In addition and within the ninety-day period, the permittee or property owner must restore the former wireless communications facility site area to a condition compliant with all applicable codes and consistent with the then-existing surrounding area.

B. Removal by City. The city may, but is not obligated to, remove an abandoned wireless communications facility, restore the site to a condition compliant with all applicable codes and consistent with the then-existing surrounding area, and repair any and all damages that occurred in connection with such removal and restoration work. The city may, but shall not be obligated to, store the removed wireless communications facility or any part thereof, and may use, sell or otherwise dispose of it in any manner the city deems appropriate in its sole discretion. The last-known permittee or its successor-in-interest and, if on private property, the real property owner shall be jointly liable for all costs incurred by the city in connection with its removal, restoration, repair and storage, and shall promptly reimburse the city upon receipt of a written demand, including any interest on the balance owing at the maximum lawful rate. The city may, but shall not be obligated to, use any financial security required in connection with the granting of the facility permit to recover its costs and interest. A lien may be placed on all abandoned personal property and the real property on which the abandoned wireless communications facility is located for all costs incurred in connection with any removal, repair, restoration and storage performed

by the city. The city clerk shall cause such a lien to be recorded with the county of Los Angeles clerk-recorder's office.

C. Relocation Procedures for Facilities in the Rights-of-Way. After reasonable written notice to the permittee, the director may require a permittee, at the permittee's sole expense and in accordance with the standards in this chapter applicable to such wireless communications facility, to relocate or reconfigure a wireless communications facility in the public rights-of-way as the director deems necessary to maintain or reconfigure the rights-of-way for other public projects or take any actions necessary to protect public health, safety and welfare. The provisions in this section are intended to include circumstances in which a wireless communications facility is installed on a pole scheduled for undergrounding. (Ord. 722 § 1, 2017)

18.55.160 Fee or tax.

The city council may, by resolution, impose any fee or tax permitted by law for the placement of a wireless communications facility. Such fee or tax shall be in addition to any fee imposed by the city council for an application for a conditional wireless facility permit or administrative wireless facility permit. (Ord. 722 § 1, 2017)

18.55.170 Compliance obligations.

An applicant or permittee will not be relieved of its obligation to comply with every applicable provision in the code, this chapter, any permit, any permit condition or any applicable law or regulation by reason of any failure by the city to timely notice, prompt or enforce compliance by the applicant or permittee. (Ord. 722 § 1, 2017)

18.55.180 Conflicts with prior ordinances.

If the provisions in this chapter conflict in whole or in part with any other city regulation or ordinance adopted prior to the effective date of this chapter, the provisions in this chapter will control. (Ord. 722 § 1, 2017)

18.55.190 Duty to retain records.

The permittee must maintain complete and accurate copies of all permits and other regulatory approvals (collectively, the "records") issued in connection with the wireless facility, which includes without limitation this approval, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval and any ministerial permits or approvals issued in connection with this approval. In the event that the permittee does not maintain such records as required in this condition or fails to produce true and complete copies of such records within a reasonable time after a

written request from the city, any ambiguities or uncertainties that would be resolved through an inspection of the missing records will be construed against the permittee. (Ord. 722 § 1, 2017)

18.55.200 Severability.

In the event that a court of competent jurisdiction holds any section, subsection, paragraph, sentence, clause or phrase in this section unconstitutional, preempted, or otherwise invalid, the invalid portion shall be severed from this section and shall not affect the validity of the remaining portions of this section. The city hereby declares that it would have adopted each section, subsection, paragraph, sentence, clause or phrase in this section irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses or phrases in this section might be declared unconstitutional, preempted or otherwise invalid. (Ord. 722 § 1, 2017)

18.55.210 Wireless communications facilities on public or private property.

A. Purpose. The following procedures and design standards shall be required for the installation of wireless communications facilities within public or private property. These criteria are intended to guide and facilitate applicants in locating and designing facilities and supporting equipment in a manner that will be compatible with the purpose, intent, and goals of this section. It is the intent of the city to use its time, place, and manner authority to protect and preserve the aesthetics of the city.

B. Permit Required.

1. Installation of wireless communications facilities located on public or private property will be subject to this chapter.

2. Applicants shall apply for a conditional wireless facility permit or administrative wireless facility permit for any wireless communications facility that it seeks to place on public or private property.

C. Design Standards. The following general design guidelines shall be considered for regulating the location, design, and aesthetics for a wireless communications facility:

1. Site Selection Criteria.

a. Preferred Locations. When doing so would not conflict with one of the standards set forth in this subsection or with federal law, wireless communications facilities shall be located in the most preferred location as described in this subsection, which range from the most preferred to the least preferred locations on public or private property.

(1) Location on a new or existing building in a nonresidential zone.

(2) Location on an existing city-owned structure in a nonresidential zone.

(3) Location on a new camouflaged structure in a nonresidential zone.

(4) Located more than two hundred feet of a residential building, excluding out-buildings, unless camouflaged in or on a nonresidential building (e.g., churches, temples, etc.).

b. Less Preferred Locations. To the extent feasible, facilities shall not be located in the following areas:

(1) Environmentally sensitive areas;

(2) On the top of a ridgeline when prominently visible from public viewpoints;

(3) On the top of a bluff, slope or hill along or adjacent to a roadway where views of the ocean would be significantly obstructed; or

(4) On a structure, site or in a district designated as a local, state or federal historical landmark, or having significant local historical value as determined by the city council.

c. No new facility may be placed in a less preferred location unless the applicant demonstrates to the reasonable satisfaction of the planning commission that no more preferred location can feasibly serve the area the facility is intended to serve; provided, however, that the planning commission may authorize a facility to be established in a less preferred location if doing so is necessary to prevent substantial aesthetic impacts.

d. All facilities (including all related accessory cabinet(s)) shall meet the setback requirements of the underlying zone. In no case shall any portion of a facility be located in a defined front yard or side yard.

e. In no case shall any part of a facility alter vehicular circulation within a site or impede access to and from a site. In no case shall a facility alter off-street parking spaces (such that the required number of parking spaces for a use is decreased) or interfere with the normal operation of the existing use of the site.

f. All wireless communications facilities shall utilize unmetered commercial power service, or commercial power metering in the enclosure required by the utility, or remote power metering in flush-to-grade vaults. If a commercial power meter is installed and the wireless

communications facility can be converted to unmetered or wireless power metering, the permittee shall apply for a permit modification to perform the conversion.

g. Any freestanding ground-mounted wireless communications facility, including any related accessory cabinet(s) and structure(s), shall apply towards the allowable lot coverage for structures/buildings of the underlying zone.

h. The antenna height of any wireless communications facility shall not exceed the height limit of the underlying zone or the maximum permissible height of property upon which the WCF is located.

D. General Standards.

1. Unless Government Code Section 65964, as may be amended, authorizes the city to issue a permit with a shorter term, a permit for any wireless communications facility shall be valid for a period of ten years, unless pursuant to another provision of this code it lapses sooner or is revoked. At the end of ten years from the date of issuance, such permit shall automatically expire.

2. Wireless communications facilities shall not bear any signs or advertising devices other than certification, warning, or other required seals or required signage.

3. No permittee shall unreasonably restrict access to an existing antenna location if required to collocate by the city, and if feasible to do so.

4. All antennas shall be designed to prevent unauthorized climbing.

E. Visual Impacts.

1. Facilities shall be designed to be as visually unobtrusive as possible. Colors and designs must be integrated and compatible with existing on-site and surrounding buildings and/or uses in the area. Facilities shall be sited to avoid or minimize obstruction of views from adjacent properties.

2. Facilities shall not be of a bright, shiny or glare-reflective finish. The facility shall be finished in a color to neutralize it and blend it with, rather than contrast it from, the sky and site improvements immediately surrounding; provided, that, wherever feasible, a light color shall be used to meet this requirement.

3. If feasible, the base station and all wires and cables necessary for the operation of a facility shall be placed underground so that the antenna is the only portion of the facility that is above ground. If the base station is located within or on the roof of a building, it may be placed in any location not visible from surrounding areas outside the building, with any wires and cables attached to the base station screened from public view. The applicant shall demonstrate to the satisfaction of the planning commission or director that it is not technically feasible to locate the base station below ground.

4. Innovative design to minimize visual impact must be used whenever the screening potential of the site is low. For example, the visual impact of a site may be mitigated by using existing light standards and telephone poles as mounting structures, or by constructing screening structures which are compatible with surrounding architecture.

5. Screening of the facility should take into account the existing improvements on or adjacent to the site, including landscaping, walls, fences, berms or other specially designed devices which preclude or minimize the visibility of the facility and the grade of the site as related to surrounding nearby grades of properties and public street rights-of-way.

6. Landscaping or other screening shall be placed so that the antenna and any other aboveground structure is screened from public view. Landscaping or other screening required by this section shall be maintained by the permittee and replaced as necessary as determined by the director. All existing landscaping that has been disturbed by the permittee in the course of placement or maintenance of the wireless facility shall be restored to its original condition as existed prior to placement of the wireless facility by the permittee.

7. Wireless communications facilities shall be located where the existing topography, vegetation, building, or other structures provide the greatest amount of screening.

8. All building and roof-mounted wireless telecommunications facilities and antennas shall be designed to appear as an integral part of the structure and located to minimize visual impacts.

F. Undergrounding of Equipment. To preserve community aesthetics, all facility equipment, excluding antennas, aboveground vents, and the smallest possible electrical meter boxes, shall, to the greatest extent possible, be required to be located underground, flush to the finished grade, shall be fully enclosed, and not cross property lines. Equipment may include, but is not limited to, the following: meter pedestals, fiber optic nodes, radio remote units or heads, power filters, cables, cabinets, vaults, junction or power boxes, and gas generators. Wherever possible, electrical meter boxes related to wireless communications facilities shall be appropriately screened, not visible to the general public, and located in

less prominent areas on public property and private property. Where it can be demonstrated that undergrounding of equipment is infeasible due to conflict with other utilities, the director may approve alternative above-grade equipment mounting when adequately screened from public view. Any approved above-grade equipment must be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to interfere with or create hazards to pedestrians or motorists.

G. Soundproofing Measures. Within residential zones, and properties adjacent to residential zones, soundproofing measures shall be used to reduce noise caused by the operation of wireless communications facilities and all accessory equipment to a level which would have no net increase in ambient noise level.

H. Antennas and Other Pole-Mounted Equipment. Antennas and other pole-mounted equipment located above ground shall conform to the following criteria:

1. Facilities installed on existing utility poles, street lights or sign poles shall be appropriately scaled and aesthetically designed such that the new facility is not substantially larger, more obtrusive, or more readily visible than the existing facilities or utility devices affixed to the utility poles in the immediate vicinity of the proposed installation.

2. No more than one antenna array may be attached to a utility pole, street light pole or sign pole unless it is a collocation.

3. If required, an antenna enclosure shall be attached directly to the top of the pole or mounted around the main pole circumference. Antenna enclosures shall not be mounted perpendicular to the main pole structure and shall not be mounted on cross members or outrigger structures extending from the main pole.

4. Antennas may not exceed six feet above the utility pole tip height, unless additional separation is required by applicable safety codes.

5. Pole-mounted equipment, other than the antenna, is prohibited on sign poles. Equipment shall be located in a ground-mounted cabinet or underground vault.

6. No new poles may be installed except as replacements for existing poles.

7. No new utility pole may be installed in a commercial or open space zone unless the CPUC has authorized the applicant to install such facilities and the applicant demonstrates that no other feasible alternative exists.

8. All facilities may only have subdued colors and nonreflective materials that blend with the surrounding area.

9. Conduits shall not be exposed and must be concealed within the support pole. (Ord. 722 § 1, 2017)

18.55.220 Wireless communications facilities in the public rights-of-way.

A. Purpose. The following procedures and design standards shall be required for the installation of wireless communications facilities within the public rights-of-way. These criteria are intended to guide and facilitate applicants in locating and designing facilities and supporting equipment in a manner that will be compatible with the purpose, intent, and goals of this section. It is the intent of the city to use its time, place, and manner authority to protect and preserve the aesthetics of the city and the health and safety of pedestrians and occupants of vehicles in city rights-of-way.

B. Permit Required. Installation of wireless communications facilities within the public rights-of-way will be permitted subject to payment of applicable permit fees. The director or his designee will review and approve encroachment permit applications from carriers which hold a certificate of public convenience and necessity (CPCN) from the California Public Utilities Commission (CPUC), subject to the criteria contained in this section.

C. Insurance Required. A certificate of general liability insurance and commercial automobile liability insurance in a form and amount acceptable to the city must be submitted prior to issuance of the permit, and maintained for as long as the facilities exist within the public rights-of-way.

D. Permit Duration. Unless Government Code Section 65964, as may be amended, authorizes the city to issue a permit with a shorter term, a permit for any wireless communications facility shall be valid for a period of ten years, unless pursuant to another provision of this code it lapses sooner or is revoked. At the end of ten years from the date of issuance, such permit shall automatically expire.

E. Design Standards.

1. Location. Facilities may be located in the public rights-of-way when doing so would not conflict with one or more of the standards set forth in this subsection or with federal law.

2. Wireless communications facilities in the public rights-of-way shall be located in the most preferred location as described in this subsection, which range from the most preferred to the least preferred locations.

a. Location on an existing city-owned structure in a nonresidential zone.

b. Located more than two hundred feet of a residential building, excluding accessory buildings.

c. Location on an existing structure, utility pole or street sign pole, except that the facility may be located in a residential zone if it is necessary to prevent substantial aesthetic impacts and is the least intrusive means.

d. Location on a new camouflaged structure in a nonresidential zone.

e. Collocation on an existing eligible support structure, except that the facility may be located in a residential zone if it is necessary to prevent substantial aesthetic impacts and is the least intrusive means.

f. Location on a new structure, except that the facility may be located in a residential zone if it is necessary to prevent substantial aesthetic impacts and is the least intrusive means.

3. Proposed facilities located in the public rights-of-way may be denied if any of the following occurs:

a. Conflicts with existing overhead or underground utilities or structures;

b. Interferes with traffic visibility;

c. Results in vehicular access problems;

d. Results in a safety hazard;

e. Would violate any law or regulation; or

f. Significantly impacts the aesthetics of the area.

4. Undergrounding of Equipment. To preserve the rural nature and the community aesthetics, all portions of a wireless communications facility, excluding antennas and the towers or poles they are mounted to, shall be required to be located underground, flush to the finished grade, fully enclosed, and not cross property lines. Electrical meter boxes related to wireless communications facilities shall be appropriately screened and located in less prominent areas within the public rights-of-way.

5. For facilities adjacent to residential zones, sound reduction measures shall be used to reduce any noise caused by the operation of the wireless communications facility.

F. Antennas and Other Pole-Mounted Equipment. Antennas located above ground on an existing utility pole or on a sign pole shall conform to the following criteria:

1. Wireless communications facilities shall be appropriately scaled and aesthetically designed to be consistent with the surrounding area in which it is installed.

2. No more than one antenna array may be attached to any structure in the public rights-of-way unless for a collocation.

3. If required, an antenna enclosure shall be attached directly to the top of the pole or mounted around the main pole circumference. Antennas shall not be mounted perpendicular to the main pole structure and shall not be mounted on cross members or outrigger structures extending from the main pole unless required by the CPUC.

4. Antennas may not exceed six feet above the utility pole tip height, unless additional separation is required by applicable safety codes.

5. Pole-mounted equipment, other than antennas, are prohibited on sign poles unless otherwise approved by the planning commission. Equipment shall be located within a ground-mounted cabinet or underground vault.

6. No new poles may be installed except as replacements for existing poles.

7. No new utility pole may be installed in a public rights-of-way unless the CPUC has authorized the applicant to install such facilities and the applicant demonstrates that no other feasible alternative exists.

8. All facilities may only have subdued colors and nonreflective materials that blend with the surrounding area.

9. Conduits shall not be exposed and must be concealed within the support pole. (Ord. 722 § 1, 2017)

18.55.230 Rule 6409, eligible wireless communications facilities.

A. Purpose. The purpose of this section is to adopt reasonable regulations and procedures, consistent with and subject to federal and California state law, for compliance with Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112-96, codified in 47 U.S.C. Section 1455(a), and related Federal Communications Commission regulations codified in 47 C.F.R. Section 1.40001 et seq.

1. Section 6409(a) generally requires that state and local governments "may not deny, and shall approve" requests to collocate, remove or replace transmission equipment at an existing tower or base station. FCC regulations interpret the statute and create procedural rules for local review, which generally preempt subjective land-use regulations, limit application content requirements and provide the applicant with a "deemed granted" remedy when the local government fails to approve or deny the request within sixty days after submittal (accounting for any tolling periods). Moreover, whereas Section 704 of the Telecommunications Act of 1996, Pub. L. 104-104, codified in 47 U.S.C. Section 332, applies to only "personal wireless service facilities" (e.g., cellular telephone towers and equipment), Section 6409(a) applies to all "wireless" facilities licensed or authorized by the FCC (e.g., wi-fi, satellite, or microwave backhaul).

2. The city council finds that the partial overlap between wireless deployments covered under Section 6409(a) and other wireless deployments, combined with the different substantive and procedural rules applicable to such deployments, creates a potential for confusion that harms the public interest in both efficient wireless communications facilities deployment and deliberately planned community development in accordance with local values. The city council further finds that a separate permit application and review process specifically designed for compliance with Section 6409(a) contained in a section devoted to Section 6409(a) will best prevent such confusion.

3. Accordingly, the city of Palos Verdes Estates adopts this section to reasonably regulate requests submitted for approval under Section 6409(a) to collocate, remove or replace transmission equipment at an existing wireless tower or base station, in a manner that complies with federal law and protects and promotes the public health, safety and welfare of the citizens of Palos Verdes Estates.

B. Prohibition of Personal Wireless Service. This section does not intend to, and shall not be interpreted or applied to: (1) prohibit or effectively prohibit personal wireless services; (2) unreasonably discriminate among providers of functionally equivalent personal wireless services; (3) regulate the installation, operation, collocation, modification or removal of wireless communications facilities on the basis of the environmental effects of radio frequency emissions to the extent that such emissions comply with all applicable FCC regulations; (4) prohibit or effectively prohibit any collocation or modification that the city may not deny under California or federal law; or (5) allow the city to preempt any applicable California or federal law.

C. Eligible Facility Permit. Any request to collocate, replace or remove transmission equipment at an existing wireless tower or base station submitted for approval under Section 6409(a) shall require an eligible facility permit subject to the director's approval, conditional approval or denial under the standards and procedures contained in this section. However, the applicant may alternatively elect to seek either a conditional wireless facility permit or an administrative wireless facility permit described elsewhere in this chapter.

D. Other Regulatory Approvals Required. No collocation or modification approved under any eligible facility permit may occur unless the applicant also obtains all other permits or regulatory approvals from other city departments and state or federal agencies. An applicant may obtain an eligible facility permit concurrently with permits or other regulatory approvals from other city departments after first consulting with the director. Furthermore, any eligible facility permit granted under this section shall remain subject to the lawful conditions and/or requirements associated with such other permits or regulatory approvals from other city departments and state or federal agencies.

E. Permit Applications – Submittal and Review Procedures.

1. Permit Application Required. The director may not grant any eligible facility permit unless the applicant has submitted a complete application.

2. Permit Application Content. This section governs minimum requirements for permit application content and procedures for additions and/or modifications to eligible facility permit applications. The city council directs and authorizes the director to develop and publish application forms, checklists, informational handouts and other related materials that describe required materials and information for a complete application in any publicly stated form. Without further authorization from the city council, the director may from time to time update and alter the permit application forms, checklists, informational handouts and other related materials as the director deems necessary or appropriate to respond to regulatory, technological or other changes. The materials required under this section are minimum requirements for any eligible facility permit application the director may develop.

a. Application Fee Deposit. The applicable permit application fee established by city council resolution. In the event that the city council has not established an application fee specific to an eligible facility permit, the established fee for an administrative wireless facility permit shall be required.

b. Prior Regulatory Approvals. Evidence that the applicant holds all current licenses and registrations from the FCC and any other applicable regulatory bodies where such

license(s) or registration(s) are necessary to provide wireless services utilizing the proposed wireless communications facility. For any prior local regulatory approval(s) associated with the wireless communications facility, the applicant must submit copies of all such approvals with any corresponding conditions of approval. Alternatively, a written justification that sets forth reasons why prior regulatory approvals were not required for the wireless communications facility at the time it was constructed or modified.

c. Site Development Plans. A fully dimensioned site plan and elevation drawings prepared and sealed by a California-licensed engineer showing any existing wireless communications facilities with all existing transmission equipment and other improvements, the proposed facility with all proposed transmission equipment and other improvements and the legal boundaries of the leased or owned area surrounding the proposed facility and any associated access or utility easements.

d. Equipment Specifications. Specifications that show the height, width, depth and weight for all proposed equipment. For example, dimensioned drawings or the manufacturer's technical specifications would satisfy this requirement.

e. Photographs and Photo Simulations. Photographs and photo simulations that show the proposed facility in context of the site from reasonable line-of-sight locations from public streets or other adjacent viewpoints, together with a map that shows the photo location of each view angle. At least one photo simulation must clearly show the impact on the concealment elements of the support structure, if any, from the proposed modification.

f. RF Exposure Compliance Report. An RF exposure compliance report prepared and certified by an RF engineer acceptable to the city that certifies that the proposed facility, as well as any collocated facilities, will comply with applicable federal RF exposure standards and exposure limits. The RF report must include the actual frequency and power levels (in watts effective radio power (ERP)) for all existing and proposed antennas at the site and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.

g. Justification Analysis. A written statement that explains in plain factual detail whether and why Section 6409(a) and the related FCC regulations at 47 C.F.R. Section 1.40001 et

seq. require approval for the specific project. A complete written narrative analysis will state the applicable standard and all the facts that allow the city to conclude the standard has been met—bare conclusions not factually supported do not constitute a complete written analysis. As part of this written statement the applicant must also include (i) whether and why the support structure qualifies as an existing tower or existing base station; and (ii) whether and why the proposed collocation or modification does not cause a substantial change in height, width, excavation, equipment cabinets, concealment or permit compliance.

h. Noise Study. A noise study prepared and certified by an acoustical engineer licensed by the state of California for the proposed facility and all associated equipment including all environmental control units, sump pumps, temporary backup power generators, and permanent backup power generators demonstrating compliance with the city's noise regulations. The noise study must also include an analysis of the manufacturers' specifications for all noise-emitting equipment and a depiction of the proposed equipment relative to all adjacent property lines. In lieu of a noise study, the applicant may submit evidence from the equipment manufacturer that the ambient noise emitted from all the proposed equipment will not, both individually and cumulatively, exceed the applicable limits set out in the noise ordinance.

3. Pre-Application Meeting Appointment. Prior to application submittal, applicants must schedule and attend a pre-application meeting with city staff for all eligible facility permit applications. Such pre-application meeting is intended to streamline the application review through discussions including, but not limited to, the appropriate project classification, including whether the project qualifies for an eligible facility permit; any latent issues in connection with the existing tower or base station; potential concealment issues (if applicable); coordination with other city departments responsible for application review; and application completeness issues. Applicants must submit a written request for an appointment in the manner prescribed by the director. City staff shall endeavor to provide applicants with an appointment within five working days after receipt of a written request.

4. Application Submittal Appointment. All applications for an eligible facility permit must be submitted to the city at a pre-scheduled appointment. Applicants may submit up to three WCF site applications per appointment but may schedule successive appointments for additional applications whenever feasible by the director. Applicants must submit a written request for an appointment in the manner prescribed by the director. City staff shall endeavor to provide applicants with an appointment within five working days after receipt of a written request.

5. Application Resubmittal Appointment. All application resubmittals must be tendered to the city at a pre-scheduled appointment. Applicants may resubmit up to three individual WCF site applications per appointment but may schedule successive appointments for additional applications whenever feasible for the city. Applicants must submit a written request for an appointment in the manner prescribed by the director. City staff shall endeavor to provide applicants with an appointment within five working days after receipt of a written request.

6. Applications Deemed Withdrawn. To promote efficient review and timely decisions, an application will be automatically deemed withdrawn when an applicant fails to tender a substantive response within ninety days after the city deems the application incomplete in a written notice to the applicant. The director may in the director's discretion grant a written extension for up to an additional thirty days upon a written request for an extension received prior to the ninetieth day. The director may grant further written extensions only for good cause, which includes circumstances outside the applicant's reasonable control.

F. Notice.

1. Manner of Notice. Within fifteen days after an applicant submits an application for an eligible facility permit, written notice of the application shall be sent by first-class United States mail to:

a. Applicant or its duly authorized agent;

b. Property owner or its duly authorized agent;

c. All real property owners within three hundred feet from the subject site as shown on the latest equalized assessment rolls;

d. Any person who has filed a written request with either the city clerk or the city council; and

e. Any city department that will be expected to review the application.

2. Notice Content. The notice required under this section shall include all the following information:

a. A general explanation of the proposed collocation or modification;

b. The following statement: "This notice is for information purposes only; no public hearing will be held for this application. Federal law may require approval for this application.

Further, Federal Communications Commission regulations may deem this application granted by the operation of law unless the City approves or denies the application, or the City and applicant reach a mutual tolling agreement"; and

c. A general description, in text or by diagram, of the location of the real property that is the subject of the application.

G. Approvals – Denials without Prejudice. Federal regulations dictate the criteria for approval or denial of approval permit application submitted under Section 6409(a). The findings for approval and criteria for denial without prejudice are derived from, and shall be interpreted and applied in a manner consistent with, such federal regulations.

1. Findings for Approval. The director may approve or conditionally approve an application for an eligible facility permit only when the director finds all of the following:

a. The application involves the collocation, removal or replacement of transmission equipment on an existing wireless tower or base station; and

b. The proposed changes would not cause a substantial change.

2. Criteria for a Denial without Prejudice. The director shall not approve an application for an eligible facility permit when the director finds that the proposed collocation or modification:

a. Violates any legally enforceable standard or permit condition reasonably related to public health and safety; or

b. Involves a structure constructed or modified without all approvals required at the time of the construction or modification; or

c. Involves the replacement of the entire support structure; or

d. Does not qualify for mandatory approval under Section 6409(a) for any lawful reason.

3. All Eligible Facility Permit Denials Are without Prejudice. Any "denial" of an eligible facility permit application shall be limited to only the applicant request for approval pursuant to Section 6409(a) and shall be without prejudice to the applicant. Subject to the application and submittal requirements in this chapter, the applicant may immediately submit a new permit application for either a conditional wireless facility permit, administrative wireless facility permit, or submit a new and revised eligible facility permit.

4. Conditional Approvals. Subject to any applicable limitations in federal or state law, nothing in this section is intended to limit the city's authority to conditionally approve an application for an eligible facility permit to protect and promote the public health, safety and welfare.

H. Standard Conditions of Approval. Any eligible facility permit approved or deemed granted by the operation of federal law shall be automatically subject to the conditions of approval described in this section.

1. Permit Duration Unchanged. The city's grant or grant by operation of law of an eligible facility permit constitutes a federally mandated modification to the underlying permit or approval for the subject tower or base station. The city's grant or grant by operation of law of an eligible facility permit shall not extend the term of the underlying wireless facility permit or any city-authorized extension thereto.

2. Accelerated Permit Terms Due to Invalidation. In the event that any court of competent jurisdiction invalidates any portion of Section 6409(a) or any FCC rule that interprets Section 6409(a) such that federal law would not mandate approval for any eligible facility permit(s), such permit(s) shall automatically expire one year from the effective date of the judicial order, unless the decision would not authorize accelerated termination of previously approved eligible facility permits. A permittee shall not be required to remove its improvements approved under the invalidated eligible facility permit when it has submitted an application for either a conditional wireless facility permit or an administrative wireless facility permit for those improvements before the one-year period ends. The director may extend the expiration date on the accelerated permit upon a written request from the permittee that shows good cause for an extension.

3. No Waiver of Standing. The city's grant or grant by operation of law of an eligible facility permit does not waive, and shall not be construed to waive, any standing by the city to challenge Section 6409(a), any FCC rules that interpret Section 6409(a) or any eligible facility permit.

4. Compliance with All Applicable Laws. The permittee shall maintain compliance at all times with all federal, state and local laws, statutes, regulations, orders or other rules that carry the force of law ("laws") applicable to the permittee, the subject site, the facility or any use or activities in connection with the use authorized in this permit. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no

other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee's obligations to maintain compliance with all laws.

5. Inspections – Emergencies. The city or its designee may enter onto the facility area to inspect the facility upon reasonable notice to the permittee. The permittee shall cooperate with all inspections. The city reserves the right to enter or direct its designee to enter the facility and support, repair, disable or remove any elements of the facility in emergencies or when the facility threatens imminent harm to persons or property.

6. Contact Information for Responsible Parties. Permittee shall at all times maintain accurate contact information for all parties responsible for the facility, which shall include a phone number, street mailing address and email address for at least one natural person who is responsible for the facility. All such contact information for responsible parties shall be provided to the director upon permit grant, annually thereafter, and permittee's receipt of the director's written request.

7. Indemnities. The permittee and, if applicable, the nongovernment owner of the private property upon which the tower and/or base station is installed shall defend, indemnify and hold harmless the city, its agents, officers, officials and employees (a) from any and all damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, lawsuits, writs of mandamus and other actions or proceedings brought against the city or its agents, officers, officials or employees to challenge, attack, seek to modify, set aside, void or annul the city's approval of the permit, and (b) from any and all damages, liabilities, injuries, losses, costs and expenses and any and all claims, demands, lawsuits or causes of action and other actions or proceedings of any kind or form, whether for personal injury, death or property damage, arising out of or in connection with the activities or performance of the permittee or, if applicable, the private property owner or any of each one's agents, employees, licensees, contractors, subcontractors or independent contractors. The permittee shall be responsible for costs of determining the source of the interference, all costs associated with eliminating the interference, and all costs arising from third party claims against the city attributable to the interference. In the event the city becomes aware of any such actions or claims the city shall promptly notify the permittee and the private property owner and shall reasonably cooperate in the defense. It is expressly agreed that the city shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the city's defense, and the property owner and/or permittee (as applicable) shall reimburse the city for any costs and expenses directly and necessarily incurred by the city in the course of the defense.

8. Adverse Impacts on Adjacent Properties. Permittee shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification and removal of the facility. Radio frequency emissions, to the extent that they comply with all applicable FCC regulations, are not considered to be adverse impacts to adjacent properties.

9. General Maintenance. The site and the facility, including but not limited to all landscaping, fencing and related transmission equipment, must be maintained in a neat and clean manner and in accordance with all approved plans and conditions of approval.

10. Graffiti Abatement. Permittee shall remove any graffiti on the wireless communications facility at permittee's sole expense subject to the provisions of Chapter 8.49 PVEMC.

I. Notice of Decision – Appeals.

1. An application for an eligible facilities request shall be filed with the director on a form prescribed by the director.

2. Each decision of the director to approve an eligible facilities request shall be reported to the city council and the planning commission according to procedures established by the director. Notice of the decision shall be mailed to the applicant and all owners of real property abutting, across the street or alley from, or having a common corner with the subject site as shown on the latest equalized assessment rolls at the time the application was submitted.

3. An interested party may appeal a decision of the director under this section to the planning commission by filing a written appeal with the director within fifteen days after such decision and paying the established appeal fee. The planning commission shall approve, approve with conditions, or disapprove the application in accordance with applicable criteria and requirements specified by law. The planning commission determination shall be final unless appealed to city council.

4. Fees for an eligible facilities request and for an appeal of a determination thereon shall be levied as provided for by this code and established by resolution of the city council.

5. No decision on any wireless communications facility application shall be considered final until and unless all appeals have been taken or are time-barred. (Ord. 722 § 1, 2017)

The Palos Verdes Estates Municipal Code is current through Ordinance 733, passed June 12, 2018.

Disclaimer: The City Clerk's Office has the official version of the Palos Verdes Estates Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: http://www.pvestates.org/

City Telephone: (310) 378-0383

Code Publishing Company

Mobile Version

Jenny Leinen <leinen@monterey.org>

Wireless Subcommittee Agenda

1 message

LJ Hansen <XXXXXXXXXX> Sun, Aug 26, 2018 at 7:16 PM
To: "cole@monterey.org" <cole@monterey.org>, "caraker@monterey.org" <caraker@monterey.org>, City of Monterey <leinen@monterey.org>

Kim and Elizabeth;

I forgot to mention one more thing. The subcommittee meetings really should be televised on the monterey.org web site. Not having this very important subject out there for residents to see even if they cannot come to the meetings just keeps it too secret.....and this is a legitimate complaint people had about the way the first application go around was handled. Let's not give people reason to complain. Let's keep this process as open to the public as possible. The City of Monterey has the means to do that. Let's do it.

A copy of this email has been submitted to Jenny Leinen for inclusion in public comments on the Wireless Subcommittee.

Thanks.

Lois Hansen
Resident Representative
Monterey Wireless Subcommittee