

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORWALK REVISING REGULATIONS APPLICABLE TO THE INSTALLATION AND OPERATION OF WIRELESS TELECOMMUNICATIONS FACILITIES AND AMENDING THE NORWALK MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF NORWALK DOES ORDAIN AS FOLLOWS:

Section 1. Section 17.02.295 is added to Chapter 17.02 of the Municipal Code to read as follows:

“17.02.295. Wireless Telecommunications Permit.

A. As set forth in Article IV of Chapter 17.04, the Reviewing Authority may grant a Wireless Telecommunications Permit. In the granting of any Wireless Telecommunications Permit, the Reviewing Authority may impose such conditions as it determines are necessary and reasonable to protect the best interests of the surrounding property or neighborhood and to ensure compliance with the general purpose and intent of this title and the general plan, and shall impose such conditions as are required by the provisions of this title.

B. Supplemental Application Requirements.

1. Purpose. This section sets forth the application submittal requirements for a Wireless Telecommunications Facilities permit. The purpose of this section is to ensure that Article IV of Chapter 17.04 is implemented to the extent permitted by the Telecommunications Act of 1996.

2. The applicant shall provide the following supplemental information at the same time a Wireless Telecommunications Facility Permit application is submitted to the Director.

a. An accurate map that contains the proposed site and details existing Wireless Telecommunications Facility locations owned and operated by the applicant within the City from the date of application submittal.

b. An engineering certification demonstrating planned compliance with all existing federal radio frequency emissions standards, and providing technical data sufficient to justify the proposed height of the proposed Wireless Telecommunication Facility.

c. An alternative configuration analysis, assessing the feasibility of alternative Wireless Telecommunications Facility construction configurations - both at the proposed site and in the surrounding vicinity - which would result in a more visually compatible antenna(s). This analysis shall include an explanation of why other Wireless Telecommunications Facility construction configurations were not selected.

d. A projection of the applicant's anticipated future Wireless Telecommunications Facility siting needs within the City, which information may be used by the

City as part of a master planning effort designed to ensure a more planned, integrated and organized approach to Wireless Telecommunications Facility siting.

e. An identification of the geographic service area for the subject installation, including a map showing all of the applicant's existing sites in the local service network associated with the coverage gap the Wireless Telecommunications Facility is meant to close, and describing how the coverage gap will be filled by the proposed installation.

f. An accurate visual impact analysis showing the maximum silhouette, viewshed analysis, color and finish palette and proposed screening for the Wireless Telecommunications Facility. The analysis shall include photo simulations and other information as necessary to determine the visual impact of the Wireless Telecommunications Facility. A map depicting where the photos were taken shall be included. The analysis shall include a written description of efforts to blend the Wireless Telecommunications Facility with the surrounding area.

g. The height and diameter of the facility, together with evidence that demonstrates that the proposed Wireless Telecommunications Facility has been designed to the minimum height and diameter required from a technological standpoint for the proposed site. If the Facility will exceed the maximum permitted height limit, a discussion of the physical constraints (topographical features, etc.) making the additional height necessary shall be provided.

h. A description of the maintenance and monitoring program for the Wireless Telecommunications Facility.

i. A written statement of the applicant's willingness to allow other carriers to collocate on the proposed Wireless Telecommunications Facility wherever technically and economically feasible and aesthetically desirable.

j. A written description of any good faith efforts to collocate the proposed Wireless Telecommunications Facility on another site or building, including map of the sites, engineering information and letters from the owners of the site describing why co-location would not be feasible.

k. A written description of all Accessory Wireless Equipment for the Wireless Telecommunications Facility. Describe the function of this ancillary equipment and the need to locate same on or near the Wireless Telecommunications Facility.

l. An alternative site analysis, assessing the feasibility of alternative sites, including the potential for co-location, in the vicinity of the proposed site. If the proposed site is in a residential zone or in the public right-of-way, the alternative site analysis shall specifically include an evaluation of the availability and feasibility of potential alternative sites located outside those areas. The alternative site analysis shall include a map that shows other potential stand alone locations for the proposed Wireless Telecommunications Facility that have been explored, and shall describe why the proposed location is superior to other potential locations.

m. Noise/acoustical information derived from the manufacturer's specifications for all equipment such as air conditioning units and back-up generators, and a depiction of the equipment location in relation to adjoining properties.

n. A conceptual landscape plan showing existing trees and all proposed landscaping, concealment, screening and proposed irrigation with a discussion of how the chosen material at maturity will screen the site.

o. The Director may require additional information related to topography, including slopes, contours and proposed grading.

p. Deposit for a third party peer review as set forth in paragraph D of this section in an amount set by resolution by the City Council.

q. If the application is for a Wireless Telecommunication Facility in the public right of way, the applicant is a telephone corporation and has been issued a certificate of public convenience and necessity issued by the California Public Utilities Commission.

r. Any other information determined necessary by the Director may be required.

C. Review of Application

1. The Director may administratively review and approve an application for a Wireless Telecommunication Facility Permit if the Facility complies with article IV of Chapter 17.04 and as proposed is architecturally integrated with the existing development (i.e. building or structure) so as to be screened, camouflaged and visually nonobstrusive. Notwithstanding, the Director may at his or her discretion refer the Wireless Telecommunications Facility Permit to the Planning Commission for review.

2. The Planning Commission shall review applications not otherwise reviewed by the Director including but not limited to applications in the public right-of-way or located in a residential zone.

D. Peer Review.

1. The Director is authorized to retain on behalf of the City an independent technical expert to peer review any application for a Wireless Telecommunications Facility Permit. The review is intended to be a review of technical aspects of the proposed Wireless Telecommunications Facility and shall address all of the following:

- a. Compliance with applicable radio frequency emission standards;
- b. Whether any requested exception is necessary to close a significant gap in coverage and is the least intrusive means of doing so;
- c. The accuracy and completeness of submissions;

- d. Technical demonstration of the unavailability of alternative sites or configurations and/or coverage analysis;
- e. The applicability of analysis techniques and methodologies;
- f. The validity of conclusions reached; and
- g. Any specific technical issues designated by the City.

The cost of this review shall be paid by the applicant through a deposit pursuant to an adopted fee schedule.

2. If a permittee proposes any modifications to any Wireless Telecommunications Facility Permit after said permit is granted, the permittee shall submit an application to the Planning Commission for consideration; provided, however, that the City and Planning Commission need not accept and/or process said application unless and until the permittee (i) demonstrates the existing Wireless Telecommunications Facility's compliance with all applicable local requirements; and (ii) certifies that the existing Wireless Telecommunications Facility complies with all applicable state, and federal requirements. In the case of collocations, minor structural modifications may be permitted if necessary to accommodate said co-located facility.

E. Notice and Hearing on Application for Wireless Telecommunications Permit. Upon the filing by the property owners or its authorized agent (if the agent provides written authority to the City that it is authorized to file the application such as a letter of authorization), of an application which sets forth fully the grounds for, and the facts claimed to justify the granting of a Wireless Telecommunications Permit, the Planning Commission shall give public notice, as provided in this title, of the intention to consider at a public hearing the granting of such permit, and shall hold at least one public hearing thereon. In the case of an application reviewed by the Director, no public notice or hearing is required.

F. Report on Findings and Decision. Following the closing of a public hearing, if applicable, on an application for a Wireless Telecommunications Permit, the Planning Commission shall, unless it adopts a motion directing that another public hearing be held thereon, adopt its findings by resolution. If the application is denied, the Planning Commission shall adopt a Resolution setting forth the findings for such denial based on substantial evidence contained in the administrative record. In the case of an application reviewed by the Director, the Director shall adopt its findings by report. The resolution or report shall recite, among other things, the facts and reasons which, in the Planning Commission or Director's opinion, make the granting or denial of a Wireless Telecommunications Permit necessary to carry out the provisions and general purpose of this Section and Article IV of Chapter 17.04, and shall order that a Wireless Telecommunications Permit is thereby granted or denied; and, if such resolution or report orders that the permit be granted, it shall also recite such conditions and limitations as are imposed.

G. Resolution or Report. The resolution of the Planning Commission, or in the case of an application reviewed by the Director, the report of the Director, granting or denying any application for a Wireless Telecommunications Permit, shall be promptly filed, shall be

numbered consecutively in the order of its filing, and shall become a permanent record in the file of the Department.

H. Notice of Decision. Not later than three calendar days following the filing of a resolution or report granting or denying a Wireless Telecommunications Permit, a copy of the resolution or report shall be delivered or mailed by certified or registered mail to the applicant or applicants, utilizing, in the case of mailing, any address shown on the application or other documents filed with the Department. Notice of the action granting or denying a Wireless Telecommunications Permit shall be delivered or mailed to each member of the City Council, the City Manager, the City Attorney, and each person who has filed with the department a request for notice of decision in the particular case. A copy of such report shall be posted in a prominent place in the City Hall, designated for such purpose by the City Manager, from not later than, three days following until at least the tenth day following the filing of the resolution or report, but failure to so post any such notice shall not extend the time of becoming effective of any decision of the Commission or Director.

I. Decision When Final—Appeal. The decision of the Planning Commission or Director shall become final and effective ten (10) calendar days after delivery or mailing of all of the notices required by Section 17.02.295(E) unless prior to five p.m. of the tenth day, either of the following has occurred:

1. A written appeal has been filed with the City Clerk by an applicant or by a person specially aggrieved; or

2. The City Council elects to review the decision of the Commission.

J. Appeal Procedure.

1. If an appeal in writing is filed with the City Clerk as provided in Section 17.02.295(F)(1) or if the City Council elects on its own motion to review the action of the Planning Commission as provided in Section 17.02.295(F)(2), the complete record of the case shall be transmitted to the Council. In the case of a decision by the Director, the complete record of the case shall be transmitted to the Planning Commission.

2. The Council shall hold one public hearing notice of which shall be given in the manner prescribed by Sections 17.02.050 and 17.02.060, within forty (40) days of the filing of a written appeal or the adoption by the Council of a motion to review the action of the Commission. In the case of an appeal to the Planning Commission, the Planning Commission shall hold one public hearing notice of which shall be given in the manner prescribed by Sections 17.02.050 and 17.02.060, within forty (40) days of the filing of a written appeal.

3. The reviewing body shall announce, within forty (40) days of the closing of the public hearing, its decision granting or denying a Wireless Telecommunications Permit by adoption of a resolution, which shall set forth the reasons for its decision and shall indicate wherein such decision conforms to the intent and purpose of this Section and Article IV of Chapter 17.04. In such proceedings, no finding, decision, order, stipulation or other action of the Commission shall bind the Council.

4. The action of the Council shall be final. The action of the Planning Commission may be appealed to the City Council pursuant to the provisions of this Section.

5. Within ten (10) calendar days following the adoption of the resolution, one copy thereof shall be forwarded to the applicant or the appellant or both, as the case may be, and one copy shall be transmitted to the Commission for filing.

K. Time Interval for Re-application for a Wireless Telecommunications Facility Permit. No permit application which has been denied in whole or in part shall be filed again within six months from the date of such denial except upon proof of changed conditions or by permission of the Director.

L. Expiration. Any Wireless Telecommunications Permit shall be null and void:

1. If not exercised within the time specified in such Wireless Telecommunications Permit or, if no date is specified, within one year from the date of approval of the Wireless Telecommunications Permit;

2. Upon revocation as provided herein.

M. Revocation. The Planning Commission may, after a hearing, compliance being had with applicable requirements of Chapter 17.02, Article I, revoke, modify or suspend any Wireless Telecommunications Permit on any one or more of the following grounds:

1. That the Wireless Telecommunications Permit was obtained by fraud or misrepresentation;

2. That the Wireless Telecommunications Permit granted is being, or within the recent past has been, exercised contrary to the terms or conditions of such approval or in violation of any statute, ordinance, law or regulation; or

3. That the use permitted by the Wireless Telecommunications Permit is being, or within the recent past has been, exercised so as to be detrimental to the public health or safety or as to constitute a nuisance.

4. Failure to comply with any condition of approval or the standards in Article IV of Chapter 17.04.

In the event of termination pursuant to this Section, the permittee shall remove its Wireless Telecommunications Facility at its own expense and shall repair and restore all property affected by the placement, maintenance, and removal of the Wireless Telecommunications Facility to a condition satisfactory to the Director.

N. Findings. A Wireless Telecommunications Facility Permit may be granted only if the following findings are made by the Reviewing Authority.

1. The proposed Wireless Telecommunications Facility has been designed to achieve compatibility with the community to the maximum extent reasonably feasible;

2. An alternative configuration will not increase community compatibility or is not reasonably feasible;

3. Alternative locations on the site will not increase community compatibility or are not reasonably feasible;

4. The location of the Wireless Telecommunications Facility on alternative sites will not increase community compatibility or is not reasonably feasible;

5. The proposed facility is necessary to close a significant gap in coverage and is the least intrusive means of doing so;

6. The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed Wireless Telecommunications Facility wherever technically and economically feasible and where co-location would not harm community compatibility;

7. Noise generated by equipment will not be excessive, annoying nor be detrimental to the public health, safety, and welfare; and

8. In the case of a Wireless Telecommunications Facility in the public right of way, the applicant is a telephone corporation and has been issued a certificate of public convenience and necessity issued by the California Public Utilities Commission, which expressly states the applicant's authority to provide the telecommunications service the Applicant proposes to provide through the Wireless Telecommunications Facility, which is the subject of the application.

O. Appeal from Revocation or Modification of Wireless Telecommunications Permit. An appeal may be taken to the Council from the action of the Commission in revoking or modifying any Wireless Telecommunications Permit pursuant to this section. The procedures followed by the Council in such matters shall, in all respects, conform to the procedures established for the granting or denying of such Wireless Telecommunications Permits and appeals in connection therewith.

P. Unless otherwise required by California Government Code section 65964(b), and as that section may be hereafter amended, all Wireless Telecommunication Permits shall have a duration of no longer than ten (10) years. In accordance with requirements established by the Director, at the expiration of the time period set forth herein, the applicant may apply for an extension of the permit for a term of five (5) years with an optional additional five (5) year term. Such extensions shall be subject to the discretion of the Planning Commission who shall take account of at least the following factors: conformance with all conditions of approval of the permit as it was originally issued, operation of the facility in its intended manner, and conformance with all applicable laws, regulations, standards and updates thereof such as radio frequency emissions standards.”

Section 2. Article IV is added to Chapter 17.04 of the Norwalk Municipal Code to read as follows:

“ARTICLE IV

WIRELESS TELECOMMUNICATIONS FACILITIES

17.04.240. Purpose.

The Norwalk City Council finds and determines that the purpose of this Article is to provide a uniform and comprehensive set of standards for the permitting, development, siting, installation, design, operation and maintenance of Wireless Telecommunications Facilities in all zones within the City. These regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with Wireless Telecommunications Facilities. This article provides standards necessary for the preservation of land uses in the City and to promote the public health, safety, community welfare, and the aesthetic quality of City of Norwalk consistent with the goals, objectives and policies of the General Plan, while at the same time provide for orderly, managed and efficient development of Wireless Telecommunications Facilities in accordance with the state and federal laws, rules and regulations.

17.04.250. Definitions. Unless otherwise stated, the following definitions pertain to this Article and Section 17.02.295:

“Antenna” means any system of wires, poles, rods, discs, panels, microwave dishes, whip antennas or similar devices used for the transmission or reception of electromagnetic waves, including antenna relating to personal wireless services as defined by the federal Telecommunications Act of 1996 at 47 U.S.C. §332(c)(7)(C) or its successor statute, when such system is used in Wireless Telecommunications Facilities. “Antenna” shall not include any satellite dish antenna or any antenna utilized for amateur radio, citizens band radio, television, AM/FM, or shortwave radio reception purposes.

“Building-Mounted” means mounted to the side of a building, to the facade of a building, or to the side of another structure such as a water tank, church steeple, freestanding sign, utility tower, light pole, or similar structure, but not to include the roof of any structure.

“Cellular” means an analog or digital Wireless Telecommunications technology that is based on a system of interconnected neighboring cell sites.

“Co-Located” means the locating of Wireless Telecommunications equipment from more than one provider on a single Wireless Telecommunications facility.

“Director” means the Director of Community Development of the City of Norwalk or his or her designee.

“Ground-Mounted” means mounted to a pole, monopole, tower, or other freestanding structure specifically constructed for the purpose of supporting an antenna.

“Monopole” means a structure composed of a single spire, pole, or tower used to support antennas or related equipment. A monopole also includes a monopine, monopalm and similar monopoles camouflaged to resemble faux trees or other faux objects attached on a monopole

“Mounted” means attached or supported.

“Personal Communication Service” means digital low-power, high-frequency commercial wireless radio Telecommunications technology that has the capacity for multiple Telecommunications services and the routing of calls to individuals, regardless of location.

“Reviewing Authority” means the Director of Community Development or the Planning Commission, as applicable, who has authority to review and either grant or deny a Wireless Telecommunications Facility Permit as set forth in Section 17.02.295 and this Article.

“Roof-Mounted” means mounted above the eave line of a building.

“Utility Pole” means any pole or tower owned by any utility company that is primarily used to support wires or cables necessary to the provision of electrical or other utility services regulated by the California Public Utilities Commission.

“Wireless Telecommunications Facility” or “Facility(ies)” means any facility that transmits and/or receives electromagnetic waves, including but not limited to a facility consisting of any antenna, monopole, or other types of equipment for the transmission or receipt of such signals, and/or other related equipment necessary to the transmission and/or reception of cellular, personal communication service, and/or data radio telecommunications. A Wireless Telecommunications Facility also includes personal wireless services as defined in the federal Telecommunications Act of 1996 at 47 U.S.C. §332(c)(7)(C) or its successor statute.

17.04.260. Wireless Telecommunications Facility Permit Required.

A. No Wireless Telecommunications Facility shall be located within the City of Norwalk on any property, including a public right-of-way, unless a Wireless Telecommunications Facility Permit as provided for in Section 17.02.295 and this Article has been approved by the Reviewing Authority.

B. A Wireless Telecommunications Facility, a tower or other wireless telecommunication support structure built on speculation and for which there is no wireless tenant is prohibited within the City.

17.04.270. Preference Requirements

A. Preferred Locations. Wireless Telecommunications Facilities are encouraged to locate on existing buildings and structures and in the following order of preference:

1. Collocation with existing Facilities located in non-residential zones.
2. Manufacturing Zones.
3. Commercial Zones.

4. Other non-residential zones, except open space zones.
5. On existing signal, power, light or similar kinds of poles in non-residential zones.
6. Public property (i.e. city facilities) not in residential zones;
7. Public and private installations on water tanks, existing communication towers and other similar uses.
8. Public right-of-ways adjacent to manufacturing and commercial zones;
9. Parks and community facilities (i.e. places of worship, community centers) in residential zones or areas.

B. Discouraged Locations. Wireless Telecommunications Facilities shall not locate in any of the following zones or areas unless the applicant demonstrates that there is no feasible alternative location to close a significant gap in coverage and that the proposed site is the least intrusive means of doing so,

1. Open space zones and lots.
2. Residential zones or areas.
3. Public right-of-ways located within or adjacent to a residential zone.

C. Wireless Telecommunication Facilities are prohibited on property zoned for residential use and improved with a dwelling, specific plan areas as set forth in Chapter 17.09 and planned unit development zones as set forth in Chapter 17.10 unless the specific plan area or planned unit development zone specifically allows or is amended to allow Wireless Telecommunications Facilities.

D. Accessory Wireless Equipment. In order of preference, Accessory Wireless Equipment for Facilities shall be located underground, within a building or structure, on a screened roof top area or structure, or in a rear yard if not readily visible from surrounding properties and the roadway, unless the Reviewing Authority finds that another location is preferable under the circumstances of the application.

17.04.280. Requirements for Collocation on Existing Wireless Telecommunications Facilities

A. Notwithstanding any other provision of this Article, the collocation of a new Wireless Telecommunications Facility on an existing Wireless Telecommunications Facility that: (i) was approved after January 1, 2007 by discretionary permit; (ii) was approved subject to an environmental impact report, negative declaration, or mitigated negative declaration; and (iii) otherwise complies with the requirements of Government Code Section 65850.6(b) for Wireless Telecommunications Collocation Facilities, shall not be required to obtain another discretionary permit approval, but shall be required to obtain all other applicable non-discretionary permit(s), as specified by the Zoning Regulations and/or the Building Code, provided such collocation does

not increase the height or change the location of the existing wireless facility, or otherwise change the bulk, size, or other physical attributes of the existing permitted Wireless Telecommunications Facility.

B. The proposed collocation of a new Wireless Telecommunications Facility on an existing Wireless Telecommunications Facility that meets all of the requirements stated in paragraph A above, may include new appurtenant equipment boxes or shelter units that are colored and/or disguised to match the existing equipment boxes or shelter units and that do not exceed the total volume of equipment boxes utilized by the existing Wireless Telecommunications Collocation Facility.

C. Unless otherwise approved in writing by the Director and except as provided in this section, installation of all collocation accessory equipment and enclosures shall comply with the requirements of this Article.

D. Except as otherwise provided above, approval of a Wireless Telecommunications Facility permit shall be required when the proposed collocation facility:

1. Increases the height of the existing permitted tower/structure or otherwise changes the bulk, size, location, or any other physical attributes of the existing permitted Wireless Telecommunications Facility; or

2. Adds any microwave dish or other antenna not expressly permitted to be included in a collocation facility by this section; or

3. Collocates on an existing legally permitted Wireless Telecommunications Facility that was approved on or prior to January 1, 2007;

4. Will serve or be operated by more than one wireless services provider, unless an additional provider has properly obtained a written authorization from the Director after consideration of the factors applicable to administrative approval of collocation facilities set forth above in this section, such as the size of the additional, proposed facility, and the potential visual or other impact of other proposed facility.

E. Any collocated installation shall use screening methods similar to those used on the existing Wireless Telecommunications Facilities. Use of other appropriate screening methods may be considered.

17.04.290. Special Requirement for Wireless Telecommunications Facilities in the Public Right of Way

A. Every permittee of a Wireless Telecommunications Facility in the public right of way or person on a shared permit shall defend, indemnify, and hold harmless the City of Norwalk, its City Council, officers, and employees to the maximum extent permitted by law, from any loss or liability or damage, including expenses and costs, for bodily or personal injury, and for property damage sustained by any person as a result of the installation, use or maintenance of the applicant's Facility subject to this Article.

B. The permittee shall obtain, pay for and maintain, in full force and effect through the term of the permit, an insurance policy or policies that fully protects the City from claims and suits for bodily injury and property damage. The insurance must be issued by an insurance company satisfactory to the City Attorney or Risk Manager, and must be in the amount or amounts, which the City Attorney or Risk Manager determines. The insurance must afford coverage for the permittee or wireless provider's use, operation and activity, vehicles, equipment, facility, representatives, agents and employees, as determined by the City's Risk Manager. Before issuance of a building permit, the applicant shall furnish the City Risk Manager certificates of insurance and endorsements, in the form satisfactory to the City Attorney or the risk manager, evidencing the coverage required by the City.

C. The permittee shall repair, at its sole cost and expense, any damage including, but not limited to subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to City streets, sidewalks, walks, curbs, gutters, trees, parkways, or utility lines and systems, underground utility line and systems, or sewer systems and sewer lines that result from any activities performed in connection with the installation and/or maintenance of a Wireless Telecommunications Facility in the public right of way. In the event the permittee fails to complete said repair within the number of days stated on a written notice by the Director, the Director shall cause said repair to be completed and shall invoice the permittee for all costs incurred by City as a result of such repair.

D. The permittee shall modify, remove, or relocate its Wireless Telecommunications Facility, or portion thereof, without cost or expense to 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 ninety (90) days of notification by City unless exigencies dictate a shorter period for removal or relocation. 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.

17.04.300. Development Criteria for Wireless Telecommunications Facilities

Unless the applicant demonstrates that compliance with this section is not reasonably feasible without depriving applicant of its rights under state and/or federal law, all Wireless Telecommunications Facilities (except collocated facilities as set forth in Section 17.04.300 shall be planned, designed, located, erected in accordance with the following:

A. Standards for Building, Structure and Façade Mounted Installations.

1. If antenna panels are mounted on the exterior of the building or structure, they shall be painted or otherwise coated to match the predominant color of the building or structure.

2. If required by Reviewing Authority, antenna panels shall be located and arranged on the building or structure so as to replicate the installation and appearance of the equipment already mounted to the building or structure.

3. Roof-mounted antennas shall be located and designed in an area of the roof where the visual impact is minimized and shall be no taller than necessary to meet the operator's service requirements. Where roof-mounted antennas are readily visible, confirmation of necessary height for service requirements shall be based on independent analysis by a licensed radio engineer approved by the City if required by the Director.

4. Facade-mounted antenna shall be architecturally integrated into the building design and otherwise made as unobtrusive as possible. Antennas may be required to be located entirely within an existing or newly created architectural feature so as to be completely screened from view. Any newly-created architectural features must be located, proportioned and designed to be properly integrated into the building design. The antennas and/or equipment, not including any required screening, shall not project more than 18 inches from the face of the building or other support structure and no cable or antenna mounting brackets or any other associated equipment or wires shall be visible above, below, or to the side of the antennas. The Reviewing Authority may consider a projection of more than 18 inches if the projection is architecturally integrated with the design of the building or structure or if it otherwise designed to minimize its visibility.

B. Standards for Monopole Installations

1. Monopole installations shall be situated so as to utilize existing natural or man-made features including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening.

2. All antenna components and accessory wireless equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background and/or existing architectural elements so as to visually blend in with the surrounding development. Subdued colors and non-reflective materials that blend with surrounding materials and colors shall be used.

3. Monopoles and antennas and similar structures shall be no greater in diameter or other cross-sectional dimensions than is necessary for the proper functioning of the Wireless Telecommunications Facility. The applicant shall provide documentation satisfactory to the Director establishing compliance with this subsection.

4. All monopoles shall be designed to be the minimum functional height and width required to support the proposed antenna installation.

5. If a faux tree is proposed for the monopole installation (i.e. monopine, monopalm, etc.), it shall be of a type of tree compatible with those existing in the immediate areas of the installation. If no trees exist within the immediate areas, the applicant shall create a landscape setting that integrates the faux tree with added species of a similar height and type. Additional camouflage of the faux tree may be required depending on the type and design of faux tree proposed.

C. Standards for Ground Mounted Installations

Ground-mounted Wireless Telecommunications Facilities shall be located in close proximity to existing above-ground utilities, such as electrical tower or utility poles (which are not scheduled for removal or under grounding for at least 18 months after the date of application), light poles, trees of comparable heights, and in areas where they will not detract from the appearance of the City.

D. Standards for Accessory Wireless Equipment.

All Accessory Wireless Equipment associated with the operation of any Wireless Telecommunications Facilities shall be screened in a manner that is designed and located to minimize their visibility to the greatest extent possible utilizing the following screening methods for the type of installation:

1. Accessory Wireless Equipment for building mounted facilities may be located underground, inside the building, or on the roof of the building that the facility is mounted on, provided that both the equipment and screening materials are painted the color of the building, roof, and/or surroundings. All screening materials for roof mounted facilities shall be of a quality and design that is architecturally integrated with the design of the building or structure.

2. Accessory Wireless Equipment for freestanding facilities, not mounted on a building, shall be visually screened by locating the equipment within a nearby building or in an underground vault. For above ground installations not within a building, screening shall consist of walls, landscaping, or walls combined with landscaping to effectively screen the facility at the time of installation. All wall and landscaping materials shall be selected so that the resulting screening will be visually integrated with the architecture and landscaping of the surroundings.

E. General Development Standards for All Facilities

1. The applicant shall employ screening and camouflage design techniques, considering technological requirements, in the placement of Wireless Telecommunications Facilities in order to ensure that the Facility is as visually inconspicuous as possible, to prevent the Facility from dominating the surrounding area and to hide the Facility from predominant views from surrounding properties all in a manner that achieves compatibility with the community. Screening shall be designed to be architecturally compatible with surrounding structures using appropriate techniques to camouflage, disguise, and/or blend into the environment including landscaping, color, and other techniques to minimize the Facility's visual impact as well as be compatible with the architectural character of the building or structure in terms of color, size, proportion, style, and quality.

2. Wireless Telecommunications Facilities shall be compatible in scale and integrated architecturally with the design of surrounding buildings or the natural setting. In addition, the Facility shall be designed and located in such a manner as to avoid adverse impacts on traffic safety.

3. The applicant shall use the least visible antennas possible to accomplish the coverage objectives.

4. Antennas and facilities shall be situated as close to the ground as possible to reduce visual impact without compromising their function.

5. Wireless Telecommunications Facilities shall be designed and located where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening to minimize the visual impact and be compatible with existing architectural elements, building materials and other site characteristics.

6. No signs, striping, graphics or advertising are permitted on a Wireless Telecommunications Facilities except if warning and/or safety signage is required by state or federal law or by the Reviewing Authority. In such case, the surface area shall be no more than three square feet per sign. Such signage shall be affixed to a fence or ancillary facility and the number of signs is limited to no more than two unless a greater number is approved by the Reviewing Authority.

7. Unless otherwise approved by the Reviewing Authority, exterior lighting of the area where the Facility is located is prohibited. Lightning arresters and beacon lights are not permitted unless required by the Federal Aviation Administration. Legally required lightning arresters and beacons shall be included when calculating the height of facilities such as towers, lattice towers and monopoles. In all circumstances, exterior lighting shall be of a type and design to avoid glare and minimize illumination on adjacent properties and shall be at an intensity so to provide the minimum lighting required for proper operation and maintenance of the Wireless Telecommunications Facility and the Accessory Wireless Equipment.

8. Wireless Telecommunications Facilities shall be designed to be resistant to and minimize opportunities for unauthorized access, climbing, vandalism, graffiti, and other conditions that would result in hazardous conditions, visual blight, or attractive nuisances. The Reviewing Authority may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when, because of their location and/or accessibility, antenna facilities have the potential to become an attractive nuisance. The design of the fencing and other access control devices shall be subject to review by the Reviewing Authority.

9. Where appropriate and directly related to the applicant's placement, construction, or modification of Wireless Telecommunications Facilities, the applicant shall maintain and enhance existing landscaping on the site, including trees, foliage and shrubs, when used for screening as required by the Reviewing Authority. Additional landscaping shall be planted as needed to minimize the visual impact of the facility and, when feasible, to block the line of sight between facilities and adjacent residential uses and residentially zoned properties. The Reviewing Authority shall determine the appropriate minimum size of new trees and shrubs.

10. Above ground and partially buried Accessory Wireless Equipment, including support pads, cabinets, shelters, and buildings, shall be located where they will be the least visible from surrounding properties and the roadway and shall be designed to be architecturally compatible with surrounding structures and/or screened using appropriate techniques to camouflage, disguise, and/or blend into the environment including landscaping, color, and other techniques to minimize their visual impact. If the Reviewing Authority determines that the Accessory Wireless Equipment is not or cannot be adequately screened from surrounding properties or from public view or architecturally treated to blend in with the environment, the

Accessory Wireless Equipment shall be placed underground or inside the existing building where the antenna is located unless the Reviewing Authority finds that such placement is not feasible or consistent with the objectives of this Article.

11. At the time of modification or upgrade of Wireless Telecommunications Facilities, existing equipment shall, to the extent feasible, be replaced with equipment that reduces visual and noise impacts as feasible.

12. Proposed Wireless Telecommunications Facilities shall not reduce the number of available parking spaces below the amount required pursuant to the Zoning Regulations.

F. Standards for Facilities in the Public Right of Way

1. If an applicant proposes to replace a pole in order to accommodate the Facility, the pole shall match the appearance of the original pole to the extent feasible. If the replacement pole exceeds the height of the existing pole, the antenna(s) shall be mounted to the sides of the pole and shall not extend above the top of the replacement pole.

2. The antennas shall not extend over five feet beyond the top of the pole.

3. Electrical and utility cables between the utility pole and electrical boxes shall be placed underground. The electrical equipment box shall be placed underground.

G. Height Criteria. A Wireless Telecommunications Facility shall not exceed 45 feet if located on the public right-of-way or within residential zones. In non-residential zones, the Wireless Telecommunications Facility shall not exceed 60 feet. A Wireless Telecommunications Facility may exceed the height limitation herein if the Facility is placed or integrated within or on an existing building or structure that exceeds the height criteria if approved by the Reviewing Authority.

17.04.310. Operation and Maintenance Standards.

All Wireless Telecommunications Facilities shall at all times comply with the following operation and maintenance standards. Failure to comply shall be considered a violation of this Article and subject to enforcement provisions herein.

A. Each owner or operator of a Wireless Telecommunications Facility shall provide the Director with the name and 24-hour local or toll free contact phone number of both the permittee and the agent responsible for the maintenance of the Wireless Telecommunications facility. Contact information shall be kept current.

B. Wireless Telecommunications Facilities, Accessory Wireless Equipment, including lighting, fences, shields, cabinets, and poles and facility site, shall be maintained in good repair, free from trash, debris, litter and graffiti and other forms of vandalism, and any damage from any cause shall be promptly repaired so as to minimize occurrences of dangerous conditions or visual blight. Graffiti shall be removed from any facility or equipment as soon as practicable, and in no instance more than twenty-four (24) hours from the time of notification by the City.

C. The owner or operator of a Wireless Telecommunications Facility shall be responsible for maintaining landscaping at all times in accordance with the approved landscape plan and for promptly replacing any damaged or dead trees, foliage, or other landscaping elements shown on the approved plan as it relates to landscaping for the location on where the Facility is located. Amendments or modifications to the landscape plan must be submitted to the Director for approval.

D. Each Wireless Telecommunications Facility shall be operated in a manner that will minimize noise impacts to surrounding residents. Except for emergency repairs, testing and maintenance activities that will be audible beyond the property line shall only occur between the hours of 8:00 a.m. and 5:00 p.m. on Monday through Friday, excluding holidays. All air conditioning units and any other equipment that may emit noise that would be audible from beyond the property line shall be enclosed or equipped with noise attenuation devices to the extent necessary to ensure compliance with applicable noise limitations under this Code. Backup generators, if permitted, shall only be operated during periods of power outages or for testing. At no time shall equipment noise from any source exceed the standards specified in this Code regarding noise limits.

E. Vehicle and personnel access to sites for maintenance and repairs shall not be from residential streets or adjacent residential properties to the maximum extent possible.

F. If a flagpole is used for camouflaging a Wireless Telecommunications Facility, flags shall be flown and shall be properly maintained at all times.

G. Public access to a Wireless Telecommunications Facility shall be restricted. Security measures shall include fencing, screening, and security signage, as deemed appropriate by the Reviewing Authority.

H. At all times, the permittee shall ensure that its Wireless Telecommunications Facility complies with the most current regulatory and operational standards including but not limited to radio frequency emissions standards adopted by the Federal Telecommunications Commission (“FCC”) and antenna height standards adopted by the Federal Aviation Administration. If the Director determines there is good cause to believe that a Wireless Telecommunications Facility, as constructed, may emit radio frequency emissions that are likely to exceed Federal Communications Commission standards, the Director may require post-installation testing, at Permittee’s expense, to determine whether to require further mitigation of radio frequency emissions or the Director may require the permittee to submit written certification that the facility is in compliance with such FCC standards.

17.04.320. Abandonment.

A. A Wireless Telecommunications Facility is considered abandoned and shall be promptly removed as provided herein if it ceases to provide wireless Telecommunications services for 30 or more consecutive days. Such removal shall be in accordance with proper health and safety requirements and all ordinances, rules, and regulations of the City and shall within 30 days of the date of abandonment. Notwithstanding any other provision herein, the operator of the facility shall provide written notice to the Director of any discontinuation of operations of 30 days or more.

B. If the Facility is not removed, the Director may cause the Facility to be removed at the owner's expense. If there are two or more users of a single Wireless Telecommunications Facility, then this provision shall not become effective until all users cease using the Facility.

C. Failure to inform the Director of cessation of operations of any existing facility shall constitute a violation of the site plan approval and be grounds for:

1. Prosecution;
2. Revocation or modification of the Wireless Telecommunications Facility Permit;
3. Calling of any bond or other assurance required by this Article or conditions of approval of permit; and/or
4. Removal of the Facilities.

17.10.330. Transfer or Change of Ownership/Operator

Upon assignment or transfer of an already approved Wireless Telecommunications Facility or any rights under that permit, the owner and/or current operator of the Facility shall within 30 days of such assignment or transfer provide written notification to the Director of the date of the transfer and the identity of the transferee. The Director may require submission of any supporting materials or documentation necessary to determine that the proposed use is in compliance with the existing permit and all of its conditions including, but not limited to, statements, photographs, plans, drawings, models, and analysis by a State-licensed radio frequency engineer demonstrating compliance with all applicable regulations and standards of the Federal Telecommunications Commission and the California Public Utilities Commission. If the Director determines that the proposed operation is not consistent with the existing permit, the Director shall notify the applicant who may revise the application or apply for modification of the permit pursuant to the requirements of this Article.

17.04.340. Dangerous Condition or Obstruction.

No person shall install, use or maintain any Wireless Telecommunications Facility which in whole or in part rests upon, in or over any public sidewalk or parkway, when such installation, use or maintenance endangers or is reasonably likely to endanger the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such telecommunications facility unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects permitted at or near said location.”

Section 3. Section 17.04.150 is hereby repealed in its entirety.

Section 4. The definition of “monopole” and “wireless telecommunications facility” set forth in Section 17.01.060 are hereby repealed in their entirety.

Section 5. Severability. The City Council declares that, should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences and words of this Ordinance shall remain in full force and effect.

PASSED, APPROVED AND ADOPTED this ____ day of ____ 2010.

GORDON STEFENHAGEN
MAYOR

ATTEST:

THERESA DEVOY
CITY CLERK