

PLANNING COMMISSION

ADDITIONAL ITEM ADDED AFTER DISTRIBUTION OF PACKET

Agenda # 2

- 1). Memo from Staff - 12/18/13
- 2). Notes + Staff Responses (from Workshop)
- 3). Correspondence received

Date 12/18/13
Time 2:30 PM



Memorandum

TO: Planning Commission
FROM: Planning Division
SUBJECT: Modifications to Attachment "B" Draft Telecommunications Ordinance, Chapter 20.465
DATE: December 18, 2013

Modify by adding new text, shown with underlined text:

20.465.030 Permit Requirements for all Wireless Telecommunications Facilities

B. Conditional Use Permit. All proposed Wireless Telecommunications Facilities located within the discouraged locations are subject to a Conditional Use Permit in accordance with this chapter provisions and San Marcos Municipal Code (SMMC) Chapter 20.520. In addition, a public workshop will be required for all proposed Wireless Telecommunications Facilities located within residential and agricultural zones.

Modify (deleted text is in strikeout, new text is underlined)

20.465.040 General Regulations for all Wireless Telecommunications Facilities

F. Legal Access is Required: In all applications for Wireless Telecommunications Facilities on public and private property, an applicant/operator must show that it has the written agreement of the ~~property~~ applicant and the owner of the property which is the subject of the application to legally access ~~to~~ the wireless telecommunications facility and that the applicant/operator will ~~must~~ have legal access to the utilities necessary to operate and maintain the wireless telecommunications facility.

Modify (deleted text is in strikeout, new text is underlined)

20.465.050 Location Criteria for Wireless Telecommunications Facilities



A. **Preferred Locations.** Wireless Telecommunication Facilities are encouraged to locate on existing buildings and structures due to aesthetics and land use compatibility. Proposed WTFs should locate in the following zones and areas that are the most appropriate location, which are listed in order of ~~descending~~ preference:

1. Collocation to existing facilities located in non-residential (and non-agricultural) zones
2. City owned or operated property and facilities
3. Public Institution Zone (includes park facilities)
4. Public Right-of-Way (camouflaged design) - All zones
5. Public and private utility installations (such as water tanks, existing communication tower near Double Peak Regional Park, etc., that are not accessible to the public)
6. Industrial Zones and Business Park Zone (WTFs are limited to developed sites/parcels in the Transitional Zones)
7. Commercial Zones (except the Senior Residential zone)
8. Specific Plan Areas that include land use regulations for WTFs, which regulations shall be applied to applications for proposed WTFs.
9. Mixed Use Zones
10. Community facilities in residential zones and areas (such as places of worship, community centers, etc)
11. Public right-of-way (non-camouflaged design) - All zones
12. Developed major multi-carrier sites
13. High voltage transmission towers
14. Open Space Zones

Modify 20.465.050 by adding new text, underlined.

C. If a proposed Wireless Telecommunications Facility site appears in both the preferred and discouraged location categories set forth in 29.465.050.A and 20.465.050.B, above, it shall be processed as a discouraged location, subject to 20.465.050.B.

Modify 20.465.060 by adding new text (underlined) and renumbering:

Section 20.465.060 Application Content for All Wireless Telecommunication Facilities

A.12. Plans must identify the lease area of the proposed facility and legal access. Applicant must submit documentation that it will have legal access to the subject parcel.

B. All Wireless Telecommunications Facility permit applications are subject to a presubmittal meeting with the Planning Division.

B.C. Within thirty (30) days following the Effective Date of this Chapter, the Director shall develop a standardized application for use thereafter by Wireless Telecommunications Facilities applicants. The initial application form shall contain at a minimum the information



described in Subsection A, above. From time to time thereafter the Director, without further authorization from the City Council, may modify the application form to respond to changes in law or technology.

NOTES AND STAFF RESPONSES
PUBLIC WORKSHOP
Wireless Telecommunications Facilities Ordinance

WEDNESDAY, DECEMBER 11, 2013 - 6:30 PM

Please note, some of the bullets from the NOTES of the workshop (previously distributed to the Planning Commission) have been grouped together if similar in nature.

- Add the "non" prefix to Agricultural in 20.465.050(A)(1) to clarify that the A-1 zone is a not a preferred location

STAFF RESPONSE:

20.465.050(A)(1) already includes reference as written

- Clarify ascending/descending order of preferred and discouraged zones

STAFF RESPONSE:

Staff will modify the language to read "in order of preference"

- Request to lower the preference of the Public Institutional (P-I) zone due to schools

STAFF RESPONSE:

Staff does not recommend modifying the listed order of the Public-Institution zone preference. Initial response from the public was that WTFs should locate on and within City owned facilities, such as parks. Most of the City parks are located within the Public-Institution zone

- City of Los Angeles does not allow WTF's in the vicinity of schools (not verified)
- Schools should be included as a discouraged location
- Aesthetics of the schools should be considered when siting a WTF at a school

STAFF RESPONSE:

The City does not regulate educational related land uses on school district property. However, non-educational uses located on school district property are subject to the City's zoning ordinance. Accordingly, proposed WTFs on school district property will be subject to the provisions of Chapter 20.465.

- An independent body should review and accept alternative site analysis and legal access to a site
- Impartial 3rd party should review documentation submitted by applicants to determine correctness or accuracy of the applicant's findings.
- City should utilize an alternative neutral party person to review the project

STAFF RESPONSE:

Pursuant to Section 20.465.060(A)(16), the City's consultant, selected by the City, will review application submittals.

- There should be flexibility in height and siting to reasonably accommodate the needs of wireless carriers

STAFF RESPONSE:

The height limit of the zone may be increased by the Planning Commission, however, the provider must provide evidence to the effect that the proposed height is the lowest height necessary to close the coverage gap.

- Applicants should be required to schedule an appointment to file an application to ensure that the shot clock does not begin with a substandard submittal

STAFF RESPONSE:

Staff will modify Section 20.465.060(B) to require a pre-submittal meeting with Planning Staff

- Within 10 days of being deemed complete, Public Notice signs should be posted at site and mailed notice

STAFF RESPONSE:

For WTFs proposed within discouraged locations (such as residential and agricultural zones/areas), public notice signs are required to be posted within 10 days of the submittal of the application. The draft Ordinance also requires off-site posting (within the public notice radius) of the "Notice of Application" sign if the site is not visible from the public right of way. All other provisions of Chapter 20.505 (Noticing and Public Hearings), consistent with noticing for a Conditional Use Permit, apply.

- 1,200 foot radius for public notices

STAFF RESPONSE:

Applicants for WTFs are required to comply with Chapter 20.505 (Noticing and Public Hearings) for public notices. The City's public notice radius is 500', which exceeds state law radius notification by 200'. The Planning Division Director currently has the authority to expand radius. 1200' is an arbitrary radius and would be inconsistent with City standards.

- Have public notice for all projects, including those to be administratively approved

STAFF RESPONSE:

The draft Ordinance is structured to encourage the location of WTFs within preferred locations (non-residential and non-agricultural areas) and this is accomplished by providing a streamlined process. Section 20.465.030(A) requires the Director to provide ten (10) days written notice of the intended decision, providing the public with the opportunity to comment on the proposed facility.

- FCC Rules on co-location (and other matters) are likely to change in Summer of 2014. This may require the ordinance to be amended

STAFF RESPONSE:

If warranted, staff will bring updates back to the City Council and make recommendations as appropriate.

- Height restrictions should be flexible to encourage co-location

STAFF RESPONSE:

See previous comment regarding height regulations.

- Add a setback of between 800 - 1,000 feet from homes
- Add a setback of 800 feet from property line

STAFF RESPONSE:

Staff has addressed the concerns expressed by the City Council regarding potential visual clutter that may result from proposed WTFs located next to each other ('tree farms'). 20.465.040.D.1 requires a minimum of 1,000 foot separation between WTFs, except as provided for in Section 20.465.030(B)(1). The proposed setbacks (in bullet form above) could be construed as or result in a prohibition, which is precluded under Section 704 of the 1996 Telecommunications Act. It is also problematic to utilize a distance setback from homes, as that has the appearance of an RF-related restriction, which is prohibited by the Telecommunications Act.

- Workshops should be required for any project in a residential zone.

STAFF RESPONSE:

Staff has modified section 20.465.030(B) of the draft ordinance to require public workshops for all WTFs proposed in discouraged locations, which are subject to a Conditional Use Permit.

- Residential zones to be avoided for WTF siting

STAFF RESPONSE:

The draft Ordinance identifies residential and agricultural zones as discouraged locations.

- Discouraged locations should include wildfire hazard zones

STAFF RESPONSE:

Staff does not support this request, which could be construed as a prohibition, given the existing mapping of these zones. Any WTF proposed within a wildfire hazard area would be subject to the same review process as any other structure proposed within a wildfire hazard area.

- Sites serviced by private roads should be added to the discouraged locations list

STAFF RESPONSE:

Comment noted. Staff recommends modifying 20.465.040(F) (General Regulations for Wireless Telecommunications Facilities-Legal Access is Required) to clarify the applicant/operator must submit documentation to the effect that it has legal access to the proposed WTF site for construction, repair and maintenance of the facilities. The application shall include a representation to this effect, which must be signed by the applicant and the owner of the property which is the subject of the application.

- City must do alternative site analysis - not the provider

STAFF RESPONSE:

The draft Ordinance requires the provider to submit the alternative site analysis and technical basis, which will be reviewed by the City. The City does not have the information necessary to prepare the alternative site analysis; after it is submitted, the City's consultant will review the analysis and conclusions on its behalf.

- Citizen committee should be installed to review WTF projects

STAFF RESPONSE:

The City must comply with Federal "Shot Clock" processing time requirements. The creation of a citizen committee to review WTF projects increases the likelihood of violations of the "Shot Clock" timeframes. For proposed WTFs in discouraged locations, the project will be subject to public notification procedures in accordance with Chapter 20.505 of the SMMC, and a Planning Commission hearing will be required. The public will have the opportunity to participate throughout the process.

- Enforce and monitor compliance report

STAFF RESPONSE:

20.465.080 requires the applicant to submit annual RF and, for discouraged locations, annual CUP compliance report.

- Expiration date requirement

STAFF RESPONSE:

20.465.100 states WTF permits are valid for 10 years from the date of issuance of grading permit, encroachment permit, building permit, whichever comes first. This is consistent with California Government Code requirements for permit terms.

- All sites should require CUP process

STAFF RESPONSE:

The draft Ordinance proposes administrative processing procedures to encourage WTFs to be located in preferred locations (non-residential and non-agricultural areas and zones), and to facilitate compliance with Federal shot clock

requirements. The two tiered permit process approach provides an incentive to site WTFs within preferred areas.

- Open space zones should not be allowed to have above ground base stations

STAFF RESPONSE:

WTF applications are reviewed for compliance with the draft Ordinance provisions, including the stated preference that equipment not be visible.

- One site per property in residential & agricultural zones

STAFF RESPONSE:

20.465.040.D.1 states "no more than one (1) new WTF is allowed on any residential or agricultural zones except as provided in 20.465.030(B)."

- Neighbors should have veto powers to block project if located within a 1,000' radius of the proposed WTF site

STAFF RESPONSE:

In compliance with state law, the City exercises land use authority. It is not permissible to delegate such responsibility to neighbors. Additionally, providing veto power to neighbors would likely result in a prohibition of service, which is violative of the Federal Telecommunications Act.

- Require Citizen Participation Plan (similar to the process in the City of Encinitas)

STAFF RESPONSE:

The City of Encinitas Citizen Participation Plan is a method to provide public notification for projects. Chapter 20.505 of the SMMC (Noticing and Public Hearings) requires public notification procedures that also provide the public notification of opportunities to participate in the application process. For WTF proposals within a discouraged location, the process requires at least three types of public noticing: 1) Notices sent to all property owners and occupants within a 500' radius at various steps during the processing of the application (at time of submittal; at the time an environmental document has been prepared with notification of how to access the document and the public review period (if applicable); and to provide notification of the public hearing date and time. 2) A "Notice of Permit Application" sign must be posted on the site of the proposed WTF. The draft Ordinance will also require off-site posting within the public right of way (within the public notice radius) if the proposed site is not visible to the public right of way; and 3) a legal advertisement is put in a local paper that provides notification of the date and time of the public hearing. An additional mailed notice would also be required for any required workshop. For projects that locate within preferred locations, public notice is provided which provides the opportunity for the public to participate in the process prior to the date a determination is made on the application.

- Enforcement of ordinance should be more strict

STAFF RESPONSE:

20.465.080(I) (Maintenance and Operation Standards-FCC Compliance) requires the applicant, operator, or owner to submit an RF report, prepared by a qualified engineer, on an annual basis after the WTF is in operation. Furthermore, for projects entitled with a Conditional Use Permit, the applicant, operator, or owner of the CUP approvals for the WTF must submit an annual CUP compliance report that must include documentation of the status of compliance with all conditions of approval and must include date stamped photographs of existing conditions of the WTF and any associated screening requirements. These requirements are significantly more than what is currently required, and are designed to facilitate monitoring and compliance efforts.

- Construction/Maintenance hours to be further restricted in Section 20.465

STAFF RESPONSE:

Section 20.465.080(C) (Maintenance and Operation Standards-Maintenance Hours) specifies routine maintenance of WTFs located in or within 100 feet of residential or agricultural zones may only occur between 8:00 AM and 5:00 PM weekdays. This is more restrictive than SMMC Section 17.08.080, which allows general construction activities M-F between 7:00AM and 6:00PM and on Saturdays 8:00AM to 5:00PM. Emergency repairs and maintenance of WTFs may only be conducted in the event of power outages or equipment failure or malfunction.

- HAM operator radio control PRB (CA also adopted)
 - Height should be allowed to be flexible

STAFF RESPONSE:

HAM guidelines in the draft Ordinance are consistent with federal and state standards.

- Citizen involvement should be included in administrative approval

STAFF RESPONSE:

Public notification is required for administrative WTF permits and as such residents and business owners are provided the opportunity to participate in the process prior to the date a determination is made on the application.

- View obstruction should be prohibited

STAFF RESPONSE:

Please refer to 20.465.070 (Design and Development Standards) of the draft Ordinance.

Brindley, Karen

From: Eric Clifton [eclifton@peaknrg.com]
Sent: Monday, December 16, 2013 12:02
To: Brindley, Karen
Cc: del Solar, Sean
Subject: Cell Tower Ordinance

Follow Up Flag: Follow up
Flag Status: Flagged

Hello Karen,

I just wanted to let you know how much we appreciate the thought and efforts of both Sean and Jerry on the proposed cell tower ordinance. I also wanted to let you know that we support the way it is currently written and believe this will be a strong statement for the community.

By now, you have probably heard from Jeff Brandon (owner of the new AT&T site location) and AT&T, as they are not in sport of this ordinance. Both of these parties stand to gain financially from seeing this ordinance watered down so that they can continue their plans for cell farms without regard for the community or actual need of the network. Please do not be swayed by the allusion that they will try to paint of low customer satisfaction and the emergency needs of the network. As you may be aware, the majority of San Marcos is adequately covered for all carriers, with only sporadic pockets of low coverage zones. AT&T's objections speak to the urgency, and yet it has taken over 7 years to move forward with the recently approved 2080 Golden Eagle site. That doesn't seem very urgent to me.

The new ordinance will only require that carriers reasonably demonstrate the actual necessity for new sites and that they will try to make do with the more conducive, commercial sites first before trying to move to residential neighborhoods or schools. Additionally, I would like to see a third party RF coverage area analysis (other than Jonathan Kramer, not his area of knowledge) that is not paid by the carrier applying, to validate the site need in the carriers overall mesh coverage strategy to be part of the ordinance.

I appreciate your support and look forward to seeing a real solution that is good for the community.

Sincerely,

Eric Clifton

Resident
2050 Golden Eagle Trail
760.580.4649

Brindley, Karen

From: Doug Higgins [DHiggins@jcreorts.com]
Sent: Monday, December 16, 2013 14:03
To: Brindley, Karen
Subject: Telecom Ordinance

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Karen,

I just wanted to double check with you whether the Draft Telecommunications Ordinance (as currently drafted) would apply to the Twin Oaks Golf Course? My understanding is that the intention of the Ordinance is to make it more difficult to develop in Agricultural and Residential areas, and to encourage location of additional towers in existing non-residential locations with towers. But we have also heard that towers would be limited to one per parcel? It seems that the "one per parcel" rule would conflict with the objective of co-locating new facilities with existing facilities.

I believe that Twin Oaks Golf Course covered by a specific plan. I did not see specific guidance in the Ordinance as to how Specific Plan Areas would be treated. Is it safe to assume that SPAs would be treated the same as any other commercial or industrial property with respect to the Telecom Ordinance (ie – that agricultural and residential are treated as one "discouraged" group, and that every other form of zoning comprises the "encouraged" group)?

Thanks,
Doug

Douglas Higgins | Corporate Development
JC Resorts | 533 Coast Blvd South, La Jolla, CA 92037
o: 858.605.2717 | m: 858.888.0198 | dhiggins@jcreorts.com | [linkedin](#)

Rancho Bernardo Inn | 2012 Conde Nast Readers Poll Top 10 Golf Resorts in California
Surf & Sand Resort | 2012 Travel + Leisure World's Best
Temecula Creek Inn | A luxurious Wine Country escape
Scripps Inn | 2011 Condé Nast Reader's Choice Top Small Hotel in the US



Brindley, Karen

From: Constance Signorino [jcsiggy@gmail.com]
Sent: Sunday, December 15, 2013 14:02
To: Jones, Rebecca; Orlando, Chris; Desmond, Jim; Jabara, Kristal; Jenkins, Sharon
Cc: Brindley, Karen
Subject: Cell Tower Ordinance

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Council Member,

Please review the December 12 article in the UT which states the 2080 Golden Eagle site owner, Jeff Brandon "has explored adding at least two more cell sites on his property".

Jeff will continue to pursue the cell companies to get his "Cell Farm". In fact, at the Dec. 11 Ordinance Workshop, AT&T asked the City to have height restrictions increased. This is so they can put multiple carriers on one cell tower. The residents, among other things, are asking for a 30 ft. height restriction when a major cell tower is near (within 1,000 feet) of a residential area. This 30 foot height restriction is consistent with what the City and Mayors communicated in the December 11th UT article, "no cell tower farms".

I am asking that the ordinance include a maximum tower height of 30 ft., the CUP process require the City conduct an independent site analysis, and 1,000 ft. separation between residential homes and a cell tower.

Thank you,

John Signorino

Brindley, Karen

From: Constance Signorino [jcsiggy@gmail.com]
Sent: Monday, December 16, 2013 14:58
To: Brindley, Karen
Cc: Email@elliotherman.com; Suzanne Anderson; E Clifton
Subject: Ordinance Comments

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Karen,

I looked through the ordinance and have some questions/comments:

Sec. 20.465.040 (A) – When it says “Encourage the use of existing structures rather than introducing new structures” does that apply to existing cell tower structures such as the T-Mobile and recently approved AT&T? If that is the case, then we would have potentially 4 carriers at that site? This would be completely unacceptable to the neighbors.

Sec. 20.465.040 (B) – What is the current height specification of our A-1 AG zone?

Sec. 20.465.040 (D) (1) – The last sentence reads, “In residential and agricultural areas, no more than (2) collocated Wireless Telecommunication Facilities may be permitted on any existing Wireless Telecommunications Facility”— Does this mean again that we can potentially have 4 carriers at 2080 Golden Eagle Trail?

Sec. 20.465.040 (F) – How does this apply when access must include using private roads (owned by multiple property owners) in order to get to the site. How will this be interpreted?

Sec. 20.465.050 (A) - #8 – “A preferred location is “specific plan areas that include land use regulations for Wireless Telecommunications Facilities” – If I am not mistaken, I believe we live in such a location (specific plan w/WTF land use regulations). Am I correct?

Thank you,

Connie Signorino

Brindley, Karen

From: SunOrganic Farm [sales@sunorganic.com]
Sent: Monday, December 16, 2013 17:46
To: Brindley, Karen
Subject: Cell Site Ordinance Update

Follow Up Flag: Follow up
Flag Status: Flagged

Hello;

Please consider the following regarding the proposed cell site ordinance.

1 - Number 13 of the Preferred locations is Open Space Zones. This seems to contradict the Discouraged locations number 5 (Vacant land) as I would assume that open space land is also vacant. It also seems that much open space land would be (number 6) environmentally sensitive habitat. I would suggest that Preferred location 13 be removed to require all proposed open space zoned cell sites to go through the CUP process.

2 - There should also be clarification if, for instance, a Public Right of Way (Preferred location) is also within the Ridgeline Overlay Zone (Discouraged location). Mix and match as you please - ie: Utility installations (#5 Preferred) within the Senior-Residential Zone (#3 Discouraged).

3 - #3 Public Institution Zoned property includes parks, schools and other City facilities - to my knowledge. I question #2, City owned properties. I believe the City owns some properties on a temporary basis or for some reason other than ultimate public facilities needs such as right-of-way remnants. In that case I do not believe a cell site should not have to go through the CUP process just because ownership of the parcel happens to be by the City.

4 - My major concern with the proposed ordinance is that it does not take adjacent uses or zones into consideration. In many areas there are commercial and industrial zones adjacent to residential. As written, the ordinance would allow a cell site in a commercial zone - without the CUP process - even if the location was immediately adjacent to residential property. I think a proposed cell site location should have an 'affected radius' of perhaps 400 feet. The CUP process should kick in if within this radius there is residential or other zones or uses on the discouraged location list.

5 - I question the limit of 1 cell site per parcel. Given the great difference in parcel size within every zone I'm not sure what this accomplishes while it does remove some flexibility.

6 - Because of the above and the complexity of the issue, I would suggest that this proposed ordinance become a guideline and that all cell sites be subject to CUP analysis and consideration.

Finally, regarding Preferred Locations #8, can you tell me if any existing SPA in the City includes land use regulations for Wireless Telecommunications Facilities?

I appreciate the efforts of the City in trying to get control of this subject that is very complicated and important to residents, property owners and cell service providers.

David Carr

days - 760-510-8077

Brindley, Karen

From: Paul O'Boyle [pro@oboylelaw.com]
Sent: Wednesday, December 18, 2013 11:08
To: Brindley, Karen
Subject: Draft WTF Ord. - Redline Review - Planning Commission Hearing (Wed, December 18, 2013)
Attachments: San Marcos WTF RED12 14 13.doc
Follow Up Flag: Follow up
Flag Status: Flagged

Ms. Brindley,

I know you are busy. I have left you two voicemails (Monday and today) regarding the Draft Wireless Telecommunication Facilities ("WTF") Ordinance that will be going before the Planning Commission this evening. I was hoping to speak with you before the hearing so that we may discuss the Draft WTF Ordinance and clarify some concerns that my client, Crown Castle NG West, Inc. ("Crown"), has with the Ordinance.

Attached for your consideration is a redline of the City's Draft Ordinance outlining major areas of concern. I am currently drafting a cover letter to this redline, however, I wanted to make sure you had an opportunity to review our comments before the hearing. Please give me a call at your earliest convenience to discuss. Thank you.

Regards,

Paul

Paul R. O'Boyle, Esq.
(858) 922-8807 P
(858) 484-7831 F
pro@oboylelaw.com

PAUL R. O'BOYLE, ESQ
REDLINE COMMENTS
SUBMITTED 12/18/13
@ 1108AM

Chapter 20.465 Wireless Telecommunications Facilities

Sections:

Section 20.465.010	Purpose of Chapter
Section 20.465.020	Applicability
Section 20.465.030	Permit Requirement for all Wireless Telecommunications Facilities Section
20.465.040	General Regulations for Wireless Telecommunications Facilities
Section 20.465.050	Location Criteria for Wireless Telecommunications Facilities
Section 20.465.060	Application Content for All Wireless Telecommunication Facilities Section
20.465.070	Design and Development Standards
Section 20.465.080	Maintenance and Operation
Section 20.465.090	Abandonment or Discontinuance of Use
Section 20.465.100	Duration of Permit
Section 20.465.110	As-Built Photograph Submittal Requirement Section
20.465.120	Notification of Change of Ownership/Operator
Section 20.465.130	Amateur Radio and Over-the-Air Receiving Devices
Section 20.465.140	Indemnification
Section 20.465.150	Obligation to Comply with Chapter
Section 20.465.160	Appeals
Section 20.465.170	Enforcement
Section 20.465.180	Definitions

Section 20.465.010 Purpose of Chapter

The purpose of this chapter is to provide a uniform and comprehensive set of procedures and standards for the development, siting, installation, and removal of Wireless Telecommunications Facilities, Amateur Radio Facilities, and Over-the-Air Receiving Devices. More specifically, the purpose of this chapter is as follows:

A. Provide for the managed development and installation, maintenance, modification, and removal of wireless telecommunications infrastructure in the City with the fewest number of Wireless Telecommunications Facilities to complete a network without ~~unreasonably~~ discriminating against wireless telecommunications providers including all of those who install, maintain, operate, and remove Wireless Telecommunications Facilities.

B. Promote and protect the public health, safety, and welfare by reducing the visibility of telecommunications facilities to the fullest extent possible through techniques including but not limited to camouflaging and underground of ~~wireless facilities and the~~ equipment associated therewith.

C. Reduce, if not eliminate, the impacts of telecommunications facilities on City residents and the traveling public, which includes encouraging the location of Wireless Telecommunications Facilities outside of residentially ~~and agricultural areas~~ zoned properties in the City.

Doc: 121113_Workscop

- D. Effectively manage Wireless Telecommunications Facilities in the public Right of Way.
- E. Manage Amateur Radio Facilities and Over-the-Air Receiving Devices in the City.
- F. Comply with applicable state and federal laws.

- G. ~~G.~~ Grant no additional rights or entitlements to Wireless Telecommunications Facilities providers or operators to construct, maintain, modify, or remove Wireless Telecommunications Facilities, other than those rights or entitlements existing under applicable state or federal law or under agreement with the City.
- G.H. To recognize the important role Wireless Telecommunications Facilities play in the socio-economic development of the City.

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Section 20.465.020 Applicability

The provisions of this chapter are applicable to all proposed antennas and Wireless Telecommunications Facilities and modifications as follows:

- A. All Wireless Telecommunications Facilities permit applications received by the City after the Effective Date of this Chapter as defined in 20.465.180 must comply with the regulations and guidelines of this Chapter.
- B. All Wireless Telecommunications Facilities that have been previously approved, but are now or hereafter expanded, modified by the replacement of materially different and/or removal of wireless telecommunications facility equipment, ~~or when one or more new bands of service are activated.~~
- C. This Chapter does not apply to:
1. The City of San Marcos
 2. Amateur radios licensed by the Federal Communications Commission ("FCC")
 3. Over-the-Air-Receiving Devices, as defined in 20.645.180

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Section 20.465.030 Permit Requirement for all Wireless Telecommunications Facilities

The provisions of this chapter apply to all public and private utilities and service providers, and to wireless telecommunication facilities of any kind located within the City. No wireless telecommunications facility shall be installed, expanded, ~~modified by the installation, change, or removal of antennas; or new bands of service activated until and unless~~ the applicant/operator has obtained the applicable City permits.

A. **Administrative Wireless Telecommunications Facility Permit.** All proposed facilities within the preferred zones/locations as set forth in section 20.465.050.A, which meet the design requirements, may be processed through an administrative Wireless Telecommunications Facility permit. The application and all submittal materials identified in 20.465.060 (Application Content for All Wireless Telecommunications Facilities) are to be submitted to the Planning Division for processing. The Director must provide ten (10) days written notice of the decision.

Comment [so1]: Who is the notice being given to? Is this a matter of the Facility qualifying as administrative review?

Doc. 121113, Workshop

B. **Conditional Use Permit.** All proposed Wireless Telecommunications Facilities located within the discouraged locations are subject to a Conditional Use Permit in accordance with this chapter provisions and San Marcos Municipal Code (SMMC) Chapter 20.520.

1. Wireless Telecommunications Facilities are permitted in a discouraged location as delineated in section 20.465.050.B only if an applicant obtains a Conditional Use Permit following a public hearing with the Planning Commission and the applicant provides technically sufficient and conclusive proof that the proposed location is necessary to

close a significant gap in the wireless provider's or carrier's network coverage and there are no less intrusive alternative means to close that significant gap.

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Comment [so2]: This does not address capacity issues which are being driven by increased data use, ie smart phones, public safety, etc.

2. The Planning Commission must take into consideration the following factors:

- a. Compliance with this Chapter
- b. Height and setbacks
- c. Proximity to residential uses
- d. The zoning nature of uses on adjacent and nearby properties
- e. Surrounding topography and landscaping
- f. Quality and compatibility of design and screening
- g. Impacts on designated public views and the visual quality of the surrounding area
- h. Availability of other facilities, facilities, and buildings or structures for collocation

Section 20.465.040 General Regulations for Wireless Telecommunications Facilities

The following regulations ~~shall~~ must serve as the general guidelines while reviewing proposed applications for

Wireless Telecommunications Facilities locating within the City.

A. **Encourage the use of existing structures rather than introducing new structures:** The Wireless Telecommunications Facilities are encouraged to be effectively camouflaged into the existing structure, ~~when Federal requirements can be met.~~ Wireless Telecommunications Facilities are encouraged to be designed to be in scale with surrounding building and tree heights.

Comment [so3]: Not sure what was intended? State and Federal laws, as well as franchise agreements and ROW agreements should be considered.

B. **Height and visibility to the public.** Wireless Telecommunications Facilities are subject to the height specification of the respective zone or higher as approved by the Planning Commission. The height of the proposed wireless telecommunications facility must be designed to be the shortest minimum height technically feasible, and the facility must be placed in a location least visible to the public and least disruptive to the appearance of the host property. Where applicable, landscaping (such as dense tree growth) or other measures to minimize visual impacts to screen the wireless telecommunications facility must be incorporated into the wireless telecommunications facility design.

Comment [so4]: The shortest height may not be the preferred height. RF emissions, vandalism and aesthetics should be considered.

C. **Prohibited Designs:**

1. Non-camouflaged Wireless Telecommunications Facilities are prohibited in every zone.
2. Non-camouflaged Wireless Telecommunications Facilities include bare metal monopoles; lattice tower; guyed towers; "lollipop" mounts; and any other design that does not result in effective camouflage of the wireless communications facilities.

Comment [so5]: Das facilities are often non-camouflaged because to screen them would bring more attention to them. Same thing with lollipop designs.

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3. Exempted from the prohibition in Subsection D(1) are:

- i. Wireless Telecommunications Facilities constructed on San Diego Gas and Electric high voltage power transmission towers; and the existing wireless telecommunications tower located in Double Peak Regional Park on County owned land;

ii. Wireless Telecommunications Facilities constructed on preexisting wood utility poles that are shared by two or more utilities (e.g., telephone and power; power and cable TV; etc.) that are located in the public right of way.

Comment [so6]: Guyed poles should not be precluded. Sometimes they are preferred.

D. Siting requirements and guidelines:

1. The proliferation of Wireless Telecommunications Facilities or publicly visible elements thereof that create or compound undesirable visual impacts on the community ~~should~~ must be avoided. Collocation with existing or other planned Wireless Telecommunications Facilities is preferred whenever feasible. No more than one (1) new wireless telecommunications facility is allowed on any individual parcel in the Residential zones or Agricultural zones except as provided for in section 20.465.030.B. Additionally, in the Residential zones or Agricultural Zones, the minimum separation between every existing and proposed Wireless Telecommunications Facilities must be a minimum of one thousand (1,000) feet. The separation requirement in D.1 and D.2 of this Subsection may be modified to the least extent possible if the applicant provides technically sufficient and conclusive proof that (a) a significant gap in the provider's service exists, and (b) the proposed Wireless Telecommunication Facility is necessary to close a significant gap in the carrier's network coverage and there are no less intrusive alternative means to close that significant gap, and (c) no feasible alternative exists to close the significant gap by the installation of one or more Wireless Telecommunications Facility sites in areas of the City enumerated in 20.465.050.A. In residential ~~zones and agricultural areas~~, no more than two (2) collocated Wireless Telecommunications Facilities may be permitted on any existing Wireless Telecommunications Facility.

Comment [so7]: This requirement is onerous especially for technology such as DAS which had a limited range.

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2. Setbacks. Wireless Telecommunications Facilities must comply with the respective zone setbacks, except freestanding facilities located adjacent to a residential zone must be set back from the nearest residential lot line by a distance equal to one hundred ten percent (110%) to the height of the wireless tower, whichever is greater. The setback must be measured from the part of the wireless telecommunications tower that is closest to the neighboring residential zone. For example, the setback for a faux tree facility would be measured from the end of the branch that is closest to the neighboring property.

Comment [so8]: ROW WTF's in many situations will not be able to meet this requirement. This provision effectively prohibits WTF's in the ROW adjacent to residential lots.

3. No net loss in required parking spaces shall occur as a result of the installation, maintenance and/or expansion of a wireless telecommunications facility.

E. **Noise.** Noise levels generated by a wireless telecommunications facility must comply with noise standards of the underlying zone, as defined in 20.300.070. Appropriate siting and building measures must be incorporated in to the wireless telecommunications facility design to comply with the City's noise standards. The Director may require an acoustical study is determined necessary based on the proposed design of the wireless telecommunications facility.

F. **Legal Access is Required:** In all applications for Wireless Telecommunications Facilities on public and private property, an applicant/operator must show that it has the written agreement of

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the property owner to legally access to the wireless telecommunications facility and that the applicant/operator must have legal access to the utilities necessary to operate and maintain the wireless telecommunications facility.

Comment [so9]: Many providers are entitled to and do use utility easements to access their WTF's. Often times property owner's permission is not required or legally necessary.

Section 20.465.050 Location Criteria for Wireless Telecommunications Facilities

The following criteria will be utilized by the City to determine the type of wireless telecommunications facility permit that is required for a proposed wireless telecommunications facility.

A. **Preferred Locations.** Wireless Telecommunication Facilities are encouraged to locate on existing buildings and structures due to aesthetics and land use compatibility. Proposed WTFs should locate in the following zones and areas that are the most appropriate location, which are listed in order of descending preference:

1. Collocation to existing facilities located in non-residential and agricultural zones
2. City owned or operated property and facilities
3. Public Institution Zone (includes park facilities)
4. Public Right of Way (camouflaged design)
5. Public and private utility installations (such as water tanks, existing communication tower near Double Peak Regional Park, etc., that are not accessible to the public)
6. Industrial Zones and Business Park Zone (WTFs are limited to developed sites/parcels in the Transitional Zones)
7. Commercial Zones
8. Specific Plan Areas that include land use regulations for Wireless Telecommunications Facilities
9. Mixed Use Zones
10. Community facilities in residential zones and areas (such as places of worship, community centers, etc)
11. Public right-of-way (non-camouflaged design)
12. High voltage transmission towers
13. Open Space Zones

Comment [so10]: Does a shroud or paint to match constitute camouflage?

B. **Discouraged Locations.** New Wireless Telecommunication Facilities must not be located in any of the following zones or areas unless the applicant demonstrates by technically sufficient and conclusive proof that (a) a significant gap in the provider's service exists; and (b) that the proposed Wireless Telecommunications Facility is the least intrusive means visually to close the significant gap, and (c) no feasible alternative exists to close the significant gap by the installation of one or more wireless telecommunications facility sites in areas of the City not enumerated below.

Comment [so11]: This does not take into consideration capacity sites.

1. Residential and Agricultural zones and areas, including Residential Manufactured Home Park zone (except as noted in 20.465.050A (encouraged locations)
2. ~~Within any nonresidential zone on a site that contains a legally established residential use~~
3. ~~Senior Residential Zone~~
4. Ridgeline Protection and Management Overlay Zone
5. Vacant land
6. Environmentally sensitive habitat
7. ~~All other areas of the City not described in Subsection A or B.~~

Comment [so12]: City of inappropriately giving preference to an existing non-conforming residential use over zoning.

Comment [so13]: This is redundant. Residential zones are discouraged. Why is Senior Residential zones being called out??

Comment [so14]:

Comment [so15]: This does not recognize the value and benefits gained by allowing the deployment of wireless technology.

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Section 20.465.060 Application Content for All Wireless Telecommunication Facilities

A. Applicant must submit three (3) sets of documentation accompanying its application to the Planning Division in paper printed format, and a copy of the same in electronic format (unlocked and searchable Adobe PDF files or other formats as may be authorized by the City). When Wireless Telecommunication Facilities are subject to a Conditional Use

Permit, all of the following items must be submitted in addition to the standard CUP submittal requirements. The Planning Director may waive any of the following or may require the submittal of additional information based on specific project factors.

1. Written documentation demonstrating a diligent and good faith effort to locate the wireless telecommunications facility in the least intrusive location in accordance with 20.465.050.A (Preferred Locations). The coverage objectives and reasons for selecting the proposed site and the reasons other preferred sites were not technically or legally feasible must be included.
2. A description of the site selection process for the proposed Wireless Telecommunications Facility. Coverage objectives and the reasons for selecting the proposed site and the reason why other sites were rejected should be included. A description of the proposed wireless system and its consumer features must be included (i.e., cellular or PCS; voice, video, data transmissions, etc).
3. Site plan and elevations, drawn to scale
4. Geographic Service Area map that shows the location and description of the proposed facility in relation to all of the applicant's existing and potential facilities maintained by the operator in the City and if the proposed WTF is near the City boundary, ~~within half (1/2) mile of the City boundary in the network associated with the gap the wireless telecommunications facility is meant to close.~~
5. Visual Impact Analysis with existing before photographs and after scaled color visual simulations showing the maximum silhouette, view shed analysis, color and finish palette and proposed screening. The analysis must include photo simulations and other information of the site and surroundings necessary to determine the visual impact of the proposed facility. The simulations should demonstrate the project would look like at its proposed location and from surrounding public viewpoints, as such viewpoints are determined by the Planning Director. A map depicting where the photos were taken must be included. At his discretion, the Planning Division Director may require an on-site mock-up for what are perceived by Director to be potentially highly visible or sensitive sites to adequately assess the potential visual impact of the proposed facility.
6. Photograph of the actual facility type being proposed (i.e., photograph of an existing facility that represents the wireless telecommunications facility type being proposed).
7. Federal Communications Commission (FCC) compliance report. The report must provide a theoretical assessment of compliance with all applicable Federal Communications Commission radio frequency (RF) guidelines, incorporating all maximum permissible exposure limits. The report must also include a cumulative analysis of all the wireless telecommunications located on and/or adjacent parcel to the project site, identifying total exposure from all facilities and demonstrating compliance with all FCC guidelines. The qualifications of the person who prepared the required FCC compliance report must also be submitted and must include such information as education and professional qualifications, experience preparing studies, history demonstrating compliance with FCC guidelines, etc.

Comment [so16]: This is arbitrary

Comment [so17]: Define view shed analysis

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8. Identify proposed height of the wireless telecommunications facility. Evidence must be submitted that demonstrates the proposed facility has been designed to the minimum height required from a technological standpoint for the proposed site. ~~The~~

provider must also submit evidence, as applicable, if facility designed at a lower height combined with multiple sites can accomplish network coverage.

Comment [so18]: Minimum technological height is not always the preferred height.

9. Noise Information. Information submitted with the Initial Study must include manufacturer's specifications for all equipment (including air conditioning units and back-up generators) as well as a depiction of the proposed equipment location in relation to the property lines.

10. Maintenance Plan. The anticipated maintenance and monitoring program for the proposed antennas, equipment, and landscaping must be described. If required by the Director, the applicant, at its own cost and expense, must have such plans prepared, reviewed, and or certified by a California Licensed Landscape Architect or arborist, as determined by the Director.

11. Conceptual landscape plan. Plan must identify all proposed landscaping, screening and irrigation. Plan must describe and depict how the materials will screen the site once fully grown. Plans must be prepared by a California Licensed Landscape Architect and must include new and existing plants and trees on site, size, and species (common and botanical name). Plans must also identify any proposed plant and tree removal.

12. Plans must identify the lease area of the proposed facility and legal access.

13. A statement signed by the person with legal authority to bind the applicant attesting under penalty of perjury to the accuracy of the information provided in the application.

14. A written statement of the applicant's willingness to allow other carriers to co-locate on their facilities wherever technically and economically feasible and aesthetically desirable.

15. If the site is not in a preferred location (section 20.465.050.A) or is in an area that is discouraged by 20.465.050.B, the applicant must provide evidence that no location in a preferred zone or location can accommodate the applicant's proposed facility. Clear and convincing evidence must be in the form of a map of the geographic area and a discussion of sites within the preferred locations that could potentially serve the same area as the proposed site, and the reason(s) each such preferred location site was not technologically or legally feasible.

Comment [so19]: This section contains a catch all clause for all property not covered by Section 20.465.050 A and B. This section appears to conflict with the catch all language contained in section 20.465.050 B.

16. Deposit fees for Independent Expert Consultant Review selected by the City will be required for all wireless telecommunication facilities. The cost of the review must be paid by the applicant through a deposit at the time of application submittal. The Director shall determine the deposit amount estimated to cover the full cost of the independent review, including, but not limited to, evaluation of information submitted by the applicant to ensure compliance with land use, legal compliance, and technical requirements of this chapter as well as attendance at any meetings or hearings determined necessary by the Director. Expert consultant costs are independent of the processing fees for a Wireless Telecommunications Facility permit or a Conditional Use Permit.

17. All provisions of Chapter 20.505 (Noticing and Public Hearings) are applicable to applications processed under this Chapter. In the event the site of the proposed wireless telecommunications facility is not visible from the public right of way, the applicant must install, at its cost and expense, a "Notice of Permit Application" sign within the public right of way in a visible location to be determined by the Director. Location of the off-site sign shall be within the public notice radius for the application.

B. Within thirty (30) days following the Effective Date of this Chapter, the Director shall develop a standardized application for use thereafter by Wireless Telecommunications Facilities applicants. The initial application form shall contain at a minimum the information described in Subsection

A, above. From time to time thereafter the Director, without further authorization from the City Council, may modify the application form to respond to changes in law or technology.

Section 20.465.070 Design and Development Standards

The following design and development standards are applicable to all Wireless Telecommunications Facilities and will be considered by the City while reviewing proposed wireless telecommunications facility applications.

A. Design and Development Standards for all facilities.

1. All facilities ~~shall~~ must be designed to include camouflage design techniques to visually and operationally blend into the surrounding area in a manner consistent with community character and existing development. The wireless telecommunications facility must also be designed to be appropriate for the specific site (i.e., it should not stand out unduly from its surrounding environment, such as a faux tree standing alone in a field or standing at greater height [five feet or more] than other trees on the site).
2. All facilities ~~shall~~ must be designed to minimize the visual impact to the greatest extent feasible by means of placement, screening, landscaping with native species (whenever feasible), and camouflage, and to be compatible with and integrated into existing architectural elements, building materials and other site characteristics. The applicant must use the least visible and physically smallest antennas possible to accomplish the coverage objectives. Such techniques must be incorporated to make the installation, operation and appearance of the wireless telecommunications facility visually inconspicuous, to prevent the wireless telecommunications facility from dominating the surrounding area, ~~and to hide the installation from predominant vies from surrounding properties.~~
3. Creative and artistic designs, and the smallest size for the wireless telecommunications facility are encouraged to achieve the least visual impact on the community.
4. All antenna components and accessory wireless equipment must 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 must be used.
5. No signs, striping, graphics, or other attention getting devices are permitted on a wireless telecommunications facility or ancillary facilities except for warning and safety signage with a surface area of no more than three (3) square feet per sign. Such signage must 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 required by law.
6. Each wireless telecommunications must be identified by a permanently installed plaque or marker (no larger than four [4] inches by six [6] inches) clearly identifying the addresses, email contact information, and 24-hour local or toll-free contact telephone numbers for both the permittee and the agent responsible for the maintenance of the wireless telecommunications facility. The contact information must be maintained with current contact information specified above.
7. In cases where the wireless telecommunication facility is located in a City park, the wireless telecommunications facility must be designed and located in such a manner as to ~~minimize~~ avoid adverse visual impacts. Such locations must use design techniques such as but not limited to, type of facility, camouflaging, screening, and landscaping.

Comment [so20]: Define camouflage

8. All base station equipment must be enclosed so as not to be visible to the public. Barbed wire fencing and/or razor wire is prohibited.

9. Security Lighting. Security lighting must be kept to a minimum and must only be triggered by a motion detector.

10. Aircraft Beacon Lighting. Beacon lighting is prohibited unless required by the FCC or Federal Aviation Administration (FAA). Beacon lighting must be including when measuring the total height of the antenna. Beacon lighting must employ effective designs and equipment to reduce to the maximum extent possible downward light leakage while still complying with FCC or FAA requirements.

11. The installation of any wireless telecommunications facility and/or related equipment must not create or cause a violation of the Americans With Disabilities Act, and must be compliant with all applicable building and electrical codes as well as the latest iteration of tower safety code, the terms and provisions of which are incorporated herein by reference. Cabinets and other equipment ~~shall~~~~must~~ not ~~obstruct~~~~impair~~ pedestrian use of sidewalks, pedestrian pathways, nor inhibit equestrian or pedestrian activities on public or private trail systems and ~~should~~~~must~~ be screened from the sidewalk by landscaping, undergrounding or other means excluding walls and fences.

12. Proposed facilities located in the Ridgeline Protection and Management Overlay zone are subject to the provisions of the Ridgeline Protection and Management Overlay Zone. No facility that is proposed in the Overlay zone shall be approved unless the wireless telecommunications facility blends with the surrounding existing and man-made environment to the maximum extent possible and a finding is made that no other location is technically or legally ~~practical~~~~feasible~~.

B. Building and Structure Mounted Facilities:

1. Screening materials must match in color, size, proportion style, and quality with the exterior design and architectural character of the building or structure and the surrounding visual environment.

2. Facility components, including all antenna panels, may be mounted either inside the building or structure, or behind the proposed screening elements of the building or

structure. Antennas may be required to be located entirely within an existing or newly created architectural feature so as to be completely screened from view.

3. Antennas and associated facilities mounted to a building must not be visible.

4. Roof mounted antennas must be constructed at the minimum height possible to serve the operator's service area and must be set back as far from the edge of the building as possible or otherwise screened to minimize their visibility. Existing visual obstructions or clutter on the roof or along the roof line should, in a commercially practical matter, be removed or screened (such as with a parapet or other architectural feature that serves as a rooftop screen) as a precursor to the new wireless installation.

5. When required by the City, antenna panels must be located and arranged on the building or structure so as to camouflage the appearance of the equipment.

6. If permitted, Wireless Telecommunications Facilities proposed on residential buildings must only be allowed if effectively disguised as a typical and appropriately sized residential feature (i.e., a chimney, a dormer, etc).

C. Ground Mounted Camouflaged Monopoles:

1. Camouflaged monopole installations (e.g., faux trees; faux windmills; faux water tanks, etc.) must be designed and situated so as to utilize existing natural or man-made features

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including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening.

2. The camouflage design techniques must result in an installation that either will naturally blend in with the predominant visual backdrop or will disguise the Wireless

Telecommunications Facility. If this is accomplished with landscaping, the applicant must develop a landscape and irrigation plan, as well as a maintenance plan for maintaining the required landscaping for so as long as the Wireless Telecommunications Facility exists.

3. Antennas and all equipment related to and installed near the antennas must be mounted as close as possible to the camouflaged monopole so as to improve the overall facility appearance, including for example only being enclosed within the branch canopy of a faux tree and using antenna covers to blend into the faux tree design, or enclosed within the faux windmill or faux water tank.

D. Miscellaneous Facilities:

1. Designs that mimic natural elements and that are natural in appearance are encouraged and should incorporate natural colors applied in a natural looking way; inclusion of related forms and textures as they would normally be found in nature; and antenna or facility elements form in, clad by, or screened by natural looking features should be encouraged.
2. A monorock and/or monoshrub will be properly screened only if it is located in a setting that is compatible with the proposed screening method. For a monoshrub, other vegetation comparable to that replicated in the proposed screen must be prevalent in the immediate vicinity of the wireless telecommunications facility site and the addition of new comparable living vegetation maybe necessary to enhance the monoshrub screening. For a monorock, the proposed screen must match in scale and color other rock outcroppings in the general vicinity of the proposed site. A monorock screen may not be considered appropriate in areas that do not already have appropriately-sized natural rock outcroppings.

E. Public Right of Way Installations:

1. For wireless telecommunications facility proposed within the public right of way, the applicant must obtain and comply with encroachment permit and right of way permit from the City's Engineering Division and Public Works Department, and pay all deposits and fees associated with all required permits. All requirements of this Chapter apply to Wireless Telecommunications Facilities proposed for location in the public right of way. Additionally, the installation of Wireless Telecommunications Facilities in the public right of way shall be subject to and consistent with California Public Utilities Code §§ 7901 and 7901.1.
2. Every wireless telecommunications facility to be mounted in whole or in part on streetlights, traffic signals, or any other City owned structures require a written License Agreement executed by the City Manager and approved in form by the City Attorney. The City's approval of Wireless Telecommunications Facilities on City owned structures

is discretionary and proprietary in nature, and may be denied by the City for any or no reason.

3. Wireless Telecommunications Facilities must be located underground to the fullest extent practical ~~possible~~.

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4. Wireless telecommunications facility antennas must be attached to existing poles (such as street lights) or other vertical structures already located in the right of way. The installation of new poles or vertical structures will be permitted only if the applicant demonstrates by technically sufficient and conclusive proof that a new pole is the only means to provide coverage. The design of the street light must be consistent with other street lights in the same neighborhood and must be located in such a manner to minimize potential visual and compatibility impacts, ~~with adjacent residential properties~~. The location of new facilities should be avoided along the front yard or residential properties, if possible.

5. ~~Under no circumstances will the City be required to approve the installation of more than one (1) wireless telecommunications facility on any single street light unless the City deems it technically feasible and aesthetically preferable ~~feasible~~, in its sole discretion, to do so.~~

6. Under no circumstances will the City be required to ~~provide~~ extend City facilities upon which telecommunications facilities can be located, including street lights, to areas where they currently do not exist. Such facilities shall be ~~provided~~ extended into areas where they currently do not exist only if the applicant pays the full cost of the construction, installation, and ongoing maintenance and operation (including electricity costs) of such ~~provided~~ extended facilities. In addition to the foregoing, to the extent that existing facilities upon which telecommunications facilities can be located must be modified or retrofitted to accommodate a telecommunications facility, such modification or retrofit must be made at the applicant's sole cost and expense. Additionally, the primary purpose or use of City facilities must remain the function for which they were initially constructed, and the installation of any telecommunications facility thereon must be a secondary use or purpose.

7. The antenna assembly ~~shall~~ must not exceed the height of the ~~existing~~ pole. Multiple street light poles may be necessary to obtain the desired coverage.

8. ~~Appropriate~~ Separation must be provided between existing utility poles and new Wireless Telecommunications Facilities to ~~minimize~~ avoid visual clutter and to maintain the existing community character of the surrounding neighborhood.

9. Proposed wireless telecommunications facility antennas ~~shall~~ must be ~~vertically~~ mounted to the pole as close as technically practical ~~feasible~~.

10. Antennas and associated equipment ~~shall~~ must, at the City's option, either be enclosed in a

radome camouflage enclosure or painted and textured to match the color and material of the surface of the pole which they are attached.

11. No more than four (4) panel antennas or two omni-directional (whip antennas) may be mounted on any utility pole or structure by any one provider.

F. Equipment Enclosures:

1. Base Station Equipment. All base station equipment ~~shall~~ must be located within an ~~existing~~ building whenever feasible. If it is not feasible, the equipment ~~shall~~ must be completely enclosed within a solid-walled enclosure or building. Enclosures, ~~building or structure~~ may not exceed ten (10) feet as measured from the base of the foundation unless a greater height is required to maximize architectural

integration. Any visible fencing, GPS antenna, other similar ancillary equipment must be painted and textured to match the surrounding architectural features or structures in order to minimize visibility.

2. All accessory equipment associated with the operation of a wireless telecommunications facility must be located within a building enclosure or underground vault that complies with the development standards of the underlying zone in which it is located. Design of

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the equipment enclosure must be architecturally compatible with the surrounding environment and structures.

3. All equipment (including support structures, mounts, equipment) ~~should~~ must be screened from public view, of adjacent properties or public rights of way to the maximum extent possible.

Section 20.465.080 Maintenance and Operation Standards

A. **Maintenance.** All facilities, landscaping, and related equipment ~~shall~~ must be maintained in good working condition and ~~shall~~ must be maintained free of litter, debris, graffiti and any form of vandalism.

B. **Facility Maintenance.** Damaged equipment and damaged, dead or decaying landscaping must be replaced within 30 days of notification by the City or discovery by operator. Replacement of landscaping that provides facility screening must be in conformance with the approved landscape plan (i.e., material must be consistent with the approved size (including height), type, and screening capability at the time of planting as the material being replaced.

C. **Maintenance Hours.** Routine maintenance of equipment located in residential and agricultural zones or within 100 feet of a residential zone may only be conducted during the hours of 8:00

AM and 5:00 PM weekdays, not including holidays. In other areas, routine maintenance may be conducted at any time. Emergency repairs and maintenance shall be conducted only in the cases of power outages and equipment failure or malfunction. ~~The City shall determine when routine cycling of generators is permissible.~~

Comment [so21]: This is problematic. This requires the shut do of the network during peak use hours.

D. **Graffiti Abatement.** Graffiti must be removed within seventy-two (72) hours of notice from neighbors and/or the City.

E. **Flag Condition.** If a flagpole is used for camouflaging a facility, flags must be flown and properly maintained at all times. Display of the United State Flag must fully comply with 4 U.S.C. §§ 6-8.

F. **Contact Information.** All equipment cabinets/enclosures and enclosure entry must display in permanent and legible form the site operator's name, a local or toll free telephone number answered 24 hours every day of the year, and site identification number.

G. **Security Lighting.** Security lighting must be kept to a minimum and must only be activated by a motion detector. The motion detector must automatically turn off the security lighting no more than fifteen (15 minutes) if no movement is detected within the sensor range.

H. **Noise.** All equipment (such as emergency generators and air conditioners) must be designed and operated consistent with City noise standards (20.300.070).

I. **FCC Compliance.**

1. **Validation of Proper Operation.** Prior to unattended operations and at other times determined by the Director for cause every twelve (12) months thereafter, the applicant for approvals with respect to any wireless telecommunications facility site that is not "categorically excluded" as that term is defined in the FCC Office of Engineering and Technology Bulletin 65 ("FCC OET Bulletin 65"), as amended from time to time, must submit to the City, at its own cost and

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expense, a detailed technical report prepared by a qualified engineer verifying that the operation of the wireless telecommunications facility is in conformance with the uncontrolled/general population RF exposure standards established by the FCC OET Bulletin 65. The applicant, at its own cost and expense, must pay the cost of the City's review or peer review of said report. ~~To the extent that a wireless carrier has one or more reports on the wireless telecommunications facility, all reports must be provided to the City.~~

2. The applicant, operator, or owner of CUP approvals with respect to any wireless telecommunications facility, must, at its own cost and expense, submit an annual CUP compliance report in conjunction with subsection I.1, above. Said report must include documentation of the status of compliance with all conditions of approval and must include date stamped photographs of existing conditions of the wireless telecommunications facility and any associated screening requirements.

3. The wireless telecommunications facility must comply with all applicable current and future FCC regulations without further action by the City. It is the responsibility of the applicant to contact the City acknowledging any changes in regulations that would affect the wireless telecommunications facility.

Comment [so22]: This is cumbersome and is probably not required by other CUP holders for other uses.

J. **Performance Bond.** Prior to issuance of a building permit or encroachment permit, the applicant or owner/operator of the wireless telecommunications facility ~~shall~~ must pay for and provide a performance bond, which shall be in effect until all facilities are fully and completely removed and the site is reasonably returned to its original condition. The purpose of the bond is to cover

the applicant's or owner/operator obligation under the conditions of approval and the SMMC. The bond coverage must include, but not be limited to, removal of the wireless telecommunications facility, maintenance obligations and landscaping obligations ~~(The amount of the performance bond shall be set by the Director on a case by case basis and in an amount reasonably related to the obligations required under this Chapter and all conditions of approval, and must be specified in the conditions of approval).~~

Comment [so23]: The amount of the performance bond should be based upon the cost of the facility...like all other developments.

Section 20.465.090 Abandonment or Discontinuance of Use

A. **Notification.** All operators who intend to abandon or discontinue the use of any wireless telecommunications facility must notify the City of such intentions no less than sixty (60) days prior to the final day of use. Removal of the wireless telecommunications facility must comply with applicable health and safety regulations.

B. **Removal of Facility.** Wireless Telecommunications Facilities that are no longer operating must be removed at the expense of the applicant/operator/owner no later than one hundred-eighty (180) days after the notification by the City of the discontinuation of use. Upon completion of the abandonment, the site must be restored to its original condition as much as reasonable and practical, at the expense of the applicant, operator, or owner. Disuse for

one hundred-eighty (180) days or more constitutes a voluntary termination of any land use entitlement under this Chapter or any predecessor of this Chapter.

C. **Penalty for Failure to Remove.** All facilities not removed within the required one hundred-eighty (180) day period is a violation of the SMMC. In the event the City removes a disused facility upon the failure of the applicant, operator, and property owner to do so in a timely

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manner, the applicant, operator, and property owner shall be jointly and severally liable for the payment of all costs and expenses the City incurs for the removal of the facilities, including legal fees and costs.

Section 20.465.100 Duration of Permit

A. A wireless telecommunications facility permit shall be issued a period of ~~exactly~~ (10) years from the date of issuance of the grading permit, building permit and/or encroachment permit, whichever comes first, ~~unless a shorter term is determined by the City to be necessary for public safety reasons or substantial land use reasons. The City may establish a build-out period for a site after which time any portion of the permit for the site as permitted but not constructed shall require the applicant to apply for a new permit under the terms of this Chapter as it exists at the time of the new permit application.~~

B. In accordance with this Chapter, the permittee may apply for a renewal of its wireless telecommunications facility permit or Conditional Use Permit. There is no limit to the number of times the sunset date for a facility may be extended. Upon a request for either an extension or an amendment of a Conditional Use Permit, the wireless telecommunications facility will be reevaluated to assess the potential impact of the wireless telecommunications facility on the surrounding community, ~~the adjacent properties~~, the record of maintenance and performance with reference to the conditions of approval, and consistency with this Chapter. ~~Additionally, the City should review the appropriateness of the existing facility's technology, and the applicant must document that the wireless telecommunications facility maintains the technology that is the smallest, most efficient, and least visible and that at the time of the application submittal, there are no appropriate and available locations for the wireless telecommunications facility, such as the opportunity to collocate or relocate to an existing building.~~

Comment [so24]: City should not discriminate against competing technologies.

Section 20.465.110 As-Built Photographs Submittal Requirement.

The applicant/operator/owner must submit date stamped as-built photographs (in paper copy, and digital format as selected by the City) of the wireless telecommunications facility within thirty (30) days of the completion of the installation of the wireless telecommunications facility, visually detailing all of the installed equipment. Said photographs will be used in conjunction with physical site inspection to substantiate compliance with the approved plans, and conditions of approval ~~for any other lawful purpose~~. Final building permit release will only be granted upon satisfactory evidence the wireless telecommunications facility was installed in compliance with the approved plans and conditions of approval.

Section 20.465.120 Notification of Change of Ownership/Operator

Upon transfer of an authorization to operate a wireless telecommunications facility or any of the rights under said authorization the owner or operator must, within thirty (30) days, provide written notification to the Director of the date of transfer, nature of the transfer in question, and the identity and contact information of the transferee.

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Section 20.465.130 Amateur Radio and Over-the-Air Receiving Devices

A. **Amateur Radio:** The following provisions apply to all antennas which are a part of a licensed amateur radio station, in accordance with FCC Order "PRB-1" (101 FCC 2d 952 (1985)) and California Government Code § 65850.3:

1. **Prohibited location.** Amateur radio antennas and amateur radio antenna structures, including antenna tower guys, antennas, and attachments thereto, are prohibited in front yard areas from the building to the front property line or within the required front yard setback, whichever is greater.
2. **Setbacks.** Amateur radio antenna towers and all amateur radio antennas must comply with the front, side, and rear setbacks for the zone. No portion of an amateur radio antenna tower or antenna shall extend across or above any parcel other than the parcel upon which it is installed.
3. **Permits.** Only a City-issued building permit is required for an Amateur Facility to be used by authorized amateur radio station licensed by the FCC, as long as the maximum height of such Amateur Facility including all elements (including without limitation, antennas, masts, booms, arms, cables, and rotors attached thereto) does not exceed the greater of:
 - a. Fifty-one (51) feet above existing ground level which the antenna or antenna tower is affixed, or
 - b. Fifteen (15) feet above the height of the building to which the antenna and/or mast is attached prescribed for the zone in which the antenna is located.
4. **Tall Installations.** An Amateur Facility exceeding the maximum height set forth in Section A(3) must be required to obtain an administrative wireless telecommunications facility permit. In order to issue such an administrative wireless telecommunications facility permit for an amateur radio facility, the Director, in addition to any other required findings, must also find that:
 - a. The application is submitted by an amateur radio operator licensed by the FCC; and
 - b. The permitted location is listed by the FCC as the address associated with the amateur radio operator or is the residence of the amateur radio operator; and
 - c. Allowance of the additional height and/or width is necessary to reasonably accommodate amateur radio service communications; and
 - d. Based on technical showings by the applicant, no lesser antenna heights and no alternative antenna structures or antenna design would reasonably accommodate the amateur radio operator's needs; and
- e. The conditions of approval, if any, constitute the minimum practicable regulation to accomplish the City's goal of promoting public health, safety, and welfare; and

f. The conditions of approval, if any, do not preclude amateur radio service communications; and

g. The Amateur Facility as proposed will comply with all adopted safety codes of the City.

5. **Height.** Height is measured as follows:

a. Ground mounted Amateur Facilities (which may include those side-braced to a building). The height of the antenna and support structure must be measured from the natural undisturbed ground surface below the center of the base of the antenna support (i.e., the amateur radio tower) to the top of the tower or from the top of the highest antenna or piece of equipment attached thereto, whichever is higher.

b. Building mounted Amateur Facilities. The height of the antenna and support structure must be measured from the highest point of the building roof on which the Amateur Facility is mounted, to the top of the Amateur Facility.

6. **Permit Inspection.** Amateur Facilities are subject to City building permit requirements, as well as all construction and post-installation permit inspections by the City to determine compliance therewith.

7. **Changes to Permitted Amateur Facility.** Within fourteen (14) days following any modifications or additions to permitted Amateur Facilities pursuant to this Chapter, the applicant must provide written notice to the City of the modifications using a form provided by the City.

8. **Permits Personal.** All permits issued by the City for amateur radio facilities must be personal to the applicant, must not be transferrable, and must not run with the land.

B. **Over-the-Air Receiving Devices:** The following provisions must apply to all antennas which are Over-the-Air Receiving Devices ("OTARD") in accordance with the FCC Rule (47 C.F.R. § 1.4000 (1996)):

1. **Prohibited location.** An OTARD Facility, including an OTARD Structure, guys, antennas, and attachments thereto, are prohibited in front yard areas from the building to the front property line or within the required front yard setback, whichever is greater, where the OTARD Facility may fall onto a sidewalk or roadway.

2. **Setbacks.** An OTARD Facility must comply with the front, side, and rear setbacks for the zone. No portion of an OTARD Facility can extend across or above any parcel other than the parcel upon which it is installed.

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3. **Permits.** Only a City-issued building permit is required for an OTARD Facility. There is no cost for a City-issued building permit for an OTARD Facility. The building permit must be issued within fourteen (14) calendar days following submission by the Applicant to the City of a complete application that is not subject to the requires of Section B(5) below.

4. **Maximum Height.** The maximum height of such OTARD Facility including all elements (including without limitation, antennas, masts, booms, arms, cables, and rotors attached thereto) must not exceed the greater of:

- a. Twenty-five (25) feet above existing ground level which the antenna or antenna tower is affixed;
- b. Fifteen (15) feet above the height of the building to which the antenna and/or mast is attached prescribed for the zone in which the antenna is located;
- c. A lower height as reasonably determined by the City for any proposed OTARD installation in a historic district of the City.

5. **Tall Installations.** An OTARD Facility exceeding the maximum height set forth in Section 4 is required to obtain an administrative wireless telecommunications facility permit. There is no charge for an administrative wireless telecommunications facility permit for an OTARD Facility. The building permit must be issued within thirty (30) calendar days following submission by the Applicant to the City of a complete application that is subject to the requires of this Section B(5) and the Director's determination that the following findings are made:

- a. Allowance of the additional height and/or width is necessary to reasonably accommodate the applicant using an OTARD; and
- b. Based on technical showings by the applicant, no lesser antenna heights and no alternative antenna structures or antenna design would reasonably accommodate the applicant's reasonable needs to receive a non-distant television signals; and
- c. The conditions of approval, if any, constitute the minimum practicable regulation to accomplish the City's goal of promoting public health, safety, and welfare; and
- d. The conditions of approval, if any, do not preclude the applicant from using the OTARD; and
- e. The OTARD Facility as proposed will comply with all adopted safety codes of the City.

6. **Height.** Height is measured as follows:

- a. Ground mounted OTARD Facility (which may include those side-braced to a building). The height of the antenna and support structure must be measured

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from the natural undisturbed ground surface below the center of the base of the antenna support (i.e., the OTARD tower) to the top of the tower or from the top of the highest antenna or piece of equipment attached thereto, whichever is higher.

b. Building mounted OTARD Facility. The height of the antenna and support structure must be measured from the highest point of the building roof on which the OTARD Facility is mounted, to the top of the OTARD Facility.

7. **Permit Inspection.** OTARD Facility is subject to City building permit requirements, as well as all construction and post-installation permit inspections by the City to determine compliance therewith.

8. **Changes to Permitted OTARD Facility.** Within fourteen (14) days following any modifications or additions to permitted OTARD Facility pursuant to this Chapter, the applicant must provide written notice to the City of the modifications using a form provided by the City.

9. **Permits Run with the Land.** All permits issued by the City for OTARD facilities run with the land.

Section 20.465.140 Indemnification

To the maximum extent permitted by applicable law, an applicant shall at all times defend, indemnify, protect, save harmless, and exempt the City, the City Council, its officers, agents, servants, attorneys, and employees, and volunteers from any and all penalty, damage, or charges, excepting only punitive damages, arising out of claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising there from, either at law or in equity, that arise out of, or are caused by, the construction, erection, location, performance, operation, maintenance, repair, installation, replacement, removal, or restoration of telecommunications facilities within the City based on any act or omission of an applicant, its agents or employees, contractors, subcontractors, independent contractors, or representatives. With respect to the penalties, damages, or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included as those costs that shall be recovered by the City.

Section 20.465.150 Obligation to Comply with Chapter

An applicant shall not be relieved of its obligation to comply with every provision of this Chapter, any permit issued hereunder or any applicable law or regulation, by reason of any failure of the City to enforce or prompt compliance.

Section 20.465.160 Appeals

An appeal from the decision of the Director or the Planning Commission made in the administration or enforcement of this Zoning Ordinance pertaining to installations that are pursuant to section 20.465.030A [Administrative Wireless Telecommunications Facility Permit] of this Zoning Ordinance may be made by the wireless provider, the carrier or any person having an interest in the property that is the subject of the decision, as provided

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in Chapter 20.545 (Appeals and Revocations). All appeals are limited to the applicant and those individuals that lie within the noticing areas, related to a decision made through the CUP process must be consistent with the standards and process of chapter 20.545 (Appeals and Revocations).

Section 20.465.180 Enforcement

Enforcement of the provisions of this Chapter will be through civil remedies in accordance with 1.12 of the San Marcos Municipal Code.

Section 20.465.180 Definitions

For the purposes of this Chapter, the following words, terms, phrases, and their derivations have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, and words in the singular number include the plural number.

Accessory wireless equipment means any equipment associated with the installation of a wireless telecommunications facility including but not limited to cabling, generators, air conditioning units and equipment, ~~cabinets.~~

Amateur radio tower means a free-standing or building-mounted structure, including any base, tower or pole, antenna and appurtenances, intended to facilitate amateur radio communication by any person holding a valid amateur radio license issued by the Federal Communications Commission.

Antenna means any system of wires, poles, rods, reflecting discs, panels, microwave dishes, whip antennas or similar devices used for the transmission or reception of electromagnetic waves, including antennas relating to Personal Wireless Services as defined by Congress or the Federal Communications Commission, when such system is either external to or attached to the exterior of a structure (building-mounted or rooftop-mounted), or ground-mounted. Antennas include devices having active elements extending in any direction, and directional beam-type arrays mounted upon and rotated through a vertical mast or tower interconnecting the beam and antenna support, all of which elements are deemed to be a part of the antenna.

Comment [so25]: The mast, tower or pole are not part of the antenna elements.

Antenna height is the vertical distance measured from the ground surface at the grade to the tip of the highest point of the proposed structure (including a beacon if required by the FAA).

Antenna Support means any pole, telescoping mast, tower tripod or any other structure that supports a device used in the transmitting and/or receiving of electromagnetic waves.

Antenna Tower means a free-standing or building-mounted structure, including any supporting base for the tower or pole, antenna and appurtenances, intended to facilitate amateur radio communication by any person holding a valid amateur radio license issued by the Federal Communications Commission.

Applicable law means all applicable federal, state and local law, ordinances, codes, rules, regulations and orders, as the same may be amended from time to time.

Applicant means a person filing an application in compliance with the Chapter, ~~who is:~~

Comment [so26]: This does not cover CPCN holder who have a legal right to occupy the ROW.

1. ~~_____ The owner or lessee of property;~~

2. ~~_____ A party who has contracted to purchase the property contingent upon that party's ability to acquire the necessary approvals required for that action in compliance with the Zoning~~

~~(Sec 12441.2 West) Chap~~

~~Ordinance, and who presents written authorization from the property owner to file an application with the City; or~~

3. ~~_____ The agent of either of the above who presents written authorization from the property owner to file an application with the City.~~

Base Station means the electronic equipment, equipment ~~cabinets~~~~enclosures~~, cables, and antennas minimally necessary to transmit and/or receive the wireless communications authorized by the Wireless Telecommunications Facility permit.

Camouflage design techniques mean any measures used in the design and siting of Wireless Telecommunications Facilities with the intent to minimize or eliminate the visual impact of such facilities to surrounding ~~areas~~~~uses~~. Such techniques may include but are not limited to one or more of the following:

1. Screening elements to camouflage, disguise, or otherwise hide the Wireless Telecommunications Facilities from ~~public view~~~~view from surrounding uses~~.
2. Painting or coloring, or both, to blend into the predominant visual backdrop.
3. Locating the wireless telecommunications facility to utilize existing features (buildings, ~~poles and structures~~, topography, vegetation, etc.) to screen, disguise, camouflage, or hide the wireless telecommunications facility.
4. Utilizing ~~the existing simulated natural~~ features such as trees, ~~or rocks or poles that simulate the existing environment~~.
5. Providing a wireless telecommunications facility of a size that, as determined by the Director, or the Director of Public Works, in the case of encroachment permits, is not visually obtrusive such that any effort to screen the wireless telecommunications facility would create greater visual impacts than the wireless telecommunications facility itself.

Examples of camouflaged facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, towers made to look like trees and antenna structures designed to look like ~~features in the existing built or natural environment~~~~light poles~~.

City means City of San Marcos, California.

Co-location means the use of a single ~~structure mount~~ on the ground by more than one wireless provider or carrier and/or wireless telecommunication facility (vertical co-location) and/or several mounts on an existing building, structure or site (horizontal co-location) by more than one wireless provider or carrier and/or personal wireless service facility.

Facade Mounted means an antenna that is architecturally integrated into the façade of a building or structure.

Faux trees means a term that is used to refer to monopines, monopalms, monoeucalyptus and other camouflaged monopoles designed to resemble different species of trees.

FCC means the Federal Communications Commission or any successor to that agency.

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Effective date means the effective date of this Chapter, (insert month, day, year)

Equipment enclosure, building, or structure, or cabinet means a cabinet or building that is used to house equipment used by telecommunication provider, carriers or users ~~of~~ at a wireless telecommunications facility site.

Guyed Tower means a telecommunications tower that is supported, in whole or in part, by guy wires and ground anchors.

In-kind call testing means testing designed to measure the gap in coverage asserted by an applicant. If a claimed gap is for in-building coverage, then in-building call testing must be performed to establish the existence or absence of such a gap unless the applicant provides a sworn affidavit demonstrating good faith but unsuccessful attempts to secure access to buildings to conduct such testing and the circumstances that prevented the applicant from conducting such testing. Claimed gaps in service for "in-vehicle" or "open-air" service may be demonstrated by call testing performed in vehicles or in the open.

Lattice Tower means a guyed or self-supporting three or four sided, open, steel frame support structure used to support telecommunications equipment.

Least intrusive means is defined as the location or design of a wireless telecommunication facility addresses a significant gap in ~~coverage an applicant's personal communication service~~ while doing the least disservice to the policy objectives of this chapter as stated in section 17.12.050(A). Analysis of whether a proposal constitutes the least intrusive means must include consideration of means to close an asserted significant gap by co-locating a new ~~personal~~ wireless telecommunication facility on the site, pole, tower, or other structure of an existing ~~personal~~ wireless telecommunication facility.

Monoeucalyptus means a monopole camouflaged to resemble a eucalyptus tree.

Monopalm means a monopole camouflaged to resemble a palm tree.

Monopine means a monopole camouflaged to resemble a pine tree.

Monopole means an uncamouflaged wireless telecommunication facility tower consisting of a pole constructed without guy wires and ground anchors.

Monorock means a wireless telecommunications facility camouflaged to resemble one or a grouping of rocks.

Monoshrub means a wireless telecommunications facility camouflaged to resemble one or a grouping of shrubs or bushes.

OTARD means Over-the-Air Receiving Device.

OTARD Antenna means:

1. An antenna that is designed to receive direct broadcast satellite service, including direct- to-home satellite services, that is one meter or less in diameter; or
2. An antenna that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, Dec. 12/11/13, Workshop instructional television fixed services, and local multipoint distribution services, and that is one meter or less in diameter or diagonal measurement; or
3. An antenna that is designed to receive television broadcast signals.

OTARD Antenna Structure means any pole, tower, or other structure designed and intended to support an OTARD Antenna.

OTARD Facility means the combination of one or more OTARD Antennas affixed to an OTARD Antenna Structure.

Panel antennas means antennas that are flush mounted to an existing building façade, or other structure on at least one edge and do not extend more than twenty-four (24) inches. Panel antennas may also be mounted to a pole or a structure within the public right of way, ~~but must not project more than eight (8) inches from the pole to the front side of the panel.~~

PUC means The California Public Utilities Commission or its designated representative.

Radio frequency means radiofrequency radiation, or the formation of radiofrequency radiation generated by the movement of electromagnetic energy through space, including radio and microwaves, which is used for providing telecommunications, broadcast and other services.

Roof Mounted Antenna means any antenna with its support structure placed directly on the roof of any building, ~~or structure.~~

Significant gap as applied to an applicant's wireless telecommunications facility or the coverage of its wireless telecommunication facilities is intended to be defined in this chapter consistently with the use of that term in the Telecommunications Act of 1996 and case law construing that statute. Provided that neither the Act nor case law construing it requires otherwise, the following guidelines must be used to identify such a significant gap:

1. A significant gap may be demonstrated by In-Kind Call Testing.
2. The City must accept evidence of call testing by the applicant and any other interested person and must not give greater weight to such evidence based on the identity of the person who provides it but must consider:
 - i. The number of calls conducted in the call test,
 - ii. Whether the calls were taken on multiple days, at various times, and under differing weather and vehicular traffic conditions, and
 - iii. Whether calls could be successfully initiated, received and maintained in the area within which a significant gap is claimed.
3. A significant gap may be measured by:
 - i. The number of people affected by the asserted gap in service;
 - ii. Whether a wireless communication facility is needed to merely improve weak signals or to fill a complete void in coverage.

Comment [so27]: This not not take into consideration capacity issues which is driving the deployments.

SMMC means San Marcos Municipal Code.

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Telecommunications means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Telecommunications tower means a freestanding mast, pole, monopole, guyed tower, lattice tower, free standing tower or other structure designed and primarily used to support wireless communication facility antennas. WTF's on existing infrastructure shall not be deemed a telecom tower.

Whip antenna means an antenna that transmits signals in 360 degrees. Whip antennas are typically cylindrical in shape ~~and are less than three inches in diameter~~ and measure up to six feet in length, including the mounting. Also called "omni-directional," "stick," or "pipe antenna."

Wireless Telecommunications Facility means any facility that transmits and/or receives electromagnetic waves, including, but not limited to commercial wireless communications antennas and other types of equipment for the transmission or receipt of such signals, telecommunications towers or similar structures supporting said equipment, equipment cabinets, pedestals, meters, tunnels, vaults, splice box, surface

location marker, equipment, equipment buildings, parking areas and other accessory development. The term also means any ~~personal~~ wireless services defined by the Telecommunications Act of 1996 and licensed by the Federal Communications Commission, including but not limited to, the types commonly known as cellular, personal communications services ("PCS"), specialized mobile radio ("SMR"), enhanced specialized mobile radio ("ESMR"), paging, ground based repeaters for satellite radio services, smart grid technology, micro-cell antennae and similar systems. The term wireless telecommunications facility is consistent with "antenna or communications facility" referenced throughout this Chapter.

Wireless telecommunications tower means the same thing as Antenna Tower as defined herein.

Wireless Tower means the same thing as Antenna Tower as defined herein.