

RESOLUTION PC 14-4422

A RESOLUTION OF THE CITY OF SAN MARCOS PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL SUPERSEDE AND REPLACE CHAPTER 20.465 (WIRELESS TELECOMMUNICATION FACILITIES) OF THE SAN MARCOS MUNICIPAL CODE (SMMC) , TOGETHER WITH AFFECTED SECTIONS OF SMMC TITLE 20

TA 13-001
City of San Marcos

WHEREAS, the City completed a comprehensive update to the Zoning Ordinance (Title 20) of the San Marcos Municipal Code on November 13, 2013 to implement the 2012 General Plan comprehensive update; and

WHEREAS, the comprehensive Zoning Ordinance was found to be a subsequent activity under the General Plan Program FEIR adopted on February 14, 2012; and

WHEREAS, Chapter 20.465 of Title 20 regulates wireless telecommunication facilities within the City; and

WHEREAS, the community has recently expressed concerns regarding the siting of wireless telecommunication facilities within residential areas; and

WHEREAS, on October 22, 2013 the San Marcos City Council directed staff to address community concerns and initiate the process to update Chapter 20.465; and

WHEREAS, A Final Program Environmental Impact Report (Final PEIR) was prepared for the General Plan and Zoning Ordinance updates and adopted by the City Council on February 14, 2012.

WHEREAS, the subsequent Zoning Ordinance update was approved in October 2012 and environmental review was conducted for that update; and

WHEREAS, subsequent to the certification of Final PEIR, the City approved an earlier update to Chapter 20.465 (Telecommunications) of the Zoning Ordinance; and

WHEREAS, the City determined that none of the conditions of CEQA Guidelines section 15164 (a) which would require the preparation of a subsequent or Supplemental EIR would occur as a result of the proposed modifications of Zoning Ordinance, and therefore an Addendum to the General Plan Program FEIR was prepared and adopted for the update to SMMC Chapter 20.465; and

WHEREAS, on December 11, 2014, a public workshop was held on the proposed changes to Chapter 20.465; and

AGENDA ITEM
2

WHEREAS, on December 18, 2014, the Planning Commission recommended approval of the proposed ordinance in PC Resolution 13-4383 and the Addendum to the General Plan Program FEIR for the update to SMMC Chapter 20.465;

WHEREAS, on January 14, 2014 the City Council directed staff to make further revisions to the proposed ordinance, and to process it for return consideration by the City Council;

WHEREAS, on January 28, 2014 the City Council adopted an urgency ordinance declaring a temporary moratorium on the issuance of permits for wireless communications facilities within specified areas of the City; and adopted an extension to the moratorium on March 11, 2014;

WHEREAS, on April 2, 2014 a public workshop was held on the proposed changes to Chapter 20.465;

WHEREAS, the City determined that none of the conditions of CEQA Guidelines section 15164 (a) which would require the preparation of a subsequent or Supplemental EIR would occur as a result of the proposed modifications of Zoning Ordinance, and therefore an Addendum to the General Plan Program FEIR was prepared for the update to SMMC Chapter 20.465; and

WHEREAS, on May 22, 2014 the draft revised Chapter 20.465 ordinance was released for public review and published on the City's website; and

WHEREAS, the City of San Marcos advertised the Planning Commission public hearing to be held on June 26, 2014 and continued the public hearing to June 30, 2014; and

WHEREAS, on June 30, 2014, the Planning Commission held a duly advertised public hearing on the proposed revisions, and has considered all testimony and input from both the public and the cell industry at both the public workshop and public hearing; and

NOW, THEREFORE, the Planning Commission finds and recommends as follows to the City Council:

1. The foregoing recitals are true and correct.
2. The proposed Zoning Ordinance amendment is a subsequent activity under the General Plan Program FEIR adopted on February 1, 2012 in compliance with the provisions of the California Environmental Quality Act.
3. The proposed Zoning Ordinance amendment would not be detrimental to the public convenience, health, safety, or welfare of the City in that the new provisions do not preclude cell service delivery while minimizing proliferation of unmitigated antennas,

maintains aesthetic control that upholds the community character, and conforms to State and Federal regulations.

4. That the City Council supersede and replace the existing SMMC Chapter 20.465 (Wireless Telecommunications Facilities) provided as Attachment "A" in its entirety with the document provided as attached as Attachment "B" and incorporated herein by reference.
5. That the City Council modify the following affected sections of SMMC Title 20, as follows:

- a. The Table of Contents shall be modified as follows:

~~Section 20.465.010 Purpose of Chapter~~

~~Section 20.465.020 Applicability~~

~~Section 20.465.030 Telecommunications Facilities by Right~~

~~Section 20.465.040 Permit Procedures for Telecommunications Facilities by Right~~

~~Section 20.465.050 Standards for Telecommunications Facilities~~

~~Section 20.465.060 Antenna and Communication Facilities~~

~~Section 20.465.070 Indemnification~~

~~Section 20.465.080 Non-Enforcement by the City~~

~~Section 20.465.090 Notices~~

~~Section 20.465.100 Filing~~

~~Section 20.465.110 Captions~~

~~Section 20.465.120 Modification of this Chapter~~

~~Section 20.465.130 Penalty for Violation~~

~~Section 20.465.140 Appeals~~

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

<u>Section 20.465.130</u>	<u>Amateur Radio and Over-the-Air Receiving Devices</u>
<u>Section 20.465.140</u>	<u>Indemnification</u>
<u>Section 20.465.150</u>	<u>Obligation to Comply with Chapter</u>
<u>Section 20.465.160</u>	<u>Appeals</u>
<u>Section 20.465.170</u>	<u>Enforcement</u>
<u>Section 20.465.180</u>	<u>Definitions</u>

- b. That the City Council modify Table 20.260-1 (Land Uses in Primary and Secondary Ridgeline Areas) of SMMC Section 20.260.040 (Permitted and Prohibited Land Uses) as follows:

Prohibited Uses (Primary Ridgelines)
<u>Subject to the provisions of Chapter 20.465, no Wireless Telecommunication Facility of any kind is permitted in the primary ridgeline vertical setback.</u>
Prohibited Uses (Secondary Ridgelines)
<u>Subject to the provisions of Chapter 20.465, no Wireless Telecommunication Facility of any kind is permitted in the secondary ridgeline area within the 50-foot vertical ridgeline setback.</u>

- c. That the City Council modify SMMC Section 20.235.040 (Transitional Use Regulations) as follows:

D. Wireless Telecommunication Facilities. New wireless telecommunication facilities may locate in the transitional zone subject to the provisions of Chapter 20.465, however no wireless telecommunication facility may be installed on a vacant parcel.

~~D.~~ **E. New Future Zone Primary Uses.** New Future Zone primary uses shall not be permitted to be established or commence on parcels within Transitional Zones until rezoning to the Future Zone has been completed, except as modified by this chapter. At the time of rezoning and transition, only land uses permitted in the Future Zone may be established.

- d. That the City Council modify SMMC Section 20.600.020 (Definitions) to add the following:

4. Wireless Telecommunication Facilities. All definitions related to wireless telecommunication facilities are located in Section 20.465.180

- e. That the City Council delete SMMC Section 20.600.030 (Definitions "A") as follows:

~~Antenna or Communication Facility (land use). Any and all equipment located, in whole or in part, in, above or below Public Rights of Way (ROW) and other public or private property used by Telecommunications Carrier in its Telecommunications System including, but not limited to, conduits, cables, wires, ducts, pedestals, antennae, electronics, drops and switching equipment.~~

~~1. Telecommunication System. An operating system which is located, in whole or in part, on, in, above, or below public ROW or other public or private property which is designed and utilized, in whole or in part, to provide telecommunication services for commercial purposes.~~

~~2. Institutional Use. Any facility owned, operated by, or operated on property of a nonprofit corporation, hospital, place of worship, private school, or public agency other than the City of San Marcos.~~

~~3. FCC. The Federal Communications Commission or its designated representative.~~

~~4. PUC. The California Public Utilities Commission or its designated representative.~~

~~5. Stealth Camouflage Facility. Any Telecommunications Facility that is designed to blend into the surrounding environment and is visually unobtrusive. Examples of Stealth Facilities may include, but are not limited to, architecturally screened, roof-mounted antennas or façade-mounted antennas painted and treated as architectural elements to blend with the existing building. All screening materials for Stealth Facilities shall match in color, size, proportion, style and quality with the exterior design and architectural character of the structure and the surrounding visual environment, depending on the visibility, zoning and character of the environment where the facility is to be located.~~

~~6. Amateur Antenna. Any and all equipment utilized for the broadcast or reception of electromagnetically transmitted information by a person holding a valid amateur radio (HAM) license issued by the Federal Communications Commission.~~

~~7. Private Antenna. Any and all equipment utilized for the broadcast or reception of signals for non-commercial purposes, and which is accessory to a residential use,~~

~~including but not limited to amateur radio antennas, television, radio, data,
communication, or other signals from other antennas, satellites, or other services.~~

PASSED AND RECOMMENDED FOR ADOPTION by the Planning Commission of the City of San Marcos, State of California, at a special meeting, this 30th day of June, 2014, by the following vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

APPROVED:

Eric Flodine, Chairman

SAN MARCOS CITY PLANNING COMMISSION

ATTEST:

Lisa Kiss, Office Specialist III

SAN MARCOS CITY PLANNING COMMISSION

Attachments: "A" (Existing Telecommunications Facilities Ordinance, Chapter 20.465)
"B" (Draft Telecommunications Facilities Ordinance, Chapter 20.465)

"ATTACHMENT A"

Chapter 20.465 Existing Telecommunications Facilities (SMMC Title 20 – Zoning Ordinance)

CHAPTER 20.465 TELECOMMUNICATIONS FACILITIES

Sections:

Section 20.465.010	Purpose of Chapter
Section 20.465.020	Applicability
Section 20.465.030	Telecommunications Facilities by Right
Section 20.465.040	Permit Procedures for Telecommunications Facilities by Right
Section 20.465.050	Standards for Telecommunications Facilities
Section 20.465.060	Antenna and Communication Facilities
Section 20.465.070	Indemnification
Section 20.465.080	Non-Enforcement by the City
Section 20.465.090	Appeals

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, and installation of telecommunications facilities. Specifically, the purpose of this chapter is as follows:

- A. Effectively manage the community public ROWs.
- B. Provide for the managed development and installation of communications infrastructure in the City.
- C. Promote and protect the public health, safety, and welfare by undergrounding telecommunications facilities to the fullest extent possible.
- D. Reduce, if not eliminate, the impacts of telecommunications facilities on City residents and the traveling public.

Section 20.465.020 Applicability

The provisions of this chapter shall apply to all public and private utilities, including antennas, power lines and facilities, and telecommunication installations of any kind located within the City.

- A. **Conditional Use Permit Required.** A CUP shall be required, subject to the process provisions of chapter 20.520 (Conditional Use Permit) for any telecommunications facility that:
 - 1. would be placed in a location other than those specifically enumerated in section 20.465.030 (Applicability); and/or
 - 2. does not meet the standards for a telecommunications facility by right as set forth in section 20.465.050 (Standards for Reclamation).
 - 3. Mitigation of Impacts. If a telecommunications facility is to be placed outside the City ROW, the City may impose conditions to mitigate the environmental impacts of the facilities in a manner consistent with CEQA.

Section 20.465.030 Telecommunications Facilities by Right

Telecommunications facilities are allowed by right subject to applicable building permits in or on any of the following locations. Telecommunication facilities not meeting these requirements shall be subject to a CUP.

- A. **Zones.** Commercial (C, O-P, S-R) and Industrial (B-P, L-I, I, I-2) Zones, provided that either the telecommunications facilities are located in the public ROW or the telecommunications facilities constitute camouflaged facilities that are located on or in buildings.
- B. **City Property.** City-owned or operated property and facilities.
- C. **Land Uses.** All parcels used for institutional or governmental uses, including government offices, parks, easements, open space, government parking lots or fueling stations, and similar related institutional uses.
- D. **Public Locations and Rights-of-Way.** Public ROW locations other than City facilities and City property, provided that all telecommunications facilities and associated facilities are located underground, including PBMD and telephone company connections, except as otherwise provided in section 20.465.050 (D). For the purposes of this Zoning Ordinance, City trails shall not be considered a component part of the public ROW. Examples of acceptable installations in the public ROW include the following:
 - 1. Antennas mounted on a streetlight standard or traffic signal standard. Typical examples include antennas that are mounted atop a utility pole within a street ROW or a streetlight or traffic signal standard by extending the height of the pole and using a cylindrical antenna unit that replicates the diameter and color of the pole or light standard. Such installations are acceptable but not required.
 - 2. Small box antennas intended for wireless internet connections, mounted on the underside of a standard arm near the traffic signal or streetlight.
 - 3. Antennas mounted to existing sports field (parks) light standards that are mounted where the antenna panels are visible and the placement of the antennas in relation to the light fixtures is appropriate. Antennas shall be painted to match the color of the light standard.
 - 4. Antennas mounted to the exterior of an existing utility pole within the public ROW.
- E. **Co-location.** Sites of existing telecommunications facilities where substantial maintenance activity is necessary and/or where the applicant is retrofitting or replacing existing telecommunications facilities with smaller and/or lower profile telecommunications facilities or appurtenances, or where all such retrofitting or replacement is entirely below ground. Notwithstanding the foregoing, any existing telecommunications facility may be replaced as a matter of right one (1) time only with a cabinet that is not more than one hundred ten percent (110%) of the originally permitted size of the cabinet that is being replaced.
- F. **Collocation of Facilities on Existing Wireless Towers or Base Stations.** Sites of existing wireless towers or base stations that can support wireless antennas at the time of application shall be processed in accordance with section 6409 of the Telecommunications Act, as the same may

be amended from time to time. Proposed collocations are not exempt from the requirements of the National Historic Preservation Act or the National Environmental Policy Act. Modification of an existing wireless tower or base station shall be permitted for eligible facilities when such modifications do not substantially change the originally permitted physical dimensions of such existing tower or base station and meet all building, electrical, and fire code requirements. Eligible facilities meeting such requirements are defined as the following:

1. Collocation of new transmission equipment; or
2. Removal of transmission equipment; or
3. Replacement of transmission equipment.

For purposes of this chapter, modifications shall not be deemed to substantially change the physical dimensions of such tower or base station if they do not increase the originally permitted tower height by more than ten percent (10%) or the height of the originally permitted antenna array plus twenty (20) feet, whichever is greater; or do not add more than four (4) new equipment cabinets or one (1) new shelter; or protrude more than twenty (20) feet or the originally permitted width of the tower, whichever is greater; do not necessitate excavation outside existing leased or owned-property and any current easements, and do not change a camouflaged facility to a non-camouflaged facility.

Section 20.465.040 Permit Procedures for Telecommunications Facilities

- A. **Building Permit.** Telecommunication facilities allowed by right per the standards of this chapter shall require a building permit subject to compliance with all provisions of this chapter and all of the development standards of the Zone.
- B. **Application Review.** Each telecommunications facilities permit shall require the equivalent of a Site Development Plan Review (Chapter 20.525) and payment of a fee for all telecommunications facilities allowed by right prior to issuance of a building permit. The City may use a telecommunications consultant to facilitate the review of the application. The fees paid by the applicant shall be used to cover the costs of the telecommunications consultant for review of the application as well as any other costs incurred by the City in processing the application. Site Development Plan Review is intended to ensure that the proposed telecommunications facility by right meets the requirements and standards set forth in this chapter and underlying Zone. Neither public notice nor a public hearing shall be required as part of the Site Plan Review for an administrative use permit for a telecommunications facility by right.
- C. **Telecommunications Facilities in the Public ROW.** When the installation of a telecommunications facility shall include work in the public ROW, the applicant shall obtain, and pay all deposits and fees associated with obtaining, an encroachment permit from the City's Engineering Division, a ROW permit from the City's Public Works Department, and a building permit from the City's Building Division.
 1. Antennas mounted on streetlights or traffic signals shall require a License Agreement and approval by the City Attorney.

Section 20.465.050 Standards for Telecommunications Facilities

All telecommunications facilities allowed by right shall meet the following standards:

- A. Telecommunications facilities not located in the public ROW shall be:
 - 1. Enclosed within new or existing structures and/or otherwise concealed or shielded from public view to the full extent technically feasible;
 - 2. Architecturally consistent with the new or existing structure and designed to meet the definition of “Camouflaged Facility” in chapter 20.600 (Definitions).
 - 3. For facilities mounted on buildings, the accessory equipment shall be inside the building, on the roof the building that the antennas are mounted on, or in a structure that is architecturally compatible with the main structure.
 - 4. For accessory wireless equipment, screening should be accomplished by locating the equipment within a fully enclosed building or in an underground vault, except as outlined in Section 20.465.050(E).
 - 5. For above ground installations that are not within a fully enclosed building, screening shall consist of walls, landscaping, or walls combined with landscaping to effectively screen the facility.
 - 6. For collocation on existing telecommunications facilities, the permit date shall be co-terminous with any existing permit.
- B. Telecommunications facilities located in the public ROW shall be located underground to the full extent allowed by applicable Public Utilities Commission regulations and to the full extent technically feasible including exhaust and intake valves that are not required to be above ground for technical reasons.
- C. In the event that a telecommunications facility is not concealed from public view and/or is not placed underground because it was not technically feasible to do so when the permit was issued for such telecommunications facility, an applicant shall take such actions as are necessary to place such telecommunications facility underground when it becomes technically feasible to do so or to conceal such telecommunications facility from the public view by methods including landscaping and other screening measures.
- D. Antennas located in the public ROW or on streetlights or traffic signals shall be limited to small equipment components that are compatible in scale and proportion to street lights and traffic signals and the poles they are mounted on. The antenna facilities shall not impose operational or maintenance restrictions to the streetlight or traffic signal.
- E. To the extent that San Diego Gas & Electric (SDG&E) does not allow the placement of facilities and/or equipment supporting telecommunications facilities attached to SDG&E utility poles to be located underground, such facilities and/or equipment may be located above ground. In the event that SDG&E changes its policies regarding undergrounding, all applicants shall promptly take such actions as are necessary to place such facilities and equipment underground.

- F. All telecommunications facilities shall be painted to blend in with existing structures and surroundings. The paint shall be maintained in good condition.
- G. All applicants shall perform maintenance, including graffiti removal, on all of their telecommunications facilities within seventy-two (72) hours after receipt of notice from neighbors and/or the City of the need for such maintenance. Notwithstanding the foregoing, in the case of an emergency, an applicant shall perform maintenance on a telecommunications facility immediately.
- H. In all cases where a telecommunications facility is to be located on property or a facility not owned by the City, an applicant must have the written agreement of the property and/or facility owner that:
 - 1. The telecommunications facility may be installed on the property and/or facility;
 - 2. The applicant shall have legal access to the telecommunications facility at all times to perform necessary maintenance; and
 - 3. That the applicant shall have legal access to the utilities necessary to operate and maintain the telecommunications facility.

Except as provided in section 20.465.050 (D), utilities for all such telecommunications facilities shall be constructed underground and/or enclosed within camouflaged facilities.

- I. Under no circumstances shall the City be required to approve the installation of more than one (1) telecommunications facility on any streetlight or traffic light unless the City deems it technically and aesthetically feasible, in its discretion, to do so. Nothing in this section is intended to or shall require the City to approve the installation of new utility poles.
- J. Under no circumstances shall the City be required to 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 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 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 shall be made at the applicant's sole cost and expense. Additionally, the primary purpose or use of City facilities shall remain the function for which they were initially constructed, and the installation of any telecommunications facility thereon shall be a secondary use or purpose.
- K. Prior to the issuance of a permit, the applicant shall furnish proof to the City of the posting of a bond in favor of the City, with a corporate surety approved by the City and in the sum specified in the permit, that would cover the costs of removal of all of applicant's telecommunications facilities within the City in the event that the applicant no longer pays rent and/or energy costs and/or in the event that the applicant no longer uses the telecommunications facility. Such bond shall cover the costs necessary to remove some vaults and to fill in other vaults, as determined by the City to be appropriate and consistent with the City's health and safety requirements. Such

bond will be accompanied with plans showing the dimensions of the facilities for which the bond is being submitted.

- L. Prior to the issuance of a permit, the applicant shall either furnish proof to the City of the posting of a bond in favor of the City, with a corporate surety approved by the City, or make a cash deposit with the City, either of which shall be in an amount that is specified in the permit as necessary to cover the costs of landscape maintenance of the telecommunications facility for the time periods set forth in section 20.465.050 (T), below. In the event that the Director extends the landscaping monitoring and maintenance period as provided in section 20.465.050 (T), the bond or cash deposit required by this section shall also be extended.
- M. With regard to any bond required to be posted under this section, the corporate surety must be authorized to issue such bonds in the State of California, and the bond must be obtained and secured through an authorized agent in the County of San Diego. All such bonds must include provisions for increasing the bond amount by a reasonable amount over time and for increasing the bond amount in the event that the number of telecommunications facilities covered by an existing bond increases over time.
- N. An applicant shall remove any telecommunications facility including, without limitation, foundations and appurtenant ground wires, from a site and the site shall be restored to its original pre-installation condition, within one hundred eighty (180) days of cessation of operation or abandonment of the telecommunications facility. A facility shall not be deemed abandoned upon the expiration of this one hundred eighty (180)-day period if the applicant notifies the City in writing prior to the expiration of the one hundred eighty (180) days of its intent to use the facility or to remove the same within one (1) additional six (6)-month period. In no event shall abandonment of a facility be stayed or tolled under this Section for a period in excess of one (1) year. On the removal of abandoned facilities, the applicant/operator shall notify the City within one hundred eighty (180) days prior to terminating the operation of the facility, or as soon thereafter as is practicable. Notification shall be in writing and shall include a reference to the Administrative Use Permit number and address location of the facility.
- O. The installation of any telecommunications facility shall not create or cause a violation of the ADA, and shall be compliant with all applicable building and electrical codes as well as the latest iteration of the tower safety code, the terms and provisions of which are incorporated herein by reference.
- P. Upon application, telecommunications carriers shall provide a theoretical assessment of compliance with all applicable Federal Communications Commission (FCC) radio frequency (RF) guidelines, incorporating all maximum permissible exposure limits. Following installation and activation of the facility, telecommunications carriers shall provide an actual assessment to verify compliance with all applicable FCC RF guidelines.
- Q. Upon receipt of sufficient public expression of concern that a telecommunications facility does not comply with existing RCC RF guidelines, the City may use the services of an independent

- radio frequency engineer to verify, at the telecommunications carrier's expense, the facility's compliance with federal guidelines.
- R. No above-ground telecommunications facility shall be located or placed in the path of public trails. Above-ground telecommunications facilities to be located adjacent to a public trail must be located so that they do not impede public use of and access of the public trail.
- S. In the event a road improvement project requires a permitted telecommunications facility to be moved, such telecommunications facility shall be moved at the applicant's sole cost and expense and shall be placed underground to the full extent technically feasible. Notwithstanding the foregoing, in the event that a road improvement project is initiated by a person other than the City or the applicant, such person must move the telecommunications facility at its sole cost and expense. In addition to the foregoing, in the event that a service interruption would occur during the time period that a telecommunications facility is being moved, a temporary telecommunications facility may be installed for a period not to exceed ninety (90) days, which may be extended for an additional ninety (90) days upon application to the Director demonstrating the necessity for the extension to avoid disruption of service, provided that all of the requirements for installing a telecommunications facility by right or a telecommunications facility requiring a CUP, as applicable, are met. Further extensions can be granted upon application to the Director and demonstration of the necessity therefore, particularly in cases of damage to telecommunications facilities resulting from natural disasters.
- T. An applicant shall provide plans and specifications, including materials and color specifications and full construction details, for any proposed telecommunications facility to the level of detail required by the Planning Division. Upon construction of any telecommunications facility, the applicant shall provide an as-built plan to the City. All plans required under this chapter shall be prepared and signed by a California Licensed Engineer or Architect in accordance with the California Business and Professions Code.
- U. An applicant shall modify plans for a new telecommunications facility to the satisfaction of the Director to incorporate noise attenuation measures in order to meet the requirements of the City's General Plan and the City's Noise Ordinance (Chapter 10.24 of the Municipal Code). Such noise attenuation measures may be supplemented or modified over time to accommodate technological advances in the field of noise suppression.
- V. An applicant shall provide landscape and irrigation plans for the site of any proposed telecommunications facility, including a permanent source of irrigation for the site, if irrigation of the site is necessary and there is a feasible water source for the site that can be metered. All proposed landscaping shall be consistent with the surrounding area or community character and shall mitigate the visual impact of the telecommunications facility. Said landscape plans shall contain a mixture of shrubs, vines, and ground cover. An applicant shall monitor and maintain any such landscaping for a period of one (1) year following its installation, and the applicant shall promptly replace any plantings that do not survive. The Director shall have the ability, in his/her sole discretion, to extend the landscaping monitoring and maintenance period to two (2) years in

- the event that the landscaping is not healthy and vigorous at the end of the initial one (1)-year period. In no event shall the City be responsible for the maintenance of landscaping.
- W. An applicant shall provide a traffic control plan for construction and/or maintenance of a telecommunications facility to the Engineering Division as part of any encroachment permit process and to the Public Works Department as part of any excavation permit process.
- X. An applicant shall pay all applicable public facilities fees as required by City Ordinance prior to the issuance of any permit.
- Y. An applicant shall pay all applicable development fees or permit fees as required by City Ordinance prior to the issuance of any permit.
- Z. An applicant shall submit separate petitions to annex into and establish with respect to the property where the telecommunications facility is to be located, the special taxes levied by the following Community Facilities Districts:
1. CFD 98-01, Police
 2. CFD 2001-01, Fire and Paramedic
 3. CFD 98-02, Lighting, Landscaping, and Open Space
- AA. No permit will be issued without receipt of an executed petition for annexation, and consent and waiver executed by the property owner, for each of the above-referenced CFDs and establishment of the special taxes:
1. The applicant/property owner shall comply with all rules, regulations, policies, and practices established by the City with respect to the CFDs including, without limitation, requirements for notice and disclosure to future owners or residents; OR
 2. The applicant may, in lieu of annexing into the CFDs for Police (CFD 98-01); Fire and Paramedic (CFD 2001-01); and Lighting, Landscaping, and Open Space (CFD 98-02), pay the special taxes as a fee.
- BB. The telecommunications facility shall comply with all applicable current and future FCC regulations. It shall be the responsibility of the applicant to contact the City acknowledging any changes in the regulations that would affect the telecommunications facility.
- CC. The installation of the telecommunications facility shall comply with the provisions of the latest adopted Uniform Building and Electrical Codes as well as with the California Building Code, Part 2, Title 24, California Code of Regulations.
- DD. The applicant shall comply with all City standards and requirements for excavation and grading, as established by City Ordinance, whether or not such work is performed in the public ROW.
- EE. If a telecommunications facility is to be placed outside the City ROW, the City may impose conditions to mitigate the environmental impacts of the facilities in a manner consistent with CEQA.

Section 20.465.060 Antenna and Communication Facilities

- A. Transmitting and/or receiving antennas for non-public use shall not exceed a maximum height of the applicable Zone.
- B. Antennas shall conform to the location requirements of chapter 20.410 (Second Dwelling Units and Accessory Structures).

Section 20.465.070 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 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 therefrom, 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 20.465.080 Non-Enforcement by the City

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

Section 20.465.090 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 not by right (pursuant to section 20.465.030 [Telecommunications Facilities by Right] of this Zoning Ordinance) may be made by the carrier or any person having an interest in the property that is the subject of the decision, as provided in Chapter 20.545 (Appeals and Revocations). All appeals related to a decision made through the CUP process shall be consistent with the standards and process of chapter 20.545 (Appeals and Revocations).

"ATTACHMENT B"

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
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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 of functionally equivalent services 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. Encourage the deployment of smaller, less intrusive wireless facilities to supplement existing larger wireless facilities.

- ED.** 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 residential and agricultural areas in the City.
- DE.** Effectively manage Wireless Telecommunications Facilities in the public ~~Right of Way~~ right-of-way.
- EF.** Manage Amateur Radio Facilities and Over-the-Air Receiving Devices in the City.
- FG.** Comply with applicable state and federal laws.
- GH.** 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.

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~~ 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"), except as provided for in 20.465.130.
 - 3. Except as provided for in 20.465.130, Over-the-Air-Receiving Devices, as defined in 20.645.180

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~~ 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.
- 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.
 - 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 carrier's network coverage and there are no less intrusive alternative means to close that significant gap.
 - 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 nature of uses on adjacent and nearby properties
 - e. Surrounding topography and landscaping
 - f. Quality and compatibility of design and screening
 - g. Impacts on public views and the visual quality of the surrounding area
 - h. Availability of other facilities and buildings for collocation

Section 20.465.040 General Regulations for Wireless Telecommunications Facilities

The following regulations 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.

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~~ 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. If the proposed Wireless Telecommunications Facility exceeds the underlying zone's maximum height, this information and supporting documentation justifying the proposed height must be submitted with the application, as well as the same supporting documentation with the proposed Wireless Telecommunications Facility constructed to the underlying zone's maximum height. Where applicable, landscaping (such as dense tree growth) or other measures to minimize visual impacts to screen the ~~wireless telecommunications facility~~ Wireless Telecommunications Facility must be incorporated into the ~~wireless telecommunications facility~~ Wireless Telecommunications Facility design.

C. **Prohibited Designs:**

1. Non-camouflaged Wireless Telecommunications Facilities are prohibited in every zone, except as provided in 20.465.050.A.
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.
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~~ right-of-way.

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 must be avoided. Collocation and/or clustering 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 and agricultural areas, no more than two (2) collocated Wireless Telecommunications

Facilities may be permitted on any existing Wireless Telecommunications Facility. The maximum number of Wireless Telecommunications Facilities identified below include any combination of collocated and/or stand alone facilities. Within Residential and Agricultural zones and areas, the following provisions apply:

Parcel Size	
Less than 1.0 acre	A WTF should not be located on a parcel this size
Between 1.0 – 5.0 acres	No more than one (1) WTF
Between 5.1 – 10.0 acres	No more than two (2) WTFs
Greater than 10.1 acres	No more than three (3) WTFs

The limitation of the number of Wireless Telecommunications Facilities identified in this Subsection may be modified 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 that significant gap by the installation of one or more Wireless Telecommunications Facility sites in areas of the City enumerated in 20.465.050.A, and/or by the installation of facilities such as Compact Cell facilities such as are typically located in the public right-of-way).

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.
- Setbacks. Wireless Telecommunications Facilities must comply with the following setbacks, measured from the property line of the subject property. For freestanding facilities, the setback must be measured from the part of the wireless telecommunications tower that is closest to the property line. 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.
- i. Residential Zones/Areas: Comply with the respective residential zone setback, except any freestanding Wireless Telecommunications tower located adjacent to a residential zone/area must be setback from the nearest residential property line equal to one hundred ten percent (110%) of the height of the wireless tower, or defined setback, whichever is greater;
 - ii. Agricultural Zones/Areas: A minimum of 100' from property line or one hundred ten percent (110%) of the height of the Wireless Telecommunications tower, whichever is greater;
 - 1-iii. All other zones: Comply with respective zone setbacks.

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

E. **Noise.** Noise levels generated by a ~~wireless telecommunications facility~~ 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~~ Wireless Telecommunications Facility design to comply with the City's noise standards. The Director may require an acoustical study if determined necessary based on the proposed design of the ~~wireless telecommunications facility~~ 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 warrant and represent~~ that it has the written agreement of the applicant and the owner of the property which is the subject of the application ~~for legal access to and from to legally access the wireless telecommunications facility~~ Wireless Telecommunications Facility and ~~that the applicant/operator must also warrant and represent that it~~ will have legal access to the utilities necessary to operate and maintain the ~~wireless telecommunications facility~~ Wireless Telecommunications Facility.

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~~ Wireless Telecommunications Facilities should be located in the following zones and areas that are the most appropriate location, which are listed in order of 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~~ right-of-Way ~~way~~ (camouflaged design) – All Zones
5. Public right-of-way (non-camouflaged design) – All Zones
- 5-6. ~~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)~~
- 6-7. ~~Industrial Zones and Business Park Zone (WTFs~~ Wireless Telecommunications Facilities are limited to developed sites/parcels in the Transitional Zones)
- 7-8. ~~Commercial Zones (except the Senior Residential zone)~~
- 8-9. ~~Specific Plan Areas that include land use regulations for Wireless Telecommunications Facilities, which regulations shall be applied to applications for proposed~~ Wireless Telecommunications Facilities
- 9-10. ~~Mixed Use Zones~~

~~10-11.~~ 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

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~~ Wireless Telecommunications Facility sites in areas of the City not enumerated below, and/or by the installation of facilities such as Compact Cell facilities that are typically located in the public right-of-way.

1. Residential and Agricultural zones and areas, including Residential Manufactured Home Park zone (except as noted in 20.465.050A (~~encouraged-preferred~~ 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.

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

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 including, but not limited to Compact Cell facilities within the public right-of-way, 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-Wireless Telecommunications Facility~~ 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-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 what the project would look like at its proposed location and from surrounding 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 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-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 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.
 8. Identify proposed height of the ~~wireless-telecommunications-facility-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.
 9. Noise Information. Information submitted with the Initial Study must include manufacturer's specifications for all ~~noise producing~~ equipment (including ~~without limitation~~ air conditioning units and back-up generators ~~whether permanent or temporary~~) 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. Applicant must submit documentation that it will have legal access to the subject parcel.
 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 20.465.050B, 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.
 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. The applicant must pay all fees incurred for the City's expert consultant services prior to the public hearing or administrative decision, whichever is applicable to the application process.
 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~~ Wireless Telecommunications Facility is not visible from the public ~~right-of-way~~ right-of-way, the applicant must install, at its cost and expense, a "Notice of Permit Application" sign within the public ~~right-of-way~~ 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. All Wireless Telecommunications Facility permit applications are subject to a presubmittal meeting with the Planning Division.
- 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.

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~~wireless telecommunications facility~~ applications.

A. Design and Development Standards for all facilities.

- ~~1. All facilities 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).~~
- ~~2.1.~~ All facilities 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~~wireless telecommunications facility~~ visually inconspicuous, to prevent the Wireless Telecommunications Facility~~wireless telecommunications facility~~ from dominating the surrounding area, and to hide the installation from predominant views from surrounding properties.
- ~~2.~~ All facilities must be designed to include camouflage design techniques except as provided in 20.465.050.A 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).
3. Creative and artistic designs, and the smallest size for the Wireless Telecommunications Facility~~wireless telecommunications facility~~ are ~~encouraged-preferred~~ 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 ~~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~~ Wireless Telecommunications Facility 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 Telecommunications Facility~~~~wireless telecommunication facility~~ is located in a City park, the wireless telecommunications facility must be designed and located in such a manner as to avoid adverse visual impacts. Such locations must use design techniques such as but not limited to, type of facility, camouflaging, screening, and landscaping.
 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 included 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~~~~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 must not impair pedestrian use of sidewalks, pedestrian pathways, nor inhibit equestrian or pedestrian activities on public or private trail systems and 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 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 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~~ 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~~ Right-of-Way Installations:

1. Location: Facilities must be designed to be as visually unobtrusive as possible and to minimize above-grade physical installations in the right-of-way. All antennas, mast arms, equipment, and other facilities must be sized to minimize visual clutter. Facilities must be sited to avoid or minimize the negative aesthetic impacts to the right-of-way. Antenna installations on traffic signal standards must be placed in a manner so that the size, appearance, and function of the signal will not be considerable altered. To

accomplish this goal, all Wireless Telecommunications Facilities must be designed with the intent of locating and designing such facilities in the following manner and order of preference (listed in order of preference):

a. Antennas

- i. On an existing utility pole;
- ii. On an existing street light or traffic signal standard;
- iii. On a new light-standard type utility pole or replacement street light pole.

b. Equipment

- i. Within a flush-to grade underground equipment vault;
- ii. In an existing ground-mounted (grade level) equipment cabinet, with no expansion or additional cabinets to be added;
- iii. Mounted on the subject pole;
- iv. Within a new equipment enclosure mounted at grade, however, this is strongly discouraged. Therefore, if the applicant proposes to mount new equipment at grade, a written explanation must be provided describing why no preferred mounting options are feasible.

c. Location:

- i. Within the public right-of-way which does not require the removal of existing trees, narrowing of sidewalks, reduction in the size of any landscape planters, and does not require any modifications to the existing location of any infrastructure within the public right-of-way;
- ii. Within the a landscaped public right-of-way area which requires only minor alterations to the landscaping and/or infrastructure;
- iii. Wireless Telecommunications Facilities (including antennas, equipment and related infrastructure) are prohibited in all center street medians, except when the City determines such installation will be the least intrusive means to provide coverage and the City determines sufficient space is available for such installation.

2. No new Wireless Telecommunication Facility may be installed in a public right-of-way where there are no overhead utility facilities unless the California Public Utilities Commission has authorized the applicant to install such facilities and then only if the applicant demonstrates by technically sufficient and conclusive proof that a new pole is the only means to provide coverage.

1-3. For ~~wireless telecommunications facility~~ Wireless Telecommunications Facilities proposed within the public ~~right-of-way~~right-of-way, the applicant must obtain and comply with encroachment permit and ~~right-of-way~~right-of-way permit from the City's Engineering Division ~~of the 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~~right-of-way. Additionally, the installation of Wireless Telecommunications Facilities in the public ~~right-of-way~~right-of-way shall be subject to and consistent with California Public Utilities Code §§ 7901 and 7901.1.

2-4. Every ~~wireless telecommunications facility~~ Wireless Telecommunications Facility to be mounted in whole or in part on City owned 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.

5. No part of a Wireless Telecommunications Facility shall alter vehicular circulation or parking within the right-of-way or impede vehicular, bicycle, or pedestrian access or visibility along the right-of-way. The Wireless Telecommunication Facility must comply with the Americans With Disabilities Act and every other local, state, and federal law and regulation. No permittee may locate or maintain a Wireless Telecommunications Facility in a manner that causes unreasonable interference. Unreasonable interference means any use of the right-of-way that disrupts or interferes with its use by the City, the general public, or other persons authorized to use or be present upon the right-of-way, when there exists an alternative that would result in less disruption or interference. Unreasonable interference includes any use of the right-of-way that disrupts vehicular or pedestrian traffic; any interference with public utilities; and any other activity that will present a hazard to public health, safety, or welfare.
- 3-6. Wireless Telecommunications Facilities must be located underground to the fullest extent possible. Underground vaults and vault covers must be rated for vehicular loading and employ flush-to-grade access portals.
- 4-7. Wireless telecommunications facility antennas must be attached to existing or replacement poles (such as a street lights pole, traffic signal standards, or public-utility pole) or other vertical structures already located in the right-of-wayright-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. For proposed new street light or utility pole installations, the The design of the utility pole or street light must be consistent with other utility poles or street lights in the same neighborhood to the maximum extent possible and must be located in such a manner to minimize potential visual and compatibility impacts with adjacent residential properties. All antennas and related equipment, where feasible, must be screened behind a cylindrical screening device and all must be painted or finished to match the pole. A street light or public utility pole installed to replace a pre-existing pole in the same location will be considered a new installation if the replacement pole has a larger diameter or taller than the pole it replaces). The location of new facilities should be avoided along the front yard or residential properties, if-to the greatest extent possible.
8. Equipment located above the surface grade in the right-of-way, including, but not limited to, that on streetlight or traffic signal standards must consist of small equipment components that are compatible in structure, scale, function, and proportion to the street lights and traffic signals on which they are mounted. Equipment must be painted or otherwise finished to be visually compatible with lighting and signal equipment.
- 5-9. 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, traffic signal, or any City owned structure -unless the City in its sole discretion deems it technically and aesthetically feasible, in its sole discretion, to do so.
- 6-10. Under no circumstances will the City be required to extend City facilities upon which telecommunications facilities can-may be located, including, without limitation, street lights, to areas where they currently do not exist. Such facilities shall be extended into areas where they currently do not exist only if the City in its sole discretion approves of such expansion and the applicant pays the full cost of the construction, installation, and ongoing maintenance, replacement, and operation (including electricity costs) of such 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 ~~Wireless telecommunications~~ Telecommunications facility Facility, such modification or retrofit must be made at the applicant's sole cost and expense. Additionally, the primary purpose or use of ~~City any such replacement pole, structure, or~~ facilities must remain as the primary function for which they were initially constructed, and the installation of any ~~Wireless telecommunications~~ Telecommunications facility Facility thereon must be a secondary use or purpose.

11. Height:
 - a. For proposed antennas on existing street lights or traffic signal standards, the antenna height cannot exceed the height of the existing street light or traffic standard more than four (4) feet.
 - b. Wireless Telecommunication Facilities proposed as new streetlights or utility poles must match the height and design of existing streetlights and/or utility poles in the same neighborhood.
 - c. All equipment located above any sidewalk or pedestrian or bicycle path must have a minimum vertical clearance of eight (8) feet or greater as required under CPUC General Order 95.
 - d. Multiple street light poles may be necessary to obtain the desired coverage.
- ~~7-12.~~ The antenna assembly must not exceed the height of the existing pole. Multiple street light poles may be necessary to obtain the desired coverage.
- ~~8-13.~~ Appropriate separation must be provided between existing utility poles and new- Wireless Telecommunications Facilities to avoid visual clutter and to maintain the existing community character of the surrounding neighborhood.
- ~~9-14.~~ Proposed wireless telecommunications facility antennas must be vertically mounted to the pole as close as technically feasible. Proposed collocated antennas on an existing Wireless Telecommunications Facility must use similar screening methods and camouflage techniques and be mounted in the same manner as the approved or existing Wireless Telecommunications Facility.
15. Panel antennas must be mounted to the pole or to an antenna mount and must not extend more than six (6) inches from the pole in any direction. For existing wood utility poles, a horizontal antenna mount cannot extend more than five (5) feet horizontally from the pole, except where greater extension is required to comply with health and safety regulations.
- ~~10-16.~~ Antennas and associated equipment 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.
17. ~~14.~~ 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.~~
18. Proposed facilities must be located and designed for co-location to the maximum extent feasible. There shall be no more than two (2) collocated facilities located on any utility pole, street light, or traffic signal.
19. No faux or otherwise nonfunctioning street lights, decorative elements, signs, clock towers, or artificial trees or shrubs or other nonfunctioning screening elements made to resemble other objects will be permitted in the public right-of-way.

F. Equipment Enclosures:

1. Base Station Equipment Location. ~~All base station equipment must be located within an existing building whenever feasible. If it is not feasible, the equipment must be completely enclosed within a solid-walled enclosure or building. Enclosures 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 area in order to minimize visibility. All base station equipment must be located in the following manner and order of preference (listed in order of preference):~~
 - a. Underground if feasible;
 - b. Within an existing building whenever feasible;
 - c. Within a new building;
 - d. Within a solid-walled enclosure.
2. Height and Camouflage Design of Equipment Enclosures:
 - a. Enclosures may not exceed ten (10) feet in height as measured from the base of the foundation unless a greater height is required to maximize architectural integration.
 - a.b. Any visible fencing, GPS antenna, or other similar ancillary equipment must be painted and textured to match the surrounding area in order to minimize visibility.
3. Operational Standards:
 - 2.a. 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 the equipment enclosure must be architecturally compatible with the surrounding environment and structures.
4. Screening of Equipment:
 - 3.a. All equipment (including support structures, mounts, equipment) must be screened from 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 must be maintained in good working condition and 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~~ Wireless Telecommunications Facilities located in residential and agricultural zones or within 100 feet of a residential zone and agricultural zones may only be conducted ~~may be conducted only~~ during the hours of 8:00 AM and 5:00 PM Pacific Time 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.

- 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 or hand-set timer. 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. The hand-set timer must automatically turn off the security lighting no more than sixty (60) minutes after setting.
- H. **Noise.** All noise producing equipment ~~(such as emergency associated with a Wireless Telecommunications Facility (including without limitation temporary and permanent power 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 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 or replaced from time to time, must submit to the City, at its own cost and 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.

- J. **Performance Bond.** Prior to issuance of a building permit or encroachment permit, the applicant or owner/operator of the wireless telecommunications facility 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).

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~~ A Wireless Telecommunications Facility 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 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 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.

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 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.

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.

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 are not be~~ transferrable, unless the transferee would on its own qualify for the same permit, 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.
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 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 carrier or any person having an interest in the property that is the subject of the decision, as provided in Chapter 20.545 (Appeals and Revocations). All appeals 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 20.465.170 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

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 wireless telecommunications. ~~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:

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 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 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 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 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, topography, vegetation, etc.) to screen, disguise, camouflage, or hide the wireless telecommunications facility.

4.5. Utilizing simulated natural features such as trees or rocks.

5.6. 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 light poles.

City means City of San Marcos, California.

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

Compact Cell means a Wireless Telecommunications Facility with a single Base Station that occupies no greater than eight cubic feet and utilizes three (3) or fewer antennas each occupying no greater than three (3) cubic feet.

Drive Test means a test of the actual over-the-air reception of radio frequency signals measuring and recording signal strength by geographic location performed within the area to be served by a particular proposed Wireless Telecommunications Facility and conducted specifically for the purpose of the application within three months prior to the submission of the application. A computer-based projection of radio frequency signal strength is not a Drive Test.

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.

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 carriers 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~~ Wireless Telecommunication Facility addresses a significant gap in 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~~ Wireless Telecommunications Facility on the site, pole, tower, or other structure of an existing personal Wireless Telecommunications Facility ~~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 Telecommunications Facility ~~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, 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~~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 or term. Provided that neither the Act nor case law construing it requires otherwise, the following guidelines ~~must~~ are to be used to identify such a significant gap:

1. A significant gap may be demonstrated by In-Kind Call Testing- Or a Drive Test conducted by the applicant.
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.~~ i. The number of people affected by the asserted gap in service;
- ~~ii.~~ ii. **The geographic area of the asserted gap in service;**
- ~~iii.~~ iii. Whether a wireless communication facility is needed to merely improve weak signals or to fill a complete void in coverage.

SMMC means San Marcos Municipal Code.

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.

Unreasonable interference (within the public right-of-way) means any use of the right-of-way that disrupts or interferes with its use by the City, the general public, or other persons authorized to use or be present upon the right-of-way, when there exists an alternative that would result in less disruption or interference. **Unreasonable interference includes without limitation any use of the right-of-way that disrupts vehicular or pedestrian traffic; any interference with public utilities; and any other activity that will present a hazard to public health, safety, or welfare.**

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, micro-cell ~~antennae~~ **antennas** 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.

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