

PROJECT NUMBER / NAME: AZ 19-0001 / Wireless Communication Facilities Regulations

REQUEST: A proposed amendment to Article 34 (Communication Antennas Ordinance) of the Escondido Zoning Code to update the requirements for wireless communication facilities within the right-of-way. The amendment includes an update to the entitlement process to streamline deployment of 5G networks and simplified language to be consistent with Federal Communications Commission Order. The proposal also contemplated new guidelines for wireless communications facilities in the public right-of-way which will be brought forth at a future date, as well as the environmental determination prepared for the project. No development project is proposed.

LOCATION: Citywide

APPLICANT: City of Escondido

APN / APNS: N/A

PRIMARY REPRESENTATIVE: Planning Division

GENERAL PLAN / ZONING: N/A

DISCRETIONARY ACTIONS REQUESTED: Zoning Code Amendment and adoption of Guidelines

PREVIOUS ACTIONS: Planning Case No. AZ 19-0001

PROJECT PLANNER: Adam Finestone, Principal Planner
afinestone@escondido.org

CEQA RECOMMENDATION: Exempt (CEQA Guidelines Section 15061(b)(3)).

STAFF RECOMMENDATION: Provide a recommendation to City Council to approve the Project

REQUESTED ACTION: Approve Planning Commission Resolution No. 2019-02

CITY COUNCIL HEARING REQUIRED: YES NO

REPORT APPROVALS: Bill Martin, Community Development Director
 Mike Strong, Assistant Planning Director

A. BACKGROUND:

The City Council adopted Ordinance No. 2017-10R on June 21, 2017, approving an amendment to Article 34 (Communication Antennas Ordinance) of the Escondido Zoning Code. The June 14, 2017 City Council Staff Report, which introduced the ordinance for adoption, suggested monitoring the effectiveness of the Communications Antennas Ordinance and returning to City Council within two (2) years to address any modifications that may be necessary to keep up with the changing industry. Furthermore, the Federal Communications Commission (FCC) also adopted a declaratory ruling and order on September 26, 2018 that dramatically preempts local authority on the siting of personal wireless communication facilities. Among other things, the new rule: 1) shortens the time cities have to process applications for small communication facilities to either 60 days or 90 days, depending on whether they are being mounted on an existing or new structure; and 2) limits aesthetic review and requirements to those that are reasonable, comparable to requirements for other rights-of-way users, and published in advance. The effective date of the new FCC rules was January 14, 2019, which didn't give cities a great deal of time to respond. The recent FCC order is provided at the link below.

External link: <https://docs.fcc.gov/public/attachments/FCC-18-133A1.pdf>

With the recent FCC order, and as cities navigate this rapidly-changing policy issue, there is an urgent need and responsibility to update the local regulations (contained in Article 34) and establish clear guidelines to plan for, develop processes around, and manage the deployment of small wireless facilities and the infrastructure necessary to support it throughout the city. The proposed Zoning Code Amendment largely simplifies local requirements and helps ensure that our approach to wireless infrastructure deployment promotes buildout of the facilities needed to provide 5G services citywide. The proposed Zoning Code Amendment is provided as an attachment to draft PC Resolution 2019-02.

The draft Guidelines were originally anticipated to be presented to the Planning Commission along with the proposed Zoning Code Amendment. However, staff has determined that, prior to presenting them to the Commission, additional revisions and refinements to the Guidelines are necessary based on recent conversations with wireless carriers and consultation with city staff from other local jurisdictions. It is anticipated that the draft Guidelines will be presented to the Planning Commission for consideration in March, after which time both the proposed Zoning Code Amendment and the draft Guidelines will be presented to City Council, likely in March or April.

B. PROJECT ANALYSIS:

1. General Plan / Zoning

The City Council adopted Ordinance No. 2017-10R on June 21, 2017, approving an amendment to Article 34 (Communication Antennas Ordinance) to anticipate the demand for new wireless communication facilities and support some of the advantages of wireless communication including flexibility, constant connectivity, and enhanced efficiency. The new FCC declaratory ruling and

report and order enacts new preemptions of local authority on wireless facility deployment and management of local public right-of-way. The proposed Zoning Code Amendment and supporting guidelines help Escondido prepare for expanded 5G deployment, pursuant to that FCC order.

The proposed Zoning Code Amendment would be consistent with the existing General Plan Goals and Policies to provide for quality communication systems. The basis of establishing and updating, as necessary, local standards and guidelines for communication antennas within the public right-of-way is to ensure that residents, public safety operations, and businesses have reliable access to wireless telecommunications networks, while also ensuring that this objective is accomplished according to zoning and planning standards. To accomplish the above stated objectives (and to ensure that the placement, construction or modification of wireless telecommunications facilities complies with all applicable Federal laws and land use policies), the proposed amendments to Article 34 establishes a more customer-focused government that delivers efficient and effective services. The proposed Zoning Code Amendment and supporting Guidelines would:

- Provide new definitions of different types of wireless facilities and define the standards and criteria for the deployment of new facilities regarding height, location, bulk and size, and other characteristics of wireless communication facilities;
- Identify preferences in design and aesthetic standards for wireless communications facilities;
- Provide new requirements that clearly identify and prioritize the types of structures on which a wireless communication facility may be placed;
- Outline City requirements for a revised review process and submittal procedures for the various types of wireless communications facilities;
- Revise findings for approval of wireless communication facilities; and
- Create an administrative process for the review of a majority of wireless communication facilities consistent with federal laws and regulations.

The proposed Zoning Code Amendment is intended to ensure that the City of Escondido facilitates sufficient wireless infrastructure and access to reliable wireless communications services throughout all areas of city. The proposed Zoning Code Amendment represents the first step towards updating or local regulations to support 5G deployment. The proposed Zoning Code Amendment will be supplemented with new Guidelines described above.

C. ENVIRONMENTAL STATUS:

The proposed project is categorically exempt from environmental review in conformance with CEQA Section 15061(b)(3). The activity is covered by the general rule that exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. Approval of the proposed amendment to the Escondido Zoning Code would not individually or cumulatively result in the possibility of creating significant effects on the environment because the proposed amendment to the Zoning Code (Article 34) only establishes an update to established

criteria that in turn would be utilized to assess and process applications for the development of wireless communication facilities within the public right-of-way. The proposed Zoning Code Amendment is not a “physical condition” that will impact the environment for the purposes of CEQA. Therefore, the proposed Zoning Code Amendment is not subject to CEQA under the General Rule and no further environmental review is necessary.

D. CONCLUSIONS:

The Planning Commission has the authority under Section 33-1262 of Article 61 of the Escondido Zoning Code (Administration and Enforcement Ordinance) to review and consider amendments to the Zoning Code, which requires a Planning Commission recommendation to City Council. No other discretionary permits are requested or required.

The proposed project is consistent with the General Plan and helps position Escondido to establish a clear process to plan for, develop processes around, and manage the deployment of small wireless facilities throughout the city.

ATTACHMENTS:

1. Draft Planning Commission Resolution No. 2019-02

ATTACHMENT 1

Planning Commission
Hearing Date: February 12, 2019
Effective Date: N/A

PLANNING COMMISSION RESOLUTION NO. 2019-02

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ESCONDIDO, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE AN AMENDMENT TO ARTICLE 34 (COMMUNICATION ANTENNAS) OF THE ESCONDIDO ZONING CODE TO MODIFY THE REGULATIONS FOR WIRELESS COMMUNICATION FACILITIES WITHIN THE PUBLIC RIGHT-OF-WAY

APPLICANT: City of Escondido

CASE NO: PHG 19-0001

WHEREAS, the Planning Commission of the City of Escondido did, on February 12, 2019 hold a Public Hearing to consider a request to amend Article 34 of the Escondido Zoning Code.

WHEREAS, the following determinations were made:

1. That a notice was published and mailed as required by the Escondido Zoning Code and applicable State law.
2. That the application was assessed in conformance with the California Environmental Quality Act and that the proposed amendment to the Escondido Zoning Code is exempt from environmental review pursuant to General Rule, Section 15061(b)(3) of the CEQA Guidelines since there would be no possibility of a significant effect on the environment.

3. That a staff report was presented discussing the issues in the matter.
4. That a Public Hearing was held and that all persons desiring to speak did so.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Escondido:

1. That the above recitations are true and correct.
2. That the Planning Commission, in its independent judgement, finds that the proposed amendment to the Escondido Zoning Code is exempt from environmental review pursuant to General Rule, Section 15061(b)(3) of the California Environmental Quality Act Guidelines.
3. That the Factors to be Considered, attached as Exhibit "A" and incorporated herein as though fully set forth, were made by said Commission and issued as facts found to be true and supported by evidence.
4. That, considering the request to amend the Escondido Zoning Code and applicable law, the Planning Commission hereby makes a motion to RECOMMEND CITY COUNCIL APPROVAL of said amendments, attached as Exhibit "B."

PASSED, ADOPTED AND APPROVED by a majority vote of the Planning Commission of the City of Escondido, California, at a regular meeting held on the 12th day of February, 2019, by the following vote, to wit:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAINED: COMMISSIONERS:
ABSENT: COMMISSIONERS:

JAMES SPANN, Chairman
Escondido Planning Commission

ATTEST:

MIKE STRONG, Secretary of the
Escondido Planning Commission

I hereby certify that the foregoing Resolution was passed at the time and by the vote above stated.

KIRSTEN PERAINO, Minutes Clerk
Escondido Planning Commission

Decision may be appealed to City Council
pursuant to Zoning Code Section 33-1303

EXHIBIT “A”

FACTORS TO BE CONSIDERED/FINDINGS OF FACT AZ 19-0001

Zoning Code Amendment

1. Approval of the amendment to Article 34 (Communication Antennas) will not be detrimental to the public health, safety, or welfare or injurious to the property or improvements in the zone or vicinity in which the property is located because Personal Wireless Communication Facilities currently are allowed within the public right-of-way in all zones throughout the City. The City Council adopted Ordinance No. 2017-10R on June 21, 2017, approving an amendment to Article 34 (Communication Antennas Ordinance) of the Escondido Zoning Code. The June 14, 2017 City Council Staff Report, which introduced the ordinance for adoption, suggested monitoring the effectiveness of the Communications Antennas Ordinance and returning to City Council within two (2) years to address any modifications that may be necessary to keep up with the changing industry. The proposed amendment re-examines the efficiency of the existing Ordinance, and proposes minor technical changes. No development project is proposed as part of this amendment.
2. The properties/zones involved are suitable for the uses permitted and would not be detrimental to surrounding properties because the public right-of-way can adequately accommodate wireless communication facilities and the amendment only includes appropriate development standards and processing requirements to evaluate the appropriateness of a proposed wireless facilities within the public right-of-way.
3. Escondido's economy relies on innovation and providing job opportunities for the City's residents. Ubiquitous, high speed mobile broadband is proven to have a significant impact on economic competitiveness and social prosperity. The proposed amendment would be consistent with General Plan Goals and Policies that call for a “Diverse and Economically Prosperous Economy” that address the need to provide broad economic prosperity and support for businesses of all sizes. General Plan Mobility and Infrastructure Goals (Goal 7, page I-19 and Telecommunication Goal 7, page III-51) call for providing quality communication systems that enhance economic viability, governmental efficiency and equitable access for all. The proposed amendment also is consistent with General Plan Economic Prosperity Goals (Goal 9, page I-21) to provide adequate infrastructure to support and maintain the economic vitality of Escondido businesses. Telecommunication Policy 17.8 requires compatible colocation of telecommunication facilities that are designed in a manner to minimize visual impacts

on surrounding uses, and Telecommunication Policy 17.9 encourages the City to work with utility companies to provide opportunities for siting telecommunication facilities on city-owned property and in the public right-of-ways.

4. The proposed Zoning Code Amendment is exempt from environmental review in conformance with CEQA Guideline Section 15061(b)(3). The activity is covered by the general rule that exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment.
5. The proposed zoning code amendment would not affect any specific plans.

EXHIBIT "B"

DRAFT ZONING CODE AMENDMENT PHG 19-0001

Sec. 33-702. Definitions.

(a) For the purposes of this article, 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.

ANSI means the American National Standards Institute.

Antenna means the same as defined in 47 C.F.R. § 1.6002(b), as may be amended.

Camouflaged or Stealthy means a personal wireless service facility ~~or small wireless facility~~ that is disguised, hidden, integrated into the architecture of an existing or proposed structure or placed within an existing or proposed structure, and designed to be compatible with the existing scale and pattern of development and/or characteristics of the site, as determined by the director of community development.

~~*Co-Location* means the use of a single mount on the ground by more than one carrier and/or personal wireless service 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.~~

Collocation means the same as defined in 47 C.F.R. § 1.6002(g), as may be amended.

EMF means electromagnetic fields, or the formation of electric and magnetic fields whenever electromagnetic energy moves from one point to another through electrical wires.

FCC means the Federal Communications Commission.

Fixed Wireless Service means a local wireless operation providing services such as local and long distance telephone, high-speed internet, and digital television to residential and business customers by means of a small equipment installation of less than thirty (30) inches in diameter (the "Remote Unit") on the exterior of each home or business that elects to use this service.

IEEE means the Institute of Electrical and Electronics Engineers.

NCRP means the National Council on Radiation Protection and Measurements.

~~*Personal Wireless Service* means any personal wireless service as defined by the Telecommunications Act, including but not limited to, commercial mobile radio services, unlicensed wireless services, common carrier wireless exchange access services, 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 and similar systems which exhibit similar technological characteristics.~~

Personal Wireless Service means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended.

~~Personal Wireless Service Facility~~ means any component for the provision of personal wireless service including all related equipment, buildings, structures, and improvements.

Personal Wireless Service Facility means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended.

Power Density means the measures of a wave's total energy as a function of its distance from its

source (generally measured in milliwatts per square centimeter or mW/cm²) as defined by the FCC.

RF means radio frequency or electromagnetic waves generally between 30 kHz and 300 GHz in the electromagnetic spectrum range.

RFR 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.

Satellite Dish Antennas means circular or saucer shaped antennas using parabolic or spherical reflecting surfaces, or similar antennas which are designed to transmit and/or receive communication signals from satellites.

Small Wireless Facility means a Personal Wireless Service Facility which:

(1) Is mounted on a structure 50 feet or less in height including their antennas, mounted on a structure which is no more than ten (10) percent taller than other adjacent structures, or does not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater; and

(2) has antennas no larger than three (3) cubic feet; and

(3) has associated wireless equipment which is cumulatively no larger than 28 square feet, including any pre-existing equipment; and

(4) does not require antenna structure registration; and

(5) is not located on tribal lands; and

(6) does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards.

Telecommunications Act means the Telecommunications Act of 1996.

Sec. 33-703. Personal wireless service facilities guidelines—Five general principles.

The following principles shall serve as general guidelines for the city's consideration of applications for personal wireless service facilities. Additional guidelines for small wireless facilities in the public right-of-way may be adopted pursuant to Section 33-704(k)(8).:

- (a) Height guidelines—Utilize lowest profile technology.

(1) Discourage further consideration of high-profile antenna installations (such as non-camouflaged towers and monopoles) on visually prominent sites. Personal wireless service facilities should be designed to be in scale with surrounding buildings and tree heights.

(2) Use existing structures as opposed to introducing new ones.

(3) Encourage facilities that meet the zone's height standards.

(4) Use landscaping (such as dense tree growth) or other measures to minimize visual impacts and screen the facility.

(b) Location guidelines—Avoid proliferations that create or compound undesirable visual impacts, but also encourage co-location, where appropriate.

(1) Encourage the use of commercial, and industrial, and public right-of-way sites whenever possible, and discourage the use of residential zones. Wireless communication facilities proposed to be located within residential zones/areas shall consider the following and submit a feasibility study to implement the following options before proposing a wireless facility on a residentially developed property:

(A) Residential zoned properties developed with nonresidential uses (i.e., schools, churches, parks, etc.);

(B) Public right-of-way (such as existing or new light pole or other utility structures).

(2) Encourage single sites utilizing stealth designs and latest technologies.

(3) Ensure full aesthetic integration of new facilities into the proposed locations.

(4) Ensure that the area covered by wireless facilities which are screened and landscaped to minimize visual impacts is large enough to incorporate appropriate visual screening methods.

(5) Ensure that proposed landscaping has permanent proper irrigation and maintenance.

(6) Require amended co-location language for facility leases on city-owned properties to include:

(A) Modification requirements as technology advances.

(B) Square foot minimums for leased lots to ensure proper buffering areas.

(7) Encourage co-location on existing sites where it is possible to avoid obtrusiveness, up to the point where a structure or site has too many antennae/structures and becomes visually cluttered.

(8) Ensure that the mass and scale of proposed facilities are not excessive in order to meet the carriers reasonable coverage objectives.

(c) Stealth technology guideline - Encourage creative, unobtrusive stealth technology.

(1) Encourage personal wireless service facilities to be camouflaged or integrated into or onto existing structures, wherever possible. When a personal wireless service facility extends above the roof height of a building on which it is mounted, the facility should be

concealed within or behind architectural features to limit its visibility from public ways. Facilities mounted on a roof should be stepped back from the façade in order to limit their impact on the building's silhouette and reduce visibility from adjacent public ways. 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 a parapet or architectural element that serves as a rooftop screen) as a precursor to the new wireless installation. Facilities which are façade-mounted should blend with the existing building's architecture, materials and colors.

(2) Require designs that are in scale and context with their surroundings.

(3) Encourage creative designs with the least visual impact and the use of microtechnology where possible.

(4) Encourage designs that mimic natural elements, and that are natural in appearance, by including:

(A) Natural colors applied in a natural-looking way.

(B) Inclusion of related forms and textures as they commonly would be found in nature.

(C) Antenna or facility elements formed in, clad by, or screened by natural-looking features.

(5) If a stealthy design is not feasible, proposed facilities shall be surrounded by buffers of dense landscaping including tree growth of sufficient width, height and understory vegetation to create an effective year-round visual buffer. Permanent irrigation shall also be provided.

(d) Older facility guidelines—Encourage older facilities to upgrade using less obtrusive technology.

(1) Require facility upgrade when leases on City-owned property are up for renewal.

(2) Facility modifications should incorporate the latest technology consistent with this article.

(e) Emissions guidelines—Ensure that emissions do not exceed federal thresholds.

(1) Require that every installation meets all Federal Radiation Standards to ensure public health, including NCRP, ANSI/IEEE and FCC standards and guidelines.

(2) Require that each facility owner adhere to all Federal (FCC) emission testing stipulations and timetables.

Sec. 33-704. Personal wireless service facilities—Development and operating standards.

The following operating standards shall apply to all personal wireless service facilities:

(a) Interference. The operation of personal wireless service facilities shall be in conformance with all applicable Federal Communications Commission regulations regarding interference with other equipment.

(b) Screening. All personal wireless utility equipment (i.e., antennas, support structures, mounts, equipment, etc.) shall be screened from view of adjacent properties or public rights-of-way to the maximum extent possible. Screening may include integrating architectural elements, color and texture of the antenna structure, fencing, landscaping, or other method appropriate to the specific situation. Screening may be waived by the director of community development if the available methods of screening create a greater visual impact, or call greater attention to the facility than if otherwise left unscreened.

(c) Equipment. Associated equipment shall be placed within an existing building whenever possible.

(d) Setbacks and height. With the exception of small wireless facilities located in the public right-of-way, antennas, poles, mounts and all utility equipment shall not be located in required front, rear, side and street side-yard setback areas. All façade-mounted and roof-mounted facilities and screening materials shall not project above the height limit of the zoning district within which the facility is located, unless otherwise permitted in conformance with section 33-8 (building height) and section 33-1075 (permitted structures in excess of height limits) of the zoning code. Facilities installed on residential uses in residential zones shall meet the underlying zones height standards for principal structures. Height limitations for small wireless facilities in the public right-of-way shall comply with the development standards contained in any guidelines adopted pursuant to Section 33-704(k)(8).

(e) RFR emissions. Ninety (90) days after installation of any facility, under full operating conditions, the applicant shall measure the radio frequency(ies) emitted by the facility and submit an operational radio frequency study to the planning division to verify conformance of the facility with the theoretical study and applicable ANSI/IEEE and FCC standards for radiofrequency radiation exposure.

(f) Noise. Noise levels generated by wireless equipment shall not exceed the noise level limits of the underlying zone and receiving land use, whichever is less. Appropriate siting and building measures shall be incorporated into the facility to comply with the city's noise requirements. An acoustical study may be required, as determined by the director of community development.

(g) Lighting. Personal wireless service facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other on-site facilities for maintenance purposes shall be shielded from abutting properties.

(h) Signage. Signs shall be limited to those needed to identify the property and the owner and to warn of any danger; shall provide one (1) or more twenty-four (24) hour emergency telephone numbers; and shall be subject to the approval of the planning division.

(i) Maintenance. All facilities, landscaping and related equipment shall be maintained in good working condition and free from trash, debris, graffiti and designed to discourage vandalism. Any damaged equipment shall be repaired or replaced within thirty (30) calendar days. Damaged, dead or decaying plant materials shall be removed and replaced within thirty (30) calendar days.

(j) Hillside and ridgeline overlay district. Personal wireless service facilities located within close proximity to a skyline ridge or intermediate ridgeline shall be subject to the provisions of the hillside and ridgeline overlay district.

(k) Public right-of-way. All requirements of this article shall apply to the placement, construction, modification or reconstruction of ~~any personal~~ all small wireless service facilities proposed within the public right-of-way, except to the extent precluded by state or federal law. The following ~~general~~ additional requirements also shall apply:

(1) All ~~personal wireless service~~ small wireless facilities must comply with the city's requirements for an encroachment permit as set forth in Chapter 23 of this code and any guidelines adopted pursuant to this article. All applicants shall enter into a license agreement as provided by the city to the extent the facility is proposed to be located on city facilities.

(2) ~~Personal wireless service~~ Small wireless facilities in the public right-of-way shall be installed on existing street light poles or substantially similar replacement poles in the same location, or shall be strand-mounted on existing overhead utility lines unless said lines are located within a utility undergrounding district or are required to be placed underground as a condition of approval for a development project that has received its entitlement(s). Where it has been demonstrated that it is not feasible to locate on an existing street light or similar replacement pole, a small wireless facility may be installed on a new streetlight to supplement existing lighting. New or replacement street light poles shall be designed to resemble the appearance and dimensions of a street light typical of the surrounding neighborhood, including size, height, color, materials and style, whenever to the maximum extent feasible. Where it has been demonstrated that it is not feasible to locate on an existing, replacement, or new street light pole, a small wireless facility may locate on an existing ~~traffic signal,~~ utility pole, bus stop, or other appropriate vertical structure within the right-of-way. The installation of a new vertical structure, that is not a street light may be permitted by minor conditional use permit. The installation of a new wooden pole is not permitted. Small wireless facilities shall not be permitted on traffic signals, archways spanning public streets or pedestrian plazas, and/or on public art.

(3) All ~~personal~~ small wireless service facilities in the right-of-way shall be sited in order to minimize potential visual and compatibility impacts with adjacent properties. Placing small wireless facilities along non-classified residential streets and/or along the front yard of single-family residentially zoned properties ~~should~~ shall be avoided unless it is demonstrated that it is not feasible to do so. Small Wireless wireless facilities must be designed to be visually unobtrusive, to the maximum extent feasible, as described in any guidelines adopted pursuant to this section. ~~with design elements and techniques that mimic or blend with the underlying support structure, surrounding environment and adjacent uses.~~

The equipment must be painted or textured to match the color or surface of the structure on which they are attached, or otherwise screened to reduce their visibility.

~~(4) No more than two (2) panel antennas may be mounted on a single pole or structure. No antenna may exceed three (3) feet in length. Antennas shall be vertically mounted to a pole or support structure (excluding strand mounts) in compliance with any applicable separation requirements. An antenna enclosure attached to the top of a utility pole or street light shall be cylindrical in shape and shall not exceed four (4) feet in height. New street lights or replacement poles must match the height and design of the existing street light in the same neighborhood. In no case shall a new wireless facility exceed thirty-five (35) feet in height. The antennas and other related equipment shall be mounted as close to the pole as possible, with no more than a four (4) inch gap, to minimize impacts to the visual profile. Pole-mounted equipment, exclusive of antennas, shall not exceed seven (7) cubic feet in dimension. Pole-mounted equipment shall not exceed a dimension of twelve (12) inches in width and twelve (12) inches in depth. All conduits, conduit attachments, cables, wires and other connectors must be concealed from public view to the extent feasible.~~

~~(54) All small wireless facilities installed in the public right-of-way shall comply with the development standards included in any guidelines adopted pursuant to this ordinance to the maximum extent feasible. Development standards in the adopted guidelines may address various design aspects including, but not limited to, size, spacing, quantity, location, color, method of mounting, orientation, concealment of cables, wires, and conduit, and other physical aspects of the antennas, equipment, and structures on which the facilities are mounted. The spacing between existing poles and new personal wireless service facilities must avoid visual clutter and maintain the existing character of the surrounding neighborhood. In residential areas, an individual wireless carrier must provide a minimum separation of three hundred (300) feet from any of their other wireless facilities within the right-of-way.~~

~~(65) No personal small wireless service facility may be located within the public right-of-way where there are no overhead utility facilities or streetlight poles unless permitted pursuant to a minor conditional use permit, unless otherwise permitted under section (k)(3). No new overhead wires shall be allowed in areas where undergrounding of utilities has occurred.~~

~~(76) All other nonNon-antenna equipment associated with the any small personal wireless service facility in the public right-of-way shall be placed underground to the maximum extent feasible, except any required electric meter or disconnect switch associated with an installation on an existing utility pole. Equipment shelters shall not be allowed in the public right-of-way where their presence would interfere with existing uses or infrastructure, if allowed in the public right-of-way, they and shall be located as to minimize impacts to neighborhood aesthetics, and pedestrian access, and shall not impair vehicular site distance and or adversely impact pedestrian or vehicular safety.~~

~~(87) Wireless facility permits. All new personal small wireless service facilities proposed within the public right-of-way, and any collocations or modifications to existing small wireless facilities within the public right-of-way shall require the issuance of a wireless~~

facility permit. The director may establish the forms and submittal requirements to implement the requirements of this ~~article section and any guidelines adopted pursuant to it.~~ ~~The director may refer any application for a wireless facility permit to the planning commission for consideration at a noticed public hearing.~~

(A) Administrative permit. All proposed small wireless facilities which meet all the requirements in this article and any adopted guidelines adopted pursuant to it, may be processed through an administrative wireless facility permit. The director, or his/her designee, shall determine whether an application meets the requirements of this article and any adopted guidelines. The permit will be approved if the regulations are met, or denied if the regulations are not met. The application process shall follow the procedures and fees for a plot plan and design review set forth in any guidelines adopted pursuant to this article. The decision of the director or his/her designee is final.

(i) Applications for administrative permits shall demonstrate conformance with the preferred development standards established by any guidelines adopted pursuant to this section. If conformance with a preferred development standard(s) is not feasible, the applicant shall demonstrate conformance with the next-preferred development standard and provide justification as to why the preferred standard is not feasible. When determining whether a preferred development standard is not feasible, the director shall make all of the following findings:

a. That the applicant has demonstrated that the preferred development standard would materially inhibit the provision of wireless services;

b. That the location proposed conforms to the requirements of this article and any adopted guidelines to the maximum extent possible;

c. That the design proposed conforms to the requirements of this article and any adopted guidelines to the maximum extent possible; and

d. That the applicant has demonstrated a good-faith effort to identify and evaluate more preferred locations and that alternative locations are not feasible or potentially available.

(B) Minor conditional use permit. Small wireless facilities proposed on new vertical structures that are not street lights shall require a minor conditional use permit, pursuant to Article 61 of this code. All other proposed facilities that the director determines do not meet the requirements of this article or any adopted guidelines must be processed through a minor conditional use permit. The applicant must pay any necessary application fees in accordance with a minor conditional use permit application.

(C) Small wireless facilities that are not eligible for an Administrative Permit or Minor Conditional Use Permit are prohibited.

~~(G)(D)~~ Zoning administrator findings. In addition to the findings in section 33-1203, the zoning administrator must also ~~make the following findings in approving a minor conditional use permit for a personal wireless service facility: find that it is not feasible to provide the service on other preferred locations using the same required findings identified in Section 33-704(k)(7)(A)(i).~~

(E) If the decision of the director or Zoning Administrator is not satisfactory to the applicant, the applicant may appeal the decision to the Planning Commission in accordance with procedures set forth in Article 61.

(98) The city council may, by resolution, establish additional criteria, clarifications and guidelines for the location, operation, design and review of ~~personal~~ small wireless service facilities in the public right-of-way.

(l) Installation of remote units (less than thirty (30) inches in diameter) required for fixed wireless service on private property or installed by the City are not subject to the provisions of this Article 34 and are exempt from review by the planning commission or the city council.

(m) Residential locations. The following development standards shall apply to any wireless communication facility located on land developed with residential as the primary use.

(1) A wireless facility should not be located on a parcel less than ten thousand (10,000) square feet, with no more than one (1) wireless facility located on a parcel less than one (1) acre in size.

(2) Freestanding wireless antenna facilities/structures (not incorporated into the architecture of the main residence) should be set back from the adjacent property boundary a minimum distance of one and one-half (1.5) times the height of the wireless facility.

(3) Wireless antenna facilities should not encroach into the minimum setbacks required of the main residence.

(4) Freestanding equipment structures may be located anywhere on the site as provided for accessory structures. The equipment structures should be designed to be architecturally compatible with the main residence/residential structure.

(5) The planning commission may modify development requirements: (1) and (2) of this subsection (m) upon the findings the proposed wireless facility will not result in any adverse compatibility, noise or visual impacts to surrounding properties; and the project design and location modifications represents the most appropriate alternatives for the subject property.

Sec. 33-705. Personal wireless service facilities—Application requirements.

(a) The following shall be included with an application for all personal wireless service facilities except for small wireless facilities in the public right-of-way:

(1) A city-wide map showing the provider's other existing facilities and the general area of currently anticipated future personal wireless service facilities in the city and outside the city, within one (1) mile of its corporate limits.

(2) The qualifications of the person who prepared the required RFR study, including such information as his or her education and professional qualifications, experience preparing studies, history demonstrating compliance with FCC guidelines, etc.

(3) Existing before photographs and after visual simulations. A sight line representation (drawn to scale) may also be required (as determined by the director of community development) which shall be drawn from adjacent public roads and the adjacent properties (viewpoint) to the highest point (visible point) of the personal wireless service facility. Each sight line shall be depicted in profile and show all intervening trees and buildings, and be accompanied by photographs of what currently can be seen from the specific site and a visual simulation of the proposed facility. An on-site mock-up or balloon simulation also might be required for highly visible or sensitive sites to adequately assess the potential visual impact of the proposed facility.

(4) A description of proposed materials and colors of the proposed facility specific by type and treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.).

(5) Preliminary landscape and irrigation plan, if required.

(b) The city reserves the right to employ experts, at the applicant's expense, to evaluate information submitted with the application to ensure compliance with local regulations for land use, and to verify compliance with the Federal Communications Commission's standards for RFR emissions.

(c) Applicants shall submit a theoretical radiofrequency radiation study (prepared by a person qualified to prepare such studies) with the application which quantifies the proposed project's radiofrequency emissions, demonstrating compliance of the proposed facility with applicable NCRP and ANSI/IEEE and FCC policies, standards, and guidelines for maximum permissible exposure (MPE) to radiofrequency radiation emissions. The study shall also include a combined (cumulative) analysis of all the wireless operators/facilities located on and/or adjacent to the project site, identifying total exposure from all facilities and demonstrating compliance with FCC guidelines. An updated radiofrequency study shall be submitted for any modification to a facility.

(d) Application materials required for small wireless facilities proposed in the public right-of-way pursuant to section 33-704(k) shall comply with any guidelines adopted pursuant to that section.

Sec. 33-706. Personal wireless service facilities—Land use approval.

(a) A plot plan application shall be required for all personal wireless service facilities/antennas and facilities which are permitted in the zone and which do not require a conditional use permit.

(b) City staff shall review plans for planning, siting, architecture, zoning compliance, landscaping, engineering, building requirements, safety, and conformance with the wireless facilities guidelines. After such review, staff may approve, conditionally approve, or deny the proposed plan, or refer it to the planning commission for approval, conditional approval, or denial. As a component of the project review, the applicant must include details regarding the ability to provide the necessary utilities (i.e., telco and power) and appropriate access to the site. All new utility service runs shall be placed underground.

(c) Residential and open space zones. Personal wireless service facilities in these zones shall require a conditional use permit issued by the planning commission pursuant to Division 1 of Article 61 in all residential and open space zones. Personal wireless service facilities located within the public right-of-way within or adjacent to residential zones or open space zones shall require the issuance of a conditional use permit.

(d) Commercial and industrial zones. Plot plan approval or a conditional use permit shall be required in commercial and industrial zones according to the following chart:

	CG	CN	CP	HP	M-1	M-2	I-P
Personal Wireless Communication Facilities							
Roof-mounted or building-mounted incorporating stealthy designs and/or screened from public ways or significant views	P	P	P	P	P	P	P
Pole-mounted or ground-mounted that incorporate stealthy designs and do not exceed 35' in height	P	P	P	P	P	P	P
Pole-mounted or ground-mounted that exceed 35' in height, or roof or building mounted designs which project above the roofline and are not completely screened or considered stealthy	C	C	C	C	P	P	C

P = Permitted subject to plot plan review.

C = Conditionally permitted subject to a conditional use permit (CUP).

(e) Co-Location. Co-location of personal wireless service facilities is encouraged to the extent it is technically feasible, up to the point where a structure or site has too many antennae and becomes visually cluttered, subject to the following siting criteria and chart:

	CG	CN	CP	HP	M-1	M-2	I-P
Personal Wireless Communication Facilities							
Co-location on existing buildings or structures, or adding an additional facility on a site	P	P	P	P	P	P	C
Co-location including new pole-mounted or ground-mounted structures that exceed 35' in height, or roof-mounted or building-mounted designs which project above the roofline and are not completely screened or considered stealthy	C	C	C	C	P	P	C

RA	RE	R-1	R-2	R-3	R-4	RT	OS
C	C	C	C	C	C	C	C

P = Permitted subject to plot plan review.

C = Conditionally permitted subject to a conditional use permit (CUP).

(f) Planned Development and Specific Plans. Unless specifically permitted or conditionally permitted as part of the planned development or specific plan, any wireless communication facility shall not be permitted within these zones unless a modification to the master development plan or specific plan is approved by the planning commission or city council, as may be required.

(g) Applications for small wireless facilities in the public right-of-way shall be processed and reviewed as outlined in section 33-704(k) and any guidelines adopted pursuant to said section.

Sec. 33-707. Personal wireless service facilities—Modifications and upgrades.

Except for small wireless facilities in the public right-of-way identified in section 33-704(k), the A modification of a personal wireless service facility which was not specified in the original design/approval (including, as examples, an increase in height, the number of antennas/panels, an increase in mass and scale, etc.) may be considered equivalent to an application for a new personal wireless service facility, and will be subject to the requirements of this article. However, upgrades to existing facilities to incorporate new technology which, in the discretion of the director, do not increase the existing mass and scale, increase the height or visibility of the structures, or decrease the overall height of the facility, may be approved by the director, and/or may be referred to the planning commission. Modifications and upgrades to small wireless facilities installed in the public right-of-way pursuant to section 33-704(k) shall be reviewed as described in said section and in any guidelines adopted pursuant to it.

Sec. 33-708. Personal wireless service facilities—Abandonment or discontinuation of use.

(a) At such time that a licensed carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier shall notify the city in writing of the proposed date of abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operations.

(b) Upon abandonment or discontinuation of use, the carrier shall physically remove the personal wireless service facility within ninety (90) days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

(1) Removal of antennas, mount, equipment shelters and security barriers from the subject property;

(2) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal programs;

(3) Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.

(c) For small wireless facilities installed in the public right-of-way, the city shall reserve the right to require a bond to ensure removal of such facilities, and the replacement of any structures removed as part of the installation, upon abandonment or discontinued use. The city may, at its sole discretion, require any structure installed in the public right-of-way for the purpose of installation of a small wireless facility to be left in place, and such structure shall become the possession of the city upon abandonment or discontinuance of

use by the carrier. The city may also require the carrier to replace any structure that was removed in order to install the facility