

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING AND RESTATING CHAPTER 21.56; AND BY ADDING CHAPTER 15.34, ALL RELATING TO WIRELESS TELECOMMUNICATIONS FACILITIES

The City Council of the City of Long Beach ordains as follows:

Section 1. Chapter 21.56 of the Long Beach Municipal Code is amended and restated to read as follows:

Chapter 21.56

WIRELESS TELECOMMUNICATIONS FACILITIES

21.56.010 Purpose and objectives.

The purpose of this Chapter is to regulate the establishment and operation of Wireless Telecommunications Facilities within the City of Long Beach, consistent with the General Plan, and with the intent to:

A. Allow for the provision of wireless communications services adequate to serve the public's interest within the City;

B. Require, where feasible and consistent with the City's aesthetic and planning objectives, the co-location of Wireless Telecommunications Facilities;

C. Minimize the negative aesthetic impact of Wireless Telecommunications Facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive

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1 review of environmental impacts of such facilities, and protect the health,  
2 safety and welfare of the City of Long Beach;

3 D. Strongly encourage the location of Wireless  
4 Telecommunications Facilities in those areas of the City where the adverse  
5 aesthetic impact on the community is minimal;

6 E. Strongly encourage wireless telecommunications providers to  
7 configure all facilities in such a way that minimizes displeasing aesthetics  
8 through careful design, siting, landscaping, screening, and innovative  
9 camouflaging techniques;

10 F. Enhance the ability of the providers of telecommunications  
11 services to provide such services to the City quickly, effectively, and  
12 efficiently; and

13 G. Conform to all applicable federal and State laws.

14 21.56.020 Definitions.

15 In addition to all those terms defined in Chapter 21.15 of the Zoning  
16 Regulations, the following terms shall have the meanings set forth below, for  
17 the purposes of this Chapter:

18 A. "Abandoned." Notwithstanding the definition of "abandoned" in  
19 Section 21.15.030, a Wireless Telecommunications Facility use shall be  
20 considered abandoned if it is not in use for six (6) consecutive months.

21 B. "Applicable Law" means all applicable federal, state, and City  
22 laws, ordinances, codes, rules, regulations and orders, as the same may be  
23 amended or adopted from time to time.

24 C. "Co-location" means the placement or installation of Wireless  
25 Telecommunications Facilities, including antennas and related equipment  
26 onto an existing Wireless Telecommunications Facility in the case of  
27 monopoles, or onto the same building in the case of roof/building-mounted  
28 sites.

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D. "Co-location facility" means a Wireless Telecommunications Facility that has been co-located consistent with the meaning of "co-location" as defined above. It does not include the initial installation of a new Wireless Telecommunications Facility where previously there was none, nor the construction of an additional monopole on a site with an existing monopole.

E. "Monopole" means any single freestanding pole structure used to support wireless telecommunications antennas or equipment at a height above the ground. This includes those poles camouflaged to resemble natural objects.

F. "Public right-of-way" means any public highway, street, alley, sidewalk, parkway, and all extensions or additions thereto which is either owned, operated, or controlled by the City, or is subject to an easement or dedication to the City, or is a privately owned area within City's jurisdiction which is not yet dedicated, but is designated as a proposed public right-of-way on a tentative subdivision map approved by the City.

G. "Residential/Institutional Planned Development (PD) District" means the following Planned Development Districts within the City of Long Beach: PD-5 (Ocean Boulevard), PD-10 (Willmore City), PD-11 (Rancho Estates), PD-17 (Alamitos Land), PD-20 (All Souls), and PD-25 (Atlantic Avenue), as well as any future PDs designated as such in the PD Ordinance.

H. "Roof/building-mounted site" means any Wireless Telecommunications Facility, and any appurtenant equipment, located on a rooftop or building, having no support structure such as a monopole or other type of tower.

I. "Wireless Telecommunications Facility" means equipment installed for the purpose of providing wireless transmission of voice, data,

1 images, or other information including but not limited to, cellular telephone  
2 service, personal communications services, and paging services, consisting  
3 of equipment, antennas, and network components such as towers, utility  
4 poles, transmitters, base stations, conduits, pull boxes, electrical meters,  
5 and emergency power systems. "Wireless Telecommunications Facility"  
6 does not include radio or television broadcast facilities, nor radio  
7 communications systems for government or emergency services agencies.

8 21.56.030 Permit requirements for new Wireless Telecommunications  
9 Facilities.

10 All new Wireless Telecommunications Facilities shall meet the  
11 following standards and requirements:

12 A. Locations outside the public right-of-way. A Conditional Use  
13 Permit shall be required for the initial construction and installation of all new  
14 Wireless Telecommunications Facilities that are not co-location facilities  
15 and are outside the public right-of-way, in accordance with all Specific  
16 Procedures set forth in Chapter 21.21 and Chapter 21.25, Division II, of the  
17 Zoning Regulations, except as modified by this Chapter.

18 B. Roof/building-mounted facilities. All new Wireless  
19 Telecommunications Facilities that are not co-location facilities that are  
20 roof/building-mounted facilities shall also be subject to Site Plan Review in  
21 addition to the Conditional Use Permit requirement in Subsection  
22 21.56.030.A.

23 C. Locations in the public right-of-way. A Wireless Right-of-Way  
24 Facility Permit shall be required for the initial construction and installation of  
25 all new Wireless Telecommunications Facilities in accordance with all  
26 procedures set forth in Chapter 15.34.

27 21.56.040 Development and design standards for new Wireless  
28 Telecommunications Facilities that are not co-location

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facilities.

All new Wireless Telecommunications Facilities shall meet the following minimum standards:

A. Location. New Wireless Telecommunications Facilities shall not be located in Residential (R) or Institutional (I) zoning districts, or Residential/Institutional Planned Development (PD) Districts, unless the applicant demonstrates, by a preponderance of evidence, that a review has been conducted of other options with less environmental impact, and no other sites or combination of sites allows feasible service or adequate capacity and coverage. This review shall include, but is not limited to, identification of alternative site(s) within a one (1) mile radius of the proposed facility. See Section 21.56.050 for additional application requirements;

B. Co-location required where possible. New Wireless Telecommunications Facilities shall not be located in areas where co-location on existing facilities would provide equivalent coverage, network capacity, and service quality with less environmental or aesthetic impact;

C. Accommodation of co-location. Except where aesthetically inappropriate in the determination of the Staff Site Plan Review Committee, new Wireless Telecommunications Facilities shall be constructed so as to accommodate co-location, and must be made available for co-location unless technologically infeasible. In cases where technological infeasibility is claimed, it shall be the responsibility of the party making such claim to demonstrate, by a preponderance of evidence, that such co-location is, in fact, infeasible;

D. Additional development and design standards. Wireless Telecommunications Facilities also shall be subject to the additional design standards specified in Section 21.56.100.

1 21.56.050 Application requirements for new Wireless  
2 Telecommunications Facilities that are not co-location  
3 facilities.

4 In addition to the requirements set forth in Section 21.21.201 of the  
5 Zoning Regulations and Chapter 21.25 (Specific Procedures) of the Zoning  
6 Regulations, applicants for new Wireless Telecommunications Facilities  
7 shall submit the following materials regarding the proposed Wireless  
8 Telecommunications Facility:

9 A. Photo simulations. Photo simulations of the facility from  
10 reasonable line-of-sight locations from public roads or viewpoints;

11 B. Maintenance plan. A maintenance plan detailing the type and  
12 frequency of required maintenance activities, including maintenance of  
13 landscaping and camouflaging, if applicable;

14 C. Five year build-out plan. A description of the planned  
15 maximum five (5) year build-out of the site for the applicant's Wireless  
16 Telecommunications Facilities, including, to the extent possible, the full  
17 extent of Wireless Telecommunications Facility expansion associated with  
18 future co-location facilities by other wireless service providers. The  
19 applicant shall use best efforts to contact all other wireless service  
20 providers known to be operating in the City upon the date of application, to  
21 determine the demand for future co-locations at the proposed site, and, to  
22 the extent feasible, shall provide written evidence that these consultations  
23 have taken place, and a summary of the results, at the time of application.  
24 The City shall, within thirty (30) days of its receipt of an application, identify  
25 any known wireless service providers that the applicant has failed to contact  
26 and with whom the applicant must undertake their best efforts to fulfill the  
27 above consultation and documentation requirements. The location,  
28 footprint, maximum tower height, and general arrangement of future co-

1 locations shall be identified by the five (5) year build-out plan. If future co-  
2 locations are not technically feasible, a written explanation shall be  
3 provided;

4 D. Nearby facilities. Identification of existing Wireless  
5 Telecommunications Facilities within a one (1) mile radius of the proposed  
6 location of the new Wireless Telecommunications Facility, and an  
7 explanation of why co-location on these existing facilities, if any, is not  
8 feasible. This explanation shall include such technical information and other  
9 justifications as are necessary to document the reasons why co-location is  
10 not a viable option. The applicant shall provide a list of all existing  
11 structures considered as alternatives to the proposed location. The  
12 applicant shall also provide a written explanation for why the alternatives  
13 considered were either unacceptable or infeasible. If an existing Wireless  
14 Telecommunications Facility was listed among the alternatives, the  
15 applicant must specifically address why the modification of such Wireless  
16 Telecommunications Facility is not a viable option. The written explanation  
17 shall also state the radio frequency coverage and capacity needs and  
18 objectives of the applicant, and shall include maps of existing coverage and  
19 predicted new coverage with the proposed facility;

20 E. Availability for co-location. A statement that the proposed  
21 Wireless Telecommunications Facility is available for co-location, or an  
22 explanation of why future co-location is not technically feasible;

23 F. RF report. A radio frequency (RF) report describing the  
24 emissions of the proposed Wireless Telecommunications Facility. The  
25 report shall demonstrate that the emissions from the proposed equipment  
26 as well as the cumulative emissions from the facility will not exceed the  
27 limits established by the Federal Communications Commission (FCC);

28 G. Alternative analysis. Applications for the establishment of new

1 Wireless Telecommunications Facilities inside Residential (R) or  
2 Institutional (I) zoning districts, Residential/Institutional Planned  
3 Development (PD) Districts, and residential or institutional General Plan  
4 Land Use Districts (LUDs) shall be accompanied by a detailed alternatives  
5 analysis that demonstrates that there are no feasible alternative  
6 nonresidential, non-institutional sites or combination of nonresidential, non-  
7 institutional sites available to eliminate or substantially reduce significant  
8 gaps in the applicant service provider's coverage or network capacity;

9 H. Height justification. An engineering certification providing  
10 technical data sufficient to justify the proposed height of any new monopole  
11 or roof/building-mounted site;

12 I. Deposit. A cash or other sufficient deposit for a third party  
13 peer review as required by this Chapter.

14 21.56.060 Entitlement, term, renewal and expiration.

15 A. Conditional Use Permits and other entitlements for Wireless  
16 Telecommunications Facilities, including approval of the five (5) year build-  
17 out plan as specified in Subsection 21.56.050.C, shall be valid for ten (10)  
18 years following the date of final action. A ten (10)-year term is prescribed for  
19 Conditional Use Permits for this class of land uses due to the unique nature  
20 of development, exceptional potential for visual and aesthetic impacts, and  
21 the rapidly changing technologic aspects that differentiate wireless  
22 telecommunications from other Conditional land uses allowed by the City.  
23 The applicant or operator shall file for a renewal for the entitlement and pay  
24 the applicable renewal application fees six (6) months prior to expiration of  
25 the permit with the Department of Development Services, if continuation of  
26 the use is desired. In addition to providing the standard information and  
27 application fees required for renewal, Wireless Telecommunications Facility  
28 renewal applications shall provide an updated build-out description

1 prepared in accordance with the procedures established by Subsection  
2 21.56.050.C.

3 B. Where required, renewals for entitlements for existing  
4 Wireless Telecommunications Facilities and co-location facilities  
5 constructed prior to the effective date of this Chapter are subject to the  
6 provisions of Sections 21.56.030 through 21.56.050. Renewals of  
7 entitlements approved after the effective date of this Chapter shall only be  
8 approved if all conditions of the original entitlement have been satisfied, and  
9 the five (5) year build-out plan has been provided.

10 C. If the entitlement for an existing Wireless Telecommunications  
11 Facility has expired, applications for modification, expansion, or co-location  
12 at that site, as well as after-the-fact renewals of entitlements for the existing  
13 Wireless Telecommunications Facilities, shall be subject to the standards  
14 and procedures for new Wireless Telecommunications Facilities set forth in  
15 Sections 21.56.030 through 21.56.050.

16 21.56.070 Permit requirements for co-location facilities.

17 A. Co-location facilities requiring a Conditional Use Permit.  
18 Applications for co-location will be subject to the standards and procedures  
19 set forth for new Wireless Telecommunications Facilities, above (Sections  
20 21.56.030 through 21.56.060), if any of the following apply:

21 1. No Conditional Use Permit was issued for the original  
22 Wireless Telecommunications Facility;

23 2. The Conditional Use Permit for the original Wireless  
24 Telecommunications Facility did not allow for future co-location facilities or  
25 the extent of site improvements involved with the co-location project (in this  
26 case, an application for a modification to the approved Conditional Use  
27 Permit, subject to Planning Commission review, may be substituted for a  
28 new Conditional Use Permit); or

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3. No environmental review was completed for the location of the original Wireless Telecommunications Facility that addressed the environmental impacts of future co-location facilities (in this case, an application for a modification to the approved Conditional Use Permit, subject to Planning Commission review, may be substituted for a new Conditional Use Permit).

B. Permit requirements for other co-location facilities.

1. Roof/building-mounted facilities with visible exterior changes. Roof/building-mounted co-location facilities proposing visible exterior changes to the site shall be subject to Site Plan Review.

2. All others. Applications for all other co-location facilities shall be subject to a building permit approval. Prior to filing an application for a building permit for co-location, the applicant shall demonstrate compliance with the conditions of approval, if any, of the original Conditional Use Permit, and with all applicable provisions of this Chapter, by submitting an application to the Department of Development Services for an administrative review as set forth in Section 21.56.090. The applicant shall not file an application for a building permit until the applicant receives written notification that this administrative review is complete and approved. The applicant shall pay a fee for this administrative review in the amount adopted by the City Council in a resolution.

21.56.080 Development and design standards for co-location facilities.

A. Compliance with discretionary approvals. The co-location facility shall comply with all approvals and conditions of the underlying (existing) discretionary permit for the Wireless Telecommunications Facility.

B. Harmonious design. To the extent feasible, the design of co-location facilities shall also be in visual harmony with the other Wireless Telecommunications Facility(ies) on the site.

1 C. Additional design standards. Co-location facilities also shall be  
2 subject to the additional design standards specified in Section 21.56.100.

3 21.56.090 Application requirements for co-location facilities.

4 Applications that qualify for administrative review of co-location  
5 facilities in accordance with Section 21.56.070 shall be required to submit  
6 the following:

7 A. Photo simulations of the facility from reasonable line-of-sight  
8 locations from public roads or viewpoints;

9 B. A maintenance and access plan that identifies any changes to  
10 the original maintenance and access plan associated with the existing  
11 Wireless Telecommunications Facility and Conditional Use Permit;

12 C. A Radio Frequency (RF) report demonstrating that the  
13 emissions from the co-location equipment as well as the cumulative  
14 emissions from the co-location equipment and the existing facility will not  
15 exceed the limits established by the Federal Communications Commission  
16 (FCC);

17 D. Prior to the issuance of a building permit, the applicant shall  
18 submit color samples, and materials samples if requested, for the co-  
19 location equipment and any screening devices. Paint colors and materials  
20 shall be subject to the review and approval of the Department of  
21 Development Services. Color verification shall occur in the field after the  
22 applicant has painted the equipment the approved color, but before the  
23 applicant schedules a final inspection.

24 21.56.100 Development and design standards for all Wireless

25 Telecommunications Facilities and co-location facilities.

26 The following standards shall apply to all Wireless  
27 Telecommunications Facilities and co-location facilities:

28 A. The adverse visual impact of Wireless Telecommunications

1 Facilities shall be avoided, minimized, and mitigated by:

2 1. Siting new Wireless Telecommunications Facilities  
3 outside of public viewshed whenever feasible;

4 2. Maximizing the use of existing vegetation and natural  
5 features to cloak Wireless Telecommunications Facilities;

6 3. Constructing towers or monopoles no taller than  
7 necessary to provide adequate coverage, network capacity, and service  
8 quality;

9 4. Grouping buildings, shelters, cabinets, ground lease  
10 areas, and other equipment together, to avoid spread of these structures  
11 across a parcel or lot;

12 5. Screening Wireless Telecommunications Facilities and  
13 co-location facilities with landscaping consisting of drought-tolerant plant  
14 material. All ground lease areas shall be landscaped with climbing vines on  
15 the exterior of the enclosure wall, planted not more than four feet (4') on  
16 center. Adequate irrigation systems shall be provided for landscaping. The  
17 landscape screening requirement may be modified or waived by the  
18 Director of Development Services in instances where landscaping would  
19 not be appropriate; and

20 6. Painting all equipment to blend with the surrounding  
21 environment as specified in Subsection 21.56.100.C (Paint Colors).

22 B. Pole design. Use of monopoles that attempt to replicate trees  
23 or other natural objects are strongly discouraged and shall be used only as  
24 a last resort when all other options have been exhausted, since:

25 1. Artificial trees cannot presently be made to resemble  
26 natural trees in a sufficiently believable and realistic fashion; and

27 2. Such attempts to replicate nature are disingenuous by  
28 their obvious falsity and therefore increase, rather than reduce, visual blight.

1 C. Paint colors. Paint colors for a Wireless Telecommunications  
2 Facility and co-location facility shall minimize the facility's visual impact by  
3 blending with the surrounding environment, terrain, landscape, or buildings  
4 (not sky colors, as the sky is a luminous source of light at all times and no  
5 non-luminous object can physically be made to blend with the sky). Paint  
6 colors shall be subject to the review and approval of the Department of  
7 Development Services. Color verification shall occur in the field after the  
8 applicant has painted the equipment in the approved color(s), but before the  
9 applicant schedules a final inspection.

10 D. Roof/building-mounted facilities. For roof/building-mounted  
11 Wireless Telecommunications Facilities and co-location facilities, the  
12 following standards also shall apply:

13 1. Antenna location.

14 a. Antennas mounted on the facade of a building  
15 are strongly discouraged, but if approved, must be fully integrated into the  
16 architecture of the existing structure or otherwise screened from public  
17 view. "Stealth boxes" enclosing facade antennas shall not be considered  
18 adequate screening;

19 b. Antennas shall be mounted on building rooftops,  
20 roof decks, or penthouses whenever feasible as a preferred alternative to  
21 facade-mounting. Antennas located on the building rooftop shall be located  
22 above the ceiling plate of the highest occupied floor;

23 c. Antennas shall be located as far away as  
24 possible from the edge of the building or roof, with the goal of reducing or  
25 eliminating visibility of the installation from any and all vantage points.

26 2. Equipment location.

27 a. All equipment appurtenant to a roof/building-  
28 mounted wireless telecommunications site shall be located inside an

1 existing building whenever possible, to the satisfaction of the Director of  
2 Development Services;

3 b. If it is physically impossible for equipment to be  
4 located inside an existing building and the equipment is to be located on a  
5 building rooftop, the equipment shall be subject to the same screening and  
6 location requirements as the antennas. If no space for the equipment is  
7 available for lease in a building because all possible spaces are leased and  
8 occupied, this shall constitute a physical impossibility.

9 3. Screening required.

10 a. Where physically possible, antennas and  
11 equipment shall be located entirely within an existing architectural feature or  
12 screening device. This shall include areas used or occupied by other  
13 wireless service providers where feasible.

14 b. All antennas and equipment mounted on a  
15 building rooftop shall be screened in a manner that is architecturally  
16 compatible with the existing building and is otherwise made as unobtrusive  
17 as possible. Screening shall use matching colors, materials, and  
18 architectural styles to create a harmonious addition to the building's  
19 architecture without disrupting its form, volume, massing, or balance.

20 c. All antennas, including panel antennas,  
21 microwave antennas, GPS antennas, any other antennas, and all other  
22 equipment mounted on the building, shall be concealed behind the  
23 screening device on all sides such that the antennas and appurtenant  
24 equipment is not visible from the exterior of the subject property, from other  
25 property, or the public right-of-way.

26 d. All cable trays and cable runs shall be located  
27 within existing building walls whenever physically possible. Cable trays and  
28 runs on the facade of a building are strongly discouraged. Any facade-

1 mounted cable trays and runs shall be painted and textured to match the  
2 building and shall be mounted as close to the facade surface as possible,  
3 with no discernible gap between. Cable trays and runs mounted on a roof  
4 deck and below the height of the parapet wall or screening device shall be  
5 exempt from this requirement, provided they are fully screened by the  
6 parapet wall or screening device. Exposed cable trays and runs on a sloped  
7 roof are prohibited.

8 e. At the discretion of the Staff Site Plan Review  
9 Committee, part or all of a proposed roof/building-mounted Wireless  
10 Telecommunications Facility or co-location facility may be exempted from  
11 screening requirements if the best feasible screening design would result in  
12 greater negative visual impacts than if part or all of the proposed installation  
13 were unscreened.

14 4. Restriction on Historic Landmark structures. Installation  
15 of a roof/building-mounted Wireless Telecommunications Facility or co-  
16 location facility at a City-designated Historic Landmark shall make no  
17 changes to the external appearance of the building unless approved by the  
18 Cultural Heritage Commission.

19 E. Non-reflective materials. The exteriors of Wireless  
20 Telecommunications Facilities and co-location facilities shall be constructed  
21 of non-reflective materials.

22 F. Underlying setbacks. Wireless Telecommunications Facilities  
23 and co-location facilities shall comply with all the setback requirements of  
24 the underlying zoning district(s), except as modified by this Chapter.

25 G. Height. Facilities subject to the provisions of this Chapter may  
26 be built and used to a greater height than the limit established for the  
27 zoning district in which the structure is located, except as otherwise  
28 provided below:

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1. No monopole or other freestanding structure shall ever exceed a maximum height of one hundred twenty feet (120') in any zoning district. In any Residential (R) or Institutional (I) zoning district, or Residential/Institutional Planned Development (PD) district, no monopole or other freestanding structure shall exceed a maximum height of fifty-five feet (55'). However, if an applicant demonstrates that the monopole or structure will accommodate a minimum of two (2) carriers, the site may be permitted at a maximum height of sixty feet (60'); or the applicant demonstrates that the monopole or structure will accommodate three (3) carriers, the site may be permitted at a maximum height of sixty-five feet (65');

2. A roof/building-mounted Wireless Telecommunications Facility shall not exceed the maximum height allowed in the applicable zoning district, or ten feet (10') above the building roof deck, whichever is higher, except that in any R-1, R-2, or R-3 district, no roof/building-mounted site shall exceed the maximum height for structures allowed in that district;

3. Notwithstanding the height limits set forth in the preceding Sections, for facilities to be mounted on towers used for high-voltage electrical power transmission between generating plants and electrical substations (not utility poles), the antennas may be mounted as high as necessary on the tower, provided that the top of the highest antenna is not higher than the top of the existing tower.

H. Accessory buildings. In any zoning district, accessory buildings in support of the operation of the Wireless Telecommunications Facility or co-location facility may be constructed, provided that they comply with the development standards set forth for accessory structures for the zoning district in which the site is located.

I. Footprint. The overall footprint of each Wireless Telecommunications Facility shall be as small as possible, to the

1 satisfaction of the Staff Site Plan Review Committee.

2 J. Generators and emergency power. Diesel generators are  
3 allowed as an emergency power source, although they are discouraged.  
4 When a feasible alternative technology for permanent on-site backup power  
5 becomes available (for example, fuel cells) the Department of Development  
6 Services may require the use of such technology in lieu of a diesel  
7 generator, unless the applicant provides written documentation explaining  
8 why such an alternative is not feasible. All generator installations shall  
9 comply with all containment requirements of the applicable Fire and  
10 Building Codes, without exception. Unless otherwise approved by the  
11 Director of Public Works, generators and emergency power source for  
12 wireless facilities located in the public right-of-way are prohibited.

13 K. Ground lease area enclosures and landscaping. If equipment  
14 appurtenant to a facility is to be located in a ground lease area, the lease  
15 area shall be enclosed by a CMU block wall, or other appropriate fence, to  
16 the satisfaction of the Staff Site Plan Review Committee. The fence shall be  
17 of a minimum height of six feet six inches (6'6") in residential districts, and  
18 eight feet (8') in other districts, unless waived at the discretion of the  
19 Director of Development Services in cases of infeasibility. The exterior of all  
20 ground lease areas shall be landscaped with drought-tolerant plant  
21 material, and adequate irrigation systems shall be provided for landscaping.  
22 Climbing vines shall be provided on the exterior of the enclosure wall,  
23 planted not more than four feet (4') on center. This landscaping requirement  
24 may be modified or waived by the Director of Development Services in  
25 instances where landscaping would not be appropriate.

26 21.56.110 Performance standards for all Wireless Telecommunications  
27 Facilities and co-location facilities.

28 No use may be conducted in a manner that, in the determination of

1 the Director of Development Services, does not meet the performance  
2 standards below:

3 A. Lighting. Wireless Telecommunications Facilities and co-  
4 location facilities shall not be lighted or marked unless required by the  
5 Federal Communications Commission (FCC), the Federal Aviation  
6 Administration (FAA), or the California Public Utilities Commission (CPUC).

7 B. Licensing. The applicant or operator shall file, receive, and  
8 maintain all necessary licenses and registrations from the Federal  
9 Communications Commission (FCC), the California Public Utilities  
10 Commission (CPUC) and any other applicable regulatory bodies prior to  
11 initiating the operation of the Wireless Telecommunications Facility. The  
12 applicant shall supply the Department of Development Services with  
13 evidence of these licenses and registrations prior to approval of a final  
14 inspection. If any required license is ever revoked, the operator shall inform  
15 the Department of Development Services of the revocation within ten (10)  
16 days of receiving notice of such revocation.

17 C. Building permit required. Once a Conditional Use Permit or  
18 other applicable entitlement is obtained, the applicant shall obtain a building  
19 permit and shall build in accordance with the approved plans.

20 D. Power connection. The project's final electrical inspection and  
21 approval of connection to electrical power shall be dependent upon the  
22 applicant obtaining a permanent and operable power connection.

23 E. Removal after end of use. The Wireless Telecommunications  
24 Facility, and/or co-location facility, if present, and all equipment associated  
25 therewith shall be removed in its entirety by the operator, at the operator's  
26 sole expense, within ninety (90) days of a FCC or CPUC license or  
27 registration revocation or if the facility is abandoned (per Subsection  
28 21.56.020.A) or no longer needed. The site shall be restored to its pre-

1 installation condition and, where necessary, re-vegetate to blend in with the  
2 surrounding area. In the case of roof/building-mounted facilities, all  
3 antennas, equipment, screening devices, support structures, cable runs,  
4 and other appurtenant equipment shall be removed and the building shall  
5 be restored to its to its pre-installation condition. Restoration and re-  
6 vegetation shall be completed within two (2) months of removal of the  
7 facility; hence a maximum of five (5) months from abandonment of the  
8 facility to completion of restoration. Facilities not removed within these time  
9 limits shall be removed immediately. The City shall not be responsible to  
10 provide notice that removal is required under the provisions of this Chapter.

11 F. Maintenance. Wireless Telecommunications Facilities and co-  
12 location facilities shall be maintained by the permittee(s) and subsequent  
13 owners in a manner that implements all of the applicable requirements of  
14 this Chapter and all other applicable zoning and development standards set  
15 forth in Title 21, and all permit conditions of approval. Site and landscaping  
16 maintenance shall be the responsibility of the property owner, who may  
17 designate an agent, including the operator, to carry out this maintenance.

18 G. Noise. All construction and operation activities shall comply  
19 with Chapter 8.80 (Noise Ordinance) of the Long Beach Municipal Code  
20 and any applicable conditions of approval.

21 H. Use of backup power sources. The use of diesel generators or  
22 any other emergency backup power sources shall comply with Chapter 8.80  
23 of the Long Beach Municipal Code (Noise Ordinance). The use of backup  
24 power sources shall be limited to actual power-outage emergencies and  
25 any operation necessary for testing and maintenance. Permanent or  
26 continuous use of backup power sources is prohibited.

27 I. RF report. Within forty-five (45) days of commencement of  
28 operations, the applicant for the wireless communications facility shall

1 provide (at the applicant's expense) the Development Services Department  
2 with a report, prepared by a qualified expert, indicating that the actual radio  
3 frequency emissions of the operating facility, measured at the property line  
4 or nearest point of public access and in the direction of maximum radiation  
5 from each antenna, is in compliance with the standards established by the  
6 Federal Communications Commission. This report shall include emissions  
7 from all co-location facilities, if any, at the site as well. The applicant shall  
8 subsequently provide such report to the City within forty-five (45) days  
9 following any change in design, number of antennas, operation, or other  
10 significant change in circumstances, or when such a report is otherwise  
11 required by the FCC, to the satisfaction of the Director of Development  
12 Services.

13 21.56.120 Additional requirements and standards for Wireless  
14 Telecommunications Facilities and co-location facilities in the  
15 coastal zone.

16 A. Location. New Wireless Telecommunications Facilities shall  
17 not be located between the first public highway and the sea or bay, unless  
18 no feasible alternative exists, and the facility is not visible from a public  
19 location, or will be attached to an existing structure in a manner that does  
20 not significantly alter (in the determination of the Staff Site Plan Review  
21 Committee) the exterior appearance of the existing structure.

22 B. Local coastal program requirements. New Wireless  
23 Telecommunications Facilities shall comply with all applicable policies,  
24 standards, and regulations of the Local Coastal Program (LCP).

25 C. Coastal permit required. The necessary Coastal Development  
26 Permit or Local Coastal Development Permit shall be obtained.

27 21.56.130 Additional requirements and standards for Wireless  
28 Telecommunications Facilities located in Park Zoning Districts.

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A. For the purpose of this Chapter the term Park Zoning District shall include those areas of the City regulated and established pursuant to Chapter 21.35 of this Code.

B. Installation of Wireless Telecommunications Facilities in Park Districts must be pursuant to a lease or permit approved by the City Council. For those parks under the jurisdiction of the City's Parks and Recreation Commission, the matter shall first be submitted to the Commission for its recommendation. A Conditional Use Permit shall not be required.

C. Prior to the City Council considering any lease or permit of Park District land for a Wireless Telecommunications Facility, the matter shall first be submitted to the Site Plan Review Committee in accordance with Chapter 21.25 of this Code. The Site Plan Review Committee shall impose reasonable conditions of approval, which shall include the minimum development, design and performance standards set forth in this Chapter.

D. Application for Site Plan review in a Park Zoning District shall be in accordance with Section 21.56.050, or Section 21.56.090, if it is to be a co-location facility.

E. All Site Plan Review proceedings conducted in accordance with this Section shall be subject to the Administrative Procedures set forth in Chapter 21.21, and the specific procedures set forth in Section 21.25.501 et seq. relative to site plan reviews.

F. In order to effectuate parity between those Wireless Telecommunications Facilities located in Park Zoning Districts and those located elsewhere in the City, a fee equivalent to that established by the City Council for the processing and issuance of a Conditional Use Permit shall be charged.

21.56.140 Other provisions.

1           A.     Temporary wireless telecommunication facilities. Installation,  
2 maintenance, or operation of any temporary wireless telecommunications  
3 site is prohibited except as allowed under a special events permit  
4 necessary during a special event authorized by Chapter 5.60 of the LBMC,  
5 or during a government-declared emergency.

6           B.     Illegal facilities. Illegal Wireless Telecommunications Facilities  
7 or co-location facilities have no vested rights and shall either be brought  
8 into legal conforming status in accordance with this Chapter and Title 21 of  
9 the Long Beach Municipal Code, or shall be removed.

10          C.     Modifications to Wireless Telecommunications Facilities. Any  
11 modification to a Wireless Telecommunications Facility or co-location  
12 facility, including but not limited to, replacement of antennas, installation of  
13 additional antennas, installation of additional equipment cabinets,  
14 installation of a backup generator, paint or camouflage changes, and other  
15 physical changes to the facility, shall require, at a minimum, an  
16 administrative approval, and, if necessary, a building permit from the  
17 Department of Development Services. Prior to issuance of any approval for  
18 modification, the applicant shall submit an application for an administrative  
19 review to determine the compliance of the proposed modification with this  
20 Chapter and the existing Conditional Use Permit or other entitlement. For  
21 sites not subject to Chapter 15.34 (located in the public right-of-way),  
22 applications for modification will be subject to the standards and procedures  
23 set forth for new Wireless Telecommunications Facilities, as specified in  
24 Sections 21.56.030 through 21.56.060, if any of the following apply:

25                   1.     No Conditional Use Permit was issued for the original  
26 Wireless Telecommunications Facility;

27                   2.     The Conditional Use Permit for the original Wireless  
28 Telecommunications Facility did not allow for future modification or the

1 extent of site improvements involved with the modification project (in this  
2 case, an application for a modification to the approved Conditional Use  
3 Permit, subject to Planning Commission review, may be substituted for a  
4 new Conditional Use Permit); or

5 3. No environmental review was completed for the  
6 location of the original Wireless Telecommunications Facility that addressed  
7 the environmental impacts of future modifications (in this case, an  
8 application for a modification to the approved Conditional Use Permit,  
9 subject to Planning Commission review, may be substituted for a new  
10 Conditional Use Permit).

11 D. Peer review.

12 1. The Director of Development Services is authorized to  
13 retain on behalf of the City an independent technical expert to peer review  
14 any application for a Wireless Telecommunications Facility Permit if  
15 reasonably necessary, as determined by the Director. The review is  
16 intended to be a review of technical aspects of the proposed Wireless  
17 Telecommunications Facility and shall address all of the following:

18 a. Compliance with applicable radio frequency  
19 emission standards;

20 b. Whether any requested exception is necessary  
21 to close a significant gap in coverage, increase network capacity, or  
22 maintain service quality and is the least intrusive means of doing so;

23 c. The accuracy and completeness of submissions;

24 d. Technical demonstration of the unavailability of  
25 alternative sites or configurations and/or coverage analysis;

26 e. The applicability of analysis techniques and  
27 methodologies;

28 f. The validity of conclusions reached;

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g. The compatibility of any required architectural screening;

h. Technical data submitted by the applicant to justify the proposed height of any new installation including monopoles or roof/building mounted sites; and

i. Any specific technical issues designated by the City.

E. Appeals.

1. Appeals from the decision(s) of the Director of Development Services or designee, and/or the Staff Site Plan Review Committee, shall be to the Planning Commission.

2. Appeals from the decision(s) of the Planning Commission shall be to the City Council.

3. All appeals shall be in accordance with the provisions of Title 21 related to Appeals.

F. Revocation. The Planning Commission may, after a duly noticed public hearing, revoke, modify or suspend any wireless telecommunications permit on any one (1) or more of the following grounds:

1. That the wireless telecommunications permit was obtained by fraud or misrepresentation;

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

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

1           G. Findings. A Conditional Use Permit, Site Plan Review, or  
2 modification for a Wireless Telecommunications Facility or co-location  
3 facility may be granted only if the following findings are made by the  
4 designated reviewing body or person, in addition to any findings applicable  
5 under Chapter 21.25:

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

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

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

14           4. The proposed facility is necessary to close a significant  
15 gap in coverage, increase network capacity, or maintain service quality, and  
16 is the least intrusive means of doing so;

17           5. The applicant has submitted a statement of its  
18 willingness to allow other wireless service providers to co-locate on the  
19 proposed Wireless Telecommunications Facility wherever technically and  
20 economically feasible and where co-location would not harm community  
21 compatibility; and

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

24           H. Transfer or Change of Ownership/Operator. Upon assignment  
25 or transfer of an already approved Wireless Telecommunications Facility or  
26 any rights under that permit, the owner and/or current operator of the  
27 Facility shall within thirty (30) days of such assignment or transfer provide  
28 written notification to the Director of Development Services of the date of

1 the transfer and the identity of the transferee. The Director may require  
2 submission of any supporting materials or documentation necessary to  
3 determine that the proposed use is in compliance with the existing permit  
4 and all of its conditions including, but not limited to, statements,  
5 photographs, plans, drawings, models, and analysis by a State-licensed  
6 radio frequency engineer demonstrating compliance with all applicable  
7 regulations and standards of the Federal Telecommunications Commission  
8 and the California Public Utilities Commission. If the Director determines  
9 that the proposed operation is not consistent with the existing permit, the  
10 Director shall notify the applicant who may revise the application or apply  
11 for modification of the permit pursuant to the requirements of this Chapter.  
12 21.56.150 Severability clause.

13 If any provision or clause of this Chapter or the application thereof to  
14 any person or circumstance is held to be unconstitutional or to be otherwise  
15 invalid by any court of competent jurisdiction, such invalidity shall not affect  
16 other article provisions or clauses or applications, and to this end the  
17 provisions and clauses of this Chapter are declared to be severable.

18  
19 Section 2. Chapter 15.34 is added to the Long Beach Municipal Code to  
20 read as follows:

21 Chapter 15.34

22 WIRELESS TELECOMMUNICATIONS FACILITIES  
23 IN THE PUBLIC RIGHTS-OF-WAY  
24

25 15.34.010 Purpose and objectives.

26 The purpose of this Chapter is to regulate the establishment and operation  
27 of wireless telecommunications facilities within the public right-of-way in the City of  
28 Long Beach, consistent with the General Plan, and with the intent to:

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- A. Allow for the provision of wireless communications services adequate to serve the public's interest within the City;
- B. Minimize the negative impacts of wireless telecommunications facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities in the context of other uses and users in the public right-of-way, and protect the health, safety and welfare of the City of Long Beach;
- C. Strongly encourage the location of wireless telecommunications facilities in those areas of the City where the adverse aesthetic impact on the community is minimal;
- D. Promote the public health, safety, convenience, and general welfare of the City's residents, and to protect historical resources, property values and the aesthetic appearance of the City of Long Beach;
- E. Strongly encourage wireless telecommunications providers to configure all facilities in such a way that minimizes displeasing aesthetics through careful design, siting, landscaping, screening, and innovative camouflaging techniques;
- F. Provide a uniform and comprehensive set of standards for the development, siting, installation, and operation of wireless telecommunications facilities in the limited physical resources and capacity of the available public right-of-way of the City of Long Beach in such a manner to not unreasonably discriminate, and to be competitively neutral, and non-exclusive as to the extent required under applicable law;
- G. Encourage open competition and the provision of advanced and high quality telecommunications services on the widest possible basis to the businesses, institutions, and residents of the City;
- H. Encourage economic development while preserving aesthetic

1 and other community values and preventing proliferation of above ground  
2 wireless telecommunication equipment; and

3 I. Conform to all applicable federal and state laws.

4 15.34.020 Definitions.

5 In addition to all those terms defined in Chapter 21.15 of the zoning  
6 regulations, the following terms shall have the meanings set forth below, for the  
7 purposes of this Chapter:

8 A. "Abandoned." Notwithstanding the definition of "abandoned" in  
9 Section 21.15.030, a wireless telecommunications facility use shall be  
10 considered abandoned if it is not in use for two (2) consecutive months.

11 B. "Adjacent" means on the same side of the street and in front  
12 of the building or the next building on either side, when used in connection  
13 with a national historic landmark, California landmark, City landmark as  
14 defined in Chapter 2.63, or cultural resource as defined in Chapter 2.63;  
15 and in front of and on the same side of the street, when used in connection  
16 with a City park or open space.

17 C. "Applicable Law" means all applicable federal, state, and City  
18 laws, ordinances, codes, rules, regulations and orders, as the same may be  
19 amended or adopted from time to time.

20 D. "Base Station" shall have the meaning as determined by the  
21 Director of Public Works in an order or regulation, provided that the Director  
22 of Public Works' definition shall be consistent with the definition of that term:  
23 (a) as it is used in Section 6409(a) of the Middle Class Tax Relief and Job  
24 Creation Act of 2012, codified at 47 U.S.C. § 1455(a) as may be amended  
25 from time to time; and (b) as it is defined by the FCC in any decision  
26 addressing that section or any regulation implementing that section,  
27 including without limitation the FCC Report and Order entitled "In the Matter  
28 of Acceleration of Broadband Deployment by Improving Wireless Facilities

1 Siting Policies; Acceleration of Broadband Deployment: Expanding the  
2 Reach and Reducing the Cost of Broadband Deployment by Improving  
3 Policies Regarding Public Rights of Way and Wireless Facilities Siting;  
4 2012 Biennial Review of Telecommunications Regulations,” (FCC Report  
5 and Order No. 14-153).

6 E. “Business Day” means a day that Long Beach City Hall is  
7 open to conduct public business.

8 F. “Coastal Zone Protected Location” means a proposed location  
9 for a wireless telecommunications facility in the public right-of-way that is  
10 within or adjacent to a designated coastal zone (as that term is defined in  
11 Section 21.15.530).

12 G. “Coastal Zone Protected Location Compatibility Standard”  
13 means whether a wireless telecommunications facility that is proposed to  
14 be located in a Coastal Zone Protected Location would comply with all  
15 applicable requirements and standards applicable to the installation of  
16 public infrastructure within the coastal zone.

17 H. “Co-location” means the placement or installation of wireless  
18 telecommunications facilities, including antennas and related equipment  
19 onto an existing wireless telecommunications facility in the case of  
20 monopoles, or onto the same building in the case of roof/building-mounted  
21 sites or placement onto an existing pole or structure with existing wireless  
22 telecommunication facility in the public right-of-way.

23 I. “Co-location Facility” means a wireless telecommunications  
24 facility that has been co-located consistent with the meaning of “co-location”  
25 as defined above. It does not include the initial installation of a new wireless  
26 telecommunications facility where previously there was none, nor the  
27 construction of an additional monopole on a site with an existing monopole.

28 J. “Eligible Facilities Request” shall have the meaning as

1 determined by the Director of Public Works in an order or regulation,  
2 provided that the Director of Public Works' definition shall be consistent with  
3 the definition of that term: (a) as it is used in Section 6409(a) of the Middle  
4 Class Tax Relief and Job Creation Act of 2012, codified at 47 U.S.C. §  
5 1455(a) as may be amended from time to time; and (b) as it is defined by  
6 the FCC in any decision addressing that section or any regulation  
7 implementing that section.

8 K. "FCC" means the Federal Communications Commission.

9 L. "Modification Permit" means a Wireless Right-of-Way Facility  
10 Permit issued by the Department of Public Works pursuant to Subsection  
11 15.34.030(S) below, authorizing a permittee to modify equipment installed  
12 on a utility pole or street light pole by the permittee pursuant to a Wireless  
13 Right-of-Way Facility Permit.

14 M. "Permittee" means a person issued a permit pursuant to this  
15 Chapter 15.34.

16 N. "Person" means any individual, group, company, partnership,  
17 association, joint stock company, trust, corporation, society, syndicate, club,  
18 business, or governmental entity. "Person" shall not include the City of Long  
19 Beach.

20 O. "Phasing Plan" means a schedule in a form and with timing  
21 that is reasonable and acceptable to the Director of Public Works, setting  
22 forth milestones for completion of the construction and inspection of a  
23 wireless telecommunications facility, compliance with which shall be a  
24 condition of approval on each Wireless Right-of-Way Facility Permit.

25 P. "Planning Protected Location" means any of the following  
26 proposed locations for a wireless telecommunications facility:

27 1. On an historic, historically or architecturally significant,  
28 decorative, or specially designed street light pole located in the public right-

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of-way;

2. On a utility pole or street light pole that is on a public right-of-way that is within a national historic landmark district, listed or eligible national register historic district, listed or eligible California register historic district, listed or eligible City landmark, or listed or eligible City landmark district, as more specifically described and cataloged in materials prepared and maintained pursuant to Chapter 2.63;

3. On a utility pole or street light pole that is on a public right-of-way that is adjacent to a national historic landmark, California landmark, or City landmark, as more specifically described and cataloged in materials prepared and maintained pursuant to Chapter 2.63;

4. On a utility pole or street light pole that is on a public right-of-way that the General Plan has designated as being most significant to City pattern, defining City form, or having an important street view for orientation; or

5. On a utility pole or street light pole that is on a public right-of-way that the General Plan has designated as having views that are rated "excellent" or "good."

Q. "Planning Protected Location Compatibility Standard" means whether an applicant for a Wireless Right-of-Way Facility Permit demonstrates that a proposed wireless telecommunications facility would be compatible with any of the Planning Protected Locations as follows:

1. For a historic, historically or architecturally significant, decorative, or specially designed street light pole, the applicable standard is whether a proposed wireless telecommunications facility would significantly degrade the aesthetic attributes that distinguish the street light pole as historic, historically significant, architecturally significant, decorative, or specially designed.

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2. For public right-of-way that is within a national historic landmark district, listed or eligible national register historic district, listed or eligible California register historic district, listed or eligible City landmark, or listed or eligible City landmark district, the applicable standard is whether a proposed wireless telecommunications facility would significantly degrade the aesthetic attributes that were the basis for the special designation of the district.

3. For a utility pole or street light pole that is adjacent to a national historic landmark, California landmark, or City landmark, the applicable standard is whether a proposed wireless telecommunications facility would significantly degrade the aesthetic attributes that were the basis for the special designation of the building.

4. For public right-of-way that the General Plan has designated as being most significant to City pattern, defining City form, or having an important street view for orientation, the applicable standard is whether a proposed wireless telecommunications facility would significantly degrade the aesthetic attributes that were the basis for the designation of the street for special protection under the General Plan.

5. For public right-of-way that the General Plan has designated as having views that are rated "excellent" or "good," the applicable standard is whether a proposed wireless telecommunications facility would significantly impair the views of any of the important buildings, landmarks, open spaces, or parks that were the basis for the designation of the street as a view street.

R. "Public Health Compliance Standard" means whether: (a) any potential human exposure to radio frequency emissions from a proposed wireless telecommunications facility described in an application is within the FCC guidelines; and (b) noise at any time of the day or night from the

1 proposed wireless telecommunications facility described in an application is  
2 not greater than forty-five (45) dBA as measured at a distance three (3) feet  
3 from any residential building facade.

4 S. "Public right-of-way" means any public highway, street, alley,  
5 sidewalk, parkway, parking lot, and all extensions or additions thereto which  
6 is either owned, operated, or controlled by the City, or is subject to an  
7 easement or dedication to the City, or is a privately-owned area within City's  
8 jurisdiction which is not yet dedicated, but is designated as a proposed  
9 public right-of-way on a tentative subdivision map approved by the City.

10 T. "Replace" means to remove previously permitted equipment  
11 and install new equipment at a permitted wireless telecommunications  
12 facility that is identical or smaller in size and weight, equal or fewer in  
13 quantity, and identical in color when compared to the previously permitted  
14 equipment; provided, however, that an increase in size or weight to the  
15 extent required by applicable state or federal regulation may be permitted.

16 U. "Residential/Institutional Planned Development (PD) District"  
17 means the following Planned Development Districts within the City of Long  
18 Beach: PD-5 (Ocean Boulevard), PD-10 (Willmore City), PD-11 (Rancho  
19 Estates), PD-17 (Alamitos Land), PD-20 (All Souls), PD-25 (Atlantic  
20 Avenue), all RP residential planned unit development districts, as well as  
21 any future PDs and/or RPs designated as such by the City.

22 V. "Street Light Pole" means a pole used principally or solely for  
23 street lighting and which is located in the public rights-of-way.

24 W. "Substantially Change the Physical Dimensions" shall have  
25 the meaning as determined by the Director of Public Works in an order or  
26 regulation, provided that the Director of Public Works' definition shall be  
27 consistent with the definition of that term: (a) as it is used in Section 6409(a)  
28 of the Middle Class Tax Relief and Job Creation Act of 2012, codified at 47

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U.S.C. § 1455(a) as may be amended from time to time; and (b) as it is defined by the FCC in any decision addressing that section or any regulation implementing that section.

X. "Tier A Compatibility Standard" means that an applicant for a wireless telecommunications facility on a public right-of-way that is within an Unprotected Location has demonstrated that the proposed wireless telecommunications facility would not significantly detract from any of the defining characteristics of the neighborhood.

Y. "Tier A Wireless Telecommunications Facility" means a wireless telecommunications facility where the proposed location for the facility is in an Unprotected Location.

Z. "Tier B Compatibility Standard" means (i) in the case of applications for wireless telecommunications facility within or adjacent to the public right-of-way in a Planning Protected Location, a wireless telecommunications facility that complies with the Planning Protected Location Compatibility Standard, (ii) in the case of applications for wireless telecommunications facility within or adjacent to the public right-of-way in a Coastal Zone Protected Location, a wireless telecommunications facility that complies with the Coastal Zone Protected Location Compatibility Standard, and (iii) in the case of applications for wireless telecommunications facility within or adjacent to the public right-of-way in a Zoning Protected Location, a wireless telecommunications facility that complies with the Zoning Protected Location Compatibility Standard. In addition to the foregoing, for all applications for wireless telecommunications facilities within or adjacent to Planning Protected Locations, Coastal Zone Protected Locations, and/or Zoning Protected Locations, satisfaction of the Tier B Compatibility Standard requires an affirmative demonstration that the proposed wireless telecommunications

1 facility would not significantly detract from any of the defining characteristics  
2 of the Planning Protected Location, Coastal Zone Protected Location, or  
3 Zoning Protected Location.

4 AA. "Tier B Wireless Telecommunications Facility" means a  
5 wireless telecommunications facility where the proposed location for the  
6 facility is in a Planning Protected Location, Coastal Zone Protected  
7 Location, or Zoning Protected Location.

8 BB. "Transmission Equipment" shall have the meaning as  
9 determined by the Director of Public Works in an order or regulation,  
10 provided that the Director of Public Works' definition shall be consistent with  
11 the definition of that term: (a) as it is used in Section 6409(a) of the Middle  
12 Class Tax Relief and Job Creation Act of 2012, codified at 47 U.S.C. §  
13 1455(a) as may be amended from time to time; and (b) as it is defined by  
14 the FCC in any decision addressing that section or any regulation  
15 implementing that section.

16 CC. "Unprotected Location" means a proposed location for a  
17 wireless telecommunications facility that is not located within or adjacent to  
18 a Planning Protected Location, a Coastal Zone Protected Location, and/or a  
19 Zoning Protected Location.

20 DD. "Utility Pole" means any pole or tower owned by any utility  
21 company that is located in the public right-of-way necessary for the  
22 distribution of electrical or other utility services regulated by the California  
23 Public Utilities Commission, as well as guyed poles. This does not include  
24 towers for high-voltage electrical power transmission between generating  
25 plants and electrical substations.

26 EE. "Wireless Telecommunications Facility" means equipment  
27 installed for the purpose of providing wireless transmission of voice, data,  
28 images, or other information including but not limited to, cellular telephone

1 service, personal communications services, and paging services, consisting  
2 of equipment, antennas, and network components such as towers, utility  
3 poles, transmitters, base stations, conduits, pull boxes, electrical meters,  
4 and emergency power systems. "Wireless telecommunications facility" does  
5 not include radio or television broadcast facilities, nor radio communications  
6 systems for government or emergency services agencies.

7 FF. "Zoning Protected Location" means on a utility pole or street  
8 light pole that is on a public right-of-way that is within a residential or a  
9 residential/institutional planned development (PD) district.

10 GG. "Zoning Protected Location Compatibility Standard" means  
11 that an applicant for a wireless telecommunications facility on a public right-  
12 of-way that is within a Zoning Protected Location has demonstrated that the  
13 proposed wireless telecommunications facility would not significantly detract  
14 from any of the defining characteristics of the residential or a  
15 residential/institutional planned development (PD) district.

16 15.34.030 Requirements and standards for wireless telecommunications  
17 facilities in the public right-of-way.

18 A. Permit Required. Any person seeking to construct, install, or  
19 maintain a wireless telecommunications facility in, on, under, or above the  
20 public right-of-way shall obtain a Wireless Right-of-Way Facility Permit  
21 pursuant to the requirements of this Chapter prior to installing such wireless  
22 telecommunications facility.

23 B. Permit requirements for wireless telecommunications facilities  
24 in the public right-of-way.

25 1. Minimum Permit Requirements.

26 a. The Department of Public Works shall not issue  
27 a Wireless Right-of-Way Facility Permit if the permit application does not  
28 comply with all of the applicable requirements of this Section 15.34.030.

1                                    b.        The Department of Public Works shall require an  
2 applicant for a Wireless Right-of-Way Facility Permit to demonstrate to the  
3 satisfaction of the Department of Public Works that:

4                                    (i)        Other Permits. The applicant has  
5 obtained all appropriate permits (e.g., encroachment and traffic control  
6 permits) from the Department of Public Works, together with all other  
7 applicable permits and approvals from the City and other governmental  
8 agencies (e.g., approvals and permits required under the City's local  
9 coastal program (Chapter 21.25), and approvals and permits required under  
10 the City's cultural heritage procedures (Chapter 2.63)).

11                                   (ii)       Authorization to Install. If the facility is to  
12 be installed on an existing utility pole or street light pole, the applicant shall  
13 provide proof that either (a) the pole is either owned and controlled by the  
14 Joint Pole Commission and that the applicant is a member of the Joint Pole  
15 Commission with attachment rights, or (b) the owner of the pole has  
16 authorized the installation.

17                                   (iii)      California Environmental Quality Act  
18 Compliance. The applicant has obtained any approvals that may be  
19 required under the California Environmental Quality Act (California Public  
20 Resources Code Section 21000 et seq.) to construct, install, and maintain  
21 the proposed wireless telecommunications facility.

22                                   (iv)      California Public Utilities Commission  
23 Authorizations. The applicant has obtained any necessary certificate of  
24 public convenience and necessity issued by the California Public Utilities  
25 Commission.

26                                   (v)       Operational Interference with Public  
27 Rights of Way. No part of a wireless telecommunication facility shall alter  
28 vehicular circulation or parking within the public right-of-way, nor shall it

1 impede vehicular and/or pedestrian access or visibility along any public  
2 right-of-way. No permittee shall locate or maintain wireless  
3 telecommunication facilities to unreasonably interfere with the use of City  
4 property or the public right-of-way by the City, by the general public or by  
5 other persons authorized to use or be present in or upon the public right-of-  
6 way. Unreasonable interference includes disruption to vehicular or  
7 pedestrian traffic on City property or the public right-of-way, interference  
8 with public utilities, and any such other activities that will present a hazard  
9 to public health, safety or welfare when alternative methods of construction  
10 would result in less disruption. All such wireless telecommunications  
11 facilities shall be moved by the permittee, at the permittee's cost,  
12 temporarily or permanently, as determined by the Director of Public Works.

13 (vi) Aesthetic Impacts. All wireless  
14 telecommunication facilities shall be designed and located to eliminate or  
15 substantially reduce their visual and aesthetic impacts upon the surrounding  
16 public rights-of-way and public vantage points. To accomplish this goal, all  
17 wireless telecommunication equipment shall be developed with the intent of  
18 locating and designing such facilities in the following manner and order of  
19 preference (from top to bottom). In instances where a facility is proposed  
20 for installation at a location or in a manner that is not the highest preference  
21 for each of the following categories, the applicant shall make a factual  
22 showing that all higher preferences are infeasible:

23 1) Antenna preferences:

- 24 (i) On an existing street light pole;  
25 (ii) On a replacement street light pole;  
26 (iii) On an existing structure other than

27 a street light pole or utility pole in the public-right-of-way;

- 28 (iv) On a new structure other than a

1 street light pole or utility pole in the public right-of-way (e.g., wireless telecommunication  
2 kiosk);

3 (v) On an existing non-wood utility  
4 pole;

5 (vi) On a new non-wood utility pole;

6 (vii) On an existing wood utility pole.

7 2) Equipment preferences (for all  
8 appurtenant equipment, including, but not limited to, radio units, power  
9 supplies, voltage converters, and electrical service connections and  
10 meters):

11 (i) When bundled in an all-in-one  
12 equipment cabinet with the antenna(s), provided, however, that the size of the cabinet  
13 shall be minimized to the satisfaction of the Director of Public Works;

14 (ii) Within a below-grade equipment  
15 vault, or on a street light pole or utility pole that does not place new cabinets or other  
16 above ground furniture in the public right-of-way, provided, however, that the size of the  
17 boxes on the pole shall be minimized to the satisfaction of the Director of Public Works  
18 and that the power supply equipment is undergrounded;

19 (iii) Attached to existing power source  
20 in an existing utility box;

21 (iv) Enclosed at the base of the pole  
22 on which the antenna(s) is/are proposed for installation;

23 (v) In an existing ground-mounted  
24 (grade-level) equipment cabinet, with no expansion or additional cabinets to be added;

25 (vi) Within a new equipment enclosure  
26 mounted at grade.

27 3) Site location preferences:

28 (i) Within the public right-of-way, not

1 in a center median, and not requiring the removal of existing parkway trees, reduction of  
2 the size of any parkway landscape planters, and not requiring any modifications to the  
3 existing location of any infrastructure within the public right-of-way;

4 (ii) Within the parkway landscaping  
5 within the public right-of-way, and requiring only minor alterations to the existing parkway  
6 landscaping (including planter size) and/or infrastructure;

7 (iii) Within the public right-of-way in a  
8 manner that requires significant alteration to the existing public improvements and/or  
9 infrastructure.

10 4) Site location restrictions. In  
11 addition to the orders of preference specified in the preceding subsections,  
12 the following location prohibitions shall be applicable to all applications for  
13 installations of wireless telecommunications facilities in the public rights-of-  
14 way.

15 (i) All wireless telecommunication  
16 facility antennas, equipment and related infrastructure shall be prohibited in all center  
17 street medians;

18 (ii) In Residential Zoning Districts or  
19 Residential Planned Development Districts, only one (1) wireless telecommunications  
20 facility and associated equipment per applicant (including contractors, subcontractors,  
21 agents, or lessors to applicant or applicant's affiliate) shall be permitted within the public  
22 right-of-way within a five hundred foot (500') radius. For all other applicants, only one (1)  
23 wireless telecommunications facility and associated equipment per applicant shall be  
24 permitted within the public right-of-way within a one hundred foot (100') radius. The  
25 separation requirements in the preceding two sentences may be waived by the Director  
26 of Public Works upon a demonstration that the refusal to allow an additional facility within  
27 a five hundred foot (500') or one hundred foot (100') radius will result in the creation of a  
28 significant coverage gap for the applicant and/or that such refusal will otherwise violate

1 an applicable state or federal law;  
2 (iii) Wireless on strand or overhead  
3 lines shall be prohibited;  
4 (iv) New wood poles and strand  
5 mounts may be allowed by the Director of Public Works if the applicant demonstrates that  
6 a wooden pole or strand mount is less impactful (from public safety, visual, or logistic  
7 standpoints) at a specific location.  
8 5) Height:  
9 (i) Antenna installations on existing  
10 City infrastructure shall not exceed the height of the existing infrastructure piece by more  
11 than five and one-half feet (5.5') unless approved by the City Engineer or Director of  
12 Public Works after a finding is made that a greater height would promote the aesthetic or  
13 safety concerns of the City;  
14 (ii) For antenna(s) proposed for  
15 placement on a new pole in the public right-of-way, the height to the top of the highest  
16 element shall not exceed the average height of utility poles on the same block as the  
17 subject site by more than five and one-half feet (5.5'). In cases of uncertainty, the Director  
18 of Public Works shall have the authority to determine the applicable height limit;  
19 (iii) Pole-mounted equipment shall be  
20 a minimum of ten feet (10') above level of sidewalk for public safety reasons.  
21 6) Design:  
22 (i) Any pole to be installed in the  
23 public right-of-way shall be disguised to resemble a utility pole to the maximum extent  
24 possible. All antennas shall be limited to a diameter no more than the widest part of the  
25 main pole, excluding its base. All antennas and screening devices shall be painted or  
26 finished to match the pole. All pole or equipment shall be painted or otherwise coated,  
27 per City standard, to be visually compatible with existing poles and equipment. The  
28 installation of new wood poles is not preferred;

1 (ii) Omnidirectional antenna units and  
2 groups of panel antennas shall be placed on the same vertical axis as the center of the  
3 pole where feasible. If not feasible, the installation shall utilize brackets and/or cross-  
4 arms that allow no more than a six-inch (6") extension (stand-off) from the pole except  
5 when additional stand-off is required to comply with health and safety regulations such as  
6 GO-95 and OSHA;

7 (iii) Antenna installations on existing  
8 City infrastructure shall be placed in a manner so that the size, appearance and function  
9 of the final installation is essentially identical to the installation prior to the antenna  
10 installation taking place;

11 (iv) No faux or otherwise  
12 nonfunctioning street lights, decorative elements, signs, clock towers, or artificial trees or  
13 shrubs or other such nonfunctioning screening elements made to resemble other objects  
14 shall be permitted;

15 (v) Wireless telecommunications  
16 facility equipment located above the surface grade in the public right-of-way including, but  
17 not limited to those on certain street lights, shall consist of small equipment components  
18 that are compatible in structure, scale, function and proportion to the poles they are  
19 mounted on. Equipment shall be painted or otherwise coated, per City standard (which  
20 may include public art), to be visually compatible with the subject pole. Underground  
21 vaults shall employ flush-to-grade access portals and vents that are heel shoe safe and  
22 slip safe; provided, however, that this restriction shall not apply in flood prone areas.  
23 Installations on City-owned or controlled public facilities shall be subject to applicable  
24 fees as approved by the City Council;

25 (vi) Facilities shall be designed to be  
26 as visually unobtrusive as possible. Applicant shall size antennas, cabinet equipment and  
27 other facilities to minimize visual clutter. Facilities shall be sited to avoid or minimize  
28 obstruction of views from public vantage points and otherwise minimize the negative

1 aesthetic impacts of the public right-of-way;

2 (vii) All cables and conduits shall be  
3 routed through the interior of the subject pole; provided, however, that for wood poles all  
4 cables and conduits shall be mounted and routed in a manner calculated to minimize  
5 their visibility;

6 (viii) All cables shall be screened from  
7 public view.

8 (vii) Compliance With Applicable Laws:  
9 Permittee shall install and maintain permitted wireless telecommunications  
10 facilities in compliance with the requirements of the Uniform Building,  
11 National Electrical Code, City noise standards, and all other applicable  
12 codes, laws, and regulations (including without limitation, those specified in  
13 Title 21), as well as the restrictions specified in this Chapter.

14 (viii) Americans With Disabilities Act. The  
15 proposed wireless telecommunications facility and its location shall comply  
16 with the Americans with Disabilities Act.

17 (ix) Signs.

18 1) There shall be no advertising or  
19 signage on any portion of a wireless telecommunication facility, except that  
20 required by law and/or as may be required by the City of Long Beach.

21 2) Each wireless telecommunication  
22 facility shall be identified by a permanently installed plaque or marker, no  
23 larger than four inches (4") by six inches (6"), clearly identifying the  
24 addresses, email contact information, and twenty-four (24) hour local or toll-  
25 free contact telephone numbers for a live contact person for both the  
26 permittee and the agent responsible for the maintenance of the wireless  
27 telecommunications facility. Emergency contact information shall be  
28 included for immediate response. Such information shall be updated in the

1 event of a change in the permittee, the agency responsible for maintenance  
2 of the wireless telecommunication facility, or both.

3 3) Signs shall be hidden from public  
4 view when feasible. Background shall match color of equipment.

5 (x) Performance standards. All wireless  
6 telecommunications facilities in the public right-of-way shall be subject to  
7 the following:

8 1) Interference. No wireless  
9 telecommunication facility shall interfere with any emergency  
10 communication system at any time.

11 2) Graffiti. All graffiti on any  
12 components of the wireless telecommunications facility shall be removed  
13 promptly in accordance with City regulations. Graffiti on any facility in the  
14 public right-of-way must be removed within twenty-four (24) hours  
15 notification to the applicant of its appearance.

16 3) Landscaping. All landscaping  
17 required in connection with the permitting of the wireless  
18 telecommunications facility, including landscaping of the public right-of-way,  
19 shall be maintained in good, healthy condition at all times. Any dead or  
20 dying landscaping shall be promptly replaced or rehabilitated.

21 4) Repair of public right-of-way. The  
22 permittee or its operator shall repair, at its sole cost and expense, any  
23 damage (including, but not limited to subsidence, cracking, erosion,  
24 collapse, weakening, or loss of lateral support) to City streets, sidewalks,  
25 walks, curbs, gutters, trees, parkways, or utility lines and systems,  
26 underground utility line and systems, or sewer systems or sewer lines that  
27 results from any activities performed in connection with the installation  
28 and/or maintenance of a wireless telecommunications facility by permittee.

1 In the event permittee fails to complete said repair within the number of  
2 days stated on a written notice by the Director of Public Works, the Director  
3 shall cause said repair to be completed and shall invoice the permittee for  
4 all costs incurred by City as a result of such repair.

5 (i) Structural foundation must be  
6 removed when removing structures from the right-of-way;

7 (ii) All sidewalk panels affected by any  
8 work associated with the installation of a wireless telecommunications facility must be  
9 restored to their original condition.

10 5) Replacement of Equipment. During  
11 the term of a Wireless Right-of-Way Facility Permit, a permittee may  
12 replace equipment that is part of a permitted wireless telecommunications  
13 facility provided that the replacement equipment would be of the same (or  
14 smaller) size, quantity, weight, and appearance as the previously permitted  
15 equipment. The permittee shall notify the Department of Public Works prior  
16 to replacing any equipment, and shall not install the proposed equipment  
17 unless and until the Department of Public Works notifies permittee in writing  
18 that the Department has determined that the proposed replacement  
19 equipment complies with the requirements of this subsection, and until all  
20 required permits have been obtained.

21 6) Abandonment. The owner or  
22 operator of the wireless telecommunications facility shall notify the  
23 Department of Public Works in writing upon abandonment of the facility.  
24 The wireless telecommunications facility and all equipment associated  
25 therewith shall be removed in its entirety by the owner or operator within  
26 sixty (60) business days of a FCC or California Public Utilities Commission  
27 license or registration revocation or of facility abandonment (as defined in  
28 Subsection 15.34.020.A) or other discontinuation of use. The site shall be

1 restored to its pre-installation condition to the satisfaction of the Director of  
2 Public Works at the expense of the facility owner or operator. Restoration  
3 shall be completed within ten (10) business days of removal of the facility. If  
4 removal and restoration is not completed within these time limits, the  
5 Director of Public Works shall be authorized to cause such removal and  
6 restoration to be completed and shall invoice the permittee for all costs  
7 incurred by City as a result of such removal.

8 7) Liability, Indemnification, and  
9 Defense.

10 (i) As a condition of a Wireless Right-  
11 of-Way Facility Permit, each permittee agrees on its behalf and on behalf of any agents,  
12 successors, or assigns to be wholly responsible for the construction, installation, and  
13 maintenance of any permitted wireless telecommunications facility. Each permittee and  
14 its agents are jointly and severally liable for all consequences of such construction,  
15 installation, and maintenance of a wireless telecommunications facility. The issuance of  
16 any Wireless Right-of-Way Facility Permit, inspection, repair suggestion, approval, or  
17 acquiescence of any person affiliated with the City shall not excuse any permittee or its  
18 agents from such responsibility or liability.

19 (ii) As a condition of a Wireless Right-  
20 of-Way Facility Permit, each permittee agrees on its behalf and on behalf of its agents,  
21 successors, or assigns, to indemnify, defend, protect, and hold harmless the City from  
22 and against any and all claims of any kind arising against the City as a result of the  
23 issuance of a Wireless Right-of-Way Facility Permit including, but not limited to, a claim  
24 allegedly arising directly or indirectly from the following:

25 (a) Any act, omission, or negligence of  
26 a permittee or its any agents, successors, or assigns while engaged in the permitting,  
27 construction, installation, or maintenance of any wireless telecommunications facility  
28 authorized by a Wireless Right-of-Way Facility Permit, or while in or about the public

1 rights-of-way that are subject to the permit for any reason connected in any way  
2 whatsoever with the performance of the work authorized by the permit, or allegedly  
3 resulting directly or indirectly from the permitting, construction, installation, or  
4 maintenance of any wireless telecommunications facility authorized under the permit;

5 (b) Any accident, damage, death, or  
6 injury to any of a permittee's contractors or subcontractors, or any officers, agents, or  
7 employees of either of them, while engaged in the performance of the construction,  
8 installation, or maintenance of any wireless telecommunications facility authorized by a  
9 Wireless Right-of-Way Facility Permit, or while in or about the public right-of-way that are  
10 subject to the permit, for any reason connected with the performance of the work  
11 authorized by the permit, including from exposure to radio frequency emissions;

12 (c) Any accident, damage, death, or  
13 injury to any person or accident, damage, or injury to any real or personal property in,  
14 upon, or in any way allegedly connected with the construction, installation, or  
15 maintenance of any wireless telecommunications facility authorized by a Wireless Right-  
16 of-Way Facility Permit, or while in or about the public right-of-way that are subject to the  
17 permit, from any causes or claims arising at any time, including any causes or claims  
18 arising from exposure to radio frequency emissions; and

19 (d) Any release or discharge, or  
20 threatened release or discharge, of any hazardous material caused or allowed by a  
21 permittee or its agents about, in, on, or under the public right-of-way.

22 (iii) Permittee, at no cost or expense to  
23 the City, shall indemnify, defend, and hold harmless the City against any claims as set  
24 forth in Subsection 15.34.030(B)(1)(b)(x)(7)(ii) above, regardless of the alleged  
25 negligence of City or any other party, except only for claims resulting directly from the  
26 sole negligence or willful misconduct of the City. Each permittee specifically  
27 acknowledges and agrees that it has an immediate and independent obligation to defend  
28 the City from any claims that actually or potentially fall within the indemnity provision,

1 even if the allegations are or may be groundless, false, or fraudulent, which obligation  
2 arises at the time such claim is tendered to the permittee or its agent by the City and  
3 continues at all times thereafter. Each permittee further agrees that the City shall have a  
4 cause of action for indemnity against the permittee for any costs the City may be required  
5 to pay as a result of defending or satisfying any claims that arise from or in connection  
6 with a Wireless Right-of-Way Facility Permit, except only for claims resulting directly from  
7 the sole negligence or willful misconduct of the City. Each permittee further agrees that  
8 the indemnification obligations assumed under a Wireless Right-of-Way Facility Permit  
9 shall survive expiration of the permit or completion of installation of any wireless  
10 telecommunications facility authorized by the permit.

11 (iv) The Department may specify in a  
12 Wireless Right-of-Way Facility Permit such additional indemnification requirements as are  
13 necessary to protect the City from risks of liability associated with the permittee's  
14 construction, installation, and maintenance of a wireless telecommunications facility.

15 8) Insurance.

16 (i) Minimum Coverages. The  
17 Department of Public Works shall require that each permittee maintain in full force and  
18 effect, throughout the term of a Wireless Right-of-Way Facility Permit, an insurance policy  
19 or policies issued by an insurance company or companies satisfactory to the City's Risk  
20 Manager. Such policy or policies shall, at a minimum, afford insurance covering all of the  
21 permittee's operations, vehicles, and employees, as follows:

22 (a) Workers' compensation, in  
23 statutory amounts, with employers' liability limits not less than one million dollars  
24 (\$1,000,000) each accident, injury, or illness.

25 (b) Commercial general liability  
26 insurance with limits not less than five million dollars (\$5,000,000) each occurrence  
27 combined single limit for bodily injury and property damage, including contractual liability,  
28 personal injury, products and completed operations. This insurance shall include

1 coverage for electric and magnetic fields (EMF) liability, products and completed  
2 operations liability.

3 (c) Commercial automobile liability  
4 insurance with limits not less than one million dollars (\$1,000,000) each occurrence  
5 combined single limit for bodily injury and property damage, including owned, non-owned  
6 and hired auto coverage, as applicable.

7 (d) Contractors' pollution liability  
8 insurance, on an occurrence form, with limits not less than one million dollars  
9 (\$1,000,000) each occurrence combined single limit for bodily injury and property  
10 damage and any deductible not to exceed twenty-five thousand dollars (\$25,000) each  
11 occurrence.

12 (e) "All Risk" property insurance,  
13 including debris removal, covering the full replacement value of permittee's  
14 improvements constructed on or upon any City-owned property.

15 (ii) Other Insurance Requirements.

16 (a) Said policy or policies shall include  
17 the City and its officers and employees jointly and severally as additional insureds, shall  
18 apply as primary insurance, shall stipulate that no other insurance effected by the City will  
19 be called on to contribute to a loss covered thereunder, and shall provide for severability  
20 of interests.

21 (b) Said policy or policies shall provide  
22 that an act or omission of one insured, which would void or otherwise reduce coverage,  
23 shall not reduce or void the coverage as to any other insured. Said policy or policies shall  
24 afford full coverage for any claims based on acts, omissions, injury, or damage which  
25 occurred or arose, or the onset of which occurred or arose, in whole or in part, during the  
26 policy period.

27 (c) Said policy or policies shall be  
28 endorsed to provide thirty (30) business days advance written notice of cancellation or

1 any material change to the Department of Public Works.

2 (d) Should any of the required  
3 insurance be provided under a claims-made form, a permittee shall maintain such  
4 coverage continuously throughout the term of a Wireless Right-of-Way Facility Permit,  
5 and, without lapse, for a period of three (3) years beyond the expiration or termination of  
6 the permit, to the effect that, should occurrences during the term of the permit give rise to  
7 claims made after expiration or termination of the permit, such claims shall be covered by  
8 such claims-made policies.

9 (e) Should any of the required  
10 insurance be provided under a form of coverage that includes a general annual  
11 aggregate limit or provides that claims investigation or legal defense costs be included in  
12 such general annual aggregate limit, such general aggregate limit shall be double the  
13 occurrence or claims limits specified in Subsection 15.34.030(B)(1)(b)(x)(8)(i) above.

14 (iii) Indemnity Obligation. Such  
15 insurance shall in no way relieve or decrease a permittee's or its agent's obligation to  
16 indemnify the City under Subsection 15.34.030(B)(1)(b)(x)(7) above.

17 (iv) Proof of Insurance. Before the  
18 Department of Public Works will issue a Wireless Right-of-Way Facility Permit, a  
19 permittee shall furnish to the Department of Public Works certificates of insurance and  
20 additional insured policy endorsements with insurers that are authorized to do business in  
21 the State of California and that are satisfactory to the City evidencing all coverages set  
22 forth in Subsection 15.34.030(B)(1)(b)(x)(8)(i) above.

23 (v) Self-Insurance. Where a permittee  
24 is self-insured, and such insurance is no less broad and affords no less protection to the  
25 City than the requirements specified in Subsection 15.34.030(B)(1)(b)(x)(8)(i) above, the  
26 Department of Public Works, in consultation with the City's Risk Manager, may accept  
27 such insurance as satisfying the requirements of Subsection 15.34.030(B)(1)(b)(x)(8)(i)  
28 above. Evidence of such self-insurance shall be provided in the manner required by the

1 City's Risk Manager.

2 9) Bond. Each permittee, as a  
3 condition of the Wireless Right-of-Way Facility Permit, shall obtain, keep,  
4 and maintain a performance bond in an amount as determined by the City  
5 Engineer adequate to guarantee to the City the prompt, faithful and  
6 competent performance of the proposed work necessary to install the  
7 proposed telecommunication facility and restoration of the public right-of-  
8 way.

9 10) City Changes to Public Right-of-  
10 Way. The permittee shall modify, remove, or relocate its wireless  
11 telecommunications facility, or portion thereof, without cost or expense to  
12 the City, if and when made necessary by any street or alley reconstruction,  
13 widening, relocation or vacation, the undergrounding of utilities, or any other  
14 construction in the public right-of-way negatively impacted by the wireless  
15 telecommunications facilities as installed, to the maximum degree  
16 consistent with the regulations at the California Public Utilities Commission.  
17 Said modification, removal, or relocation of a wireless telecommunications  
18 facility shall be completed within ninety (90) business days of notification by  
19 City unless exigencies dictate a shorter period for removal or relocation. In  
20 the event a wireless telecommunications facility is not modified, removed,  
21 or relocated within said period of time, City may cause the same to be done  
22 at the sole expense of permittee. Further, in the event of an emergency, the  
23 City may modify, remove, or relocate wireless telecommunications facilities  
24 without prior notice to permittee provided permittee is notified within a  
25 reasonable period thereafter.

26 2. Exclusions. The Department of Public Works shall not  
27 issue a Wireless Right-of-Way Facility Permit if the applicant seeks to:

28 a. Install a new overhead utility line on a public

1 right-of-way where there are presently no overhead utility facilities; or

2 b. Add a wireless telecommunications facility on a  
3 utility pole or street light pole for which a Wireless Right-of-Way Facility  
4 Permit has already been approved.

5 3. Permit Conditions. The Department of Public Works  
6 may include in a Wireless Right-of-Way Facility Permit such conditions, in  
7 addition to those already set forth in this Chapter 15.34 and other applicable  
8 law, as may be required to govern the construction, installation, or  
9 maintenance of wireless telecommunications facilities in the public rights-of-  
10 way, and to protect and benefit the public health, safety, welfare, and  
11 convenience, provided that no such conditions may concern the particular  
12 technology used for a wireless telecommunications facility.

13 C. Department of Public Works Orders and Regulations. The  
14 Department of Public Works may adopt such orders and regulations as it  
15 deems necessary to implement the requirements of this Chapter 15.34, or  
16 to otherwise preserve and maintain the public health, safety, welfare, and  
17 convenience, as are consistent with the requirements of this Chapter 15.34  
18 and applicable law.

19 D. Application Requirements. All applicants for a Wireless Right-  
20 of-Way Facility Permit must provide at least the following information in the  
21 application (in addition to such further information as is required by an order  
22 or regulation of the Director of Public Works adopted in accordance with  
23 Subsection 15.34.030(C)). Any required plans to be submitted must be  
24 stamped and signed by a qualified California licensed engineer.

- 25 1. Pole number and address;
- 26 2. A site plan illustrating the exact location and size of all  
27 proposed wireless telecommunication facility antennas, equipment and  
28 related infrastructure necessary for its operation within the public right-of-

1 way;

2 3. A fully dimensioned and scaled site plan that illustrates  
3 the following information within one hundred fifty feet (150') of the proposed  
4 wireless telecommunication facility:

5 a. The distances between all new and existing  
6 wireless telecommunication equipment and all other infrastructure within the  
7 public right-of-way such as, but not limited to, other existing  
8 telecommunication equipment, utility poles, street light poles, street trees,  
9 fire hydrants, bus stops, traffic signals and above and below ground utility  
10 equipment vault(s);

11 b. The distance and location of adjoining property  
12 lines, including County's assessor parcel numbers (APN), and easement  
13 boundaries abutting the public right-of-way, curbs, center line tie at all  
14 streets, driveway approaches, easements, walls, existing utility  
15 substructures, and parkway trees from the wireless telecommunication  
16 facility;

17 c. The immediate adjacent land uses and building  
18 locations;

19 d. The dedicated width of the public right-of-way;

20 e. The location of all existing sidewalks and  
21 parkway landscape planters.

22 4. Prior to final inspection of the facility, provide a GIS  
23 map (electronic format) of final facility and conduit locations and the  
24 infrastructure necessary to operate the antennas;

25 5. A detailed photograph of the exact location of all  
26 proposed wireless telecommunication facility antennas, equipment and  
27 related infrastructure within the public right-of-way. Additional photographs  
28 shall also be provided to document the existing setting of the wireless

1 telecommunication facility within one hundred fifty feet (150') to the north,  
2 south, east and west of the proposed facility with a corresponding location  
3 map key documenting where each photograph was taken;

4 6. Propagation/coverage maps, including "search rings"  
5 for new installations, shall be required only if and to the extent the applicant  
6 claims that denial of its application would or could cause a "significant  
7 coverage gap" within the meaning of the Federal Telecommunication Act.  
8 These maps shall demonstrate the feasibility of alternative locations and/or  
9 configurations for the proposed wireless telecommunications facility. These  
10 maps may also be relevant to applicant's demonstration that denial of an  
11 application would result in a violation of applicants rights under applicable  
12 law;

13 7. A study prepared by a qualified and independent  
14 engineer with expertise in radio frequency, deemed acceptable to the City,  
15 documenting that the new or modified telecommunication facility will not  
16 exceed Public Health Compliance Standard. The study shall include all  
17 proposed and existing telecommunication antennas at maximum  
18 operational capacity;

19 8. A narrative discussion, accompanied by evidence,  
20 explaining (if necessary) why a superior location or configuration (as  
21 established by the order of preferences in Subsection  
22 15.34.030(B)(1)(b)(vi)) cannot be feasibly implemented;

23 9. Any additional information deemed necessary by the  
24 Director of Public Works to evaluate the proposed wireless  
25 telecommunication facility and its construction impact to the existing  
26 infrastructure and design of the public right-of-way;

27 10. Stamped plans and calculations by a qualified  
28 California licensed engineer approving additional load of new wireless

1 facility equipment on the pole;

2 11. Plans showing how existing conduits inside or upon the  
3 pole will be separated and protected from new wireless conduits;

4 12. Photo simulation of proposed project;

5 13. Feasibility study supporting order of preference;

6 14. A noise study/analysis and/or manufacturer  
7 specifications demonstrating to the satisfaction of the Director of Public  
8 Works that noise from a proposed wireless telecommunications facility at  
9 any time of the day or night will not exceed forty-five (45) dBA as measured  
10 at a distance three (3) feet from any residential building facade; and

11 15. A phasing plan in a form and containing timing  
12 milestones for construction and inspection of the proposed wireless  
13 telecommunications facility that are acceptable to the Director of Public  
14 Works.

15 16. Applicants may request approvals for up to ten (10)  
16 wireless telecommunication facilities per application, so long as each of the  
17 proposed wireless telecommunications facilities is, in the judgment of the  
18 Director of Public Works, sufficiently similar in form to allow for the  
19 combined evaluation of the multiple proposed wireless telecommunications  
20 facilities.

21 E. Initial Review of Completeness of Wireless Right-of-Way  
22 Facility Permit Applications.

23 Following receipt of an application for a Wireless Right-of-Way  
24 Facility Permit, the Department of Public Works may conduct site visits and shall  
25 make an initial determination whether the application is complete, and shall  
26 promptly notify the applicant of that determination.

27 F. Conditions of Approval.

28 1. Conditions of Approval. During its review of an

1 application for a Wireless Right-of-Way Facility Permit under this Chapter  
2 15.34, the City may add conditions to its approval, tentative approval, or  
3 determination. The Department of Public Works shall promptly notify the  
4 applicant in writing of any such conditions and shall give the applicant ten  
5 (10) business days to accept or reject the conditions. If applicant's response  
6 is not received by the City by the eleventh (11<sup>th</sup>) business day, the  
7 application may be denied.

8 2. Acceptance of Conditions Required. The Department of  
9 Public Works shall not approve an application for a Wireless Right-of-Way  
10 Facility Permit unless the applicant accepts all of the conditions added to an  
11 approval, tentative approval, or determination.

12 G. Street Trees. When reviewing an application for a Wireless  
13 Right-of-Way Facility Permit, the City may require as a condition of approval  
14 that the permittee plant an appropriate street tree adjacent to the utility pole  
15 or street light pole so as to provide a screen for a permitted wireless  
16 telecommunications facility. If such a condition is imposed, the permittee  
17 shall be required to install a street tree that is a minimum of twenty-four  
18 (24)-inch, and up to a forty-eight (48)-inch, box size. The Department of  
19 Public Works shall work with the permittee to select the appropriate species  
20 and location for the required tree. In any instance in which the Department  
21 of Public Works cannot require the permittee to install a street tree, on the  
22 basis of inadequate sidewalk width, interference with utilities, or other  
23 reasons regarding the public health, safety, or welfare, the Department of  
24 Public Works shall instead require the permittee to make an "in-lieu"  
25 payment into the "Adopt-A-Tree" fund of the Department of Public Works.  
26 This payment shall be in the amount specified in the City's master fee  
27 schedule, and shall be payable prior to the Department of Public Works'  
28 issuance of the Wireless Right-of-Way Facility Permit.

1           H.     Review of Tier A Wireless Right-of-Way Facility Permit  
2 Applications. Within twenty (20) business days following receipt of a  
3 completed application for a Wireless Right-of-Way Facility Permit for a Tier  
4 A Wireless Telecommunications Facility, the Department of Public Works  
5 shall review and determine whether the proposed Tier A Wireless  
6 Telecommunications Facility satisfies the Tier A Compatibility Standard,  
7 satisfies the Public Health Compliance Standard, and otherwise meets the  
8 conditions, standards, and requirements of this Chapter 15.34. The  
9 Department of Public Works may extend the time period for this review  
10 period beyond twenty (20) business days when additional information is  
11 required to make a determination. The Department of Public Works shall  
12 not approve an application for a Wireless Right-of-Way Facility Permit  
13 unless the Department of Public Works makes a determination that the  
14 application satisfies the Tier A Compatibility Standard, satisfies the Public  
15 Health Compliance Standard, and otherwise meets the conditions,  
16 standards, and requirements of this Chapter 15.34.

17           I.     Review of Tier B Wireless Right-of-Way Facility Permit  
18 Applications. Within forty (40) business days following receipt of a  
19 completed application for a Wireless Right-of-Way Facility Permit for a Tier  
20 B Wireless Telecommunications Facility, the Department of Public Works,  
21 in consultation with other City departments as necessary, shall review and  
22 determine whether the proposed Tier B Wireless Telecommunications  
23 Facility satisfies the Tier B Compatibility Standard, satisfies the Public  
24 Health Compliance Standard, and otherwise meets the conditions,  
25 standards, and requirements of this Chapter 15.34. With the concurrence  
26 of the applicant, the Department of Public Works may extend the time  
27 period for this review period beyond forty (40) business days when  
28 additional information is required to make a determination. The Department

1 of Public Works shall not approve an application for a Wireless Right-of-  
2 Way Facility Permit unless the Department of Public Works makes a  
3 determination that the application satisfies the Tier B Compatibility  
4 Standard, satisfies the Public Health Compliance Standard, and otherwise  
5 meets the conditions, standards, and requirements of this Chapter 15.34.

6 J. Department of Public Works Determination.

7 1. Approval. A Department of Public Works' approval of  
8 an application for a Wireless Right-of-Way Facility Permit shall be in writing  
9 and shall set forth the reasons therefor. If a Department of Public Works'  
10 approval contains any conditions, the conditions shall also be in writing.  
11 Construction on the approved permit must commence within six (6) months,  
12 after which (if construction has not commenced) the permit shall  
13 automatically and without further notice or action, expire.

14 2. Denial. The Department of Public Works shall issue a  
15 final determination denying an application for a Wireless Right-of-Way  
16 Facility Permit within three (3) business days of any of the following events:

17 a. The Department of Public Works' determination  
18 that the application does not comply with the Public Health Compliance  
19 Standard;

20 b. The Department of Public Works' determination  
21 that the application does not meet the applicable compatibility standard; or

22 c. If the Department of Public Works receives  
23 notice from the applicant that it rejects any condition imposed upon the  
24 application for a Wireless Right-of-Way Facility Permit.

25 K. Notice Following Approval of Tier B Wireless Right-of-Way  
26 Facility Permit Applications

27 1. Notice Required. The Department of Public Works shall  
28 require an applicant for a Tier B Wireless Right-of-Way Facility Permit to

1 notify the public of the approval of the application under Subsection  
2 15.34.030(J) above, and to provide the Department of Public Works with  
3 evidence, as the Department of Public Works may require, of compliance  
4 with this requirement.

5 2. Types of Notice Required.

6 a. Notice by Mail. The applicant shall mail a copy  
7 of the notice to any person owning property or residing adjacent or across  
8 the street from the proposed location of the wireless telecommunications  
9 facility; and

10 b. Notice by Posting. The applicant shall post a  
11 copy of the notice on the proposed wireless telecommunications facility is to  
12 be located.

13 3. Contents and Form of Notice. The notice shall contain  
14 such information, and be in such form, as the Department of Public Works  
15 reasonably requires in order to inform the general public as to the nature of  
16 the application for a Wireless Right-of-Way Facility Permit. At a minimum,  
17 the notice shall:

18 a. Provide a description and a photo-simulation of  
19 the proposed wireless telecommunications facility;

20 b. Summarize the determinations of any City  
21 departments that were necessary for the tentative approval of the  
22 application;

23 c. Identify any conditions added by any City  
24 departments that have been accepted by the applicant and are now part of  
25 the application;

26 d. State that any person seeking to appeal the  
27 grant of the application must submit an appeal notice to the Department of  
28 Public Works within ten (10) business days of the date the notice was

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- mailed and posted;
- e. Describe the procedure for submitting a timely appeal;
- f. Specify the applicable grounds for appealing the application under this Chapter 15.34; and
- g. Explain how any interested person may obtain additional information and documents related to the application.

L. Appeal of Tier B Wireless Right-of-Way Facility Permit

1. Appeal Allowed. The applicant for a Tier B Wireless Right of Way Facility Permit, and/or any person owning or residing at property that is adjacent to or across the street to the location of a proposed Tier B Wireless Telecommunications Facility, may appeal an approval or denial of an application for a Tier B Wireless Right-of-Way Facility Permit. An appeal must be in writing and must be submitted to the City Clerk within ten (10) business days of the date the notice was mailed and posted as required under Subsection 15.34.030(K)(2) above.

2. Public Hearing Required. If an appeal is timely submitted, an independent hearing officer selected by the City shall hold a public hearing. The City Clerk shall set a date for the hearing that is at least fifteen (15) business days, but no more than sixty (60) business days, after the City Clerk's receipt of the appeal, unless the applicant and any person submitting an appeal agree to a later hearing date.

3. Notice of Public Hearing Date. At least ten (10) business days before the public hearing, the City Clerk shall notify in writing any person submitting an appeal, the applicant, and any City department that reviewed the application of the date set for the public hearing. The City Clerk shall follow its regular procedures for notifying the general public of the hearing.

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4. Public Hearing Record. The public hearing record shall include:

- a. The application and the Department of Public Works' approval of the application;
- b. Any written determination from the Department of Public Works;
- c. Any further written evidence from any City departments submitted either prior to or during the hearing;
- d. Any written submissions from the applicant, any person submitting an appeal, or any other interested person submitted either prior to or during the hearing; and
- e. Any oral testimony from any City departments, the applicant, any person submitting a protest, or any interested person taken during the hearing.

5. Hearing Officer Determination. The Hearing Officer shall issue a written resolution containing its determination within fourteen (14) business days following the close of evidence at the conclusion of the public hearing on the appeal. The resolution shall include a summary of the evidence and the ultimate determination whether to grant, grant with modifications, or deny the appeal.

6. Notice of Determination on Appeal.

- a. The City Clerk shall promptly mail a notice of a determination on an appeal to both the applicant, to any neighborhood association identified by the Department of Development Services for any neighborhood within three hundred (300) feet of the approved wireless telecommunications facility, and to any person who either filed a protest, submitted evidence, or appeared at the hearing, and whose name and address are known to the Department of Public Works.

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M. Notice of Completion and Inspection.

1. Notice of Completion. A permittee shall notify the Department of Public Works immediately upon completion of the installation of a wireless telecommunications facility. The notice of completion must include a written statement from a licensed California engineer confirming that the permitted wireless telecommunications facility complies with the Public Health Compliance Standard.

2. Inspection.

a. Inspection After Installation. The Department of Public Works will inspect a wireless telecommunications facility installed in the public right-of-way within a reasonable time after a permittee provides the Department of Public Works with a notice of completion required under Subsection 15.34.030(M)(1) above. The Department of Public Works will determine during the inspection whether:

(i) The installation is in accordance with the requirements of the Wireless Right-of-Way Facility Permit; and

(ii) The permitted wireless telecommunications facility complies with the Public Health Compliance Standard.

b. Subsequent Inspection. If at any time the Department of Public Works has a valid reason to believe that a permitted wireless telecommunications facility does not comply with any local or state regulation, ordinance or law, condition of approval, and/or the Public Health Compliance Standard, the Department of Public Works shall require the permittee to provide additional proof of compliance with such local or state regulation, ordinance or law, condition of approval, and/or the Public Health Compliance Standard, which proof shall be provided within forty-eight (48) hours of such request (or such additional time as the Department of Public

1 Works may grant in its reasonable discretion). If such proof of compliance is  
2 not timely provided, or is determined by the Director of Public Works or  
3 designee to be insufficient, the City may initiate such additional code  
4 enforcement remedies and/or permit revocation procedures as are  
5 otherwise permissible. The procedures set forth herein are intended to  
6 augment, not limit, the City's permit and code enforcement remedies. The  
7 Department of Public Works may also inspect the facility.

8 N. Compliance.

9 1. Compliance Required. Any wireless  
10 telecommunications facility installed in the public rights-of-way pursuant to a  
11 Wireless Right-of-Way Facility Permit must comply with the terms and  
12 conditions of the permit and this Chapter 15.34.

13 2. Notice of Deficiency.

14 a. Non-Compliance with Permit. If the Department  
15 of Public Works determines, either after an inspection conducted under  
16 Subsection 15.34.030(M) above or at any other time, that a wireless  
17 telecommunications facility is not in compliance with the Wireless Right-of-  
18 Way Facility Permit or this Chapter 15.34, the Department of Public Works  
19 shall issue a notice of deficiency and require the permittee to take  
20 corrective action to bring the wireless telecommunications facility into  
21 compliance.

22 b. Radio Frequency Emissions. If the Department  
23 of Public Works determines, either after an inspection required under  
24 Subsection 15.34.030(M) above or at any other time, that potential human  
25 exposure to radio frequency emissions from a permitted wireless  
26 telecommunications facility exceeds FCC guidelines, the Department of  
27 Public Works shall issue a notice of deficiency and require the permittee to  
28 take corrective action to bring the wireless telecommunications facility into

1 compliance with FCC guidelines.

2 c. Noise. If the Department of Public Works  
3 determines, either after an inspection required under Subsection  
4 15.34.030(M) above or at any other time, that noise from a permitted  
5 wireless telecommunications facility at any time of the day or night exceeds  
6 forty-five (45) dBA as measured at a distance three (3) feet from any  
7 residential building facade, the Department of Public Works shall issue a  
8 notice of deficiency and require the permittee to take corrective action to  
9 bring the wireless telecommunications facility into compliance with the noise  
10 limit.

11 3. Department Remedies.

12 a. Required Action. If a permittee fails to take  
13 corrective action with respect to a wireless telecommunications facility  
14 within twenty (20) business days after receiving a notice of deficiency, the  
15 Department of Public Works shall:

16 (i) Take all reasonable, necessary, and  
17 appropriate action to remedy a permittee's noncompliance; or  
18 (ii) Require a permittee to remove the non-  
19 compliant wireless telecommunications facility from the public rights-of-way;  
20 and

21 (iii) Charge to a permittee the reasonable  
22 costs that the City has actually incurred including, but not limited to,  
23 administrative costs.

24 b. Discretionary Action. In addition to the foregoing,  
25 if a permittee fails to take corrective action with respect to a wireless  
26 telecommunications facility within twenty (20) business days after receiving  
27 a notice of deficiency the Department of Public Works may deny any  
28 pending application filed by permittee for a Wireless Right-of-Way Facility

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Permit.

O. Abandonment.

1. Permittee Must Maintain Facilities; Compliance with Phasing Plan. Any wireless telecommunications facility installed in the public rights-of-way pursuant to a Wireless Right-of-Way Facility Permit issued under this Chapter 15.34 must be properly maintained and used to provide wireless telecommunications services. Failure to comply with a phasing plan shall constitute an abandonment, and shall be subject to the remedy for noncompliance set forth in Subsection 15.34.030(O)(3) below.

2. Notice of Abandonment. A permittee shall notify the Department of Public Works, or the Department of Public Works may determine and notify a permittee, that a wireless telecommunications facility installed in the public right-of-way has been abandoned either because it has not been properly maintained or because it is no longer being used to provide wireless telecommunications services. In such event, a permittee shall promptly remove the abandoned wireless telecommunications facility as required by the Department of Public Works and at permittee's expense.

3. Termination of Permits for Abandoned Wireless Telecommunications Facilities; Remedy for Non-Compliance. Wireless Right-of-Way Facility Permits shall automatically expire upon the abandonment of a wireless telecommunications facility. If a permittee fails to remove an abandoned wireless telecommunications facility within a reasonable period of time after receiving a notice of abandonment, the Department of Public Works shall take all reasonable, necessary, and appropriate action to remedy the permittee's failure to comply with the notice (including removing the wireless telecommunications facility) and may charge to the permittee the reasonable costs the City has actually incurred including, but not limited to, administrative costs.

1           P.     Term of Permit. A Wireless Right-of-Way Facility Permit shall  
2 have a term of ten (10) years. The term shall commence upon the date of  
3 issuance of the permit.

4           Q.     Renewal and New Applications

5                 1.     When Permitted.

6                     a.     Renewal Permitted. At the end of the term set  
7 forth in Subsection 15.34.030(P) above, the Department of Public Works  
8 may renew a Wireless Right-of-Way Facility Permit for an additional ten  
9 (10) year term, provided that the Department of Public Works did not issue  
10 a Modification Permit for the permitted wireless telecommunications facility  
11 during the term of the permit.

12                     b.     Renewal Not Permitted.

13                         (i)     A wireless telecommunications facility  
14 that has been issued a Modification Permit may not be renewed beyond the  
15 expiration of the Modification Permit term. Instead, the permittee may file a  
16 new application for a Wireless Right-of-Way Facility Permit for the permitted  
17 and modified wireless telecommunications facility at the same location.

18                         (ii)     A Wireless Right-of-Way Facility Permit  
19 that has been renewed once under Subsection 15.34.030(Q)(1)(a) above  
20 may not be renewed for a second time. Instead, the permittee may file a  
21 new application for a Wireless Right-of-Way Facility Permit for the permitted  
22 wireless telecommunications facility at the same location.

23                 2.     Renewal Application Required. A permittee seeking to  
24 renew a Wireless Right-of-Way Facility Permit that may be renewed under  
25 Subsection 15.34.030(Q)(1) above must file a renewal application with the  
26 Department of Public Works no later than six (6) months prior to the  
27 expiration date of the existing permit. The renewal application shall include  
28 a written report from a certified engineer confirming that the permitted

1 wireless telecommunications facility complies with the Public Health  
2 Compliance Standard, and such other material/information as may be  
3 directed by the Director of Public Works, so long as such additional material  
4 is consistent with the application requirements set forth in Subsection  
5 15.34.030(D) above.

6 3. Approval of Renewal Application.

7 a. Satisfaction of Public Health Compliance  
8 Standard Required. The Department of Public Works shall review every  
9 application under the Public Health Compliance Standard. The Department  
10 of Public Works shall approve a timely-filed renewal application unless the  
11 Department of Public Works determines that the permitted wireless  
12 telecommunications facility does not comply with the Public Health  
13 Compliance Standard and/or that any other applicable standard for new  
14 wireless telecommunications facilities is not satisfied.

15 b. Applicability of Other Provisions of this Chapter.

16 The other provisions of this Chapter 15.34 related to approval of an  
17 application for a Wireless Right-of-Way Facility Permit shall not apply to the  
18 Department of Public Works' review of a renewal application.

19 4. New Application.

20 a. Required When Renewal Not Permitted. If, in  
21 accordance with Subsection 15.34.030(Q)(1) above, a wireless  
22 telecommunications facility cannot be renewed, the permittee must submit a  
23 new application for a Wireless Right-of-Way Facility Permit in order to  
24 continue to maintain the permitted wireless telecommunications facility in  
25 the public rights-of-way.

26 b. Removal Not Required. Notwithstanding any  
27 other applicable law, if the permittee submits an application for a Wireless  
28 Right-of-Way Facility Permit no later than six (6) months prior to the

1 expiration date of a previously issued Wireless Right-of-Way Facility Permit,  
2 the Department of Public Works shall not require the applicant to remove  
3 the permitted wireless telecommunications facility unless and until there is a  
4 final determination denying the application.

5 R. Replacement or Removal of Equipment.

6 1. Replacement. During the term of a Wireless Right-of-  
7 Way Facility Permit, a permittee may replace equipment that is part of a  
8 permitted wireless telecommunications facility without obtaining a  
9 Modification Permit.

10 2. Removal. During the term of a Wireless Right-of-Way  
11 Facility Permit, a permittee may remove equipment that is part of a  
12 permitted wireless telecommunications facility without obtaining a  
13 Modification Permit.

14 3. Department Procedures.

15 a. Permittee's Notification. A permittee shall notify  
16 the Department of Public Works in writing that it intends to replace or  
17 remove equipment at a permitted wireless telecommunications facility as  
18 permitted by this Subsection 15.34.030(R). In the notice, the permittee shall  
19 at a minimum:

20 (i) Identify the use and size of each piece of  
21 equipment that the permittee is seeking to remove from the utility pole or  
22 street light pole;

23 (ii) Identify the use and size of the equipment  
24 that the permittee is seeking to install on the utility pole or street light pole to  
25 replace existing equipment; and

26 (iii) If any new equipment will replace existing  
27 equipment, provide drawings and photo simulations of the existing and new  
28 equipment the permittee is seeking to install on the utility pole or street light

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pole.

b. Department of Public Works Notification. Within five (5) business days of receipt of the permittee's request to replace or remove equipment as described above, the Department of Public Works shall notify the permittee in writing whether the Department of Public Works has determined that the request complies with the requirements of this Subsection 15.34.030(R).

c. Permittee Replacement or Removal. Upon receipt of a Department of Public Works notice that the request complies with this Subsection 15.34.030(R), the permittee may replace or remove the equipment identified in the request.

d. Compliance with Other Requirements. Nothing in this Subsection 15.34.030(R) shall be construed to relieve the permittee of its duty to comply with any City regulations or permitting requirements when removing equipment from or replacing equipment on a utility pole or street light pole.

S. Modification Permit.

1. Modification Permit Required. A permittee seeking to add equipment to a permitted wireless telecommunications facility that does not comply with the requirements of Subsection 15.34.030(R) above, because the replacement equipment is not identical in size or smaller than the previously permitted equipment, must obtain a Modification Permit.

2. Department Procedures.

a. Application. In an application for a Modification Permit, the applicant shall at a minimum:

(i) State whether the permitted wireless telecommunications facility is a base station;

(ii) Identify the use and size of any piece of

1 equipment that the applicant is seeking to remove from the utility pole or  
2 street light pole;

3 (iii) Identify the use and size of any  
4 equipment that the applicant is seeking to add to the utility pole or street  
5 light pole;

6 (iv) State whether any piece of equipment the  
7 applicant is seeking to add to the utility pole or street light pole is  
8 transmission equipment and, if so, explain why it meets the definition of  
9 transmission equipment;

10 (v) Provide drawings and photo-simulations  
11 of the existing and new equipment the permittee is seeking to install on the  
12 utility pole or street light pole; and

13 (vi) State whether the proposed modification  
14 will result in a substantial change to the physical dimensions of the utility  
15 pole or street light pole.

16 b. Time for Department Determination. The  
17 Department of Public Works shall by order or regulation establish the  
18 appropriate timeframe for the Department of Public Works to review an  
19 application for a Modification Permit that is consistent with the requirements  
20 of Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of  
21 2012, codified at 47 U.S.C. § 1455(a), as may be amended from time to  
22 time, and with any FCC decision addressing that section or any FCC  
23 regulation implementing that section.

24 3. Approval of Modification Permits at Base Stations.

25 a. No Substantial Change to the Physical  
26 Dimension. The Department of Public Works shall approve an eligible  
27 facilities request for a Modification Permit if the installation of the modified  
28 transmission equipment would not substantially change the physical

1 dimensions of the utility pole or street light pole where the permitted base  
2 station equipment has been installed.

3 b. Substantial Change to the Physical Dimensions.

4 The Department of Public Works may approve an eligible facilities request  
5 for a Modification Permit if the installation of the modified transmission  
6 equipment would substantially change the physical dimensions of the utility  
7 pole or street light pole where the permitted base station equipment has  
8 been installed, provided the application complies with the requirements of  
9 Subsection 15.34.030(S)(5) below.

10 c. Equipment Other than Transmission Equipment.

11 The Department of Public Works may approve an application for a  
12 Modification Permit at a wireless telecommunications facility that is a base  
13 station if the application seeks to modify equipment other than transmission  
14 equipment, provided the application complies with the requirements of  
15 Subsection 15.34.030(S)(5)(b) below.

16 4. Approval of Modification Permits at Other Types of

17 Facilities. The Department of Public Works may approve an application for  
18 a Modification Permit at a wireless telecommunications facility that is not a  
19 base station, provided the application complies with the requirements of  
20 Subsection 15.34.030(S)(5)(b) below.

21 5. Applicability of Other Provisions of this Chapter.

22 a. No Substantial Change to the Physical

23 Dimension. The other provisions of this Chapter 15.34 related to approval of  
24 an application for a Wireless Right-of-Way Facility Permit shall not apply to  
25 the Department of Public Works' review of an application for a Modification  
26 Permit that complies with the requirements of Subsection  
27 15.34.030(S)(3)(a) above.

28 b. Other Types of Modifications. Before approving

1 an application for a Modification Permit under Subsections  
2 15.34.030(S)(3)(b), (S)(3)(c), and (S)(4) above, the Department of Public  
3 Works shall (A) determine whether the proposed wireless  
4 telecommunications facility complies with the Public Health Compliance  
5 Standard; and (B) determine compliance with any applicable compatibility  
6 standards. The Department of Public Works may not approve the  
7 Modification Permit if any City department determines the application does  
8 not comply with the appropriate standard(s). In addition, the Department  
9 may determine that compliance with other provisions of this Chapter 15.34  
10 shall be required.

11 6. Generally Applicable Laws. Nothing in this Subsection  
12 15.34.030(S) shall prohibit the Department of Public Works from denying an  
13 application for a Modification Permit (even where the application consists of  
14 an eligible facilities request) where the Department of Public Works  
15 determines that the proposed modified wireless telecommunications facility  
16 would violate any generally applicable building, structural, electrical, or  
17 safety code provision, or any applicable law codifying objective standards  
18 reasonably related to health and safety.

19 T. Fees and Costs.

20 1. Application Fees. The City shall impose fees for review  
21 of an application for a Wireless Right-of-Way Facility Permit. The purpose  
22 of these fees is to enable the City to recover its costs related to reviewing  
23 an application for a Wireless Right-of-Way Facility Permit. The fee amounts  
24 shall be established and/or adjusted pursuant to an adopted fee resolution  
25 of the City Council, or as otherwise established and/or adjusted pursuant to  
26 applicable law.

27 2. Hearing Fees. If one or more appeal hearings is  
28 required, each appellant shall pay the Department of Public Works a non-

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refundable hearing fee for each appeal.

3. Renewal Fees. A permittee seeking to renew a Wireless Right-of-Way Facility Permit shall pay the Department of Public Works a non-refundable permit renewal fee.

4. Modification Permit Fees. Each applicant for a Modification Permit shall pay the Department of Public Works a non-refundable permit modification fee, and shall further pay any other permit review fees as required by Subsection 15.34.030(T)(1) above.

5. Inspection Fees. The Department of Public Works shall impose fees for the inspection of a permitted wireless telecommunications facility. The purpose of these fees is to enable the City to recover their costs related to inspecting a permitted wireless telecommunications facility.

6. Discretion to Require Additional Fees. In instances where the review of an application for a Wireless Right-of-Way Facility Permit is or will be unusually costly to the Department of Public Works or to other City departments, the Director of Public Works, in his or her discretion, may, after consulting with other applicable City departments, agencies, boards, or commissions, require an applicant for a Wireless Right-of-Way Facility Permit to pay a sum in excess of the amounts charged pursuant to this Subsection 15.34.030(T). This additional sum shall be sufficient to recover actual costs incurred by the Department of Public Works and/or other City departments, agencies, boards, or commissions, in connection with an application for a Wireless Right-of-Way Facility Permit and shall be charged on a time and materials basis. Whenever additional fees are charged, the Director of Public Works, upon request, shall provide in writing the basis for the additional fees and an estimate of the additional fees.

7. Deposit of Fees. All fees paid to the Department of

1 Public Works for Wireless Right-of-Way Facility Permit shall be deposited in  
2 the General Fund. All other fees shall go directly to the appropriate City  
3 department.

4 8. Reimbursement of City Costs. The Department of  
5 Public Works may determine that it requires the services of an expert in  
6 order to evaluate an application for a Wireless Right-of-Way Facility Permit.  
7 In such case, the Department of Public Works shall not approve the  
8 application unless the applicant agrees to reimburse the applicable City  
9 department for the reasonable costs incurred by that department for the  
10 services of a technical expert.

11 U. Base Station Determination.

12 1. Request for Determination.

13 a. New Facilities. An applicant for a Wireless Right-  
14 of-Way Facility Permit may seek a determination from the Department of  
15 Public Works that a proposed wireless telecommunications facility is a base  
16 station.

17 b. Permitted Facilities. A permittee may seek a  
18 determination from the Department of Public Works that a permitted  
19 wireless telecommunications facility is a base station.

20 2. Single Determination Permitted. Once the Department  
21 of Public Works has determined that an applicant's new wireless  
22 telecommunications facility or a permittee's permitted wireless  
23 telecommunications facility is a base station, the Department of Public  
24 Works may apply that determination to the applicant's or permittee's other  
25 wireless telecommunications facilities that use the identical equipment.

26 3. Department Order. In lieu of a case-by-case  
27 determination, the Department may determine by order or regulation those  
28 types of wireless telecommunications facilities that meet the definition of the

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term base station.

15.34.040 Other provisions.

A. Temporary Wireless Telecommunication Facilities.

Installation, maintenance, or operation of any temporary wireless telecommunications site is prohibited except as allowed under a special events permit necessary during a special event authorized by Chapter 5.60, or during a government-declared emergency.

B. Illegal facilities. Illegal wireless telecommunications facilities or co-location facilities have no vested rights and shall either be brought into legal conforming status in accordance with this Chapter and Title 21 of the Long Beach Municipal Code, or shall be removed.

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

15.34.050 Severability clause.

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Lona Beach, CA 90802-4664

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If any provision or clause of this Chapter or the application thereof to any person or circumstance is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other article provisions or clauses or applications, and to this end the provisions and clauses of this Chapter are declared to be severable.

Section 3. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of \_\_\_\_\_, 2018, by the following vote:

Ayes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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Noes: Councilmembers: \_\_\_\_\_

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Absent: Councilmembers: \_\_\_\_\_

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\_\_\_\_\_  
City Clerk

Approved: \_\_\_\_\_  
(Date)

\_\_\_\_\_  
Mayor