

ORDINANCE NO. 2020-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AMENDING ARTICLE 34 OF THE ESCONDIDO ZONING CODE RELATED TO SMALL WIRELESS FACILITIES IN THE PUBLIC RIGHT-OF-WAY

APPLICANT: City of Escondido
PLANNING CASE NO.: AZ 19-0001

The City Council of the City of Escondido, California, DOES HEREBY ORDAIN as follows:

SECTION 1. That proper notices of a public hearing have been given and public hearings have been held before the Planning Commission and City Council on this issue.

SECTION 2. The Planning Commission conducted a public hearing on December 10, 2019, to discuss and consider the proposed amendment to Article 34 of the Escondido Zoning Code; considered public testimony; and made a recommendation to the City Council.

SECTION 3. The City Council conducted a public hearing on the matter on February 5, 2020. The City Council has duly reviewed and considered all evidence submitted at said hearing, including, without limitation:

- a. Written information;
- b. Oral testimony from City staff, interested parties, and the public;
- c. The staff report, dated February 5, 2020, which along with its attachments is incorporated herein by this reference as though fully set forth herein; and
- d. Additional information submitted during the Public Hearing.

SECTION 4. That upon consideration of the staff report, Planning Commission recommendation, all public testimony presented at the hearing held on this matter, and

the “Findings of Fact,” attached as Exhibit “A” to this Ordinance and incorporated herein by this reference as though fully set forth herein, this City Council finds the Zoning Code Amendment to be consistent with the General Plan.

SECTION 5. This action is exempt from environmental review pursuant to California Environmental Quality Act Guidelines (“CEQA” and “CEQA Guidelines”) Section 15061(b)(3) since there would be no possibility of a significant effect on the environment because the amendment will not directly result in any development or physical change to the environment. Any future project or development as defined by the CEQA that may occur as a result of the amended language would be subject to CEQA review and analysis.

SECTION 6. That Article 34 of the Escondido Zoning Code is amended as set forth in Exhibit “B” to this Ordinance and incorporated herein by this reference as though fully set forth herein

SECTION 7. SEPARABILITY. If any section, subsection sentence, clause, phrase or portion of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 8. That as of the effective date of this Ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 9. That the City Clerk is hereby directed to certify to the passage of this Ordinance and to cause the same or a summary to be prepared in accordance with Government Code Section 36933, to be published one time within 15 days of its passage

in a newspaper of general circulation, printed and published in the County and circulated in the City of Escondido.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Escondido at a regular meeting thereof this 4th day of March, 2020 by the following vote to wit:

AYES : Councilmembers: DIAZ, MARTINEZ, MORASCO, MCNAMARA

NOES : Councilmembers: NONE

ABSENT : Councilmembers: MASSON

APPROVED:

DocuSigned by:
Paul McNamara
CAACE20782954D3
PAUL MCNAMARA, Mayor of the
City of Escondido, California

ATTEST:
DocuSigned by:
Zack Beck
A58535D0BDC1430
ZACK BECK, City Clerk of the
City of Escondido, California

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO : ss.
CITY OF ESCONDIDO)

I, Zack Beck, City Clerk of the City of Escondido, hereby certify that the foregoing ORDINANCE NO. 2020-03 passed at a regular meeting of the City Council of the City of Escondido held on the 4th day of March, 2020, after having been read at the regular meeting of said City Council held on the 12th day of February, 2020.

DocuSigned by:
Zack Beck
A58535D0BDC1430...
ZACK BECK, City Clerk of the
City of Escondido, California

ORDINANCE NO. 2020-03

EXHIBIT "A"**FACTORS TO BE CONSIDERED / FINDINGS OF FACT**Zoning Code Amendment

1. Approval of the amendment to Article 34 (Communication Antennas) of the Escondido Zoning Code will not be detrimental to the public health, safety or welfare, or injurious to the property or improvements in the City of Escondido because Personal Wireless Service Facilities are currently allowed within the public right-of-way in all zones throughout the City. The City Council adopted Ordinance No. 2017-10RR on June 21, 2017, approving a previous amendment to Article 34 (Communication Antennas) of the Escondido Zoning Code. The June 14, 2017 City Council Staff Report, which introduced the ordinance for adoption, suggested monitoring the effectiveness of the Communications Antennas Ordinance and returning to City Council in two (2) years to address any modifications that may be necessary to keep up with the changing industry and small wireless facility technology. The proposed amendment re-examines the efficiency and efficacy of the existing provisions contained in Article 34, and proposes changes to said Article in order to comply with federal regulations in a manner which is in the best interest of the City. No development project is proposed as part of this amendment.
2. Small wireless facilities are already permitted and exist in the public right-of-way, and said right-of-way can adequately accommodate such facilities in a manner that would not be detrimental to said right-of-way and/or adjacent and nearby properties. The amendment includes appropriate rules and regulations necessary to evaluate the appropriateness of proposed small wireless facilities within the public right-of-way in the best interest of the City.
3. The purpose of the amendment is to implement the zoning, land use and other laws, rules, regulations, and policies and procedures, applicable to the siting of small wireless facilities by small wireless facilities infrastructure owners, operators, and service providers in Escondido. The amendment accommodates new wireless technologies and continued improvements to existing small wireless facilities while minimizing their adverse visual and structural health and safety impacts. Consistent with that purpose, the provisions included in the Zoning Code Amendment are to be construed in a manner that is consistent with (1) the interest of consumers in receiving the benefits of the deployment of ultra-high-speed and capacity broadband wireless communication facilities technology and innovations, (2) the interest in safeguarding and addressing aesthetics and other local values, and (3) the interest in promoting the public health, safety and welfare in Escondido.

4. Recently, the Federal Communication Commission promulgated new rules designed to remove regulatory barriers to the deployment of infrastructure necessary to support 5G and other advanced wireless services and further limiting local discretion. These rules apply to a subset of wireless communication facilities defined as "small wireless facilities," which are commonly deployed on utility poles, streetlight standards and other vertical structures in the public right-of-way. Under the Federal Communication Commission Declaratory Ruling and Third Report and Order, cities are required to adopt reasonable and objective aesthetic standards for small wireless facilities. The amendment satisfies this requirement by reference to concurrently adopted guidelines (Guidelines for Deployment of Small Wireless Facilities in the Public Right-of-Way) which identify these aesthetic standards.

5. The amendment does not materially limit or inhibit the ability of any personal wireless service provider or potential provider to install small wireless facilities in the public right-of-way and to compete in a fair and balanced legal and regulatory environment. Rather, the amendment incorporates, by reference to the aforementioned guidelines, clearly-defined and ascertainable standards, which would be applied in a principled manner, while at the same time reflecting and supporting a marketplace in which a provider can engage in any of a variety of activities related to its provision of a covered service, densifying a wireless network, introducing new services, or otherwise improving service capabilities.

6. Escondido's economy relies on innovation and providing job opportunities for the City's residents. Ubiquitous, high speed mobile broadband is proven to have a significant impact on economic competitiveness and social prosperity. The proposed Zoning Code Amendment would be consistent with General Plan Goals and Policies that call for a "Diverse and Economically Prosperous Economy" that address the need to provide broad economic prosperity and support for businesses of all sizes. General Plan Mobility and Infrastructure Goals and Policies call for providing quality communication systems that enhance economic viability, governmental efficiency and equitable access for all (Goal 7, page III-50), require compatible collocation of telecommunication facilities that are designed in a manner to minimize visual impacts on surrounding uses (Telecommunications Policy 17.8, page III-51) and encourage the City to work with utility companies to provide opportunities for siting telecommunication facilities on city-owned property and in the public right-of-ways (Telecommunications Policy 17.9, page III-51). The proposed amendment also is consistent with General Plan Economic Prosperity Goals (Goal 9, page I-21) to provide adequate infrastructure to support and maintain the economic vitality of Escondido businesses.

7. The proposed Zoning Code Amendment would be applicable to the public right-of-way in all zones in the City, including the public right-of-way in areas covered by specific plans.

Environmental Determination:

1. The proposed Zoning Code Amendment is exempt from environmental review in conformance with CEQA Guideline Section 15061(b)(3). The activity is covered by the general rule ("common sense" rule) that exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment.

EXHIBIT "B"

PROPOSED ZONING CODE AMENDMENT

SECTION I.

Repealing in its entirety, Article 34 of the Escondido Zoning Code, and adopting in full new text to read as specified below.

ARTICLE 34. COMMUNICATION ANTENNAS

Sec. 33-700. Purpose.

The purpose of this article is to provide standards and design guidelines for satellite dish antennas and other personal wireless service facilities. It is intended that such antennas and facilities be installed and operated in a manner consistent with all of the articulated health, safety, visual and aesthetic objectives of this article, while preserving the viability of these antennas and facilities as communication systems.

Sec. 33-701. Objectives.

The objectives of this article are:

- (a) To provide reasonable opportunities for installations of satellite dish antennas and personal wireless service facilities;
- (b) To ensure secure installations to prevent possible injury to persons or damage to property;
- (c) To permit locations which do not obstruct or interfere with the provision of emergency services and communications;
- (d) To preserve the city's authority over the placement, construction, modification, and design of facilities addressed by this article.

Sec. 33-702. Definitions.

(a) For the purposes of this article and any guidelines adopted pursuant to it, the following words, terms, phrases, and their derivations have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, and words in the singular number include the plural number.

Accessory Equipment means any non-antenna portion of a personal wireless service facility, except concealment features, including, but is not limited to, remote radio units, surge protectors, diplexers, triplexers, battery racks, generators, air conditioners, wires, cables, and cabinets.

ANSI means the American National Standards Institute.

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

Antenna shroud means a solid barrier that screens an antenna (or antennas) and any accessory equipment attached thereto, including, but not limited to, radio units, wires, cables, and brackets, entirely from view.

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

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

Concealed or Concealment means camouflaging techniques that integrate the transmission equipment into the surrounding natural and/or built environment such that the average, untrained observer cannot directly view the equipment but would likely recognize the existence of the wireless facility or concealment technique.

FCC means the Federal Communications Commission.

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

IEEE means the Institute of Electrical and Electronics Engineers.

NCRP means the National Council on Radiation Protection and Measurements.

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

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

Radome means a cylindrical antenna shroud.

RF means radiofrequency or electromagnetic waves.

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

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

Shot Clock means the presumptively reasonable time frame within which a local jurisdiction must act on a wireless application, as defined by the FCC and as may be amended from time to time.

Small Wireless Facility means a Personal Wireless Service Facility which:

- (1) is mounted on a structure 50 feet or less in height including their antennas, mounted on a structure which is no more than ten (10) percent taller than other adjacent structures, or does not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater; and
- (2) has antennas no larger than three (3) cubic feet; and
- (3) has associated wireless equipment which is cumulatively no larger than 28 square feet, including any pre-existing equipment; and
- (4) does not require antenna structure registration; and
- (5) is not located on tribal lands; and
- (6) does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards.

Structure means the same as defined by the FCC in 47 C.F.R. § 1.6002(m), as may be amended.

Technically feasible means that the siting, location, and equipment proposed for a Personal Wireless Service Facility are available and known to be able meet the service objectives of that facility.

Telecommunications Act means the Telecommunications Act of 1996.

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

The following principles shall serve as general guidelines for the city's consideration of applications for personal wireless service facilities which are not small wireless facilities located in the public right-of-way:

(a) Height guidelines—Utilize lowest profile technology.

- (1) Discourage further consideration of high-profile antenna installations (such as non-camouflaged towers and monopoles). Personal wireless service facilities should be designed to be in scale with surrounding buildings and tree heights.
- (2) Use existing structures as opposed to introducing new ones.
- (3) Encourage facilities that meet the zone's height standards.
- (4) Use landscaping (such as dense tree growth) or other measures to minimize visual impacts and screen the facility.

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

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

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

- (B) Public right-of-way (such as existing or new light pole or other utility structures).
- (2) Encourage single sites utilizing stealth designs and latest technologies.
- (3) Ensure full aesthetic integration of new facilities into the proposed locations.
- (4) Ensure that the area covered by wireless facilities which are screened and landscaped to minimize visual impacts is large enough to incorporate appropriate visual screening methods.
- (5) Ensure that proposed landscaping has permanent proper irrigation and maintenance.
- (6) Require amended co-location language for facility leases on city-owned properties to include:
 - (A) Modification requirements as technology advances.
 - (B) Square foot minimums for leased lots to ensure proper buffering areas.
 - (7) Encourage co-location on existing sites where it is possible to avoid obtrusiveness, up to the point where a structure or site has too many antennae/structures and becomes visually cluttered.
 - (8) Ensure that the mass and scale of proposed facilities are not excessive in order to meet the carrier's reasonable coverage objectives.
- (c) Stealth technology guideline - Encourage creative, unobtrusive stealth technology.
 - (1) Encourage personal wireless service facilities to be camouflaged or integrated into or onto existing structures, wherever possible. When a personal wireless service facility extends above the roof height of a building on which it is mounted, the facility should be concealed within or behind architectural features to limit its visibility from public ways. Facilities mounted on a roof should be stepped back from the façade in order to limit their impact on the building's silhouette and reduce visibility from adjacent public ways. Existing visual obstructions or clutter on the roof or along the roof line should, in a commercially practical matter, be removed or screened (such as a parapet or architectural element that serves as a rooftop screen) as a precursor to the new wireless installation. Facilities which are façade-mounted should blend with the existing building's architecture, materials and colors.
 - (2) Require designs that are in scale and context with their surroundings.
 - (3) Encourage creative designs with the least visual impact and the use of microtechnology where possible.
 - (4) Encourage designs that mimic natural elements, and that are natural in appearance, by including:
 - (A) Natural colors applied in a natural-looking way.
 - (B) Inclusion of related forms and textures as they commonly would be found in nature.
 - (C) Antenna or facility elements formed in, clad by, or screened by natural-looking features.

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

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

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

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

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

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

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

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

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

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

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

(c) Equipment. With the exception of small wireless facilities located in the public right-of-way, associated equipment shall be placed within an existing building whenever possible. Locational standards for equipment associated with small wireless facilities in the public right-of-way shall comply with development standards contained in any guidelines adopted pursuant to Section 33-704(k).

(d) Setbacks and height. With the exception of small wireless facilities located in the public right-of-way, antennas, poles, mounts and all utility equipment shall not be located in required front, rear, side and street side-yard setback areas. All façade-mounted and roof-mounted facilities and screening materials shall not project above the height limit of the zoning district within which the facility is located, unless otherwise permitted in conformance

with section 33-8 (building height) and section 33-1075 (permitted structures in excess of height limits) of the zoning code. Facilities installed on residential uses in residential zones shall meet the underlying zone's height standards for principal structures. Height limitations for small wireless facilities in the public right-of-way shall comply with development standards contained in any guidelines adopted pursuant to Section 33-704(k).

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

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

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

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

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

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

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

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

(2) All personal wireless service facilities in the public right-of-way that are not small wireless service facilities shall require a major conditional use permit.

(3) Small wireless facilities in the public right-of-way. All small wireless facilities installed in the public right-of-way shall comply with the development standards included in any guidelines adopted pursuant to this section. Development standards in the adopted guidelines may address various design, use of right of way, and aesthetic aspects including, but not limited to, size, spacing, quantity, location, color, method of mounting, orientation, concealment of cables, wires, and conduit, and other physical aspects of the antennas, equipment, and structures on which the facilities are mounted.

(4) Small wireless facility permits. All new small wireless facilities proposed within the public right-of-way, and any collocations or modifications to existing small wireless facilities within the public right-of-way shall require the issuance of a small wireless facility permit. The director may establish the forms and submittal requirements to implement the requirements of this section and any guidelines adopted pursuant to it.

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

(B) Minor conditional use permit. Any small wireless facility proposed on a new vertical structure that is not a street light, any facilities that project from a support structure by use of an arm or other horizontal bracket/brace, and any facility that exceeds the quantitative limitations described in this article and any guidelines adopted pursuant to it, shall require a minor conditional use permit, pursuant to Article 61 of this code.

(C) Findings. Applications for small wireless facility permits shall demonstrate complete conformance with the development standards established by this section any guidelines adopted pursuant to it.

(i) Administrative permit. In order to determine conformance with development standards, the director shall make all of the following findings when issuing an administrative permit:

a. That the applicant has demonstrated that the small wireless facility is being placed on the most-preferred support structure that is technically feasible;

b. That the location of the proposed small wireless facility conforms to the requirements of this article and any adopted guidelines; and

c. That the design of the proposed small wireless facility conforms to the requirements of this article and any adopted guidelines;

(ii) Minor conditional use permit. In addition to the findings in section 33-1203, the zoning administrator must also make the same findings required under Section 33-704(k)(4)(C)(i). If the decision of the Zoning Administrator is not satisfactory to the applicant, the applicant may appeal the decision to the Planning Commission in accordance with procedures set forth in Article 61.

(D) Appeals. Decisions of the director and zoning administrator may be appealed pursuant to Section 33-1303 of the Escondido Zoning Code.

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

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

(m) Residential locations. The following development standards shall apply to any wireless communication facility located on land developed with residential as the primary use. This excludes the public right-of-way adjacent to such land.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Land use approval requirements for small wireless facilities located in the public right-of-way are provided in Section 33-704(k).

(c) Except for small wireless facilities in the public right-of-way, a plot plan application shall be required for all personal wireless service facilities/antennas and facilities which are permitted in the zone and which do not require a conditional use permit.

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

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

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

P = Permitted subject to plot plan review.

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

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

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

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

P = Permitted subject to plot plan review.

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

(g) Planned Development and Specific Plans. Unless specifically permitted or conditionally permitted as part of the planned development or specific plan, any wireless communication facility shall not be permitted within these zones unless a modification to the master development plan or specific plan is approved by the planning commission or city council, as may be required. This provision does not apply to small wireless facilities in the public right-of-way.

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

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

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

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

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

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

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

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

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