

CITY OF CUPERTINO REGULATIONS FOR CONSTRUCTION, OPERATION, AND MAINTENANCE OF **SMALL** WIRELESS FACILITIES IN THE PUBLIC RIGHT OF WAY (MUNICIPAL CODE CHAPTER 14.30)

SECTION 1. PURPOSE AND INTENT

The City of Cupertino ("City") adopts these wireless regulations applicable to small wireless facilities ("Regulations") to establish reasonable, uniform, and comprehensive standards and procedures for the implementation of Municipal Code Chapter 14.30. The standards and procedures set forth in these Regulations should be applied to protect and promote public health, safety, and welfare and balance the benefits that flow from robust, advanced wireless services with the City's local values, which include without limitation the aesthetic character of the City, its neighborhoods, and community. The Regulations are intended to establish regulations and standards for small wireless facilities unless specifically prohibited by applicable law.

SECTION 2. DEFINITIONS

The definitions in this Section 2 are applicable to the terms, phrases, and words of these Regulations. Undefined terms, phrases, or words will have the meanings assigned to them in the Municipal Code or 47 U.S.C. § 153, or if not defined in either therein, will have their ordinary meanings. If any definition assigned to any term, phrase, or word in this Section 2 conflicts with any federal or state-mandated definition, the federal or state-mandated definition will control.

"Accessory equipment" means equipment other than antennas used in connection with a small wireless facility and includes "transmission equipment" as defined by the FCC in 47 C.F.R. § 1.6100(b)(8).

"Antenna" means the same as defined by the FCC in 47 C.F.R. § 1.6002(b).

"Collocation" means the same as defined by the FCC in 47 C.F.R. § 1.6002(g).

"CPUC" means the California Public Utilities Commission established in the California Constitution, Article XII, § 5, or its duly appointed successor agency.

"Decorative pole" means any pole that includes decorative or ornamental features, design elements and/or materials intended to enhance the appearance of the pole or the right-of-way in which the pole is located.

"Director" means the Director of Public Works or their designee.

"Eligible facilities request" means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(3).

“FCC” means the Federal Communications Commission or its duly appointed successor agency.

“FCC Shot Clock” means the FCC’s presumptively reasonable time frame, accounting for any tolling or voluntary extension, or unusual circumstances justifying additional time, within which the City generally must act on a duly filed request for authorization in connection with a personal wireless service facility, as such time frame is defined by the FCC. For small wireless facilities, the FCC Shot Clock is 60 days for collocations and 90 days for new structures.

“OTARD” means an “over-the-air reception device” and includes all antennas and antenna supports covered by 47 C.F.R. § 1.4000(a)(1).

“Personal wireless services” means the same as defined in 47 U.S.C. §332(c)(7)(C)(i).

“Personal wireless service facilities” means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i).

“Public right-of-way” or **“right-of-way”** means the same as defined in Municipal Code Section 14.30.020C(9).

“RF” means radio frequency or electromagnetic waves used for wireless communication.

“Shot clock days” means calendar days counted toward the presumptively reasonable time under the applicable FCC Shot Clock. The term “shot clock days” does not include any calendar days on which the FCC Shot Clock is tolled due to incompleteness or other authorized pauses.

“Small wireless facility” or “small wireless facilities” means the same as defined by the FCC in 47 C.F.R. § 1.6002(l).

“Support structure” means a “structure” as defined by the FCC in 47 C.F.R. §1.6002(m).

“Underground district” means any area in the City within which overhead wires, cables, cabinets, and associated overhead equipment, appurtenances, and other improvements are either (1) prohibited by ordinance, resolution, or other applicable law; (2) scheduled to be relocated underground within 18 months from the time an application is submitted; or (3) primarily located underground at the time an application is submitted.

“Wireless facility” or **“facility”** means small wireless facility and the same as defined in Municipal Code Section 14.30.020C(11).

“Wireless ROW permit” ~~or “Small Cell Facility Encroachment Permit”~~ means the same as defined in Municipal Code Section 14.30.020C(13).

SECTION 3. APPLICABILITY

- a. **Wireless Facilities.** Except as expressly provided otherwise, the provisions in these Regulations shall be applicable to all applications and requests for authorization to construct, install, attach, operate, collocate, modify, reconstruct, relocate, remove, or otherwise deploy small wireless facilities within the public rights-of-way within the City's jurisdictional and territorial boundaries.
- b. **Exemptions.** These Regulations shall not apply to any facility exempt from Chapter 14.30 of the Municipal Code pursuant to Section 14.30.030B.
- c. **Eligible Facilities Requests.** Eligible facilities requests shall comply with Sections 4(b)-(d), 4(h)-(n), and 5(c)-(d) and all applicable requirements of Section 8 to the extent Section 8 applies to the determination of what constitutes a "substantial change" under 47 C.F.R. § 1.6100(c)(1) but shall otherwise be exempt from the requirements of these Regulations; provided, however, that with regards to 4(i), the applicant will have the option of providing the public notice affidavit or paying City's costs associated with City completing the noticing process detailed in 4(i) that otherwise is required of applicants.

SECTION 4. APPLICATION AND REVIEW PROCEDURES

- a. **Application Requirements for Wireless ROW Permits.** All applications for wireless ROW permits must comply with the requirements of Municipal Code Section 14.30.050 and the requirements of this Section 4.
- b. **Application Form.** The applicant shall submit a complete, duly executed wireless ROW permit application on the current City of Cupertino form.
- c. **Application Fee.** The applicant shall submit the applicable wireless ROW permit fee established by City Council resolution. If no application fee has been established for the specified work, then the applicant must submit a signed written statement that acknowledges that the applicant will be required to reimburse the City for its reasonable costs incurred in connection with the application within 10 days after the City issues a written demand for reimbursement.
- d. **Construction Drawings.** The applicant shall submit true and correct construction drawings, prepared and signed by a licensed or registered engineer, that depict all the existing and proposed improvements, equipment and conditions related to the proposed facility, including without limitation all poles, posts, pedestals, traffic signals, towers, streets, sidewalks, pedestrian ramps, driveways, curbs, gutters, drains, handholes, maintenance holes, fire hydrants, equipment cabinets, antennas, cables, utilities, and trees and other landscape features. The construction drawings must: (1) contain cut sheets that contain the technical specifications for all existing and proposed antennas and accessory equipment, which includes

without limitation the manufacturer, model number and physical dimensions; (2) depict the applicant's preliminary plan for electric, ~~and data backhaul utilities,~~ including the anticipated locations for all conduits, cables, wires, handholes, junctions, transformers, meters, disconnect switches, and points of connection; (3) include locations for existing utility facilities within 50 feet of the footprint of work; and (4) demonstrate that proposed facility will be in full compliance with all applicable health and safety laws, regulations, or other rules, including without limitation all building codes, electric codes, local street and sidewalk standards and specifications, and public utility regulations and orders. All pole attachments shall be shown with pole numbers.

- e. **Site Survey.** The applicant shall submit a survey prepared, signed, and stamped by a licensed engineer. The survey must identify and depict all existing boundaries, encroachments, and other structures within 75 feet from the proposed facility and any new improvements, including without limitation all (1) traffic lanes; (2) private properties and property lines; (3) above and below-grade utilities and related structures and encroachments; (4) fire hydrants and other public safety infrastructure; (5) streetlights, decorative poles, traffic signals, and permanent signage; (6) sidewalks, driveways, parkways, curbs, gutters, and storm drains; (7) benches, bus stops, trash cans, mailboxes, kiosks, and other street furniture; and (8) existing trees, planters, and other landscaping features.
- f. **Photo Simulations.** The applicant shall submit site photographs and photo simulations that show the existing location and proposed wireless facility in context from at least two vantage points within the public streets or other publicly accessible spaces, together with a vicinity map that shows the location of the proposed facility and the photo location for each vantage point. At least one simulation must depict the wireless facility from a vantage point approximately 50 feet from the proposed support structure or location. The photo simulations and vicinity map shall be incorporated into the construction plans submitted with the application.
- g. **Identification of Alternative Locations.** For a small wireless facility not proposed in a Tier 1 Location Preference under Section 7(a), ~~the~~ the applicant shall provide an inventory of support structures and other feasible locations within 500 feet of the proposed location and explain the basis for the selection of the proposed location.
- h. **RF Compliance Report.** The applicant shall submit an RF exposure compliance report that certifies that the proposed wireless facility, both individually and cumulatively with all other emitters that contribute more than 5% to the cumulative emissions in the vicinity (if any), will comply with applicable federal

RF exposure standards and exposure limits. The RF report must be prepared and certified by an engineer acceptable to the Director. The RF report must include the actual frequency bands and power levels (in watts effective radiated power) for all existing and proposed antennas at the proposed facility and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also the boundaries of areas with RF exposures in excess of the controlled/occupational limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the proposed facility.

- i. **Public Notices.** The applicant shall include with the application an affidavit that attests that notice has been posted at the site of the proposed facility and provided to property owners and residents of all property within a 300-foot radius of the proposed facility pursuant to Municipal Code 14.30.050(D). The notices shall be posted and delivered on forms approved by the Director and must contain: (1) a general description of the proposed wireless facility; (2) the applicant's identification and contact information as provided on the application submitted to the City for interested parties to submit comments; (3) contact information for the Public Works Department; (4) a statement that the Director will act on the application without a public hearing and that the owner or occupant may request to be notified of the Director's decision; and (5) a general statement that the FCC requires the City to take final action on applications for wireless facilities within 60 days for collocations and 90 days for facilities on new support structures; ~~and (6) a statement that any person that wishes to seek a reasonable accommodation under the American with Disabilities Act or Fair Housing Amendments Act may do so.~~ The notice should provide the location, date, and time of a community meeting, if applicable. The notice shall be delivered in an envelope that prominently displays the operator's logo and shall prominently display the text "NEW WIRELESS FACILITY INFORMATION" on the front of the envelope. The applicant shall maintain (and provide to the Director, at the Director's request) (i) a list of recipients of the public notice; (ii) a log of any correspondence to or from the recipients of the notice prior to the City's final decision on the application; and (iii) a list of recipients of the public notice who have requested to receive notice of the Director's decision. The applicant shall copy the appropriate Public Works staff on all email correspondence with members of the public. The noticing period for this activity shall be 21 days from the date the letter is deposited with the United States Postal Service, pursuant to Municipal Code 14.30.050(D). No permit or approval for the small wireless facility being noticed will be issued during the

~~noticing period unless applicable state or federal law or regulations impose a different requirement~~ permit issuance is required by applicable state or federal law.

- j. **Public Access to Application Information.** The Director shall ensure that information regarding the location and status of all wireless ROW permit applications is available on the City of Cupertino website.
- k. **Regulatory Authorization; Shot Clock Requirements.** The applicant shall submit evidence of the applicant's regulatory status under federal and California law to provide the services and construct the wireless facility proposed in the application. The application must state whether the applicant believes state or federal law requires action on the application within a specified time period.
- l. **Property Owner's Authorization.** The applicant shall identify the support structure for the wireless facility (including any identification number) and include written authorization from the support structure owner(s).
- m. **Acoustic Analysis.** The applicant shall submit an acoustic analysis prepared and certified by a California licensed engineer for the proposed wireless facility and all associated equipment including all environmental control units, sump pumps, temporary backup power generators, and permanent backup power generators demonstrating compliance with the applicable provisions of Chapter 10.48. The acoustic analysis must include an analysis of the manufacturers' specifications for all noise-emitting equipment and a depiction of the proposed equipment relative to all adjacent property lines. Where no generator, mechanical fan, or other noise-emitting equipment is proposed for installation, the applicant may submit, in lieu of an acoustic analysis, evidence from the equipment manufacturer(s) that demonstrates the ambient noise emitted from all the proposed equipment will not, both individually and cumulatively, exceed applicable noise standards.
- n. **Structural Analysis.** The applicant shall submit a report prepared and certified by a California-licensed structural engineer (or other qualified personnel acceptable to the City) that certifies (1) the underlying pole or support structure has the structural integrity and/or capacity to support all the proposed equipment and attachments; (2) the foundation has the capacity to support additional loading and to accommodate any modifications to the pole base and bolt pattern; and (3) any drilling or cutting will preserve the structural integrity of the pole. Where an applicant proposes to replace the pole and foundation, the applicant shall submit structural drawings and calculations prepared and certified by a California-licensed d structural engineer.
- o. **Community Meeting.** The City strongly encourages, but does not require, applicants to schedule, notice, arrange, and attend a pre-submittal community

meeting with all interested members of the public. This voluntary, pre-submittal public meeting does not cause the FCC Shot Clock to begin running and is intended to give applicants the opportunity to hear from members of the public regarding proposed deployment. Applicants should bring any draft applications, plans, maps, presentations, or other materials to facilitate the public's understanding of the applicant's proposal. The City seeks to encourage dialogue that may allow applicants to address and resolve areas of concern prior to the submittal of an application.

- p. **Pole Availability Requests.** Before submitting an application, applicants seeking a permit to install a wireless facility on a City light pole are encouraged but not required to submit a pole availability request and reservation to the Department of Public Works, to determine whether the light pole is available for the proposed facility. The applicant shall explain why the proposed location meets the requirements of Section 7 of these Regulations. Each pole availability request shall include the following information:
1. A map showing the location of the streetlight pole that is the subject of the request. This map should be in the form of a Google KMZ file or other file type that clearly shows the streetlight being indicated.
 2. Information on the equipment and layout being proposed (e.g., all equipment within the shroud, equipment on the pole screened by signs, base enclosure, underground vault, or equipment on the pole situated to minimize views of equipment).

The approval of a pole availability request does not constitute approval of a wireless ROW permit and does not relieve the applicant of complying with all requirements of Chapter 14.30 and these Regulations.

- q. **License Agreement.** For any wireless facility proposed to be installed on any structure owned or controlled by the City and located within the public rights-of-way, the applicant shall submit an executed Small Cell License Agreement on a form prepared by the City that states the terms and conditions for such non-exclusive use by the applicant. Such agreement will function as a master agreement pursuant to which an Encroachment Agreement will be entered into between City and applicant which will detail the terms and conditions that will govern particular siting authorizations.
- r. **Peer and Independent Consultant Review.** The Director may in their discretion select and retain independent consultant(s) with expertise and appropriate credentials in telecommunications, RF testing/compliance, electrical or fire safety, and/or other professional consultation services as deemed appropriate in

connection with the review of any application under this chapter. Such independent consultant review may be retained on any issue that involves specialized or expert knowledge in connection with an application, including but not limited to application completeness or accuracy, engineering analysis, or compliance with FCC radio frequency emissions limits. The Director may require that the independent consultant prepare written reports, testify at public meetings, hearings and/or appeals, and attend meetings with City staff and/or the applicant. Subject to applicable law, in the event that the Director elects to retain an independent consultant in connection with any permit application, the applicant shall be responsible for the reasonable costs in connection with the services provided, which may include without limitation any costs incurred by the independent consultant to attend and participate in any meetings or hearings. Before the independent consultant may perform any services, the applicant shall tender to the City a deposit in an amount equal to the estimated cost for the consultant's services to be provided, as determined by the Director. The Director may request additional deposits as reasonably necessary to ensure sufficient funds are available to cover the reasonable costs in connection with the independent consultant's services. In the event that the deposit exceeds the total costs for consultant's services, the Director shall promptly return any unused funds to the applicant after the wireless facility has been installed and passes a final inspection by the Director. In the event that the reasonable costs for the independent consultant's services exceed the deposit, the Director shall invoice the applicant for the balance. The City shall not issue any wireless ROW permit to any applicant with any unpaid deposit requests or invoices.

- s. **Incomplete Applications Deemed Withdrawn.** An application shall be automatically deemed withdrawn by the applicant when the applicant fails to submit a substantive response to the Director within ~~60-180~~ calendar days after the Director deems the application incomplete by written notice unless the applicant demonstrates good cause for the delay. A "substantive response" must include, at a minimum, all the materials identified as incomplete in the written incomplete notice, unless the Director explicitly waives any materials.

SECTION 5. DECISIONS

- a. **Decision of the Director.** The Director shall approve, deny (with or without prejudice), or conditionally approve an application for a wireless ROW permit within a sufficient time to allow for an appeal to the City Manager pursuant to Municipal Code Section 14.30.070.
- b. **Findings for Approval.** Except for eligible facilities requests, any approval or conditional approval of an application for a wireless ROW permit shall include a

written determination based on the findings set forth in Municipal Code Section 14.30.060(B). The findings shall include a determination that the proposed facility meets the requirements in these Regulations, including the following:

1. The proposed facility is either located in the “most preferred” location for a wireless facility (Section 7(a)) or that the requirements of Section 7(b) are satisfied.
 2. The proposed facility complies with all applicable design standards (Section 8).
 3. The applicant has demonstrated that the proposed facility will be in compliance with all applicable FCC regulations and guidelines for human exposure to RF emissions.
- c. **Eligible Facilities Requests.** Notwithstanding Section 5(b), the Director shall approve an eligible facilities request if the application meets the requirements set forth in 47 C.F.R. § 1.6100 and complies with all applicable state and federal laws and regulations, including without limitation applicable regulations for human exposure to RF emissions and all applicable building standards. The conditions of any permit previously issued for the eligible facility shall apply to the maximum extent permitted by federal and state law and regulations.
- d. **Notice of Decision.** Within five calendar days of the Director’s action on a wireless ROW permit application, the Director shall provide written notice to the applicant stating the reasons for approval, conditional approval, or denial of the permit application.

SECTION 6. CONDITIONS OF APPROVAL

- a. **Standard Conditions.** All wireless ROW permits shall be subject to the following standard conditions of approval:
1. **Permit Term.** Each wireless ROW permit shall have a term of 10 years and shall automatically expire 10 years and one day from its issuance, unless a different term is set pursuant to a license agreement approved by the City Council. Any other permit or approval issued in connection with any collocation, modification, or other change to a permitted wireless facility, including without limitation any permits or other approvals deemed-granted or deemed-approved under state or federal law, shall not extend the term of the permit unless expressly provided otherwise in such permit or approval or required under state or federal law. Nothing in this subparagraph shall extend or abridge the rights of permittee under any

license agreement with the City or any other public agency or any private utility.

2. **Permit Renewal.** Not more than one year before a wireless ROW permit expires, the permittee may apply for renewal of the permit. The permittee must demonstrate that the wireless facility complies with all conditions of approval of the permit and all applicable provisions in Municipal Code and Regulations that exist at the time the renewal decision is rendered. The Director may modify or amend the conditions ~~on~~ as may be necessary or appropriate to ensure compliance with the Municipal Code, these Regulations, or other applicable law. Upon renewal, the permit will automatically expire 10 years and one day from the date of renewal unless expressly issued for a shorter duration. Nothing in this subparagraph shall extend or abridge the rights of permittee under any license agreement with the City or any other public agency or any private utility. The provisions of this subparagraph may be waived or modified by a license agreement approved by the City Council.
3. **Build-Out Period.** A wireless ROW permit will automatically expire six months from the approval date (the “build-out period”) unless the permittee (i) obtains all other permits and approvals required to install, construct, and/or operate the approved wireless facility, including without limitation any permit or approval required by any federal, state, or local public agency with jurisdiction over the subject property, the support structure, or the wireless facility, and (ii) begins construction of the permitted facility within six months of the approval date. The permittee may request in writing, and the City may grant in writing, one six-month extension if the permittee submits substantial and reliable written evidence demonstrating justifiable cause for the extension. If the build-out period and/or any extension period expires, the permit shall be automatically void, but the permittee may resubmit a complete application, including all application fees, for the same or a substantially similar facility.
4. **Post-Installation Certification.** Within 30 calendar days after the permittee receives the final inspection or completes the construction and/or installation of a wireless facility, the permittee shall provide the Director with documentation that the facility has been installed and/or constructed in compliance with the approved construction drawings and photo simulations. Such documentation shall include without limitation as-built drawings, GIS data, and site photographs. Post-installation certification shall include compliance with any provisions of a license agreement

between the permittee and the City relating to the measurement of RF emissions from a wireless facility.

5. **Site Maintenance.** The permittee shall comply with the provisions of the most current editions of the City's Building Code, Plumbing Code, and Electrical Code; any applicable construction standards adopted by the Department of Public Works; the facility's specifications and plans; and any applicable federal, state, or local statutes, ordinances, regulations, guidelines, or requirements. The permittee shall keep the site, which includes without limitation any and all improvements, equipment, structures, access routes, fences, and landscape features, in a neat, clean, and safe condition in accordance with the approved construction drawings and all conditions in the wireless ROW permit. The permittee shall keep the site area free from litter and debris at all times. The facility shall be manufactured or treated to resist graffiti. The permittee, at no cost to the City, shall monitor and abate any graffiti or other vandalism at the site. The permittee shall make reasonable commercial efforts to remove graffiti within 72 hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.
6. **Compliance with Laws.** The permittee shall at all times comply with all federal, state, and local statutes, regulations, orders, or other rules that carry the force of law applicable to the permittee, the subject property, the wireless facility, and any use or activities in connection with the use authorized in the wireless ROW permit (collectively, "laws"). The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve, or otherwise lessen the permittee's obligation to maintain compliance with all laws. No failure or omission by the City to timely enforce compliance with any applicable provision in the Municipal Code, these Regulations, any permit condition, or any applicable law or regulation shall be deemed to relieve, waive, or lessen the permittee's obligation to comply in all respects with all applicable provisions in the Municipal Code, these Regulations, any permit condition, or any applicable law or regulation.
7. **Construction Activities.** Construction shall be coordinated with other utility companies or applicants installing infrastructure in the right-of-way and shall be scheduled and conducted so as to minimize interference with public use of the right-of-way, including access to the right-of-way from private property. The permittee shall use all reasonable efforts to avoid any

and all unreasonable, undue, or unnecessary adverse impacts on nearby properties that may arise from the construction, installation, operation, modification, maintenance, repair, removal, and/or other activities on or about the site of the facility, including the public's use of the right-of-way and the public's access to the right-of-way from private property. The permittee shall not perform or cause or allow others to perform any construction, installation, operation, modification, maintenance, repair, removal, or other work that involves heavy equipment or machines except during normal construction work hours authorized by the Municipal Code. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons or any work arising from an emergency declared by the City or other state or federal government agency or official with authority to declare an emergency within the City. The Director may issue a stop work order for any activity that violates this condition in whole or in part. The permittee agrees to fully cooperate with the City in assisting the City to achieve its accommodation obligations under the Americans with Disabilities Act, the Fair Housing Act Amendments of 1988, and other applicable laws.

8. **Inspections; Emergencies.** The permittee expressly acknowledges and agrees that the City's officers, officials, staff, agents, contractors, or other designees may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the permittee. Notwithstanding the prior sentence, the City's officers, officials, staff, agents, contractors, or other designees may (i) at any time inspect the facility visually or with any remote sensing equipment and (ii) may, but will not be obligated to, enter the facility without prior notice to support, repair, disable, or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The permittee, if present, may observe the City's officers, officials, staff, or other designees while any such inspection or emergency access occurs.
9. **Permittee's and Contractor's Contact Information.** Within 10 days from the final approval, the permittee shall furnish the City with accurate and up-to-date contact information for a person responsible for the wireless facility, which includes without limitation such person's full name, title, direct telephone number, mailing address, and email address. The permittee shall keep such contact information up-to-date at all times and shall promptly provide the City with updated contact information if either the responsible person or such person's contact information changes. In addition, before the City issues any permit required to commence

construction, the permittee shall furnish the City with accurate and up-to-date contact information for the contractor responsible for the construction of the facility, including without limitation such person's full name, title, direct telephone number, mailing address, and email address.

10. **Performance Bond.** Before the City issues any permit required to commence construction in connection with the permit, the permittee shall post a performance bond from a surety and in a form acceptable to the Director in an amount reasonably necessary to cover the cost to remove, store, and/or dispose of the improvements and restore all affected areas based on a written estimate from a qualified contractor with experience in wireless facility removal. The written estimate must include the cost to remove, reasonably store, and/or dispose of all equipment and other improvements, including without limitation all antennas, radios, batteries, generators, utilities, cabinets, mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles, footings, and foundations, whether above ground or below ground, constructed or installed in connection with the wireless facility, plus the cost to completely restore any areas affected by the removal work to a standard compliant with applicable laws. In establishing or adjusting the bond amount required under this condition, the Director shall take into consideration any information provided by the permittee regarding the cost to remove, reasonably store, and/or dispose of the wireless facility to a standard compliant with applicable laws. The performance bond shall expressly survive the duration of the permit term to the extent required to effectuate a complete removal of the subject wireless facility in accordance with this condition.
11. **Landscaping.** All landscaping shall comply with the requirements of Section 8(e) of the Regulations. The permittee shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance, or other work performed by the permittee or at the permittee's direction on or about the facility.
12. **Trenching and Excavation.** Any excavation and/or trenching activities shall not disturb the root systems of trees measuring 24 inches or more in diameter. Protective fencing, consistent with City Standard Details, should be installed around street trees within or adjacent to the work area to prevent damage to branches, trunks, or root systems. If any cultural resources are discovered during excavation, trenching, or other construction activities, work shall be stopped immediately, and the Director of Community Development shall be notified. Directional boring should be

used instead of trenching whenever possible to minimize interference with vehicular traffic and may be required by the City when working in streets that have been recently resurfaced or resealed. When trenching is necessary, all trenches shall be covered at the end of each workday, in compliance with City standards and policies regarding trench plates. The total time that a trench may remain open in any segment of the road system should not exceed one week unless a longer time period is expressly authorized by the Director.

13. Construction Hours and Noise Control. Noise-producing site preparation and construction activities shall comply with Municipal Code Section 10.48 and any additional conditions of approval. All trucks and equipment shall use the best available noise control techniques and equipment including improved mufflers, intake silencers, ducts, engine enclosures, and noise-reducing shields or shrouds. Impact tools such as jackhammers, pavement breakers, and noise drills shall be hydraulically or electrically powered wherever feasible to avoid noise associated with compressed air exhaust from pneumatically powered tools. When the use of pneumatic tools is unavoidable, an exhaust muffler shall be used on the compressed air exhaust to lower noise levels. External jackets shall be used on tools where feasible to achieve noise reductions. To the extent feasible, quieter procedures, such as drilling instead of jack hammering, shall be used. Stationary noise sources shall be located away from sensitive receptors to the extent feasible. If location within ~~20~~25 feet of homes, schools, neighborhood parks, or retail businesses is necessary, stationery noise sources shall be muffled and enclosed with temporary sheds, unless permitted otherwise by the Director of Public Works. Trucks and other vehicles should not be permitted to idle when waiting at or near the construction site.

14. Dust and Stormwater Control. Construction sites shall be watered at least twice daily if necessary to control dust caused by site preparation and construction activities. Watering intervals shall be increased whenever wind speeds exceed 15 miles per hour, or as necessary to control dust. Where feasible, reclaimed water shall be used for this purpose. All trucks hauling soil, sand, paving materials, and other loose materials shall be covered or required to maintain at least two feet of space between the top of the load and the top of the trailer. Streets shall be swept at the end of each workday if soil, sand, or other material has been carried onto adjacent paved streets or sidewalks. When feasible, streets shall be swept using reclaimed water. Best Management Practices shall be used to prevent oil,

dirt, or other materials from construction equipment or activity from washing into the City storm drainage system. Water discharge resulting from both construction and underground facility drainage shall comply with National Pollutant Discharge Elimination System (NPDES) regulations.

15. **Cost Reimbursement.** The permittee acknowledges and agrees that (i) the permittee's request for authorization to construct, install, and/or operate the wireless facility will cause the City to incur costs and expenses; (ii) the permittee shall be responsible to reimburse the City for all costs incurred in connection with the permit, including without limitation costs related to application review, permit issuance, site inspection, and any other costs reasonably related to or caused by the request for authorization to construct, install, and/or operate the wireless facility; (iii) any application fees required for the application may not cover all such reimbursable costs and that the permittee shall have the obligation to reimburse the City for all such costs 10 days after receipt of a written demand for reimbursement and reasonable documentation to support such costs; and (iv) the City shall have the right to withhold any permits or other approvals in connection with the wireless facility until and unless any outstanding costs have been reimbursed to the City by the permittee.
16. **Rearrangement and Relocation.** The permittee acknowledges that the City, in its sole discretion and at any time, may (i) change any street grade, width or location; (ii) add, remove, or otherwise change any improvements in, on, under, or along any street owned by the City or any other public agency, including without limitation any sewers, storm drains, conduits, pipes, vaults, boxes, cabinets, poles, and utility systems for gas, water, electric, or telecommunications; and/or (iii) perform any other work deemed necessary, useful, or desirable by the City (collectively, "City work"). The City reserves the rights to do any and all City work without any admission on its part that the City would not have such rights without the express reservation in the wireless ROW permit. If the Director determines that any City work will require the wireless facility to be rearranged, relocated, or removed, the permittee shall at its sole cost and expense do or cause to be done all things necessary to ~~commence accomplish~~ such rearrangement, relocation, or removal, within 60 days ~~of written request to do so and diligently prosecute such work to completion, subject to City's reasonable cooperation with regards to permitting and/or licensing approvals.~~ If the permittee fails or refuses to either permanently or temporarily ~~commence to~~ rearrange, relocate, or remove the wireless facility within 60 days after

receiving notice from the Director, the City may (but will not be obligated to) cause the rearrangement, relocation, or removal to be performed at the permittee's sole cost and expense. The City may exercise its rights to rearrange, relocate, or remove the permittee's wireless facility without prior notice to permittee when the Director determines that City work is immediately necessary to protect public health, safety or convenience. The permittee shall reimburse the City for all costs and expenses in connection with such work within 10 days after receiving a written demand for reimbursement and reasonable documentation to support such costs and expenses.

17. ~~**Reserved.Future Undergrounding Programs.** The permittee acknowledges that if other utilities or communications providers in the right of way underground their facilities in the segment of the right of way where the wireless facility is located, the permittee shall also be required to underground its equipment, except its antennas and any approved electric meter, at approximately the same time. Accessory equipment such as radios and computers that require an environmentally controlled underground vault to function shall not be exempt from this condition. Such undergrounding shall occur at the permittee's sole cost and expense except as may be reimbursed through tariffs approved by the CPUC for undergrounding costs. Nothing in this paragraph shall be construed to limit the term of the permit.~~
18. **Electric Meters.** The permittee shall comply with all electric utility requirements for electric meters and enclosures, including making any necessary upgrades and/or modifications to electrical facilities at the permittee's expense. The permittee shall obtain all required permits for the upgrade or modification of electric meters, enclosures, wiring, and/or other equipment and shall restore any affected areas to its original condition that existed prior to installation of the equipment. The permittee shall work to ensure all electric meters are screened from public view or shall provide written evidence demonstrating why screening of an electric meter is infeasible. The Director may in their discretion require modifications to the application materials to better disguise the meter or otherwise hide it from view.
19. **Insurance.** The permittee shall secure and maintain commercial general liability insurance, including bodily injury and property damage, with limits of \$2,000,000 per occurrence and \$4,000,000 in the aggregate, or as otherwise established by agreement, and shall have coverage at least as broad as the

Insurance Service Office (ISO) Form No. CG 0001 or its successor; provided, however, that the Director may consider proof of adequate insurance sufficient to satisfy the requirements of any license agreement between permittee and the City as proof of compliance with this condition. The City, the City Council, and the City's boards, commissions, officers, and employees shall be included as an additional insureds under the permittee's policy.

20. **Indemnification.** The permittee shall indemnify, defend, protect, and hold harmless the City, the City Council, and the City's commission members, officers, and employees from and against any and all claims, demands, losses, damages, liabilities, fines, charges, penalties, administrative and judicial proceedings, orders, judgments, all costs and expenses (collectively, "claims") incurred in connection with activities authorized under the wireless ROW permit or in connection with the construction, operation, or maintenance of the wireless facility, except to the extent that any such claim arises solely from the negligence or willful misconduct of the City, the City Council, or the City's commission members, officers, and employees. In the event the City becomes aware of any claims, the City will use best efforts to promptly notify the permittee and the private property owner (if applicable) and shall reasonably cooperate in the defense. The permittee expressly acknowledges and agrees that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the property owner and/or permittee (as applicable) shall promptly reimburse the City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. The permittee expressly acknowledges and agrees that the permittee's indemnification obligations under this condition are a material consideration that motivates the City to approve ~~any~~this wireless ROW permit and that such indemnification obligations will survive the expiration, revocation, or other termination of the wireless ROW permit.

21. **Truthful and Accurate Statements.** The permittee acknowledges that the City's approval relies on the written and/or oral statements by permittee and/or persons authorized to act on permittee's behalf. In any matter before the City in connection with the wireless ROW permit or the infrastructure approved under the permit, neither the permittee nor any person authorized to act on permittee's behalf shall, in any written or oral statement, recklessly or intentionally provide material factual information that is incorrect or misleading or intentionally or recklessly omit any material information necessary to prevent any material factual statement

from being incorrect or misleading. Failure to comply with this paragraph may result in permit revocation and other enforcement action under these Regulations or the Municipal Code.

22. **Permit Revocation.** Wireless ROW permits may be subject to revocation under Municipal Code Section 14.30.080(A). The Director may initiate revocation proceedings when the Director determines that a wireless facility is not in compliance with any applicable law, including without limitation the conditions of any permit issued in connection with the construction, operation, or maintenance of the facility. The Director shall provide the permittee with written notice identifying (i) the facility; (ii) the violation(s) to be corrected; and (iii) the timeframe in which the permittee must correct such violation(s), and shall notify the permittee that, in addition to all other rights and remedies the City may pursue, the City may initiate revocation proceedings for failure to correct such violation(s). The Director may revoke a permit if said violation(s) are not corrected within 30 days of the date of the notice, or within the timeframe to correct such violation(s) stated in the notice, whichever is longer. The permittee may appeal the decision of the Director to the City Manager within 10 days of service of the decision via first class mail. If a timely and complete request for ~~appeal~~hearing is submitted, the City Manager shall conduct an administrative hearing within 30 days of receipt of the appeal. The City Manager may decide the issues presented de novo. The City Manager's decision following the hearing shall be in writing, shall explain the basis for the decision, and shall be served upon the permittee by first class mail, to the address stated on the request for ~~appeal~~hearing form. The written decision of the City Manager shall be the final decision of the City effective on the date of mailing.

23. **Record Retention.** The permittee shall retain all records related to the construction, operation, and maintenance of the wireless facility throughout the permit term, including without limitation the wireless ROW permit application, the wireless ROW permit, the approved plans and photo simulations, any RF calculations and RF testing reports, and any other permits, approvals, memoranda, documents, papers, and other correspondence entered into the public record in connection with the wireless ROW permit or wireless facility (collectively, "records"). If the permittee does not maintain such records as required by this condition, any ambiguities or uncertainties that would be resolved by inspecting the missing records will be construed against the permittee. The requirements in this condition shall not be construed to create any obligation to create or

prepare any records not otherwise required to be created or prepared by these Regulations or other applicable laws or regulations. Compliance with the requirements in this condition shall not excuse the permittee from any other similar record-retention obligations under other applicable laws or regulations.

24. **Lessee/Operator Bound.** Any lessee of the permittee and/or any operator of an antenna or other equipment installed at the facility shall be bound by all applicable conditions of the wireless ROW permit. Any failure of such lessee and/or operator to comply with all applicable conditions of the wireless ROW permit shall be deemed to be permittee's failure.
 25. **Successors and Assigns.** The conditions, covenants, promises, and terms contained in the wireless ROW permit shall bind and inure to the benefit of the City and permittee and their respective successors and assigns. Prior to any voluntary assignment or assumption of rights or obligations under the permit, the permittee shall notify the City in writing of the assignment or assumption and shall provide all contact information required pursuant to these Regulations.
- b. **Right to Modify Permit.** The City expressly reserves the right to review and modify the conditions of the wireless permit in the event of any change in federal law that expands the City's authority with respect to the placement, design, or operation of the wireless facility, and otherwise authorizes the City to modify the permit and related conditions. In the event of any such change in law, the Director may ~~review and revoke or modify the wireless permit~~ take actions consistent with the amended law based on subsequent amendments to Municipal Code Chapter 14.30 or regulations adopted pursuant to Municipal Code Section 14.30.040. The permittee shall be entitled to notice and an opportunity to be heard prior to any changes made to the permit or conditions ~~the revocation or modification of any permit authorized by any such changes to federal law. Any permit revocation shall comply with the requirements of Section 6(a)(22) of these Regulations. Nothing in this paragraph shall be construed to limit any vested right conferred to the permittee under state or federal law.~~
 - c. **Special Conditions.** The Director may modify, add, or remove conditions to any wireless ROW permit as they deem necessary or appropriate to (1) protect and/or promote the public health, safety, and welfare; (2) tailor the standard conditions in paragraph (a) of this Section to the particular facts and circumstances associated with the deployment of a wireless facility; and/or (3) ensure that the proposed deployment complies with the Municipal Code, the Regulations, generally applicable health and safety requirements, and/or any other applicable laws or

regulations. As required by applicable FCC regulations, the Director shall ensure that any different conditions applied to wireless facilities are no more burdensome than those applied to other similarly situated infrastructure deployments.

SECTION 7. LOCATION STANDARDS

- a. **Location Preferences.** The preferred locations for wireless facilities installed in public rights-of-way, ordered from most preferred to least preferred, are set forth as follows:

1. Locations where collocation of equipment with existing wireless facilities is feasible within preferred facility tiers 2 through 7.
2. Locations within mixed use or non-residential districts.
3. Locations within residential districts on or along boulevards (arterials), as shown on the circulation network of the General Plan or main streets.
4. Locations within residential districts on or along avenues designated as major or minor collector streets, as shown on the circulation network of the General Plan.
5. Locations within residential districts on or along avenues designated as minor collector streets, as shown on the circulation network of the General Plan.
6. Other locations within residential districts.
7. Any location within 1,000 feet of an existing or proposed wireless facility serving the same carrier and/or network.
8. Any location within 100 feet of a school, or a property that is eligible for protection under the State Public Resources Code Section 5020.1(j).
9. Any location within 25 feet of an occupied structure, residential dwellings, or schools.
10. New standalone poles that serve only the wireless facility and which do not house City owned streetlights or other publicly owned facilities.
11. Installations on wooden utility poles.
12. Any location where strand-mounted equipment of any kind is proposed.

If more than one location qualifies as the most preferred location under subparagraphs (2)-(6), the most preferred location shall be the location that is

furthest from any occupied residential unit. Except as provided in Section 7(b), no wireless facility may be installed at a location within ~~750-1,000~~ feet of an existing or proposed wireless facility serving the same carrier and/or network.

- b. **Findings for Installation in a Less-Preferred Location.** A wireless facility shall be installed at the most-preferred location within 500 feet of the proposed ~~facility location consistent with Section 7a,~~ and shall be located at least ~~750-1,000~~ feet from any existing or proposed wireless facility serving the same carrier and/or network unless (1) the applicant demonstrates that installation of the facility at a less preferred location is required by applicable state or federal law, or (2) the Director determines based on clear and convincing evidence that installation of the facility at a less-preferred location is necessary to protect public health, safety, or welfare, based on specific characteristics of the location of the proposed facility, or (3) any other more preferred location is deemed technically infeasible. At the request of the Director, the applicant shall provide signal strength analyses, coverage maps, and/or an analysis of preferred site locations in support of any request to install a wireless facility at a less-preferred location under this subparagraph.
- c. **Prohibited Support Structures.** Wireless facilities shall not be permitted on the following support structures:
 1. Decorative poles (including historic or ornamental streetlight poles).
 2. Traffic signal poles, mast arms, cabinets, or related devices or structures.
 3. New, non-replacement wood poles, or any utility pole scheduled for removal or relocation within 24 months from the time the Director acts on the wireless ROW permit application.
- d. **Encroachments Onto or Over Private Property.** No antennas, accessory equipment, or other improvements may encroach onto or over any private or other property outside the public right-of-way without the property owner's written consent and property owner's provision of written waiver that releases, waives and holds harmless City from any injury to property or persons associated with such encroachment into or onto private property.
- e. **No Interference with Other Uses.** Wireless facilities and any associated antennas, accessory equipment, or improvements shall not be located in any place or manner that would physically interfere with or impede any of the following:
 1. The view of any traffic sign, streetlight, or other traffic control device or any other view lines necessary for the safety of vehicles, bicycles, or pedestrians.

2. Worker access to any above ground or underground infrastructure for traffic control, streetlights, or public transportation, including without limitation any curb control sign, vehicular traffic sign or signal, pedestrian traffic sign or signal, or barricade reflector.
 3. Access to any public transportation vehicles, shelters, street furniture, or other improvements at any public transportation stop.
 4. Worker access to above ground or underground infrastructure owned or operated by any public or private utility agency.
 5. Access to any fire hydrant, water valve, or water main.
 6. Access to any doors, gates, passage doors, stoops, or other ingress and egress points to any building appurtenant to the right-of-way.
 7. Access to wastewater stations.
 8. Access to any fire escape or other ingress or egress for fire safety purposes.
 9. Any other similar service or facility that benefits the City or the health, safety, or welfare of its residents.
- f. **Additional Placement Requirements.** In addition to the other requirements of this Section 7, the Director shall consider the following criteria in determining the placement of a wireless facility.
1. The facility should be placed on existing structures where feasible.
 2. The facility should be placed as close as possible to the property corners or the property line between two parcels that abut the public right-of-way.
 3. The facility should not be placed in front of the primary entrance to a residence or retail business or at any other location where it would unduly interfere with the operation of a business, including blocking views of the entrance or display windows.
 4. The facility should not be placed within any sight distance triangles at any intersections, street corners, driveways, and/or other points of ingress or egress, unless the facility fully complies with site distance standards.
 5. The facility should not be placed in any location that obstructs illumination patterns for existing streetlights.
- g. **Replacement Poles.** All replacement poles shall be (1) located in the same position, or as close to the removed pole as possible; (2) aligned with the other existing poles along the public rights-of-way; and (3) substantially similar in height and width

to the existing pole and compliant with all applicable standards and specifications promulgated by the Director.

SECTION 8. DESIGN STANDARDS

- a. **Compliance with Health and Safety Regulations.** All wireless facilities shall be designed, constructed, operated, and maintained in compliance with all generally applicable health and safety regulations, including without limitation all applicable regulations for human exposure to RF emissions.
- b. **Finishes.** All exterior surfaces shall be painted, colored, and/or wrapped in flat, non-reflective hues that match the underlying support structure or blend with the primary background. All surfaces shall be treated with graffiti-resistant sealant. All finishes shall be subject to the Director's prior approval.
- c. **Noise.** Wireless facilities shall comply with all applicable noise control standards and regulations in the Municipal Code Chapter 10.48 and shall not exceed, either on an individual or cumulative basis, the noise limit in the applicable district. Backup generators shall be operated during periods of power outages or for testing only and shall not be tested on weekends, holidays, or between the hours of 5:00 p.m. and 9:00 a.m.
- d. **Lights.** All lights and light fixtures must be aimed and shielded so that their illumination effects are directed downwards and confined within the public right-of-way in a manner consistent with all standards and specifications promulgated by the Director. All antennas, accessory equipment, and other improvements with indicator or status lights must be installed in locations and within enclosures that mitigate illumination impacts visible from publicly accessible areas.
- e. **Trees and Landscaping.** Wireless facilities may not remove or displace any existing tree or landscape features without the prior approval of the Director. Each removed or displaced tree or landscaping feature must be replaced by trees or landscape features approved by the Director and consistent with Department of Community Development landscaping requirements or Department of Public Works requirements, whichever is applicable. Any replacement tree must be substantially the same size as the removed or a displaced tree unless approved by the Director. The permittee shall at all times be responsible to maintain any replacement landscape features.
- f. **Signs and Advertisements.** All wireless facilities that involve RF transmitters must include signage that, consistent with applicable state and federal regulatory requirements, accurately identifies the facility owner/operator, the owner/operator's site name or identification number, and a toll-free number to the

owner/operator's network operations center. Wireless facilities may not bear any other signage, logos, or advertisements unless expressly approved by the City, required by law, or recommended under FCC or other United States governmental agencies for compliance with RF emissions regulations. Signage shall be no larger than 6-inches by 6-inches unless required to be larger by law.

- g. **Site Security Measures.** Wireless facilities may incorporate reasonable and appropriate site security measures, such as locks and anti-climbing devices, to prevent unauthorized access, theft, or vandalism. The Director shall not approve any barbed wire, razor ribbon, electrified fences, or any similarly dangerous security measures.
- h. **Shrouding.** All antennas and associated cables, jumpers, wires, mounts, masts, brackets, and other connectors and hardware shall be installed within a shroud or radome unless shrouding is not feasible. For pole-top antennas, the shroud must match published City standards for size. The antenna shall be finished in a flat, non-reflective color to match the underlying support structure.
- i. **Antenna Volume.** If shrouding pursuant to Paragraph (h) of this Section is not feasible, each individual antenna associated with a wireless facility shall not exceed three cubic feet in volume. The cumulative volume for all unshrouded antennas at a wireless facility shall not exceed (1) three cubic feet in residential districts or (2) six cubic feet in nonresidential districts.
- j. **Overall Height.** No antenna may extend more than five and one-half feet above the support structure, plus any minimum separation between the antenna and other pole attachments required by applicable health and safety regulations.
- k. **Horizontal Projection.** Horizontal projections are prohibited except where other designs are not feasible. Side-mounted antennas, where permitted, shall not project (1) more than 24 inches from the support structure unless a greater distance is required to comply with legal requirements imposed by the CPUC; (2) over any roadway used for vehicular travel; or (3) over any abutting private property without written authorization of the property owner.
- l. **Accessory Equipment Volume.** The cumulative volume for all accessory equipment at a single wireless facility shall not exceed (1) nine cubic feet in residential districts or (2) 12 cubic feet in nonresidential districts. The volume limits in this subsection do not apply to any undergrounded accessory equipment.
- m. **Undergrounded Accessory Equipment.**
 - 1. *Where Required.* Accessory equipment (other than any electric meter or emergency disconnect switch when required by the electrical provider)

shall be placed underground when proposed in any ~~(i) underground district or (ii) any location where the Director finds based on substantial evidence that additional above ground accessory equipment would incommode the public's use of the public right-of-way.~~ The Director may waive the requirement to underground accessory equipment if the total volume of accessory equipment is less than 9 cubic feet and the location and design of wireless facility otherwise complies with the requirements of Sections 7 and 8.

2. *Vaults.* All undergrounded accessory equipment must be installed in an environmentally controlled vault that is load-rated to meet applicable standards and specifications. Underground vaults located beneath a sidewalk must be constructed with a slip-resistant cover. Vents for airflow shall be flush-to-grade when placed within the sidewalk. All vault lids shall be constructed from materials rated for heavy traffic and acceptable to the Director. Only non-toxic sealants may be used.

n. Pole-Mounted Accessory Equipment.

1. *Preferred Concealment Techniques.* Applicants shall place pole-mounted accessory equipment in the least conspicuous position on the proposed pole and at the proposed location. All above ground wires and cables shall be installed within the interior of the pole or radome unless it is not feasible to do so. If pole-mounted accessory equipment must be installed on the exterior of the pole, the equipment shall be concealed behind street, traffic, or other existing signs to the extent that such installation complies with applicable public health and safety regulations.
2. *Orientation.* Unless placed behind a street sign or some other concealment that dictates the equipment orientation on the pole, pole-mounted accessory equipment should be oriented away from prominent views and shall not substantially obstruct a view from the primary living area of a residence (e.g., oriented toward the street).
3. *Horizontal Projection.* Pole-mounted accessory equipment shall not project (i) more than 24 inches from the pole surface unless a greater distance is required to comply with legal requirements imposed by the CPUC; (ii) over any roadway used for vehicular travel; or (iii) over any abutting private property without the written consent of the property owner and property owner's provision of written waiver that releases, waives and holds harmless City from any injury to property or persons associated with such encroachment into or onto private property. All pole-mounted accessory

equipment shall be mounted flush to the pole surface. If applicable state or federal laws or regulations preclude flush-mounted equipment, the separation gap between the pole and the accessory equipment shall be no greater than required to comply with such laws or regulations and shall be concealed to the Director's satisfaction.

4. *Minimum Vertical Clearance.* The lowest point on any pole-mounted accessory equipment shall be at least eight feet above ground level adjacent to the pole unless applicable state or federal law or regulations impose a different requirement. If applicable laws or regulations require any pole-mounted accessory equipment component to be placed less than eight feet above ground level, the clearance from ground level shall be no less than required to comply with such laws or regulations.

o. Ground-Mounted or Base-Mounted Accessory Equipment

1. *Placement of Ground-Mounted Equipment.* Ground-mounted equipment is prohibited unless approved by the Director. Any approved ground-mounted equipment cabinets shall be placed six inches behind the sidewalk, at least two feet from the curb, and two feet from driveway and curb edges. Pedestals must be at least three feet from fire hydrants. Installations must leave a minimum horizontal clear space for the path of travel of at least six feet, unless otherwise approved by the Director. The Director may require more clear space for travel in heavily used commercial areas to provide sufficient room for pedestrian traffic. On arterial streets outside underground districts, proposed ground-mounted accessory equipment should be completely shrouded or placed in a cabinet substantially similar in appearance to existing ground-mounted accessory equipment cabinets. On non-arterial streets, the preferred means of concealment of ground-mounted facilities are as follows:

- (i) Within a landscaped parkway, median or similar location, behind or among new or existing landscape features and painted or wrapped in flat, natural colors to blend with landscape features.
- (ii) If landscaping concealment is not feasible, disguised as other street furniture adjacent to the support structure, such as, for example, mailboxes, benches, trash cans, or information kiosks.

~~2. *Dimensions of Ground-Mounted Equipment; Public Safety Requirements.* No ground-mounted accessory equipment cabinets will be permitted may exceed three feet in height, four feet in width, and two feet in depth, unless otherwise approved by the Director. No unit higher than three feet shall be~~

~~placed in any location that would interfere with vehicular sight lines at street corners, driveways, and other points of ingress or egress or where they obstruct the view of any traffic devices or signs.~~

2. Ground-Mounted Equipment. No ground-mounted accessory equipment cabinets will be permitted.
 3. *Fire Protection.* The exterior walls and roof covering of all ground-mounted accessory equipment cabinets and equipment shelters shall be constructed of materials rated as nonflammable under the Uniform Building Code. Openings in all above ground equipment shelters and cabinets shall be protected against penetration by fire and windblown embers to the extent feasible.
- p. **Strand-Mounted Wireless Facilities.** Strand-mounted wireless facilities are prohibited unless approved by the Director. Where permitted, no more than one strand-mounted wireless facility may be installed (1) on any single span between two poles or (2) directly adjacent to any single pole. The Director shall not approve any ground-mounted equipment in connection with a strand-mounted wireless facility unless the ground-mounted equipment consists of a remote power source used to power multiple strand-mounted wireless facilities. Strand-mounted wireless facilities shall not exceed one cubic foot in total volume. All equipment and other improvements associated with a strand-mounted wireless facility must comply with all applicable health and safety regulations. Any accessory equipment mounted on the pole shall be finished to match the underlying pole. "Snowshoes" and other spooled fiber or cables are prohibited, unless approved by the Director.
- q. **Utilities Serving Wireless Facilities.**
1. *Overhead Lines.* The Director shall not approve any new overhead utility lines in underground districts. In areas with existing overhead lines, new communication lines shall be "overlashed" with existing communication lines to the maximum extent feasible. No new overhead utility lines shall be permitted to traverse any roadway used for vehicular transit. Existing overhead lines that serve a City streetlight pole proposed to support a wireless facility shall be placed underground with the installation of the facility.
 2. *Vertical Cable Risers.* All cables, wires, and other connectors must be routed through conduits within the pole or other support structure, and all conduit attachments, cables, wires, and other connectors must be concealed from public view. To the extent that cables, wires, or other connectors cannot be

routed through the pole, the applicant shall route them through a single external conduit or shroud that has been finished to match the underlying pole.

3. *Spools and Coils.* Excess fiber or cable shall not be spooled, coiled, or otherwise stored on the pole outside equipment cabinets, vaults, or shrouds. Fiber or cable placement on existing poles shall have a minimum safety slack for sway and wind. Looped fiber storage for future use is prohibited.
 4. *Electric Meters.* Wireless facilities shall use flat-rate electric service or other method that obviates the need for a separate above-grade electric meter. If flat-rate service is not available, applicants may install a shrouded smart meter. If a ground-mounted equipment cabinet is authorized by the Director, an electric meter may be integrated with and recessed into the cabinet. Separate ground-mounted electric meter pedestals are prohibited unless approved at the reasonable discretion of the Director they are required by the electric service provider.
- r. **Existing Conduit or Circuits.** The Director may condition the issuance of a wireless ROW permit to require the use of existing vaults, utility holes, conduits, ducts, manholes, electric circuits, and/or other similar facilities whenever available. Access to any conduit and/or circuits owned by the City shall be subject to the Director's prior written approval, which the Director may withhold or condition as the Director deems necessary or appropriate to protect the City's infrastructure, to prevent interference with the City's municipal functions, and to protect public health and safety.
 - s. **Alternative Design Standards.** An applicant may propose alternative design standards, which may be considered by the Director on a case-by-case basis. The Director may approve an alternative design standard only if (1) the applicant demonstrates that strict application of the design standards in this Section 8 would conflict with applicable state or federal law or regulations, or (2) the Director determines based on clear and convincing evidence that a variance from the design standards set forth in this Section 8 is necessary to protect public health, safety, or welfare, based on specific characteristics of the proposed facility. Any variance from the design standards set forth in this Section 8 shall be allowed only to the extent necessary to comply with state or federal law or regulations or to protect public health, safety, or welfare.