

Resolution No. 9873
Resolution of the Council of the City of Palo Alto Amending
Objective Aesthetic, Noise, and Related Standards for
Wireless Communication Facilities in the Public Rights of Way

The Council of the City of Palo Alto RESOLVES as follows:

SECTION 1. Findings and Declarations.

- a. On April 15, 2019, the City Council adopted Resolution 9825, establishing objective aesthetic, noise, and related standards for Wireless Communication Facilities (WCFs) on Streetlight and Wood Utility Poles in the Public Rights-of-Way.
- b. On June 17, 2019, the City Council adopted Resolution 9847, amending the standards to delete inadvertently added language, clarify existing standards, and adopt an interim setback from public schools.
- c. On August 12, 2019, the City Council adopted Resolution 9855, amending the standards to address a conflict with other City standards and to clarify the allowable height for WCFs on Streetlights and Wood Utility Poles.
- d. The City Council wishes to consolidate the existing objective standards previously described in Resolution 9855 for clarity and update the objective standards in order to address Council specified location, design, and other preferences in the City for WCF on Streetlight Poles and Wood Utility Poles.

SECTION 2. Objective Standards for WCFs on Streetlight Poles and Wood Utility Poles in the Public Rights-of-Way Amended.

The City Council hereby adopts the objective standards in Exhibit 1, attached to and incorporated into this resolution, for Wireless Communication Facilities in the Public Rights of Way on Streetlight Poles and Wood Utility Poles.

The City Council hereby adopts Exhibit 2 that illustrates the Residential Zone of Exclusion and Exhibit 3 that illustrates the City of Palo Alto roadway network and locations of special setbacks relative to generalized zoning designations for the sole purpose of supplementing the objective standards in Exhibit 1.

SECTION 3. If any section, subsection, clause or phrase of this resolution or the attached standards is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the resolution and exhibits. The Council hereby declares that it should have

adopted the resolution and exhibits, and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4. Environmental Review. The Council finds that this resolution is exempt from the provisions of the California Environmental Quality Act ("CEQA"), pursuant to Section 15061 of the CEQA Guidelines, because it does not authorize the construction of Wireless Communication Facilities in any locations where such facilities are not already permitted; therefore it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment. The resolution is further exempt under CEQA Guidelines sections 15301, 15302, 15303 and 15305 because it represents part of a comprehensive regulatory scheme governing minor alterations to existing facilities or small structures.

INTRODUCED AND PASSED: December 16, 2019

AYES: CORMACK, DUBOIS, FILSETH, KNISS, KOU, TANAKA

NOES: FINE

ABSENT:

ABSTENTIONS:

ATTEST:

DocuSigned by:

Beth Minor

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City Clerk

DocuSigned by:

Eric Filseth

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Mayor

APPROVED AS TO FORM:

DocuSigned by:

Aylin Bilir

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Deputy City Attorney

APPROVED:

DocuSigned by:

Ed Swkoda

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City Manager

DocuSigned by:

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Director of Planning and Development
Services

Exhibit 1
**Objective Standards for Wireless Communication Facilities
in the Public Rights of Way on Streetlight Poles and Wood Utility Poles**

A Wireless Communication Facility (WCF) proposed for the public right of way must comply with the applicable provisions of the City’s Municipal Code and all of the following objective standards. In each instance where a proposed facility is unable to comply with the City’s objective standards, a WCF Exception may be requested and evaluated in accordance with this resolution and PAMC Section 18.42.110(k).¹The following standards apply to both streetlight poles and wood utility poles, unless otherwise noted.

WCF SITING STANDARDS

Permitted Zoning Districts	WCF placement is permitted in non-residential zoning districts.
Public School Boundary	A WCF shall not be placed within 600 feet of a parcel containing a public school. No WCF Exception shall be granted allowing a WCF to be placed closer than 300 feet to a parcel containing a public school.
Residential Zone of Exclusion <i>(this standard applies to WCF Exception requests to locate in residential districts)</i>	No WCF shall be placed within the public right of way in the area between the street centerline and the central fifty percent (50%) of the immediately adjacent parcel’s front lot line. The central fifty percent standard shall be based on the parcel’s lot width ² . For corner lots, the central fifty percent standard along the street lot line ³ shall be based on the parcel’s lot depth ⁴ . Exhibit 2 illustrates this requirement.
Residential Roadways <i>(this standard applies to WCF Exception requests to locate in residential districts)</i>	Any request for a WCF Exception involving placement of a WCF within a residential zoning district shall prioritize WCF placement on the following roadway types (See Exhibit 3): <ul style="list-style-type: none">• Expressways• Arterials• Residential Arterials• Roadways identified with a Special Setback (including collector and local streets).

¹ The City may hire an independent consultant to evaluate WCF Exceptions at applicant’s expense.

² Palo Alto Municipal Code Section 18.04.030(a)(93)

³ Palo Alto Municipal Code Section 18.04.030(a)(91)(E)

⁴ Palo Alto Municipal Code Section 18.04.030(a)(87)

In each instance above, the priority shall be for placement of a WCF most distant from residential property.

An additional WCF Exception request must be made to place a WCF on a collector or a local roadway that does not have an identified special setback.

Building or Structure Setback	A WCF shall not be placed closer than 20 feet from any building used for occupancy in any zoning district.
Distance Between WCFs	A WCF shall not be placed less than 600 feet away from another WCF. This requirement does not preclude WCFs collocating on the same structure where otherwise allowed.
Intersection Corners ⁵	A WCF shall not be placed less than 20 feet away from any roadway intersection. An intersection is measured from the start of the curb radius.
Scenic Routes ⁶	A WCF shall not be placed along an identified scenic route.
Historic Districts, Sites, and Structures	<p>A WCF shall not be placed within a listed historic district, nor immediately adjacent to a parcel with an historic structure, nor immediately adjacent to an historic site, as those terms are defined by PAMC Section 16.49.020.</p> <p>A WCF shall not be placed in a potential historic district, or immediately adjacent to a potential historic structure or site, where the application for historic designation was filed with the City prior to the filing of a WCF application, until a final decision has been made regarding that pending historic designation.</p>

WCF DESIGN STANDARDS

Underground Design (Preferred Option)	<p>Radio equipment shall be placed in an underground vault. The associated antenna(s) shall be placed in a shroud at the top of a nearby pole.</p> <p>Underground vaults shall be the minimum volume necessary to house WCF equipment and include information detailing why the proposed dimensions are required. Maximum vault size shall not exceed 5 feet 8-inches x 8 feet 2-inches x 5 feet 7-inches or 260 cubic feet, excluding space required for ventilation or sump pump equipment.</p>
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⁵ Gateway intersections are identified on Map L-4 in the Comprehensive Plan.

⁶ Scenic routes are identified in Policy L-9.1 in the Comprehensive Plan.

Top-Mounted Design
(Secondary Option)

Radio equipment and the associated antenna(s) shall be enclosed within a shroud at the top of the pole.

Minimal Sunshield Design
*Use of this design requires a WCF
Exception*

Radio equipment shall be enclosed within one or two sunshields not exceeding 8 inches wide nor 0.75 cubic feet in volume each, mounted directly to the side of the pole. The associated antenna(s) shall be placed in a shroud at the top of the pole.

Sunshields shall be attached at least 12 feet above ground level and, when located on wood utility poles, shall not interfere with the identified communication space.

Existing Signage Design
*Use of this design requires a WCF
Exception*

Radio equipment shall be attached to a pole behind existing signage under the following conditions:

- i) Radio equipment shall be placed within a shroud that does not exceed the dimensions of the sign in height and width, nor 4 inches in depth, including any required mounting bracket.
- ii) In no event shall WCF equipment obscure or interfere with the visibility or functioning of the signage.

The associated antenna(s) shall be placed in a shroud at the top of the pole.

WCF Antenna and Shroud
Dimensions (Diameter / Height)

Antennas shall have the smallest size possible to achieve the coverage objective.

The diameter of the antenna and shroud shall not exceed 15 inches at their widest.

For Streetlight Poles: The maximum WCF height shall not exceed 3 feet (or 5.5 feet for top-mounted designs) from the top of the streetlight pole that meets the City standards for the proposed location.

The associated “antenna skirt” shall taper to meet the pole above the mast arm.

For Wood Utility Poles: In no circumstance shall the total height of a pole and all WCF equipment exceed 55 feet. For wood utility poles carrying power lines, replacement poles shall be the minimum height necessary to provide GO 95 mandated clearance between WC equipment and power lines. For wood utility poles without power lines, any WCF equipment shall not increase the height of the pole by 5.5 feet when compared with the height of the existing pole.

The associated “antenna skirt” shall taper to meet the top of the pole if wider than the pole.

WCF Design Quality

Antennas and/or equipment at the top of the pole shall be covered by a single integrated shroud and “antenna skirt” designed without gaps between materials or sky visible between component surfaces and between the shroud or skirt and the top of the pole.

All components external to the pole shall have an integral color or shall be painted to match the color and/or materials of the pole.

Equipment shall be oriented to face in either of the directions of travel in the right of way and shall not face or extend toward private property or the curb line.

WCF Equipment Adjustment

For Streetlight Poles: Equipment that cannot propagate an adequate signal within the shrouding required by the standard designs shall be attached to a streetlight pole at a height of 2 feet below the light mast or higher. Each instance of such equipment shall not exceed 0.85 cubic feet, nor shall the total volume of such equipment and any shrouding exceed 2.6 cubic feet per streetlight pole.

For Wood Utility Poles:

Equipment that cannot propagate an adequate signal within the shrouding required by the standard designs shall be attached to the top of the pole or on a cross arm or brace protruding from the pole the minimum extent necessary to comply with safety standards, including GO 95. Such cross arm shall be placed as high on the pole as technically feasible. Each instance of such equipment shall not exceed 0.85 cubic feet nor shall the total volume of such equipment exceed 2.6 cubic feet per wood utility pole.

Curb Clearances

Any WCF attachments placed below 16 feet above ground level shall not be placed closer than 18 inches to the curb, nor shall they extend over the sidewalk (Caltrans Highway Design Manual Section 309).

All WCF equipment shall maintain at least 3 feet from any curb cut.

WCF Wires and Cabling

For Streetlight Poles: All wires and cabling shall be routed entirely underground and within the pole and any attached shroud.

For Wood Utility Poles: All wires and cabling to equipment shall be within the shroud or shall be within conduit. All conduit shall be mounted flush to the pole.

Safety Signs	Safety signs shall be the smallest size possible to accomplish its purpose.
Power Disconnects	<p><u>For Streetlight Poles:</u> Power disconnects shall be labeled and placed in a vault near the base of the pole.</p> <p><u>For Wood Utility Poles:</u> Power disconnects shall be labeled and placed on the wood pole or in a vault near the base of the pole.</p>
Ground Mounted Equipment	Except as provided in these standards, no equipment cabinets may be placed at grade.
Existing Pole Locations	A WCF shall utilize an existing streetlight pole or wood utility pole location. Any new pole locations are prohibited unless approved through a City Public Works/Utilities pole placement application.

WCF PERFORMANCE STANDARDS

Pole Replacement	<p><u>For Streetlight Poles:</u> An existing streetlight pole proposed for a WCF installation shall be replaced with a new pole.⁷</p> <p><u>For Wood Utility Poles:</u> An existing wood utility pole proposed for a WCF installation shall be replaced with a new pole.⁸</p>
Landscaping Replacement	Any existing landscaping removed or damaged by installation shall be replaced in kind.
Landscape Screening	A WCF shall be placed where existing street tree foliage or new street tree or amenity tree foliage within 35 feet of the WCF provides interruption of direct views of the WCF.

⁷ Replacement streetlight poles must meet the currently applicable City standards for the pole, including foundation and bolt designs, conduit separation, aluminum material, color, width, height, light mast characteristics (examples: orientation, design, height, color temperature and photometrics), and the presence/absence of decorative features. Replacement poles will conform to Public Works Department (PWD) style guidelines and Utilities-Electrical (CPAU) standards where the City has adopted standards and will match the pole being replaced where no standards exist. Standard specifications for streetlight poles in the City can be obtained from the Utilities-Electrical (CPAU) and Public Works (PWD) Departments.

⁸ Replacement wood utility poles must meet the currently applicable City standards for the pole, including width, height, color, material, structural capacity, and GO 95 compliance. Replacement poles shall be no greater in diameter or other cross-sectional dimension than is necessary for the proper functioning of the pole with all attachments. Existing pole functionality shall be maintained, such as in regard to electrical lines, climbing space, light masts (examples: orientation, design, height, color temperature and photometrics), and provision of communication space, unless existing functionality, such as transformers, can be relocated with the approval of the Utilities-Electrical Department (CPAU). Standard specifications for pole replacement in the City can be obtained from CPAU. For wood utility poles carrying power lines, replacement poles shall be the minimum height necessary to provide GO-95 mandated clearance between WCF equipment and power lines.

Noise ⁹	Noise from a WCF shall comply with PAMC Chapter 9.10 and shall be consistent with noise-related Comprehensive Plan goals and policies.
City Marketing Banners	WCF installations shall not require any changes in the City's existing banner marketing program.

WCF EXCEPTIONS

A WCF applicant may file an application(s) containing a request for one or more WCF Exceptions to the objective standards set forth in this resolution or any other provision of PAMC Section 18.42.110. The request for a WCF Exception(s) does not exempt a WCF from complying with other objective wireless administrative standards adopted by City Council resolution or any other provision of PAMC Section 18.42.110.

Each WCF Exception request must be made at the time an application is submitted and must include both the specific provision(s) from which the exception is sought and the basis of the request, including all supporting evidence on which the applicant relies. The applicant has the burden of proving that federal law, state law, or both, compel the decision-making authority to grant the requested exception(s). The WCF Exception must satisfy the requirements of PAMC Section 18.42.110(k) and demonstrate why the standard is infeasible.

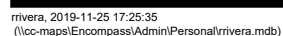
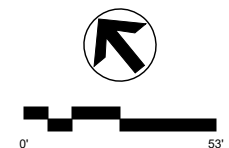
Failure to identify all required WCF Exceptions upon application submittal may result in application denial.

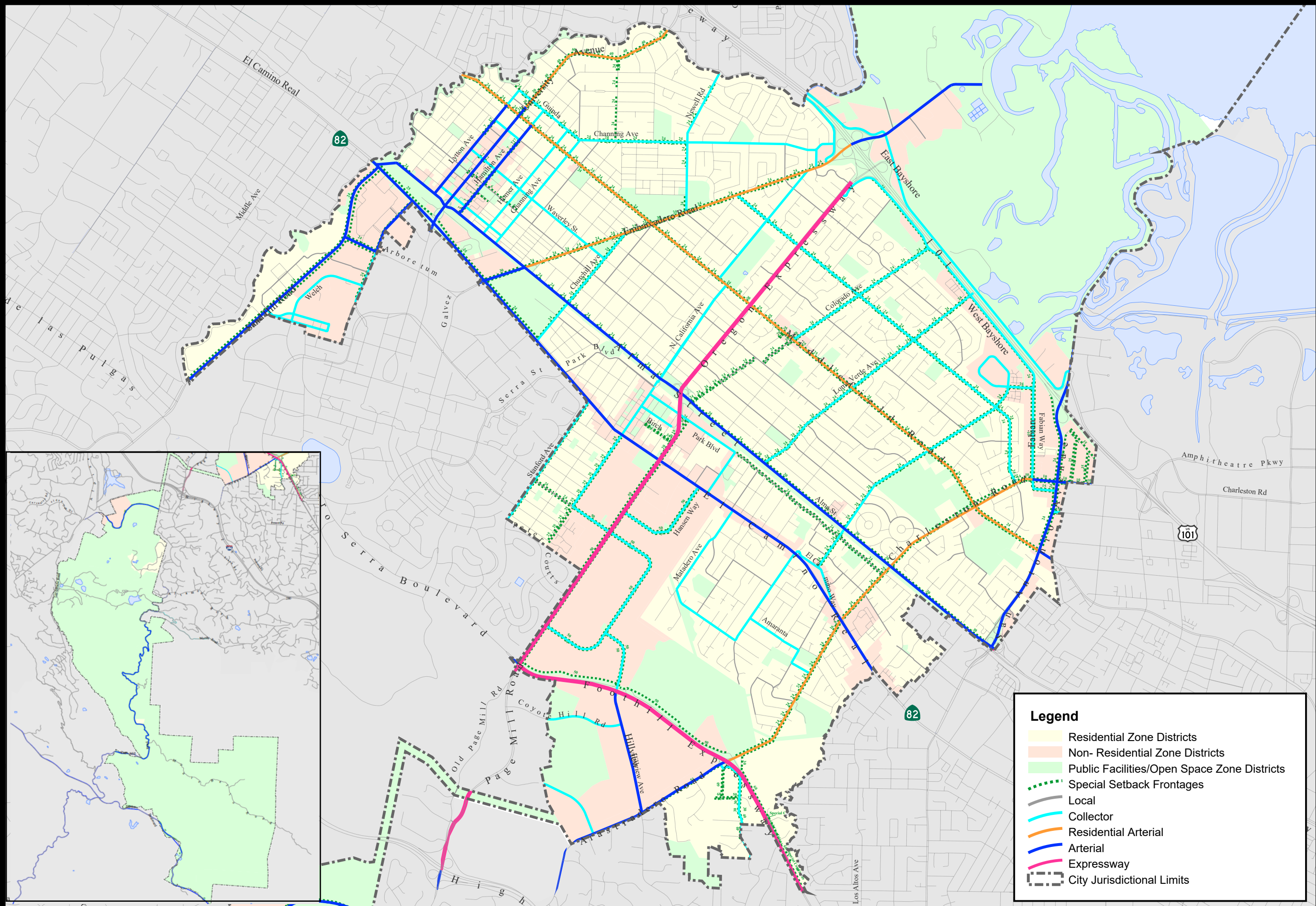
No WCF Exception may be granted that allows a WCF to be placed:

- 1) within 300 feet of a parcel containing a public school,
- 2) within 20 feet of a habitable residential building in a residential zoning district,
- 3) on wood utility poles within the Residential Zone of Exclusion described in this resolution, or
- 4) in an alley within a residential zoning district.

⁹ In residential areas with an average 24-hour noise level (L_{dn}) at or below 60 decibels (dB), noise generated by WCF equipment shall not cause the L_{dn} to exceed 60dB or to increase by 5.0 dB or more, even if the resulting L_{dn} would remain below 60 dB. In residential areas with a L_{dn} above 60 dB, noise generated by WCF equipment shall not cause the average to increase by 3.0 dB or more.

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The City of
Palo Alto

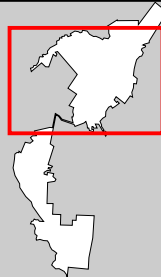


Exhibit 3

Road Network and Special Setbacks
with Residential, Commercial, and
Public Facilities Zoning Districts
v.20191125

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Certificate Of Completion

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Source Envelope:	
Document Pages: 10	Signatures: 5
Certificate Pages: 2	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Kim Lunt
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	250 Hamilton Ave
	Palo Alto , CA 94301
	kimberly.lunt@cityofpaloalto.org
	IP Address: 199.33.32.254

Record Tracking


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Storage Appliance Status: Connected	Pool: City of Palo Alto	Location: DocuSign

Signer Events

Signer Events	Signature	Timestamp
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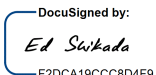
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Jonathan.Lait@CityofPaloAlto.org		Resent: 1/13/2020 8:54:57 AM
Interim Director Planning and Community Environment		Resent: 1/15/2020 8:58:56 AM
City of Palo Alto	Signature Adoption: Uploaded Signature Image	Resent: 1/16/2020 11:39:30 AM
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ed.shikada@cityofpaloalto.org		Viewed: 1/16/2020 5:51:30 PM
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eric.filseth@cityofpaloalto.org		Viewed: 1/16/2020 11:04:09 PM
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18.42.110 Wireless Communication Facilities

(a) Purpose and Interpretation

The purpose of this section is two-fold: (A) to implement within the jurisdictional boundaries of the city the applicable zoning, land use and other laws, rules, regulations and policies and procedures applicable to siting applications filed with the city by wireless communications facilities infrastructure owners and operators and wireless communications service providers, which seek to install or attach their facilities at locations in Palo Alto; and (B) to accommodate new wireless technologies and continued improvements to existing wireless communications facilities while minimizing their adverse visual and structural health and safety impacts. Consistent with that purpose, the provisions of this section 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 and the delivery of ultra-high-speed and -capacity broadband wireless communications facilities services, (2) the interest in safeguarding the environment, preserving historic properties, and addressing aesthetics and other local values, and (3) the interest in promoting the public health, safety and welfare in Palo Alto. Although this section implements and references provisions of preemptive state and federal law, nothing in this section shall be interpreted to create an independent source of the rights provided an applicant by such state or federal law.

A wireless communications facility is permitted to be sited in Palo Alto subject to applicable requirements imposed by this chapter. These processes are intended to permit wireless communications facilities that blend with their existing surroundings and do not negatively impact the environment, historic properties, or public safety. The procedures prescribed by this section are tailored to the type of wireless communication facility that is sought. Building-mounted wireless communications facilities and collocation of facilities are preferred and encouraged, subject to all other provisions of this section.

(b) Definitions

The following abbreviations, phrases, terms and words shall have the meanings assigned in this section or, as appropriate, in Section 18.04.030 and Section 1.04.050 of the Palo Alto Municipal Code, as may be amended from time to time, unless the context indicates otherwise. Words that are not defined in this section or other chapters or sections of the Palo Alto Municipal Code shall have the meanings as set forth in Chapter 6 of Title 47 of the United States Code, Part 1 of Title 47 of the Code of Federal Regulations, and, if not defined therein, their common and ordinary meaning.

(1) **"Antenna"** means that part of a wireless communications facility designed to radiate or receive radio frequency signals or electromagnetic waves for the provision of personal wireless services, as defined in 42 U.S.C. § 332(c)(7)(C)(i). This definition does not include antennas designed for amateur or household use.

(2) **"Associated equipment"** means any and all on-site equipment, including, without limitation, back-up generators and power supply units, cabinets, coaxial and fiber optic cables, connections, shelters, radio transceivers, regular power supply units, and wiring, to which a wireless antenna is attached in order to facilitate mobile broadband service and personal wireless service delivered on mobile broadband devices.

(3) **"Base Station"** means the same as defined by the FCC at 47 C.F.R. § 1.6100(b), as it may be amended from time to time. For the purpose of convenience only, this definition is stated as follows: a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein or any equipment associated with a tower. Base Station includes, without limitation:

A. Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

B. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems ("DAS") and small-cell networks).

C. Any structure other than a tower that, at the time the relevant application is filed with the city under this section, supports or houses equipment described in paragraphs (i)-(ii) above and has been previously reviewed and approved by the city.

(4) **"Collocation"** means the same as defined in valid regulations promulgated by the FCC, including 47 C.F.R. §§

1.6002(g) or 1.6100(b), as those sections may be amended from time to time. For the purpose of convenience only, the definition provided in 47 C.F.R. § 1.6100(b), for eligible facilities requests, is stated as follows: the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

(5) **"Eligible Facilities Request"** means the same as defined by the FCC at 47 C.F.R. § 1.6100(b), as it may be amended from time to time. For the purpose of convenience only, this definition is stated as follows: any request for modification of an existing tower or base station that, within the meaning of the Spectrum Act, does not substantially change the physical dimensions of that tower or base station, and involves (a) the collocation of new transmission equipment, (b) the removal of transmission equipment, or (c) the replacement of transmission equipment.

(6) **"Eligible Support Structure"** means the same as defined by the FCC at 47 C.F.R. § 1.6100(b), as it may be amended from time to time. For the purpose of convenience only, this definition is stated as follows: any existing tower or base station that exists at the time the application is filed with the city.

(7) **"Existing"** means the same as defined by the FCC at 47 C.F.R. § 1.6100(b), as it may be amended from time to time. For the purpose of convenience only, this definition is stated as follows: a constructed tower or base station is existing for purposes of an eligible facilities request if has been previously reviewed and approved under the applicable city zoning or siting process, or under another applicable state or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is "Existing" for purposes of this definition.

(8) **"FCC"** means the Federal Communications Commission or successor agency.

(9) **"Project"** means a WCF to be located in Palo Alto for which a permit is required by the city.

(10) **"RF"** means radio frequency on the radio spectrum.

(11) **"Spectrum Act"** means Section 6409(a) of the Middle Class Tax Relief Act and Job Creation Act of 2012, 47 U.S.C. § 1455(a) (providing, in part, ". a State or local government may not deny, and shall approve, any Eligible Facilities Request for a modification of any existing wireless Tower or Base Station that does not substantially change the physical dimensions of such Tower or Base Station.").

(12) **"Small Wireless Facility"** means the same as defined in any valid regulations adopted by the FCC. For purposes of convenience only, the definition provided at 47 C.F.R. Section 1.1312(e)(2) is stated here as follows: a facility that meets each of the following conditions:

A. The structure on which antenna facilities are mounted:

i. Is 50 feet or less in height, or

ii. Is no more than 10 percent taller than other adjacent structures, or

iii. Is not extended to a height of more than 10 percent above its preexisting height as a result of the collocation of new antenna facilities; and

B. Each antenna (excluding associated antenna equipment) is no more than three cubic feet in volume; and

C. All antenna equipment associated with the facility (excluding antennas) are cumulatively no more than 28 cubic feet in volume; and

D. The facility does not require antenna structure registration under 47 C.F.R. Section 17; and

E. The facility is not located on Tribal lands, as defined under 36 C.F.R. § 800.16(x); and

F. The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified by the FCC.

(13) **"Substantially Changes"** means the same as defined by the FCC at 47 C.F.R. § 1.6100(b), as it may be amended from time to time. For the purpose of convenience only, this definition is stated as follows: in the context of an eligible support structure, a modification of an existing tower or base station where any of the following criteria is met:

A. For a tower not located in the public rights-of-way:

i. The height of the tower is increased by (I) more than ten (10) percent, or (II) by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; or

ii. There is added an appurtenance to the body of the tower that would protrude from the edge of the tower by (I) more than twenty (20) feet, or (II) more than the width of the tower at the level of the appurtenance, whichever is greater.

B. For a tower located in the public rights-of-way and for all base stations:

i. The height of the tower or base station is increased by more than ten (10) percent or ten (10) feet, whichever is greater; or

ii. There is added an appurtenance to the body of that structure that would protrude from the edge of that structure by more than six (6) feet; or

iii. It involves the installation of ground cabinets that are more than ten (10) percent larger in height or overall volume than any other ground cabinets associated with the structure; or

iv. It involves the installation of any new equipment cabinets on the ground if there is no pre-existing ground cabinet associated with that structure.

C. For any eligible support structure:

i. It involves the installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets; or

ii. There is entailed in the proposed modification any excavation or deployment outside of the current site of the tower or base station; or

iii. The proposed modification would cause the concealment/camouflage elements of the tower or base station to be defeated; or

iv. The proposed modification would not comply with the conditions associated with the prior siting approval of construction or modification of the tower or base station, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the corresponding thresholds in this section.

D. To measure changes in height for the purposes of this section, the baseline is:

i. For deployments that are or will be separated horizontally, measured from the original support structure;

ii. For all others, measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved by the city prior to February 22, 2012.

E. To measure changes for the purposes of this section, the baseline is the dimensions that were approved by the city prior to February 22, 2012.

(14) **"Tower"** means any structure built for the sole or primary purpose of supporting any FCC-licensed or -authorized antenna, including any structure that is constructed for wireless communications service. This term does not include a base station.

(15) **"Transmission Equipment"** means the same as defined by the FCC at 47 C.F.R. § 1.6100(b), as it may be amended from time to time. For the purpose of convenience only, this definition is stated as follows: equipment that facilitates transmission of any FCC-licensed or authorized wireless communication service.

(16) **"Wireless Communications Facility" or "WCF"** means any antenna, associated equipment, base station, small wireless facility, tower, and/or transmission equipment located in Palo Alto, but does not include:

A. A facility that qualifies as an amateur station as defined by the FCC, 47 C.F.R. Part 97, or its successor regulation;

B. An antenna facility that is subject to the FCC Over-The-Air-Receiving Devices rule, 47 C.F.R. Section 1.4000, or any successor regulation;

C. Portable radios and devices including, but not limited to, hand-held, vehicular, or other portable receivers, transmitters or transceivers, cellular phones, CB radios, emergency services radio;

D. Mobile services providing public information coverage of news events of a temporary nature;

E. Telecommunications facilities owned and operated by any government agency or emergency medical care provider.

(c) Types of WCF Permits Required

(1) A Tier 1 WCF Permit shall be required for an eligible facilities request, as defined in this section.

(2) A Tier 2 WCF Permit shall be required for:

A. Any modification of an eligible support structure, including the collocation of new equipment, that substantially changes the physical dimensions of the eligible support structure on which it is mounted; or

B. Any collocation of a small wireless facility; or

C. Any collocation not eligible for a Tier 1 WCF Permit.

(3) A Tier 3 WCF Permit shall be required for the siting of any WCF, including a small wireless facility, that is not a collocation subject to a Tier 1 or 2 WCF Permit. An application shall not require a Tier 3 WCF Permit solely because it proposes the replacement in-place of an existing streetlight or wood utility pole.

(d) WCF Application Requirements

All applications for a WCF Permit shall include the following items:

(1) Any applicant for a WCF Permit shall participate in an intake meeting with the Planning and Community Environment Department when filing an application;

(2) The applicant must specify in writing whether the applicant believes the application is for an eligible facilities request subject to the Spectrum Act, and if so, provide a detailed written explanation as to why the applicant believes that the application qualifies as an eligible facilities request;

(3) The applicant shall complete the city's standard application form, as may be amended from time to time;

(4) The applicant shall include a completed and signed application checklist available from the city, including all information required by the application checklist;

(5) Payment of the fee prescribed by the Municipal Fee Schedule;

(6) The application must be accompanied by all permit applications with all required application materials for each separate permit required by the city for the proposed WCF, including a building permit, an encroachment permit (if applicable) and an electrical permit (if applicable);

(7) For Tier 2 and 3 WCF Permits, the applicant must host a community meeting at a time and location designed to maximize attendance by persons receiving notice under this subparagraph to provide outreach to the neighborhood around the project site. The applicant shall give notice of the community meeting to all residents and property owners within 600 feet of the project site at least 14 days in advance of the community meeting. Applicants are encouraged to host the meeting before submitting an application. Before an application may be approved, the applicant shall provide a proof of notice affidavit to the city that contains:

A. Proof that the applicant noticed and hosted the community meeting no later than 15 days after filing the application;

B. A summary of comments received at the community meeting and what, if any, changes were made to the application as a result of the meeting;

(8) For Tier 3 WCF Permits, the plans shall include a scaled depiction of the maximum increase in the physical dimensions of the proposed project that would be feasible and permitted by the Spectrum Act, using the proposed project as a baseline; and

(9) Satisfy other such requirements as may be, from time to time, required by the Planning and Community Environment Department Director ("Director"), as publically stated in the application checklist.

(e) Permit Review ("Shot Clock") Time Periods. The city shall review and act upon application materials in a manner consistent with any timeframes provided in controlling state or federal law, including valid regulations and orders promulgated by the FCC.

(f) Tier 1 WCF Permit Process and Findings

(1) A Tier 1 WCF Permit shall be reviewed by the Director. The Director's decision shall be final and shall not be appealable;

(2) The Director shall grant a Tier 1 WCF Permit provided that the Director finds that the applicant proposes an eligible facilities request;

(3) The Director shall impose the following conditions on the grant of a Tier 1 WCF Permit:

A. The proposed collocation or modification shall not defeat any existing concealment elements of the support structure; and

B. The conditions of approval in Section 18.42.110(j).

(g) Tier 2 WCF Permit Process and Findings

(1) A Tier 2 WCF Permit shall be reviewed by the Director, who may, in his or her sole discretion, refer an application to the Architectural Review Board. The Director's decision shall be appealable directly to the City Council. An appeal may be set for hearing before the City Council or may be placed on the Council's consent calendar, pursuant to the process for appeal of architectural review set forth in Section 18.77.070(f).

(2) The Director, or Council on appeal, shall grant a Tier 2 WCF Permit provided the proposed WCF complies with the conditions of approval in Section 18.42.110(j) and all objective standards adopted and amended from time to time by resolution of the City Council or the development standards in Section 18.42.110(i). If such objective standards are repealed, an application shall not be granted unless, in addition to the other requirements of this section, all of the architectural review findings in Section 18.76.020(d) can be made.

(3) The Director, or Council on appeal, shall deny a Tier 2 WCF Permit if the above findings cannot be made.

(h) Tier 3 WCF Permit Process and Findings

(1) A Tier 3 WCF Permit shall be reviewed by the Director, who may, in his or her sole discretion, refer an application to the Architectural Review Board and/or Planning and Transportation Commission. The Director's decision shall be appealable directly to the City Council. An appeal may be set for hearing before the City Council or may be placed on the Council's consent calendar, pursuant to the process for appeal of architectural review set forth in Section 18.77.070(f).

(2) The Director or Council on appeal shall grant a Tier 3 WCF Permit provided the conditional use permit findings in Section 18.76.010(c) can be made and the proposed WCF complies with the conditions of approval in Section 18.42.110(j), and all objective standards adopted and amended from time to time by resolution of the City Council or the development standards in Section 18.42.110(i). If the City Council repeals all objective standards, an application shall not be granted unless, in addition to the other requirements of this section, all of the architectural review findings in Section 18.76.020(d) can be made.

(3) The Director, or Council on appeal, shall deny a Tier 3 WCF Permit if the above findings cannot be made.

(i) Generally Applicable Development Standards

Unless the City Council has adopted more specific standards, and except as otherwise provided in this section, a proposed WCF Project shall comply with the following standards:

(1) Shall utilize the smallest antennae, radio, and associated equipment, as measured by volume, technically feasible to achieve a network objective;

(2) Shall be screened from public view;

(3) When attached to an existing structure, shall be shrouded or screened using materials or colors found on existing structure;

(4) Shall be placed at a location that would not require the removal of any required landscaping or would reduce the quantity of landscaping to a level of noncompliance with the Zoning Code;

(5) An antenna, base station, or tower shall be of a "camouflaged" or "stealth" design, including concealment, screening, and other techniques to hide or blend the antenna, base station, or tower into the surrounding area, such as the use of a monopine design;

(6) Shall not be attached on a historic structure/site, as designated by Chapter 16.49;

(7) Except as otherwise permitted by the Spectrum Act, a building-mounted WCF may extend no more than fifteen (15) feet beyond the permitted height of the building in the zone district;

(8) Except as otherwise permitted by the Spectrum Act, a tower or other stand-alone Tier 3 WCF Project shall not

exceed beyond sixty-five (65) feet in height; and

- (9) A tower or other stand-alone Tier 3 WCF may encroach into the interior/street side and rear setback.

(j) Conditions of Approval

In addition to any other conditions of approval permitted under federal and state law and this Code that the Director deems appropriate or required under this Code, all WCF Projects approved under this chapter, whether approved by the Director or deemed granted by operation of law, shall be subject to the following conditions of approval:

(1) Permit conditions. The grant or approval of a WCF Tier 1 Permit shall be subject to the conditions of approval of the underlying permit, except as may be preempted by the Spectrum Act.

(2) As-built plans. The applicant shall submit to the Director an as-built set of plans and photographs depicting the entire WCF as modified, including all transmission equipment and all utilities, within ninety (90) days after the completion of construction.

(3) Applicant shall hire a radio engineer licensed by the State of California to measure the actual radio frequency emission of the WCF and determine if it meets FCC's standards. A report, certified by the engineer, of all calculations, required measurements, and the engineer's findings with respect to compliance with the FCC's radio frequency emission standards shall be submitted to the Planning Division within one year of commencement of operation.

(4) Indemnification. To the extent permitted by law, the applicant shall indemnify and hold harmless the city, its City Council, its officers, employees and agents (the "indemnified parties") from and against any claim, action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside or void, any permit or approval authorized hereby for the Project, including (without limitation) reimbursing the city for its actual attorneys' fees and costs incurred in defense of the litigation. The city may, in its sole discretion and at Applicant's expense, elect to defend any such action with attorneys of its own choice.

(5) Compliance with applicable laws. The applicant shall comply with all applicable provisions of the Code, any permit issued under this Code, and all other applicable federal, state and local laws (including without limitation all building code, electrical code and other public safety requirements). Any failure by the City to enforce compliance with any applicable laws shall not relieve any applicant of its obligations under this code, any permit issued under this code, or all other applicable laws and regulations.

(6) Compliance with approved plans. The proposed Project shall be built in compliance with the approved plans on file with the Planning Division.

(7) Subject to city uses. Any permit to install or utilize poles or conduit in the public rights-of-way is subject to the city's prior right to use, maintain, expand, replace or remove from use such facilities in the reasonable exercise of its governmental or proprietary powers. Such permit is further subject to the city's right to construction, maintain, and modify streets, sidewalks, and other improvements in the public rights-of-way. The city, in its sole discretion, may require removal or relocation of a permittee's equipment, at permittee's sole cost and expense, if necessary to accommodate a city use.

(8) Replacement. Where feasible, as new technology becomes available, the applicant shall place above-ground equipment below ground and replace equipment remaining above-ground with smaller equipment, as determined by volume. The applicant shall obtain all necessary permits and approvals for such replacement.

(9) Permit length. WCFs permits shall be valid for the time provided in Section 18.42.110(n), except that a permit shall automatically expire after twelve months from the date of approval if within such twelve month period, the applicant has not obtained all necessary permits to commence construction. The director may, without a hearing, extend such time for a maximum period of twelve additional months only, upon application filed with him or her before the expiration of the twelve-month limit.

(k) Exceptions

(1) The decision-making authority may grant exceptions to objective standards adopted by City Council resolution or any provision of this Section 18.42.110, upon finding that:

A. The proposed WCF complies with the requirements of this Section 18.42.110 and any other requirements adopted by the City Council to the greatest extent feasible; and either

B. As applied to a proposed WCF, the provision(s) from which exception is sought would deprive the applicant of rights guaranteed by federal law, state law, or both; or

C. Denial of the application as proposed would violate federal law, state law, or both.

(2) An applicant must request an exception at the time an application is initially submitted for a WCF permit under this Section 18.42.110. The request must include both the specific provision(s) from which exception is sought and the basis of the request, including all supporting evidence on which the applicant relies. Any request for exception after the City has deemed an application complete constitutes a material change to the proposed WCF and shall be considered a new application.

(3) If the applicant seeks an exception from objective standards adopted by City Council resolution or generally applicable development standards, the Director may refer the application to the Architectural Review Board for recommendation on whether the application complies with such standards to the greatest extent feasible.

(4) The applicant shall have the burden of proving that federal law, state law, or both compel the decision-making authority to grant the requested exception(s), using the evidentiary standards applicable to the law at issue. The city shall have the right to hire independent consultants, at the applicant's expense, to evaluate the issues raised by the exception request and to submit rebuttal evidence where applicable.

(l) Removal of Abandoned Equipment

A WCF (Tier 1, Tier 2, or Tier 3) or a component of that WCF that ceases to be in use for more than ninety (90) days shall be removed by the applicant, wireless communications service provider, or property owner within ninety (90) days of the cessation of use of that WCF. A new WCF permit shall not be issued to an owner or operator of a WCF or a wireless communications service provider until the abandoned WCF or its component is removed.

(m) Revocation

The Director may revoke any WCF Permit if the permit holder fails to comply with any condition of the permit. The Director's decision to revoke a Permit shall be appealable pursuant to the process applicable to issuance of the Permit, as provided in subdivisions (f), (g), and (h) of this section.

(n) Expiration

Except as otherwise provided in the permit or in a lease or license agreement with the City of Palo Alto, WCF permits shall be valid for a period of ten years from the date of approval. An applicant may seek extensions of an approved WCF permit in increments of no more than ten years and no sooner than twelve months prior to the expiration of the permit. The Director shall approve an extension request upon finding that that applicant has complied with all conditions of approval for the WCF permit and will comply with all other requirements applicable to WCFs at the time the extension is granted. Prior to issuing a decision on an extension request, the Director may seek additional studies and information to be prepared at the applicants expense.

(Ord. 5465 § 2, 2019: Ord. 5432 § 12, 2018: Ord. 5340 § 1 (part), 2015)