

EMAILS RECEIVED REGARDING AGENDA ITEMS

CITY OF ALBANY, CALIFORNIA



ALBANY CITY HALL
1000 SAN PABLO AVENUE
ALBANY, CALIFORNIA 94706

***Item 5-4:
Amend Chapter XIV Regarding
Small Wireless Facilities -
Ordinance 2019-08***

CITY COUNCIL MEETING
December 2, 2019

From: [Edward FIELDS](#)
To: [citycouncil](#); [Jeff Bond](#); [Anne Hersch](#); [Anne Hsu](#)
Subject: Council Meeting Comment, Item 5-4, Ordinance No. 2019-08, 12/02/19
Date: Thursday, November 28, 2019 8:09:36 AM

[EXTERNAL EMAIL.]

Council Members,

Even though this item is on the Consent Calendar, I hope you will take time to discuss the material in the Staff Report. Despite the FCC's attempt to take away "local zoning authority", including the new FCC Order, the question remains. What parts of the relevant section below are still applicable? And how can the City of Albany apply them?

Thank you,

Ed Fields

47 USC 332(c)(7) Preservation of local zoning authority

(A) General authority

Except as provided in this paragraph, nothing in this chapter shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

(B) Limitations

(i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof—

(I) shall not unreasonably discriminate among providers of functionally equivalent services; and

(II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

(ii) A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.

(iii) Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.

(v) Any person adversely affected by any final action or failure to act by a State or local

government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. Any person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (iv) may petition the Commission for relief.

From: [Caroline Yunker](#)
To: [citycouncil](#); [Anne Hersch](#); [Anne Hsu](#)
Subject: Firefighters opposed 5G cell antennas on firehouse.
Date: Monday, December 2, 2019 10:38:58 AM

[EXTERNAL EMAIL.]

I heard that the City Council will be voting on 5G tonight. I ask that you please read the following article about why CA firefighters fought to get an exemption from having 5G cell antennas install on fire stations. They've known firsthand since 2004 that RF/microwave emitting cell towers are dangerous.

We are at that point where a line must be drawn to stop Big Telecom from installing 5G cell antennas. This is the time for the elected city council members to rise up and resist. If not you, then who? If not now, then when? Once we bow down to Big Telecom it will be a Herculean task to reverse course and any damages. It is unconscionable to subject residents 24/7/365 to a technology that has not been safety tested and that cannot be turned off. No one can opt out of this experiment. No humans, no birds, no bees, no plants.... no one.

Your decision tonight can devastate or save an entire community. It is a proven fact that EMF compromises the blood brain barrier! Listen to the firefighters. Rise up and Resist. Please vote NO and tell Big Telecom NOT IN ALBANY.

Thank you,

Caroline Yunker
731 San Carlos Avenue
Ablany, CA 94706

<https://ehtrust.org/firefighters-wake-call-us-susan-foster-re-sb-649-opposing-cell-towers-rights-way/?fbclid=IwAR0JmBt4vk4wao1wzZZIcg3v5rOWEjjHx-7z2FRhaFmubEsgSzwW3uRkeqI>

From: [Edward FIELDS](#)
To: [citycouncil](#); [Jeff Bond](#); [Anne Hersch](#); [Anne Hsu](#)
Subject: Re: Council Meeting Comment, Item 5-4, Ordinance No. 2019-08, 12/02/19
Date: Monday, December 2, 2019 10:51:38 AM
Attachments: [487654512022019101620494.PDF](#)
[490747212022019084129214.PDF](#)
[490747412022019091633533.PDF](#)

[EXTERNAL EMAIL.]

Councilmembers and Staff,

Please look at the 3 attached documents from the City of Santa Cruz. In particular, in the first document, see Section (4), Site Location Restrictions. In the second, the Ordinance, the references to the Americans with Disabilities Act, and in the third document, the Alternative Sites Analysis language. I believe the first document, "Small Cell Standards and Guidelines Policy for small cell facilities in the public right-of-way" passed in April of this year, and the other two passed their first reading at the last Council meeting.

Thank you,

Ed Fields

On Thu, Nov 28, 2019 at 8:09 AM Edward FIELDS <efields@berkeley.edu> wrote:

Council Members,

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(I) shall not unreasonably discriminate among providers of functionally equivalent services; and

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Small Cell Standards and Guidelines Policy for small cell facilities in the public right-of-way

The purpose of this document is to establish requirements for installing small cell wireless communication facilities in the City of Santa Cruz's right-of-way (ROW). The City seeks to permit wireless carriers to install small cell facilities within its public ROW while ensuring such facilities are well maintained and do not significantly detract from the City's streetscapes.

All small cell facilities shall be designed and located to eliminate or substantially reduce their visual and aesthetic impacts upon the surrounding public ROW and public vantage points. To accomplish this goal, all small cell equipment shall be developed with the intent of locating and designing such facilities in the following manner and order of preference (from top to bottom). In instances where a facility is proposed for installation at a location or in a manner that is not the highest preference for each of the following categories, the applicant shall make a factual showing that all higher preferences are infeasible:

(1) Antenna preferences:

- a) On an existing or replacement street light pole;
- b) On an existing or replacement structure other than a street light pole or utility pole in the ROW;
- c) On an existing or replacement utility pole

(2) Equipment preferences including, but not limited to, radio units, power supplies, voltage converters, electrical service connections, shut off switches and electric meters:

- a) Within a below-grade equipment vault;
- b) At grade equipment cabinet provided the size of the cabinet is minimized to the satisfaction of the Director of Public Works;
 - At grade equipment cabinets shall participate in the Traffic Graphics program or pay an in lieu fee depending on the location (i.e. commercial or residential areas) at the discretion of the Public Works Director.
- c) Enclosed at the base of the pole on which the antenna is mounted provided the size of the base of the pole is minimized to the satisfaction of the Director of Public Works;
- d) Within stealth equipment boxes mounted on a utility pole, provided the size of the boxes is minimized to the satisfaction of the Director of Public Works;

- (3) Site location preferences within the public right-of-way:
- a) Area not requiring the removal of existing infrastructure, parking spaces, parkway trees or reductions of the parkway landscape planters;
 - b) Within the public parkway landscaping and requiring only minor alterations to the existing parkway landscaping (including planter size) and/or infrastructure;
 - c) Within the public right-of-way in a manner that requires significant alteration to the existing public improvements and/or infrastructure.
- (4) Site location restrictions. In addition to the orders of preference specified in the preceding subsections, the following location prohibitions shall be applicable to all applications for installations of small cell facilities in the public rights-of-way.
- a) All small cell facility locations shall be outside driveway and intersection sight lines. Where feasible, locations shall be located near property corners or side property lines and not directly in front of residences and businesses.
 - b) In Residential and Commercial Zoning Districts, only one (1) small cell facility and associated equipment shall be permitted within the public right-of-way within a 1500-foot radius; provided, however, that this restriction may be waived by the Director of Public Works upon a demonstration that the refusal to allow an additional facility within a 1500-foot radius will result in the creation of a significant coverage gap for the applicant and/or that such refusal will otherwise violate an applicable state or federal law;
 - c) Wireless on strand or overhead lines shall be prohibited;
- (5) Height:
- a) Small cell installations on existing City infrastructure shall not exceed the height of the existing infrastructure by more than six feet (6') unless approved by the City Engineer and Director of Public Works after finding that a greater height would promote the aesthetic concerns of the City;
 - b) For small cells proposed for placement on a new pole in the public right-of-way, the height to the top of the highest element shall not exceed the average height of utility poles on the same block as the subject site by more than six feet (6'). In cases of uncertainty, the Director of Public Works shall have the authority to determine the applicable height limit;
 - c) Pole-mounted equipment shall be a minimum of seven (7') above level of sidewalk for public safety reasons.

(6) Design:

- a) Any pole to be installed in the public right-of-way shall be disguised to resemble a utility pole to the maximum extent possible. All small cell antennas shall be limited to a diameter of 15 inches or less. All antennas and screening devices shall be painted or finished to match the pole. All pole or equipment shall be painted or otherwise coated, per City standard, to be visually compatible with existing poles and equipment. Small cell installations shall be placed on the same vertical axis as the center of the pole.
- b) Small cell installations on existing City infrastructure shall be placed in a manner so that the size, appearance and function of the final installation is essentially identical to the installation prior to the antenna installation taking place.
- c) Small cell installations shall not be located on decorative street light poles.
- d) No faux or otherwise nonfunctioning street lights, decorative elements, signs, clock towers, or artificial trees or shrubs or other such nonfunctioning screening elements made to resemble other objects shall be permitted;
- e) Small cell facility equipment located above the surface grade in the public right-of-way including, but not limited to those on certain street lights, shall consist of small equipment components that are compatible in structure, scale, function and proportion to the poles they are mounted on. Equipment shall be painted or otherwise coated, per City standard (which may include public art), to be visually compatible with the subject pole. Underground vaults shall employ flush-to-grade access portals and vents that are heel shoe safe and slip safe; provided, however, that this restriction shall not apply in flood prone areas.
- f) Facilities shall be designed to be as visually unobtrusive as possible. The applicant shall size antennas, cabinet equipment and other facilities to minimize visual clutter. Facilities shall be sited to avoid or minimize obstruction of views from public vantage points and otherwise minimize the negative aesthetic impacts of the public right-of-way;
- g) All cables and conduits shall be routed through the interior of the subject pole to be screened from public view; provided, however, that for wood poles, all cables shall be contained within conduit, and conduits shall be mounted and routed in a manner calculated to minimize their visibility.
- h) All base-mounted accessory equipment must be installed within a shroud, enclosure or pedestal integrated into the base of the support structure. All cables, wires and other connectors routed between the

antenna and base-mounted equipment must be concealed from public view.

- i) Small cell facilities may not encroach onto or over any private or other property outside the public rights-of-way without the property owner's express written consent.
- j) To reduce clutter and deter vandalism, excess fiber optic or coaxial cables shall not be spooled, coiled or otherwise stored on the pole outside equipment cabinets or shrouds.
- k) Small cell 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. A separate ground-mounted electric meter pedestal shall not be approved.
- l) Small cell facilities and all accessory equipment and transmission equipment must comply with all applicable noise control standards and regulations in the Municipal Code.
- m) Small cell facilities shall not include any lights that would be visible from publicly accessible areas, except as may be required under Federal Aviation Administration, FCC, other applicable regulations for health and safety. All equipment with lights (such as indicator or status lights) must be installed in locations and within enclosures that mitigate illumination impacts visible from publicly accessible areas. The provisions in this subsection shall not be interpreted or applied to prohibit installations on streetlights or luminaires installed on new or replacement poles as may be required under this Policy.
- n) Small cell facilities may incorporate reasonable and appropriate site security measures, such as locks and anti-climbing devices, to prevent unauthorized access, theft or vandalism. No barbed wire, razor ribbon, electrified fences or any similarly dangerous security measures shall be permitted. All exterior surfaces on small cell facilities shall be constructed from or coated with graffiti-resistant materials.
- o) All small cell facilities must include signage that accurately identifies the site owner/operator, the owner/operator's site name or identification number and a toll-free number to the owner/operator's network operations center. Small cell facilities may not bear any other signage or advertisements unless expressly approved by the City, required by law or recommended under FCC, OSHA or other United States governmental agencies for compliance with RF emissions regulations. Signs shall be above eye level and hidden from public view when feasible with background matching the color of equipment unless otherwise required by the FCC or other regulatory agencies.

(7) Compliance with Applicable Laws:

- a) The applicant or successor in interest shall install and maintain permitted small cell facilities in compliance with the requirements of the Uniform Building, National Electrical Code, City noise standards, and all other applicable codes, laws, and regulations, as well as the restrictions specified in Chapter 15.38.
- b) Americans with Disabilities Act. The proposed small cell facility and its location shall comply with the Americans with Disabilities Act.

(8) Performance standards. All small cell facilities in the public right-of-way shall be subject to the following:

- a. Interference. No small cell facility shall interfere with any emergency communication system at any time.
- b. Graffiti. All graffiti on any components of the small cell facility shall be removed promptly in accordance with City regulations. Graffiti on any facility in the public right-of-way must be removed within twenty-four (24) hours notification to the applicant or successor in interest of its appearance.
- c. Landscaping. All landscaping required in connection with the permitting of the small cell facility, including landscaping of the public right-of-way, shall be maintained in good, healthy condition at all times. Any dead or dying landscaping shall be promptly replaced or rehabilitated.
- d. Repair of public right-of-way. The applicant or successor in interest shall repair, at its sole cost and expense, any damage (including, but not limited to subsidence, cracking, erosion, collapse, weakening, or loss of lateral support) to City streets, sidewalks, walks, curbs, gutters, trees, parkways, or utility lines and systems, underground utility line and systems, or sewer systems or sewer lines that results from any activities performed in connection with the installation and/or maintenance of a small cell facility by applicant or successor in interest. In the event the applicant or successor in interest fails to complete said repair within the number of days stated on a written notice by the Director of Public Works, the Director shall cause said repair to be completed and shall invoice the applicant or successor in interest for all costs incurred by City as a result of such repair.
- e. Structural foundation must be removed when removing structures from the right-of-way.
- f. All sidewalk panels affected by any work associated with the installation of a small cell facility must be restored to their original condition.
- g. Fans shall not be used, to the maximum extent possible.

Examples of Acceptable Installations



Examples of Unacceptable Installations



ORDINANCE NO. 2019-

AN ORDINANCE OF THE CITY OF SANTA CRUZ ADDING CHAPTER 15.38 TO THE SANTA CRUZ MUNICIPAL CODE REGULATING SMALL CELL WIRELESS FACILITIES

BE IT ORDAINED BY The City of Santa Cruz As Follows:

SECTION 1. Chapter 15.38 of the Santa Cruz Municipal Code is added to read as follows:

**Chapter 15.38
SMALL CELL WIRELESS FACILITIES**

15.38.010 PURPOSE AND INTENT.

The purpose and intent of this chapter is to reasonably regulate and provide a uniform and comprehensive set of standards and requirements for the orderly development, siting, installation, construction, collocation, modification, operation, maintenance, relocation, and removal of small cell facilities in the public right-of-way, consistent with applicable federal and state laws. Due to Section 704 of the Telecommunications Act of 1996 and subsequent Federal Communications Commission Orders, the City is prevented from taking into consideration all citizens' concerns with respect to the health effects of this technology. Pursuant to 47 U.S.C. 332(c)(7), the City may not regulate the placement, construction, and modification of wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communications Commission's regulations concerning such emissions. To the extent permitted by federal law, this chapter seeks to protect and promote public safety, and community welfare, and preserve the City's character and aesthetic quality, while also providing wireless services.

These regulations are further intended to:

- A. Require small cell facilities in the public right-of-way to have minimal impacts on the city's streets and sidewalks.
- B. Require small cell facilities in the public right-of-way to be designed to minimize adverse visual impacts.

These regulations are not intended to, and shall not be interpreted or applied to:

- A. Prohibit or effectively prohibit personal wireless services; or
- B. Unreasonably discriminate among wireless communications providers of functionally equivalent services; or
- C. Regulate the placement, construction, or modification of small cell facilities based on the environmental effects of radio frequency emissions to the extent that such facilities comply with all applicable FCC regulations concerning such emissions; or

- D. Prohibit or effectively prohibit any collocation or modification that the city may not deny under applicable California or federal law; or
- E. Preempt any applicable California or federal law.

15.38.020 DEFINITIONS.

- A. The following definitions only apply to this chapter and shall not be construed to define the same terms found in any other section of this code. As used in this chapter, the following terms shall have the meaning set forth below.
 - 1. “Antenna” means a device or system of wires, poles, rods, dishes, discs, or similar devices used to transmit and/or receive radio or electromagnetic waves.
 - 2. “Base station” means the same as defined in 47 C.F.R. §1.6100(b)(1), as may be amended or superseded.
 - 3. “City” means the City of Santa Cruz.
 - 4. “Code” means the City of Santa Cruz Municipal Code, as may be amended.
 - 5. “Collocation” means the same as defined by the FCC in 47 CFR §1.6002(g), as may be amended or superseded. “CPUC” means the California Public Utilities Commission, or its duly appointed successor agency.
 - 6. “Existing” means the same as defined by the FCC in 47 C.F.R. §1.6100(b)(5), as may be amended or superseded.
 - 7. “FCC” means the Federal Communications Commission or its duly appointed successor agency.
 - 8. “FCC Shot Clock” means the time frame within which the city generally must act on a given wireless application, as defined by the FCC and as may be amended or superseded.
 - 9. “Incommodate the public use” means to unreasonably hinder, impede, or obstruct the public use; or to unreasonably subject the public use to inconvenience or discomfort, as used in California Public Utilities Code §7901.
 - 10. “Permit” or “Small Cell Wireless Facilities Permit” means the permit issued by the department of public works for any work required in the public right-of-way for the installation or in support or otherwise related to a small cell facility, consistent with the Permit Guidelines and Small Cell Aesthetic/Design Standards adopted by the city council, and with this chapter. This Permit may functionally include the approval of various other city permits, if applicable, including a street opening permit, a concrete permit, an electrical permit, and an encroachment permit.
 - 11. “Permit Guidelines” means the Small Cell Wireless Facilities Permit Guidelines adopted by the city council, consistent with this chapter.

12. “Personal wireless service facilities” has the same meaning as provided in 47 U.S.C. § 332(c)(7)(C)(ii), as may be amended or superseded.
13. “Personal wireless services” has the same meaning as provided in 47 U.S.C. §332(c)(7)(C)(i), as may be amended or superseded.
14. “Public Right-of-Way” or “City Right-of-Way” means any public street, public way, public alley, or public place and the space on, above or below it, and all extensions thereof, and additions thereto, under the ownership or control of the City of Santa Cruz and in its jurisdiction.
15. “Public Works Director” means the director of public works of the City of Santa Cruz or his or her designee.
16. “RF” means radio frequency.
17. “Section 6409(a)” means Section 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. § 1455(a), as may be amended or superseded.
18. “Small Cell Aesthetic/Design Standards” means the aesthetic and design standards for small cell wireless facilities adopted by the city council, consistent with this chapter.
19. “Small Cell Wireless Facilities” or “Facility(ies)” means the same as defined by the FCC in 47 C.F.R. §1.6002(l), as may be amended or superseded.
20. “Stealth technologies/techniques” are camouflaging methods applied to wireless communications facilities which render them visually inconspicuous.
21. “Visual impact” means the placement or design of a wireless communications facility or the associated equipment such that they are not screened or shielded or are plainly visible and are likely to be noticeable or otherwise conspicuous.
22. “Wireless” mean any FCC-licensed or authorized wireless communications service transmitted over frequencies in the electromagnetic spectrum.
23. “Wireless communications facility(ies)” or “wireless facility(ies)” means an installation used to transmit signals over the air from facility to facility or from facility to user equipment for any wireless service and includes, but is not limited to, personal wireless services facilities. The term “wireless communications facilities” encompasses facilities that send, transmit, and/or receive radio frequency signals, AM/FM, microwave, and/or electromagnetic waves for the purpose of providing voice, data, images, or other information, including, but not limited to, cellular and/or digital telephone service, personal communications services, and paging services. Wireless communications facilities include, without limitation, antennas and all other types of equipment for the transmission or receipt of such signals; towers or similar structures built to support such equipment; equipment cabinets, base stations, generators, cables, conduits, and

other accessory development and support features; and screening and concealment elements. Also referred to as a “facility(ies).”

24. “Wireless communications provider” is any company or organization that provides or who represents a company or organization that provides wireless communications services. (Also referred to as “service provider”).

25. “Zoning administrator” means the zoning administrator of the City of Santa Cruz.

B. Terms not defined in this section shall be interpreted to give this chapter its most reasonable meaning and application, consistent with applicable state and federal law.

15.38.030 APPLICABILITY.

A. This chapter applies to:

1. All applications to construct, install, operate, collocate, modify, reconstruct, relocate or otherwise deploy small cell facilities within the public right-of-way, except as provided otherwise in this chapter below.
2. All small cell facilities, including, without limitation, all new facilities, existing facilities, and modifications to existing facilities proposed after the effective date of this chapter, unless the facility qualifies for an exemption.

B. This chapter shall not apply to the following facilities:

1. Facilities not proposed or currently located in the public right-of-way.
2. Wireless communication facilities used solely for public safety purposes, installed and operated by authorized public safety agencies (e.g. county 911 emergency services, police, sheriff, fire departments, first responder medical services, hospitals, etc.) and incorporating stealth technologies.
3. Antennas and wireless communications facilities identified by the FCC or the CPUC as exempt from local regulations.
4. Small cell wireless facilities that are suspended, whether embedded or attached, on communication cables or lines that are strung between existing utility poles in compliance with applicable safety codes.

15.38.040 PERMIT REQUIREMENTS.

A. Small Cell Wireless Facilities Permit Required. Any applicant seeking to construct, install, modify, maintain or engage in an activity relating to a small cell facility in, on, under, or above the public right-of-way that is subject to this chapter, shall obtain a Small Cell Wireless Facilities Permit pursuant to the requirements of this chapter prior to conducting any work related to such wireless communications facility.

B. Permit Application Form. The applicant shall submit a complete, duly executed Small Cell Wireless Facilities Permit application in a form approved by the Public Works Director,

which may be updated from time to time. The application will not be considered duly filed or complete unless submitted in accordance with the requirements of this chapter, the Permit Guidelines and Small Cell Aesthetic/Design Standards. Applicant must pay a Permit application processing fee as set by the city's fee schedule, at the time the application is submitted.

- C. City Pole License. For any small wireless facility proposed to be installed on a city pole controlled by the city and located within the public right-of-way, wireless communications providers are required to enter into a Master License Agreement in a form as approved by the city attorney, for the use of a city pole in a specified license area and pay a license fee subject to the city's fee schedule. Any applicant seeking a Master License Agreement shall additionally pay a Master License Agreement administrative fee subject to the city's fee schedule to reimburse the city for reasonable costs in connection with its preparation, review of, and action upon the request for such an agreement. The applicant seeking a city pole license must also apply for a Small Cell Wireless Facilities Permit. The absence of a city-approved Master License Agreement shall be an independently sufficient basis to deny the application for the Small Cell Wireless Facilities Permit for a city pole.
- D. Encroachment Area. The Small Cell Wireless Facilities Permit will authorize the use of a particular location within the public right-of-way to perform work related to a small cell wireless facility, referred to as the encroachment area. The Small Cell Wireless Facilities Permit shall specify the encroachment area and an applicant must comply with all the requirements for the encroachment, in addition to other requirements consistent with this chapter, as a condition of approval of the Small Cell Wireless Facilities Permit. Compliance with the requirements for a Small Cell Wireless Facilities Permit will not require approval of a separate encroachment permit under Chapter 15.34 of the Santa Cruz Municipal Code.
- E. Other Permits. When a Small Cell Wireless Facilities Permit requires the approval of other city permits, the Public Works Director may review and approve such other applicable city permits, including, a street opening permit, a concrete permit, an electrical permit, and an encroachment permit, as part of the approval process for the Small Cell Wireless Facilities Permit. Except for these permits referenced herein or in the Permit Guidelines, the applicant may be required to separately obtain other additional permits or approvals from the city, state, or federal agencies. Any permit granted under this chapter is subject to the conditions and/or requirements of permits or other approvals obtained from city, state, or federal agencies, unless expressly exempted by this chapter or by the Public Works Director.
- F. Fees. All required fees, security instruments, and cash deposits related to the Small Cell Wireless Facilities Permit, the Master License Agreement, the City Pole license, and other required permits and approvals consistent with this chapter must be paid in full or be satisfied before the Permit may be issued by the city. In addition, city may seek reimbursement of the actual reasonable costs related to licensing, permitting, and administering small cell wireless facilities in the public right-of-way at an applicable hourly rate as set by the city council. Failure to comply with this provision shall be a basis to deny, revoke, or terminate the Small Cell Wireless Facilities Permit, the Master License or other applicable permit.
- G. Additional Procedures. The city council authorizes the Public Works Director to establish forms and procedures relating to the implementation of this chapter; and determine the

amount of and collect, as a condition of the completeness of any application, any fee established by city council relating to this chapter.

15.38.050 REQUIRED APPROVALS.

A. Requirements for small cell facilities in the public right-of-way:

1. Wireless equipment designated as “small cell facilities” shall comply with all applicable State and Federal laws including the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) and all applicable health and safety requirements, including Public Utilities Commission General Order 95, and as these rules may be amended or superseded.
2. All small cell facilities that are located within the public right-of-way shall be designed, modified, maintained or otherwise, to minimize visual, noise, impediments to access, and other impacts on the surrounding community and shall be planned, designed, located, and erected in accordance with the Permit Guidelines and Small Cell Aesthetic/Design Standards.
3. Small cell facility deployment in the public right-of-way shall be consistent with Sections 7901 and 7901.1 of the Public Utilities Code.
4. Small cell facility deployment shall comply with all applicable local and state building codes, including building code structural requirements and all applicable rules and laws, including the Permit Guidelines and Small Cell Aesthetic/Design Standards.
5. Small cell facility deployment proposed in the Coastal Zone shall require approval of a Coastal Development Permit and compliance with any other applicable laws and requirements.
6. All small cell facilities shall comply with all applicable federal RF exposure standards and exposure limits.

15.38.060 REVIEW PROCESS.

- A. The city shall not approve any request for a Small Cell Wireless Facilities Permit except upon a complete and duly filed application on the then-current form prepared by the city. The application shall comply with this chapter and any other written rules and policies the city may adopt consistent with this chapter, including but not limited to, the Permit Guidelines and Small Cell Aesthetic/Design Standards.
- B. The department of public works and the department of planning shall review all applications for Small Cell Wireless Facilities Permit. The review process shall include: review of a RF report for consistency with FCC regulations and guidelines for human exposure to RF emissions; visual and aesthetics, noise, access, and public convenience considerations; and review to ensure compliance with the Small Cell Aesthetic/Design Standards and Permit Guidelines, and all other applicable laws.

- C. The Small Cell Wireless Facilities Permit shall be acted on within all processing timelines required by the FCC Shot Clocks, applicable state or federal laws, or other applicable timelines.

15.38.070 APPROVALS AND DENIALS; NOTICES.

- A. Decision. The Public Works Director shall approve, conditionally approve, or deny a complete application for a Small Cell Wireless Facilities Permit.
- B. Required Findings. The Public Works Director may approve or conditionally approve a complete Permit application for a small cell facility when the Public Works Director finds:
1. The proposed project meets the definition for a “small cell facility” as defined by the FCC;
 2. The applicant and/or the proposed facility complies with all applicable requirements of this chapter;
 3. The application is deemed complete by the Public Works Director, and complies with the Permit Guidelines;
 4. The proposed project complies with all applicable design standards in the city’s adopted Small Cell Aesthetic/Design Standards as determined by the city’s Zoning Administrator;
 5. The applicant has demonstrated that the proposed project will be in compliance with all applicable health and safety regulations, which include without limitation the Americans with Disabilities Act and all FCC regulations and guidelines for human exposure to RF emissions;
 6. The proposed facility will not incommode the public use of the public right-of-way;
 7. The proposed construction plan and schedule will not unduly interfere with the public’s use of the public right-of-way; and
 8. The proposed facility is in compliance with all federal and state standards and laws.
- C. Conditional Approvals; Denials without Prejudice. Subject to any applicable federal or California laws, and the Permit Guidelines, nothing in this chapter is intended to limit the ability of the Public Works Director to conditionally approve or deny without prejudice any application for a Small Cell Wireless Facilities Permit as may be necessary or appropriate to ensure compliance with this chapter.
- D. Decision Notices. Within five (5) calendar days after the Public Works Director acts on an application for a Small Cell Wireless Facilities Permit or before the expiration of the applicable FCC Shot Clock or other time limit (whichever occurs first), the Public Works Director shall notify the applicant of such decision by written notice. If the Public Works Director denies the application (with or without prejudice), the written notice must contain the reasons for the decision.

- E. When the Public Works Director notifies the applicant of approval for an application, the information will also be posted on the Public Works Website “Small Cell” website page.
- F. No Possessory Interest. No possessory interest is created by a Small Cell Wireless Facilities Permit.

15.38.080 CONDITIONS OF APPROVAL.

- A. Fees. The applicant for a small wireless facility shall be subject to all applicable fees and charges for small cell wireless facilities and the Small Cell Wireless Facilities Permit, which shall be determined by resolution adopted by the city council. If no resolution has been adopted, 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 ten (10) days after the city issues a written demand for reimbursement. Applicant shall also be responsible for paying all electricity costs associated with the small cell facility installation and operation.
- B. Inspection and reporting. The permittee under the Small Cell Wireless Facilities Permit, when directed by the city, must perform an inspection of the facility and submit a report to the public works department on the condition of the facility to include any identified concerns and corrective action taken or to be taken. The permittee shall also maintain and repair the facility at its sole expense during its placement in the public right-of-way. The permittee must correct or repair the facility within thirty (30) days after the city’s notice for corrective action; after which the city reserves the right to take any action it deems necessary, which may include revocation of any applicable permit(s). The permittee is responsible for any costs associated with necessary actions performed by the city due to permittee’s failure to comply with this section and with the Permit Guidelines. The permittee has the burden to demonstrate compliance with this chapter.
- C. The applicable permit(s) may be rescinded if construction is not substantially commenced within one year of the Permit being granted, absent a showing of good cause. The applicant may not renew the Permit or resubmit an application to develop a small cell facility at the same location for six months from date of rescission.
- D. Abandonment. Small cell facilities no longer used to provide service shall be removed by the last known owner of record of such facility, at the sole cost of said owner and to the satisfaction of the city.
- E. Existing Agreements. Existing agreements regarding the leasing or licensing of a city pole entered into before the operative date of this section remain in effect, subject to applicable termination provisions.
- F. The city may adopt a resolution to reserve capacity for future city uses on vertical infrastructure based on substantial evidence in the record.

15.38.090 REVOCATION.

Any permit or other authorized use of the public right-of-way granted under this chapter may be revoked or modified for cause in accordance with the provisions of this section.

- A. Revocation proceedings may be initiated by the Public Works Director.
- B. Action. The Public Works Director shall act on the proposed revocation after the time for any appeal has lapsed.
- C. Required Findings. The Public Works Director may revoke or modify the permit if it makes any of the following findings:
 - 1. The permittee obtained the approval by means of fraud or misrepresentation of a material fact;
 - 2. The permittee substantially expanded or altered the use or structure beyond what is set forth in the permit or substantially changed the installation's character;
 - 3. The use in question has ceased to exist or has been suspended or abandoned;
 - 4. Failure to comply with any condition of a permit issued;
 - 5. Failure to comply with this chapter;
 - 6. A substantive change of law affecting a utility's authority to occupy or use the public right-of-way or the city's ability to impose regulations relating to such occupation or use;
 - 7. A facility's interference with a city project;
 - 8. A facility's interference with vehicular or pedestrian use of the public right-of-way;
or
 - 9. Failure to make a safe and timely restoration of the public right-of-way.
- D. Notice of action. The Public Works Director shall issue a written determination of revocation and mail the determination to the permittee within ten (10) calendar days of such determination.
- E. A permittee whose permit or right has been revoked may have the revocation reviewed, upon written appeal to the city council as set forth in section 15.38.100.

15.38.100 APPEALS.

A. A permittee or a person who received notice of an application under the Permit Guidelines may appeal a decision of the Public Works Director under this chapter to the city council in accordance with the provisions of Chapter 1.16, except as follows:

- (1) Appeals must be filed within five (5) days of the Public Works Director's decision.
- (2) The city clerk shall set the appeal for hearing on the agenda for the next regular or special meeting of the city council, or otherwise within a time frame needed to comply with all applicable state or federal laws.

B. As section 332(c)(7) of the Telecommunications Act preempts local decisions premised directly or indirectly on the environmental effects of radio frequency (RF) emissions to the extent such facilities comply with the FCC's regulations, appeals premised on environmental effects from RF emissions that are compliant with all applicable FCC regulations, will not be considered.

15.38.110 ATTORNEYS' FEES.

In the event the city determines that it is necessary to take legal action to enforce any of the requirements under this chapter or to revoke a permit, and such legal action is taken, the permittee shall be required to pay any and all costs of such legal action, including reasonable attorney's fees, incurred by the city, even if the matter is not prosecuted to a final judgment or is amicably resolved, unless the city should otherwise agree in writing with permittee to waive said fees or any part thereof. The foregoing shall not apply if the permittee prevails in the enforcement proceeding

15.38.120 REVIEW OF ORDINANCE.

Wireless communications technology is currently subject to rapid change. Innovations may render the need for specific sections of this chapter to be reviewed and revised. The city council may amend this chapter or its rules and policies by resolution after a change to the FCC's regulations or standards, or any applicable state or federal laws.

15.38.130 SEVERABILITY.

If any section or portion of this chapter is found to be invalid by a court of competent jurisdiction, such finding shall not affect the validity of the remainder of the chapter, which shall continue in full force and effect.

SECTION 2. This ordinance shall be in force and take effect thirty (30) days after its final adoption.

PASSED FOR PUBLICATION this 26th day of November, 2019, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Martine Watkins, Mayor

ATTEST: _____
Bonnie Bush, City Clerk Administrator

PASSED FOR FINAL ADOPTION this 10th day of December, 2019 by the following
vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Martine Watkins, Mayor

ATTEST: _____
Bonnie Bush, City Clerk Administrator

This is to certify that the above
and foregoing document is the
original of Ordinance No. 2019-
and that it has been published or
posted in accordance with the
Charter of the City of Santa Cruz.

Bonnie Bush, City Clerk Administrator

RESOLUTION NO.

EXHIBIT “A”

**SMALL CELL WIRELESS FACILITIES
PERMIT GUIDELINES**

APPLICATION CHECKLIST – REQUIRED MATERIALS:

INFORMATIONAL MEETING - OPTIONAL

APPLICATION FORM AND FEE

PUBLIC NOTIFICATION AND VERIFICATION

PRIOR PERMITS & REGULATORY APPROVALS

APPROVAL FOR PERMIT:

__ UTILITY POLE OWNER OR __ MASTER LICENSE AGREEMENT FOR CITY
POLE

SITE/PROJECT PLANS

STRUCTURAL EVALUATION (If Applicable)

EQUIPMENT INVENTORY

TRAFFIC CONTROL PLAN

FIBER NETWORK AND POWER SUPPLY PLANS (If Applicable)

PHOTO SIMULATIONS

INITIAL CEQA ASSESSMENT

RF COMPLIANCE REPORT

NOISE COMPLIANCE REPORT

SECTION 6409 EVALUATION (If applicable)

PROJECT PURPOSE AND TECHNICAL OBJECTIVES INFORMATION*

ALTERNATIVE SITES ANALYSIS*

COMPLIANCE WITH AESTHETIC/DESIGN STANDARDS

COMPLIANCE WITH ALL GENERAL AND SPECIAL PERMIT CONDITIONS

Notes: All starred () items are **not required** for a Section 6409 Approval.*



SMALL CELL WIRELESS FACILITIES PERMIT GUIDELINES

I. GENERAL PROVISIONS

1. **Permit Guidelines.** The following Permit Guidelines are in accordance with Santa Cruz Municipal Code (“SCMC”) Chapter 15.38 and contain the requirements for the issuance of a Small Cell Wireless Facilities Permit for small cell wireless facilities in the City’s public right-of-way. The Public Works Director is authorized to modify or amend these Permit Guidelines, as needed, to implement and comply with SCMC Chapter 15.38, and with any other applicable rules, policies and laws.
2. **Submitting Application.** For the application to be deemed complete, the applicant must submit or comply with **all** of the applicable requirements and materials provided in the Permit Guidelines, Small Cell Aesthetic/Design Standards, and other applicable rules and policies in accordance with Santa Cruz Municipal Code Chapter 15.38. (See the City’s website or inquire with the Public Works Department for other general applicable requirements not specifically referenced in this application.) Additional requirements may be imposed as needed to comply with any other applicable rules, policies and laws.
3. **Minimum Standards.** Wireless facilities shall be installed and modified in a manner that minimizes risks to public safety, avoids placement of aboveground facilities in underground areas, avoids installation of new support structures or equipment cabinets in the public right-of-way, and otherwise maintains the integrity and character of the neighborhoods and corridors in which the facilities are located; ensures that installations are subject to periodic review to minimize the intrusion on the rights of way; and ensures that the City bears no risk or liability as a result of the installations, and that such use does not inconvenience the public, interfere with the primary uses of the right-of-way, or hinder the ability of the City or other government agencies to improve, modify, relocate, abandon, or vacate the public right-of-way or any portion thereof, or to cause the improvement, modification, relocation, vacation, or abandonment of facilities in the rights of way.
4. **Location Preferences.** All applicants should, to the extent feasible, collocate new facilities and substantial changes to existing facilities with existing facilities. Collocations should, to the extent feasible, be proposed on structures in accordance with the preferences contained in the associated Small Cell Aesthetic/Design Standards adopted by the City Council.
5. **Encroachment Area.** Pursuant to Santa Cruz Municipal Code Chapter 15.38, the issuance of the Small Cell Wireless Facilities Permit authorizes the encroachment of the City’s right-of-way in the placement, modification, or performing other work related to a



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small cell wireless facility at a particular location, referred to as the encroachment area, within the City’s public right-of-way. The Small Cell Wireless Facilities Permit shall include terms and conditions including insurance and indemnity requirements as needed for a standard encroachment permit under Chapter 15.34 of the Santa Cruz Municipal Code in addition to all the requirements of Chapter 15.38, as determined by the Public Works Director.

Notes: All starred () items are **not required** for a Section 6409 Approval. After the City issues the requested permit, the applicant must obtain all other required permits (including, without limitation and as applicable, building, electrical, plumbing, etc.) prior to performing the installation.*

II. INFORMATIONAL MEETING - OPTIONAL

A pre-application informational meeting is voluntary and is recommended. Public Works Department staff will provide applicant with an appointment for the informational meeting upon request.

The purpose of the meeting is to:

- a. Inform the applicant of City requirements and review process;
- b. Identify information and materials the City will require with the application;
- c. Identify potential concerns and streamline the formal application review process;
- d. Provide the applicant with a public notice template, the Small Cell Aesthetic/Design Standards, the Small Cell Wireless Facilities Permit Application and Permit Guidelines.

Applicants are encouraged to bring the following to the meeting:

- a. Photo simulations of typical installation;
- b. Typical design;
- c. Master plan of small cell deployment in City’s Right-of-Way;
- d. Draft application or other pre-application materials for informal staff feedback and guidance.

III. APPLICATION AND FEES

1. **Application Instructions:** Complete the Small Cell Wireless Facilities Permit Application (“Permit Application”) form available on the City’s website or at the Public Works Department. The Permit Application must be submitted by appointment only as one hardcopy set, and one set as electronic files in compressed PDF format, along with other hard copies as required below. Electronic files must be provided on an USB drive, and provided to the City’s Public Works Department during the permit application submittal appointment.



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2. **Fees:** The Permit Application Fee as established by City Council resolution must be paid at the time of submittal. All required fees, security instruments, and cash deposits related to the Small Cell Wireless Facilities Permit, the Master License Agreement, the City Pole license, and other required permits and approvals consistent with Chapter 15.38 of the City's Municipal Code, must be paid in full or satisfied before the Small Cell Wireless Facilities Permit may be issued by the City. You may find the City's fee schedule on the City's website or contact the Public Works Department for appropriate fees.

IV. PUBLIC NOTIFICATION

Instructions:

1. As part of the application submittal, the applicant shall, within 5 calendar days of submitting a Permit Application, provide notices by first class United States mail, to all property owners or occupants of buildings within 1000 feet of the project. The notification shall also be posted in at least three locations near the project site. Posting on barricades, utility poles, etc., is acceptable.

2. Contents of Notice. The notice shall include:

- a) applicant's identification and contact information;
- b) a general project description;
- c) identify the location of the project site in text and/or diagram;
- d) photo-simulations of the project;
- e) a statement that interested parties may submit comments regarding the project within 5 business days of the notice to the Applicant;
- f) a statement that the City will conduct a preliminary review of the project under the California Environmental Quality Act (CEQA) as part of the application process;
- g) a statement that a reasonable accommodation request pursuant to the Americans with Disabilities Act or other applicable law may be directed to the City.
- h) instruction to the property owners or occupants to provide notice to its employees by posting the applicant's notice at the workplace.

3. Based on the interest of the residents and property owners and prior to application submittal, it is recommended that the applicant hold a voluntary neighborhood informational meeting to discuss the proposed project, and to receive feedback from interested parties.

4. Public notification documentation including, notice, concerns/comments, questions, responses, log (by location with information on comments, questions, responses, and delivery including person, date, and method of delivery), proof of notification, and list of recipients, must be submitted to the City prior to approval of any permit.

V. MASTER LICENSE AGREEMENT – FOR CITY POLE LICENSE



For any small wireless facility proposed to be installed on a City pole controlled by the City and located within the public right-of-way, the applicant shall submit an executed Master License Agreement on a form that states the terms and conditions for such non-exclusive use by the applicant. The City Manager is authorized to enter into the Master License Agreement on a form approved by the City Attorney. The absence of a City-approved Master License Agreement shall be an independently sufficient basis to deny the application.

VI. PRIOR PERMITS AND REGULATORY APPROVALS

Instructions: Provide true and correct copies of all the following:

1. **Prior Permits**
If the applicant requests a Section 6409 Approval, applicant shall provide copies of all prior local regulatory approvals (original sitting permits and any modification permits) issued for the facility with any corresponding conditions of approval and project plans approved by the applicable regulatory authority. Alternatively, the applicant may submit a written justification that sets forth the reasons why prior regulatory approvals were not required for the wireless facility at the time it was constructed or modified. Label this documentation “**Attachment 6a – Prior Permits**” and attach it to the Permit Application.
2. **FCC Licenses**
If the applicant or service provider proposes to operate in FCC-licensed spectrum, provide proof of licenses for all planned operating bands. If there are federal build-out requirements, indicate which and whether they have been fully satisfied. If not satisfied, indicate what remains to be satisfied. Label this documentation “**Attachment 6b – FCC Licenses**” and attach it to this application.
3. **Certificate of Public Convenience & Necessity (CPCN)/Wireless ID Registration (WIR)**
For all applications for facilities in the public right-of-way, provide a true and correct copy of the applicant’s CPCN and/or WIR issued by the California Public Utilities Commission or its successor agency. Label this documentation “**Attachment 6c – CPCN-WIR**” and attach it to the Permit Application.
4. **Coastal Development Permit** – If the proposed project is in the City’s coastal zone, applicant must obtain and verify approval of a Coastal Development Permit relating to this project. Label this documentation “**Attachment 6d – Coastal Dev. Permit**” and attach it to the Permit Application.
5. **Other Approvals** – Provide verification of approval for the placement of a small cell wireless facility on a utility owned vertical structure in the City’s right-of-way. Label this documentation “**Attachment 6d – Approval from Utility**” and attach it to the Permit Application.



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Any permit issued under these Permit Guidelines shall remain subject to all other applicable laws.

Applicant may also need to obtain other permits and regulatory approvals as may be required under applicable laws and rules, including any ministerial permits and/or other approvals by other City departments.

VII. PROJECT PLANS

Instructions: Provide **four** sets of complete 24 x 36-inch project plans drawn to a scale of not less than 1:20 and a digital file of such plans in portable document format (PDF). Label this documentation “**Attachment 7 – Project Plans**” with documents responsive to each category listed below clearly labeled and attached to the Permit Application.

Project plans must contain all the following:

1. Cover Sheet

A complete cover sheet must include at a minimum:

A detailed project description that specifies the proposed installation and/or modifications including without limitation all physical elements such as antennas, radios, power services, all cables, mounts, and all other elements of the proposed project.

Site information that includes the proposed site address, site latitude and longitude (WGS 84 datum), zoning classification and address of the nearest private property, project team contact information site map, and pole number (if applicable).

2. Site Development Plan / Project Plans

A complete site development plan must include:

Plan-view drawings, which include:

Detailed before-and-after views for any equipment pads, enclosures, cabinets, pedestals and/or vaults.

All existing and proposed equipment with all dimensions, labels and ownership identifications clearly called out.

Boundaries for all easements, encroachments and/or other rights-of-way for access and utilities in connection with the wireless site with all dimensions clearly shown and called out.

All existing and proposed primary and backup utilities, including without limitation all cables, connectors, risers, conduits, cable shrouds, trays, bridges



and/or doghouses, transformers, disconnect switches, panels, meters, pedestals, cabinets, vaults, generators and/or generator sockets.

Structural Evaluation (if project is utilizing an existing structure or constructing a new structure).

Detailed before-and-after elevation drawings from all four cardinal directions, which include:

All existing and proposed structures, improvements and/or fixtures with all dimensions clearly called out

All existing and proposed equipment with all dimensions, labels and ownership identifications clearly called out

All existing and proposed fiber optic cables, conduits, risers, guy wires, anchors, primary and secondary power lines

Callouts and notes for any proposed new or extended concealment elements

A north arrow, date, scale and legend

3. **Equipment Inventory**

The equipment inventory does not need to include primary utility cables, panels or cabinets, or any other objects not primarily designed or intended for radio communication purposes. All other equipment must be inventoried with the following information for each component:

Manufacturer and model number

Basic dimensions (height, width, length, and weight)

4. **Traffic Control Plans**

For facilities with traffic impacts to the public right-of-way, provide **two** copies of engineered traffic control plans that show traffic control for the project and a digital file of such plans in portable document format (PDF). The plans must be drawn in accordance with the latest version of the California Manual of Traffic Control Devices (CA MUTCD) by a registered California civil or traffic engineer. The preparer's stamp and signature must be shown on the plans.

5. **Fiber Network and Power Supply (if necessary) Plans**

For facilities proposed to be located in the public right-of-way, and to the extent that the project requires running new fiber optic cables and/or power connections to the proposed node, the plans must include a street map view that shows all the proposed nodes in the deployment, clearly labeled with pole number and/or site ID, the hub or base station that serves the nodes in the deployment, all fiber optic cable routes that connect the nodes to the hub, and a legend that identifies any symbols, colors or other items on the map. The plans should clearly identify all meet-me points and points of connection. Even if the fiber deployment will be performed by a third-party vendor, the applicant for wireless nodes must



disclose all known or reasonably foreseeable fiber network elements. A separate utility encroachment permit will be required for fiber installation.

VIII. PHOTO SIMULATIONS

Instructions: Provide photo simulations of the proposed project as constructed. The photo simulations must be in a high-resolution format and show the proposed facility from reasonable line-of-sight locations that would accurately and reliably reflect the appearance of the proposed facility and/or modifications as-built. Label these photos simulations “**Attachment 8 – Photo Simulations**” and attach them to the Permit Application. Except as otherwise provided, photo simulations must contain all the following:

1. **Current Site Photographs**

Current site photographs must include:

Photographs of the existing site from at least three different reasonable line-of-sight locations from public streets or other adjacent viewpoints

A map detail showing each location where a photograph was taken, the proposed site and the direction to the site from each photo location

2. **Photo Simulations**

Photo simulations must include:

An accurate and reliable visual representation of the proposed facility from the same reasonable line-of-sight locations used in the current site photographs and must include without limitation all interconnecting cables, conduits, brackets, and electronic equipment such as antennas, radio units, powering, and the like

A map detail showing each location where a photograph was taken, the proposed site and the direction to the site from each photo location

3. **Concealment Maintenance**

For Section 6409 Approval applications, the applicant must provide at least one photo simulation that demonstrates the impact of the proposed modification on the concealment elements of the support structure. Concealment elements include but are not limited to radomes, cable shrouds, painting, landscaping, equipment enclosures and designs and/or techniques intended to blend with the surrounding built and/or natural environment.

IX. INITIAL CEQA ASSESSMENT

Instructions: Based on the nature and scope of the project, the City will determine whether the proposed project is categorically exempt under CEQA, or whether the proposed project will require a Negative Declaration, Mitigated Negative Declaration or an Environmental Impact Report.



X. RF COMPLIANCE REPORT

Instructions: Provide an RF exposure compliance report prepared and certified by a State of California licensed RF engineer that certifies that the proposed facility, as well as any collocated facilities and any cumulative emissions from adjacent areas, will comply with applicable federal RF human exposure standards and limits. At a minimum, the RF exposure compliance report must provide the same information and be in the same form as the FCC LSGAC Appendix A form for each band of operations. For projects on or attached to poles subject to CPUC General Order 95 regulation provide evidence of compliance with CPUC General Order 95, Rule 94. Label this report “**Attachment 10 – RF Compliance Report**” and attach it to the Permit Application. The RF compliance report must include:

The actual frequency, actual or maximum power levels (in watts effective radiated power (ERPP)), and the actual or maximum transmitting channels for all existing and proposed antennas at the site.

Exhibits that show:

The location and orientation of all transmitting antennas

The boundaries of areas with RF exposures (whether individually or cumulatively) in excess of the uncontrolled/general population limit (as that term is defined by the FCC)

The boundaries of areas with RF exposures (whether individually or cumulatively) in excess of the controlled/occupational limit (as that term is defined by the FCC)

Note: Each such boundary must be clearly marked and identified for every transmitting antenna at the project site, whether owned/operated by the applicant or another licensee. To the extent that the project site contains collocated transmitters from multiple operators, the RF exposure compliance report must evaluate all the transmitting antennas that may cause cumulative emissions.

XI. NOISE COMPLIANCE REPORT

Instructions: Provide a noise compliance report for the proposed facility and all associated equipment including, but not limited to, all environmental control units, sump pumps, temporary backup power generators, and permanent backup generators in order to demonstrate compliance with Section 24.14.260 (Noise) of the SMC and Chapter 8 of the 2030 General Plan in regards to noise. The noise compliance report must be prepared and certified by an engineer and 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. In lieu of a noise compliance report, the applicant may submit evidence from the equipment manufacturer that the ambient noise emitted from all the proposed equipment will not, both individually and cumulatively, exceed the applicable City limitations. Label this analysis “**Attachment 11 – Noise Compliance Report**” and attach it to the Permit Application.



XII. SECTION 6409 EVALUATION

Instructions: If the applicant requests approval pursuant to Section 6409(a) the applicant must prepare a justification that evaluates whether the proposed modification is an eligible facilities request that complies with the applicable FCC substantial change thresholds. Label this evaluation “**Attachment 12 – Section 6409 Evaluation**” and attach it to the Permit Application.

XIII. PROJECT PURPOSE AND TECHNICAL OBJECTIVES*

Instructions: For applications not subject to Section 6409, provide the following information to demonstrate the intended technical service objectives and the nature of the existing service capabilities of the applicant’s network in the area that would be served by the proposed facility or enhanced by the proposed modification. Label this analysis “**Attachment 13 – Project Purpose and Technical Objectives**” and attach it to the Permit Application.

1. Dominant Project Purpose

Identify and describe the *dominant* project purpose. Identify whether the proposed facility or modification will:

Add new personal wireless *service coverage* to an area in which the licensee does not currently provide any personal wireless service coverage

Add new personal wireless *service capacity* to an area in which the licensee currently provides personal wireless service coverage

If the project has a different dominant purpose from the options described above, provide such purpose in full detail.

2. Technical Objectives

Provide a detail written statement that describes the technical objectives the applicant intends the proposed wireless facility to achieve and the factual reasons why the proposed location, centerline height and equipment configuration are necessary to achieve those objectives. In addition, the statement must include all the following required information and/or materials:

A street-level map that shows the general geographic area of the service area(s) to be improved through the proposed wireless facility (the “Service Area”)

Full-color signal propagation maps in scale with the street level map that show current and predicted service coverage in the area for all active frequencies in Reference Signal Received Power (RSRP) (or other relevant signal level or quality indicator) and with a legend that describes the objective signal levels in Decibel-Milliwatts (dBm) that correspond to any colors used to depict signal levels on such propagation maps

A written narrative that describes the uses (commercial, residential, primary thoroughfare, highway, etc.) within the Service Area, and the manner in which those uses would be negatively affected if the Service Area were to remain unaddressed



A statement as to whether the applicant conducted any drive test(s) and, if so all drive test results and data (in .XLS or .CSV or similar format) together with a report that describes how and when the applicant conducted such test(s)

3. Network Map

Provide an overview map of the applicant's network within the City's jurisdictional and territorial boundaries that shows (1) all the existing wireless facilities that applicant currently owns and/or operates and (2) all future wireless facilities that are reasonably foreseeable within two years of the application submission. The map must provide a legend that distinguishes between "macro" cells and small cell facilities.

XIV. ALTERNATIVE SITES ANALYSIS*

Instructions: For applications not subject to Section 6409, provide a detailed written analysis that describes how the proposed wireless facility complies with all the applicable requirements in the Santa Cruz Municipal Code, which includes without limitation the provisions specific to wireless facilities, and all the alternative locations and designs considered before submitting this application. Label this analysis "**Attachment 14 – Alternative Sites Analysis**" and attach it to the application. In addition, the analysis must include all the following required information and/or materials:

A street-level map that shows the general geographic area surrounding the proposed location annotated to show:

- All existing wireless facilities within the relevant geographic area

- The search ring used for this particular project

- All locations for each alternative site considered for this particular project

For each alternative site considered, a detailed written description that includes, without limitation all the following:

- The nearest physical address

- Zoning district designation for the nearest private property

- Support structure type considered

- General design concept and concealment elements/techniques considered

- Overall height and achievable antenna centerline height

- The factual reasons why the applicant considered the potential alternative site location and/or design to be unacceptable, infeasible, unavailable or not in accordance with the development standards in the Santa Cruz Small Cell

- Standards and Policy for Small Wireless Communication Facilities **Note:** This explanation must include a meaningful comparative analysis and such technical information and other factual justification as are necessary to document the

- reasons why each alternative is unacceptable, infeasible, unavailable or not as consistent with the development standards . Conclusory statements that a

- particular alternative is unacceptable, infeasible, unavailable or not in accordance with the development standards will be deemed incomplete.



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For each alternative site *within the search ring*, signal propagation maps in scale with the street level map that show current and predicted service coverage in the area for all active frequencies in RSRP (or other relevant signal level or quality indicator) with and without the alternative site and with a legend that describes the objective signal levels in dBm that correspond to any colors used to depict signal levels on such propagation maps. The signal submitted to show before-and-after service from the applicant's proposed site. If the applicant did not locate any alternatives within the search ring, the analysis must expressly state that no such alternatives were considered.

XV. ADDITIONAL APPROVALS.

The Director of Public Works or his/her designee has the discretion to require other permits and regulatory approvals in connection with the small cell wireless facility in the City's right-of-way, which are consistent with local, state and federal laws. The Director or his/her designee may formulate additional administrative policies and procedures consistent with compliance with Chapter 15.38, these Permit Guidelines, Small Cell Aesthetic/Design Standards and other applicable rules and laws.

XVI. APPLICATION CONSIDERATIONS.

The City shall have 10 days from the submission of the application to determine whether the application is incomplete, as required by the Federal Communications Commission's October 15, 2018 Ruling ("FCC Ruling").

The City shall act on all authorizations necessary for the small cell wireless facilities' applications within the shot clock periods as determined by the FCC. Based on the FCC Ruling, the shot clock for a small cell wireless facility being placed on an existing structure shall be 60 days from submittal of the application materials. As for small cell wireless facilities being placed on a new or replacement structure, the shot clock is 90 days from submittal of the application.

If the City deems the application incomplete, the shot clock will reset once the applicant resubmits the supplemental information requested by the City. If after this initial notice of incompleteness the City makes a subsequent determination of incompleteness, then the shot clock will not be reset this time, but rather the FCC Ruling's tolling rules would apply.

These timelines are subject to modification subject to an agreement between the parties, or changes in the FCC rules or other applicable laws.

From: [Stephanie Thomas](#)
To: [Anne Hersch](#); [citycouncil](#); [Anne Hsu](#)
Subject: Re Small Cell ordinance for tonight- suggest a delay
Date: Monday, December 2, 2019 12:00:04 PM

[EXTERNAL EMAIL.]

Dear Albany City Council, Planning Manager and City Clerk,

I thank you for your work on the Small cell ordinance. However, I urge you to delay a positive vote on it.

There are provisions you could do such as a process for ADA accommodations. A review process for that. This would be to recognize that a wireless apparatus may limit access to important places in the city.

There also needs to be a clear process for notification of people in the neighborhood of a proposed wireless apparatus for a wide area near the location.

Also there are requirements for NEPA and CeQA that are being addressed on Dec 5th. This may update the review for conditions such as endangered species, unsafe land because of watershed, etc.

There are so many reasons to step up to protect the residents and visitors to Albany

Thank You

Stephanie Thomas..

PS Please review the book "reinventing wires" that I earlier delivered

From: [Edward FIELDS](#)
To: [citycouncil](#); [Anne Hersch](#); [Anne Hsu](#)
Cc: [Jeff Bond](#); [Craig Labadie](#)
Subject: Fwd: Santa Cruz small cell stuff
Date: Wednesday, December 4, 2019 7:35:59 AM
Attachments: [Design standards.pdf](#)

[EXTERNAL EMAIL.]

Councilmembers and Staff,

Sorry I couldn't get this document to you on Monday, although I doubt it would have resulted in any changes to the language of our Ordinance. The Santa Cruz small cell design standards for facilities in the public right of way weren't approved until June of this year. There was a significant addition of language in Section 3 expressing a preference for siting in commercial and industrial districts before residential districts. Please see the brief email below and the design standards pdf attached to this email.

Congratulations, Craig, on your retirement!

Ed Fields

----- Forwarded message -----

From: ___<@cityofsantacruz.com>
Date: Mon, Dec 2, 2019 at 3:49 PM
Subject: Santa Cruz small cell stuff
To: efields@berkeley.edu <efields@berkeley.edu>

Hi Ed,

Attached are the small cell design standards for facilities in the public right of way. These standards were approved on June 25th of this year. I did a quick search of the document and found the following with regard to residential areas:

- At grade equipment cabinets shall participate in the Traffic Graphics program or pay an in-lieu fee as determined by Public Works
- Commercial and industrial zone districts are preferred for siting of small cell facilities; residential districts are next; the coastal zone is least preferred. This is an “encouragement” standard and not a requirement.
- In residential zones, small cell facilities must be at least 1,500 feet apart unless demonstrated that this distance will result in a significant coverage gap.

We also have design standards for facilities on private property. Those facilities go through a planning permit process, as opposed to the ones in the public right of way, which do not. You

can find the design requirements for wireless facilities on private property under zoning ordinance sections 24.12.1430 and 24.12.1425-1435:

<https://www.codepublishing.com/CA/SantaCruz/#!/SantaCruz24/SantaCruz2412.html#24.12.1425>

These standards prohibit the location of a wireless facility in a residential district unless the applicant can show there is no viable alternative and that the facility will substantially reduce significant gaps in the network. The ordinance also requires any new roof-mounted facility to be visually screened from residential uses and requires any ground-mounted or monopole facility to be set back a distance at least as long as the height of the pole from a residentially zoned property.

Sincerely,

City of Santa Cruz

_____[@cityofsantacruz.com](mailto:____@cityofsantacruz.com)

RESOLUTION NO. NS-29,XXX
EXHIBIT A

Small Cell Aesthetic/Design Standards
for small cell facilities in the public right-of-way

The purpose of this document is to establish requirements for installing small cell wireless communication facilities in the City of Santa Cruz's right-of-way (ROW). The City seeks to permit wireless carriers to install small cell facilities within its public ROW while ensuring such facilities are well maintained and do not significantly detract from the City's streetscapes.

All small cell facilities shall be designed and located to eliminate or substantially reduce their visual and aesthetic impacts upon the surrounding public ROW and public vantage points. To accomplish this goal, all small cell equipment shall be developed with the intent of locating and designing such facilities in the following manner and order of preference (from top to bottom). In instances where a facility is proposed for installation at a location or in a manner that is not the highest preference for each of the following categories, the applicant shall make a factual showing that all higher preferences are infeasible:

(1) Antenna preferences:

- a) On an existing or replacement street light pole;
- b) On an existing or replacement structure other than a street light pole or utility pole in the ROW;
- c) On an existing or replacement utility pole

(2) Equipment preferences including, but not limited to, radio units, power supplies, voltage converters, electrical service connections, shut off switches and electric meters:

- a) Within a below-grade equipment vault;
- b) At grade equipment cabinet provided the size of the cabinet is minimized to the satisfaction of the Director of Public Works;
 - At grade equipment cabinets shall participate in the Traffic Graphics program or pay an in lieu fee depending on the location (i.e. commercial or residential areas) at the discretion of the Public Works Director.
- c) Enclosed at the base of the pole on which the antenna is mounted provided the size of the base of the pole is minimized to the satisfaction of the Director of Public Works;

- d) Within stealth equipment boxes mounted on a utility pole, provided the size of the boxes is minimized to the satisfaction of the Director of Public Works;

(3) Zone district preferences; small cell facilities are encouraged to locate in accordance with the following zone district preferences, which are listed in order of preference:

a) Commercial and industrial zone districts;

b) Residential zone districts;

c) Coastal zone.

(4) Site location preferences; small cell facilities are encouraged to locate in accordance with the following site location preferences within the public right-of way, in order of preference:

a) Area not requiring the removal of existing infrastructure, parking spaces, parkway trees or reductions of the parkway landscape planters;

b) Within the public parkway landscaping and requiring only minor alterations to the existing parkway landscaping (including planter size) and/or infrastructure;

c) Within the public right-of-way in a manner that requires significant alteration to the existing public improvements and/or infrastructure.

(5) Site location restrictions. In addition to the orders of preference specified in the preceding subsections, the following location prohibitions shall be applicable to all applications for installations of small cell facilities in the public rights-of-way.

a) All small cell facility locations shall be outside driveway and intersection sight lines. Where feasible, locations shall be located near property corners or side property lines and not directly in front of residences and businesses.

b) In Residential Zoning Districts, only one (1) small cell facility and associated equipment shall be permitted within the public right-of-way within a 1500-foot radius; provided, however, that this restriction may be waived by the Director of Public Works upon a demonstration that the refusal to allow an additional facility within a 1500-foot radius will result in the creation of a significant coverage gap for the applicant and/or that such refusal will otherwise violate an applicable state or federal law;

- c) Wireless on strand or overhead lines shall be prohibited;

(6) Height:

- a) Small cell installations on existing City infrastructure shall not exceed the height of the existing infrastructure by more than six feet (6') unless approved by the City Engineer and Director of Public Works after finding that a greater height would promote the aesthetic concerns of the City;
- b) For small cells proposed for placement on a new pole in the public right-of-way, the height to the top of the highest element shall not exceed the average height of utility poles on the same block as the subject site by more than six feet (6'). In cases of uncertainty, the Director of Public Works shall have the authority to determine the applicable height limit;
- c) Pole-mounted equipment shall be a minimum of seven (7') above level of sidewalk for public safety reasons.

(7) Design:

- a) Any pole to be installed in the public right-of-way shall be disguised to resemble a utility pole to the maximum extent possible. All small cell antennas shall be limited to a diameter of 15 inches or less. All antennas and screening devices shall be painted or finished to match the pole. All pole or equipment shall be painted or otherwise coated, per City standard, to be visually compatible with existing poles and equipment. Small cell installations shall be placed on the same vertical axis as the center of the pole.
- b) Small cell installations on existing City infrastructure shall be placed in a manner so that the size, appearance and function of the final installation is essentially identical to the installation prior to the antenna installation taking place.
- c) Small cell installations shall not be located on decorative street light poles.
- d) No faux or otherwise nonfunctioning street lights, decorative elements, signs, clock towers, or artificial trees or shrubs or other such nonfunctioning screening elements made to resemble other objects shall be permitted;
- e) Small cell facility equipment located above the surface grade in the public right-of-way including, but not limited to those on certain street lights, shall consist of small equipment components that are compatible in structure, scale, function and proportion to the poles they are mounted

on. Equipment shall be painted or otherwise coated, per City standard (which may include public art), to be visually compatible with the subject pole. Underground vaults shall employ flush-to-grade access portals and vents that are heel shoe safe and slip safe; provided, however, that this restriction shall not apply in flood prone areas.

- f) Facilities shall be designed to be as visually unobtrusive as possible. The applicant shall size antennas, cabinet equipment and other facilities to minimize visual clutter. Facilities shall be sited to avoid or minimize obstruction of views from public vantage points and otherwise minimize the negative aesthetic impacts of the public right-of-way;
- g) All cables and conduits shall be routed through the interior of the subject pole to be screened from public view; provided, however, that for wood poles, all cables shall be contained within conduit, and conduits shall be mounted and routed in a manner calculated to minimize their visibility.
- h) All base-mounted accessory equipment must be installed within a shroud, enclosure or pedestal integrated into the base of the support structure. All cables, wires and other connectors routed between the antenna and base-mounted equipment must be concealed from public view.
- i) Small cell facilities may not encroach onto or over any private or other property outside the public rights-of-way without the property owner's express written consent.
- j) To reduce clutter and deter vandalism, excess fiber optic or coaxial cables shall not be spooled, coiled or otherwise stored on the pole outside equipment cabinets or shrouds.
- k) Small cell 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. A separate ground-mounted electric meter pedestal shall not be approved.
- l) Small cell facilities and all accessory equipment and transmission equipment must comply with all applicable noise control standards and regulations in the Municipal Code.
- m) Small cell facilities shall not include any lights that would be visible from publicly accessible areas, except as may be required under Federal Aviation Administration, FCC, other applicable regulations for health and safety. All equipment with lights (such as indicator or status lights) must be installed in locations and within enclosures that mitigate illumination impacts visible from publicly accessible areas. The provisions in this subsection shall not be interpreted or applied to

prohibit installations on streetlights or luminaires installed on new or replacement poles as may be required under this Policy.

- n) Small cell facilities may incorporate reasonable and appropriate site security measures, such as locks and anti-climbing devices, to prevent unauthorized access, theft or vandalism. No barbed wire, razor ribbon, electrified fences or any similarly dangerous security measures shall be permitted. All exterior surfaces on small cell facilities shall be constructed from or coated with graffiti-resistant materials.
- o) All small cell facilities must include signage that accurately identifies the site owner/operator, the owner/operator's site name or identification number and a toll-free number to the owner/operator's network operations center. Small cell facilities may not bear any other signage or advertisements unless expressly approved by the City, required by law or recommended under FCC, OSHA or other United States governmental agencies for compliance with RF emissions regulations. Signs shall be above eye level and hidden from public view when feasible with background matching the color of equipment unless otherwise required by the FCC or other regulatory agencies.

(8) Compliance with Applicable Laws:

- a) The applicant or successor in interest shall install and maintain permitted small cell facilities in compliance with the requirements of the Uniform Building, National Electrical Code, City noise standards, and all other applicable codes, laws, and regulations, as well as the restrictions specified in Chapter 15.38.
- b) Americans with Disabilities Act. The proposed small cell facility and its location shall comply with the Americans with Disabilities Act.

(9) Performance standards. All small cell facilities in the public right-of-way shall be subject to the following:

- a. Interference. No small cell facility shall interfere with any emergency communication system at any time.
- b. Graffiti. All graffiti on any components of the small cell facility shall be removed promptly in accordance with City regulations. Graffiti on any facility in the public right-of-way must be removed within twenty-four (24) hours notification to the applicant or successor in interest of its appearance.
- c. Landscaping. All landscaping required in connection with the permitting of the small cell facility, including landscaping of the public right-of-way, shall be maintained in good, healthy condition at all times. Any dead or dying landscaping shall be promptly replaced or rehabilitated.

- d. Repair of public right-of-way. The applicant or successor in interest shall repair, at its sole cost and expense, any damage (including, but not limited to subsidence, cracking, erosion, collapse, weakening, or loss of lateral support) to City streets, sidewalks, walks, curbs, gutters, trees, parkways, or utility lines and systems, underground utility line and systems, or sewer systems or sewer lines that results from any activities performed in connection with the installation and/or maintenance of a small cell facility by applicant or successor in interest. In the event the applicant or successor in interest fails to complete said repair within the number of days stated on a written notice by the Director of Public Works, the Director shall cause said repair to be completed and shall invoice the applicant or successor in interest for all costs incurred by City as a result of such repair.
- e. Structural foundation must be removed when removing structures from the right-of-way.
- f. All sidewalk panels affected by any work associated with the installation of a small cell facility must be restored to their original condition.
- g. Fans shall not be used, to the maximum extent possible.

Examples of Acceptable Installations



Examples of Unacceptable Installations

