

## **Proposed Amended Article 16**

# Article 16 Development Regulations

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**4-1600 Specific Purposes and Applicability**

This article contains development regulations, other than parking, loading, and sign regulations that are applicable to development in all or several districts. These regulations shall be applied as specified in Part II: Base District Regulations, Part III: Overlay District Regulations, and as presented in this article. (Ord. 2001-015 § 1)

**Division 1. Residential Districts**

**4-1602 through 4-1628 Reserved** (Ord. 2001-015 § 1)

**Division 2. Nonresidential Districts**

**4-1630 Fast Food Establishments**

The following supplementary development regulations shall apply to fast food establishments, large scale and fast food establishments, small scale use classifications.

- A. No Exterior Walk-Up Service. Food shall be delivered to patrons within a car or within a building, or enclosed or covered outdoor eating area.
- B. Minimum Separation. Fast food establishment, large scale uses on separate freestanding sites that are:(a) not associated as being either a part of or within a shopping center; and (b) have independent access to adjoining parking shall not be closer than five hundred (500) feet to a public or private school, park, library, or playground. This minimum separation requirement does not apply to the fast food establishment, small scale classification.

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**4-1656 Reserved** (Ord. 2001-015 § 1) **Supportive and Transitional Housing.**

**Pursuant to SB 2 (Chapter 633, Statutes 2007) and California Government Code Section 65583(a)(5), supportive and transitional housing must be considered a residential use of property, subject only to restrictions that apply to other residential dwellings of the same type in the applicable zoning districts in the Code. See Article 3 (“Definitions”) for definitions of supportive housing, transitional housing, and target population. Applicable parking standards for supportive and transitional housing can be found in Article 17 (“Off-Street Parking and Loading Regulations.”)**

**4-1658 Exceptions to Height Limits**

Towers, spires, cupolas, chimneys, elevator penthouses, water tanks, flagpoles, monuments, theater scenery lofts, radio and television antennas, transmission towers, fire towers, and similar structures and necessary mechanical appurtenances covering not more than ten percent (10%) of the ground area covered by the structure to which they are accessory may exceed the maximum permitted height in the district in which the site is located by no more than ten (10) feet, unless the Board of Zoning Adjustments approves a variance that authorizes additional height. (Ord. 2001-015 § 1)

**4-1660 Reserved** (Ord. 2001-015 § 1)

**4-1662 Outdoor Facilities and Storage/Loading Facilities**

A. **Outdoor Storage—Where Permitted.**

1. **IG District—Permit Not Required.** Outdoor storage of materials or equipment is allowed in the IG district, subject to the screening requirements prescribed in Subsection C below. Outdoor storage of materials or equipment shall be strictly related to the operation of the principal use. In no case shall this section permit outdoor storage or display of merchandise, goods, or materials for retail or wholesale sales, unless a Temporary Use Permit is obtained in accordance with Section 5-2222. If the outdoor sales exceed ninety (90) consecutive days in duration, an Outdoor Facilities Permit shall be required, per Subsection 2 below.
2. **Other Commercial and Industrial Districts—Outdoor Facilities Permit Required.** Outdoor storage and display of merchandise, materials, or equipment, including display of merchandise, materials, and equipment for customer pick-up shall be subject to approval of an Outdoor Facilities Permit by the Zoning Enforcement Official in the CN, CC, CS, CR, DA-1, DA-2, DA-3, DA-4, DA-5, DA-6, C-RM, NA-1, NA-2, SA-1, SA-2, SA-3, IG, IL, and IP Districts subject to screening requirements prescribed in Subsection C below. Sidewalk cafés and outdoor food service accessory to an Eating and Drinking Establishment or a

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In the event that any one (1) or more of the phrases, sentences, clauses, paragraphs, or sections contained in this ordinance shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this ordinance which are hereby declared as several and shall be interpreted to carry out the intent hereunder. (Ord. 2014-011 § 2; Ord. 2001-015 § 1)

#### **4-1686 Wireless Telecommunications Facilities**

- A. Title, Purpose and Applicability. The provisions of this Chapter shall be known as the Wireless Telecommunications Facilities regulations. The purpose and intent of these regulations are to provide a uniform and comprehensive set of standards for the development, location, siting, design and installation of wireless telecommunications facilities. These regulations are intended to balance the needs of the wireless communications providers, the regulatory functions of the City of San Leandro, the mandates of State and Federal law and the potential impacts on the community and neighboring property owners in the design and siting of wireless facilities. The regulations are designed to promote and protect the public health, safety, and welfare and visual quality of the City of San Leandro while encouraging the appropriate development of telecommunications activities and site sharing throughout the City. These regulations shall apply to telecommunications projects.
- B. Definitions. As used in this Section, the following terms shall have the meanings indicated, as they relate to wireless telecommunications facilities:
1. “Alternative tower structure” shall mean **stealth facilities like** freestanding support structures, ~~such as~~ man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers so that the purpose of the freestanding facility or structure is not readily apparent to the casual observer.
  2. “Antenna” shall mean any communications equipment that transmits and receives radio-frequency signals used in the provision of all types of wireless telecommunications services.
  3. “Architecturally-integrated” shall mean that the wireless telecommunications facility is designed to closely blend into the surrounding environment and to be minimally visible to the casual observer (**i.e., stealth**). Antennas and related equipment are either not readily visible beyond the property on which it is located, or if visible, appear to be part of the existing building or environment rather than a wireless facility. The wireless facility may be incorporated into a building’s architectural features, such as a steeple, parapet wall, clock tower, flagpole, cupola, chimney, vent pipe or light standard or be screened by an equipment screen or other equally suitable method. It may include alternative

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tower structures, such as freestanding flagpoles, treepoles, windmills, signs and similar support structures that conceal the presence of a wireless facility within that structure. Related equipment shall be designed to match the architecture of adjacent buildings and/or be screened from public view by walls, fences, parapets, landscaping, and similar treatments.

**4. “Base Station” shall mean the equipment and non-tower supporting structure or enclosure at a fixed location that enables licensed or authorized wireless telecommunications between user equipment and a communications network, including but not limited to an antenna, transceiver, coaxial cable, power supply and other associated equipment.**

**5.4. “Co-location” shall mean the location of two (2) or more wireless telecommunications facilities on a single existing, previously-approved tower, building, or other support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes. Co-locations that do not substantially change the physical dimensions of the existing support structure as defined herein and by Section 6409(a) of the Middle Class Tax Relief and Jobs Creation Act of 2012 may be processed through an Eligible Facilities Request to the Community Development Department.**

**6. “Eligible Facilities Request” shall mean any request for the modification of an existing wireless tower or base station that involves a) co-location of new transmission equipment, b) removal of transmission equipment, or c) replacement of transmission equipment pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012. Such a request to the Community Development Department shall show the baseline height and width of the existing facility in relation to the proposed changes to demonstrate that the proposed changes do not result in a substantial modification to the physical dimensions of the existing support structure (i.e. a maximum increase of 10% surface area in antennas and related equipment).**

**7.5. “FAA” shall mean the Federal Aviation Administration.**

**8.6. “FCC” shall mean the Federal Communications Commission.**

**9.7. “Governing authority” shall mean the City Council of the City of San Leandro.**

**10.8. “Ground-mounted facility” shall mean a wireless telecommunications facility consisting of one (1) or more poles or posts mounted on the ground that are used to support antennas. Any ground-mounted facility that is over fifteen (15) feet in height shall be considered a monopole.**

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11.9. “Height” shall mean, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

12. **“Maintenance” shall mean the following: a) scheduled preventive inspections and activities per manufacturer’s instructions or regulatory requirements; b) corrective maintenance including modification to existing equipment to repair physical damage or correct internal faults; c) minor repositioning or changes in internal components to improve performance or energy efficiency or increase power output; and d) other changes to the existing equipment that does not substantially change its physical appearance.**

13.40. “Minor modification” shall mean a change to an existing wireless telecommunications facility, whether emergency or routine, provided there is little or no change in the visual appearance (**i.e. a maximum increase of 10% surface area in antennas and related equipment**) and does not constitute a substantial modification, as defined herein (see Subsection B.16\_43). Minor modifications are those modifications to conforming wireless telecommunications facilities that meet the performance standards set forth in these regulations.

14.44. “Monopole” shall mean a single, freestanding pole, treepole, flagpole, post, tower or alternative tower structure over fifteen (15) feet in height that is used to support equipment associated with a wireless telecommunications facility.

15.42. “Pre-existing wireless telecommunications facility” shall mean any wireless telecommunications facility for which a permit has been properly issued prior to the effective date of this Section and shall not be required to meet the requirements of this Section, other than the requirements of Subsection C.4. Any such facility shall be referred to in this Section as “pre-existing wireless telecommunications facility.”

16.43. “Substantial modification” shall mean **substantially** changing **the physical dimensions of a tower or base station on** an existing wireless telecommunications facility, such that it **meets one or more of the following criteria**:

**Height:**

(i) increases the existing vertical height by more than ten percent (10%) **for towers other than towers in the public right-of-way** or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater, except that the mounting of

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the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas;

**For other, eligible support structures, it increases the height of the structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater.**

**Width:**

(ii) involves adding an appurtenance to the silhouette of a tower **for towers other than towers in the public right-of-way** that would protrude horizontally from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure **at the level of the appurtenance, whichever is greater,** as seen from an elevation perspective, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable;

**For other, eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet.**

**Equipment Cabinets:**

(iii) involves the installation of more than the standard number of new equipment cabinets necessary for the technology involved, not to exceed four **cabinets** ~~or more than one new equipment shelter, unless specified in the Conditional Use Permit.;~~ **or**

**For towers and base stations in the public right-of-way, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent (10%) larger in height or overall volume than any other ground cabinets associated with the structure.**

**Excavation /Deployment Beyond Site:**

**(iv) involves any excavation or deployment outside the current site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site; and**



**For other, eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.**

**17.14.**“**Tower**” shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more wireless telecommunications facilities, including self-supporting lattice towers, guy towers, utility poles, treepoles, monopoles, alternative tower structures, or architecturally-integrated facilities. The term includes, but is not limited to, radio and television transmission towers, microwave towers, and **certain** co-locations **not otherwise governed by Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012.**

**18.15.**“**Wireless telecommunications facility**” shall mean a commercial facility that is licensed by the FCC to transmit and/or receive electromagnetic or radio-frequency waves, including, but not limited to, towers, existing tower structures, monopoles, utility poles, alternative tower structures, **co-locations,** architecturally-integrated facilities, antennas, and distributed antenna systems. It includes all related equipment which is ancillary to the transmission and reception of a wireless telecommunications facility, including, but not limited to, coaxial cable, electrical and telco conduit and connectors, electrical meters, equipment cabinets, and equipment compounds and shelters. Amateur radio operators and are not included in this definition.

C. **Exclusions.** The following activities shall be exempt from these regulations:

1. **District Height Limitations.** The requirements set forth in this Section shall govern the location of wireless telecommunications facilities that exceed and that are installed at a height in excess of the height limitations specified for each zoning district. The height limitations applicable to buildings and structures shall not apply to wireless telecommunications facilities.
2. **Public Property.** Wireless telecommunications facilities located on property owned, leased or otherwise controlled by the City **or by any other government-operated public safety network** shall be exempt from the requirements of this Section, provided a license or lease authorizing such facility has been approved by the City.
3. **Amateur Radio: Receive-Only Antennas.** This Section shall not govern any tower, or the installation of any antenna, that is less than ten (10) feet in height above the district height limit and is owned and operated by a federally-licensed amateur (“ham”) radio station operator or is used exclusively for receive-only antennas.

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4. Pre-Existing Wireless Telecommunications Facility. Any wireless telecommunications facility for which a permit has been properly issued prior to the effective date of this Section shall not be required to meet the requirements of this Section, other than the requirements of Subsection F. Any such facilities shall be referred to in this Section as “pre-existing wireless telecommunications facilities.” **Any nonconforming facilities may continue to be operated, repaired, and maintained but shall not be enlarged, expanded, relocated, or modified in any material manner, as determined within the reasonable discretion of the Community Development Department.**
  
  5. Satellite Antenna. This Section shall not apply to any satellite antenna placed in residential zones that is one meter or less in diameter nor to any other satellite antenna located in any other zone that is two meters or less in diameter.
  
  6. **Exempted by State and/or Federal Regulations. The Community Development Department may grant an exception to any requirement of Section 4-1686 upon making findings that a) strict compliance precludes the reasonable accommodation of the communication needs of the operator as set forth in State and/or Federal rules and regulations; b) there are no other feasible alternatives; and c) either State or Federal rules and regulations requires the Department to issue the exception or that the exception will serve the public interest despite conflict with the mandatory standards herein.**
- D. Restrictions. The following restrictions shall apply to wireless telecommunications facilities:
1. No new unscreened wireless telecommunications facility shall be permitted three hundred (300) feet or less away from any residential property line or residential zoning district boundary.
- E. General Guidelines and Requirements. All wireless telecommunications facilities must comply with the following except when impractical or technologically infeasible. The burden shall be on the applicant to provide evidence as part of the application showing why and how complying with these standards would be impractical or technologically infeasible.
1. Principal or Accessory Use. Wireless telecommunications facilities may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of a wireless telecommunications facility on such lot. For purposes of determining whether the installation of a wireless telecommunications facility complies with zoning district development regulations, including, but not limited to, set-back

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requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the wireless telecommunications facility may be located on leased parcels within such lots.

2. Co-Location. All new wireless telecommunications facilities shall co-locate with other existing or with planned new wireless telecommunications facilities whenever feasible and when doing so will minimize potential visual impacts. Co-locations shall be processed in accordance with the prevailing **State and/or Federal rules and regulations**. ~~guidelines.~~

F. Specific Design Criteria. The following design standards shall govern the siting, design and location of all wireless telecommunications facilities; provided, however, that the Board of Zoning Adjustments may waive these requirements if it determines that the goals of this Section are better served thereby.

1. Freestanding Towers and Ground-Mounted Facilities.

- a. Freestanding towers and ground-mounted wireless telecommunications facilities shall either maintain a galvanized steel finish or be painted a neutral color, as determined by the City, so as to reduce visual impacts and blend into the landscape or visual backdrop against which they will be seen to the greatest extent possible, unless otherwise required by the FAA.
- b. Freestanding and ground-mounted wireless telecommunications facilities shall incorporate camouflaging techniques, such as alternative tower structures, wherever feasible and shall be located in areas where existing topography, vegetation, buildings or other structures provide the greatest amount of screening to minimize visual impacts.
- c. Alternative tower structures, such as treepoles shall incorporate enough architectural branches (including density, needle count and vertical height), three (3) dimensional bark cladding, and other design materials or appropriate techniques to cause the structure to appear as a natural element of the environment. Treepoles shall be integrated into the surrounding environment through the planting of trees and/or shrubs distributed around the entire facility to appear as a naturally occurring or integrated landscape element.
- d. Alternative tower structures, such as flag poles shall be tapered to maintain the appearance of an actual flag pole. A flag shall be flown from the wireless facility and properly lighted and maintained at all times, in accordance with the U.S. Flag Code.

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- e. Freestanding towers and ground-mounted facility sites shall incorporate ancillary buildings and equipment, such as equipment shelters that, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the facilities to the natural setting and built environment.
- f. Freestanding towers and ground-mounted facilities shall not be artificially lighted, unless required by the FAA or other applicable authority or unless they contain a U.S. Flag. If lighting is required, the Zoning Enforcement Official may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Any exterior lighting shall be manually operated or on an automatic timer and used only during night, during periods of maintenance or during an emergency situation, unless otherwise required by applicable Federal law. Lighting shall be shielded or directed to minimize glare as viewed from off-site locations.
- g. Freestanding towers and alternative tower structures shall incorporate coaxial cable and electrical and telco conduits inside the pole structure and underground, whenever feasible.

## 2. Building-Mounted Facilities.

- a. Building-mounted wireless telecommunications facilities shall be architecturally-integrated into the building design and otherwise made as unobtrusive as possible, whenever feasible. Antennas shall be located entirely within an existing or newly created architectural feature so as to be completely screened from view. Where feasible, antennas can be placed directly above, below or incorporated with the vertical design elements of a building and painted to match the background color of the building to help in camouflaging the facility. (See Subsection B.3 “Architecturally-Integrated.”)
- b. Building-mounted designs shall ensure that the antenna(s) and ancillary equipment, such as cable trays and coaxial cables and electrical and telco conduits are located within existing building walls, whenever feasible, or inside cable trays painted a color that is identical to, or closely compatible with, the background color of the supporting building or structure so as to make them as visually unobtrusive as possible. All ancillary equipment shall be sited and designed to appear as an integral part of the building or structure. (See Subsection B.3 “Architecturally-Integrated.”)
- c. Building-mounted and roof-mounted wireless telecommunications facilities, including any screening devices, may not exceed a height of fifteen (15) feet above the roof or parapet, whichever is higher, of the

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building on which it is mounted unless approved through a Conditional Use Permit.

- d. Building-mounted and roof-mounted wireless telecommunications facilities located on the façade of the building parapet or rooftop penthouse shall be painted and/or textured to match the background color of the existing structure. Façade-mounted or flush-mounted wireless telecommunications facilities shall not extend more than twenty-four (24) inches out from the building face. If a building-mounted wireless telecommunications facility is mounted flush against a building wall, the color and material of the antenna and other equipment shall match the exterior of the building. If there is a discernible gap between the antenna and the façade, the antenna shall be screened so as to hide the gap.
  - e. Roof-mounted antennas and associated equipment shall maintain a 1:1 ratio (i.e., a ten (10) foot high antenna requires a ten (10) foot setback from façade; a six (6) foot high cabinet requires a six (6) foot setback from façade) and shall be located as far back from the edge of the roof as is technically feasible in order to minimize visibility from residences, public rights-of-way and significant view corridors. Where appropriate, construction of a rooftop parapet or wall to hide the antenna or equipment may be required to minimize visual impacts. Roof-mounted facilities shall also be screened from above, if visible from adjacent properties.
  - f. Building-mounted facilities and support structures may not be illuminated unless specifically required by the FAA or other governmental agencies.
3. Equipment.
- a. The ancillary equipment **associated with the base station**, such as equipment cabinets, shelters and compounds, for all wireless telecommunications facilities shall use materials, colors and textures, screening, and landscaping that will blend the equipment into the natural setting and built environment as much as possible.
  - b. Related equipment for co-located wireless telecommunications facilities shall be located within an existing equipment enclosure or compound, whenever feasible, or located as close to the existing equipment enclosure or compound as possible and shall match the materials, color, and texture of the existing enclosure as much as possible.
4. Noise. Wireless telecommunications facilities operating in excess of the maximum sound levels permitted by the City's Noise Ordinance shall be enclosed to achieve compliance with the Noise Ordinance. Back-up generators or similar equipment that operates only during power outages or other

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emergencies are exempt from this requirement. Testing of such back-up generators or similar equipment may only occur during standard daytime hours.

5. Dimensions. Wireless telecommunications facilities shall be no greater in diameter or any other cross-sectional dimension than is reasonably necessary for the proper functioning and physical support of the facility and future co-location of additional wireless telecommunications facilities.
6. Security Fencing. Freestanding wireless telecommunications facilities and alternative tower structures shall be enclosed by security fencing not less than six (6) feet in height. Such facilities shall also be equipped with an appropriate anti-climbing device, provided however, that the Zoning Enforcement Official may waive such requirements, as appropriate. Chain-link fencing material is only permitted in association with a wireless telecommunications facility in an industrial zone where the fence is not visible from the public right-of-way or adjacent non-industrial zone. Preferred fencing materials shall consist of wood, tubular steel or other architecturally-appropriate fencing material.
7. Landscaping. Facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the facility from adjacent off-site properties. Wireless telecommunications facilities adjacent to residential uses shall incorporate landscaping that will maximize screening of the site from those residences. The standard buffer shall consist of a landscaped strip at least five (5) feet wide outside the perimeter of the facility to provide a visual buffer of any ground-mounted ancillary equipment. These requirements may be waived by the Zoning Enforcement Official if the goals of this Section would be better served thereby. Consideration shall also be given to the fact that vegetation can impede radio-frequency signals.
8. Signage. All wireless telecommunications facilities shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency. No signs, flags, banners, or any form of advertising shall be attached to a wireless telecommunications facility except for government-required certifications, warnings, or other required seals or signs.
9. Federal and State Requirements. All wireless telecommunications facilities must meet or exceed current standards and regulations of the FAA, the FCC, the California Public Utilities Commission and any other agency of the Federal or State government with the authority to regulate wireless telecommunications facilities. If such standards and regulations are changed, then the owners of the wireless telecommunications facilities governed by this Section shall bring such wireless telecommunications facilities into compliance with such revised standards and regulations within six (6) months of the effective date of such

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standards and regulations, unless a more stringent compliance schedule is mandated by the controlling Federal or State agency. Failure to bring wireless telecommunications facilities into compliance with such revised standards and regulations shall constitute grounds for the removal of the wireless telecommunications facilities at the owner's expense.

**Table 1. Table Summarizing the Review Process for a Wireless Telecommunications Facility based on the Zoning District**

Zoning Districts	New Monopoles and Towers	Architecturally-Integrated Antennas	*Co-Locations & Modifications to Existing Tower Structures
RS Residential Single-Family	NP	<u>CUPAR</u>	<u>CUPAR</u>
RO Residential Outer	NP	<u>CUPAR</u>	<u>CUPAR</u>
RD Residential Duplex	NP	<u>CUPAR</u>	<u>CUPAR</u>
RM Residential Multi-Family	NP	AR	AR
CN Community Neighborhood	CUP	AR	AR
CC Community <del>Community</del> <b>Commercial</b>	CUP	P	P
CS Community Services	CUP	P	P
CR Community Recreation	CUP	P	P
C-RM Community Regional Mall	CUP	P	P
P Professional	CUP	AR	AR
PHD Professional High Density	CUP	AR	AR
NA-1 North Area 1	CUP	AR	AR
NA-2 North Area 2	CUP	AR	AR
SA-1 South Area 1	CUP	AR	AR
SA-2 South Area 2	NP	AR	AR
SA-3 South Area 3	CUP	AR	AR
DA-1 Downtown Area 1	CUP	AR	AR
DA-2 Downtown Area 2	CUP	AR	AR
DA-3 Downtown Area 3	NP	AR	<u>CUPAR</u>
DA-4 Downtown Area 4	NP	AR	<u>CUPAR</u>
DA-5 Downtown Area 5	NP	AR	AR
DA-6 Downtown Area 6	NP	AR	AR
IL Industrial Limited	AR	P	P
IG Industrial General	AR	P	P
IP Industrial Park	AR	P	P
IL(AU) District	AR	P	P
IG(AU) District	AR	P	P
IP(AU) District	AR	P	P
OS Open Space	CUP	<u>CUPAR</u>	<u>CUPAR</u>

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Zoning Districts	New Monopoles and Towers	Architecturally-Integrated Antennas	<u>*Co-Locations &amp; Modifications to Existing Tower Structures</u>
PS Public & Semipublic	CUP	AR	AR

Table abbreviations: P-Permitted, AR-Administrative Review, NP-Not Permitted, CUP-Conditional Use Permit. **\*Co-locations that meet the standards set forth by Section 6409(a) of the Middle Class Tax Relief and Job Creation Act may submit an Eligible Facilities Request to Community Development.**

G. Permitted Uses. The wireless telecommunications facilities listed as “P” in Table 1 are deemed to be permitted uses in certain zoning districts, such as the CC, CS, CR, C-RM, IL, IL(AU), IG, IG(AU), IP, and IP(AU) Districts. These permitted wireless telecommunications facilities are to be architecturally-integrated or ~~are~~ co-located on an existing tower **or other support structure**. Permitted uses shall not require discretionary review unless the applicant seeks a modification of the basic development standards set forth herein. Permitted uses shall comply with the general requirements of Subsection F, “Specific Design Criteria” as well as building permit requirements.

H. Administrative Review Applications. The wireless telecommunications facilities listed as “AR” in Table 1 are deemed to be allowable uses with an Administrative Review approval in certain zoning districts. New monopoles and towers are allowable uses in the IL, IG, IP, IL(AU), IG(AU), and IP(AU) Districts with an Administrative Review approval. Architecturally-integrated facilities are allowed in the **RO, RS, RD**, RM, CN, P, PHD, NA-1, NA-2, SA-1, SA-2, SA-3, DA-1, DA-2, DA-3, DA-4, DA-5, DA-6, **OS** and PS Districts, ~~and Co-locations~~ **not otherwise governed by Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012** ~~on existing tower structures~~ are allowed in the **RO, RS, RD**, RM, CN, P, PHD, NA-1, NA-2, SA-2, SA-2, SA-3, DA-1, DA-2, **DA-3, DA-4**, DA-5, DA-6, **OS** and PS Districts. Administrative Review applications shall be reviewed and approved by the Zoning Enforcement Official, **unless the Zoning Enforcement Official defers action to the Board of Zoning Adjustments**. Administrative Review approvals shall comply with the general requirements of Subsection F, “Specific Design Criteria” as well as building permit requirements.

1. The Planning Division shall respond to each Administrative Review application within thirty (30) days after deeming the application complete by either approving or denying the application. If the Planning Division fails to **notify the applicant in writing** ~~respond to the applicant~~ within thirty (30) days **of application submittal**, then the application shall be deemed to be approved.
2. If an Administrative Review application is denied **by the Zoning Enforcement Official**, the applicant may appeal said denial to the Board of Zoning Adjustments.

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**3. A decision by the Board of Zoning Adjustments may be appealed to the City Council pursuant to the requirements of Article 28 of the Zoning Code.**

- I. Conditional Use Permit Applications. The wireless telecommunications facilities listed as “CUP” in Table 1 are deemed to be allowed by a Conditional Use Permit approval in certain zoning districts. New monopoles and towers are allowed with a Conditional Use Permit in the CN, CC, CS, CR, C-RM, P, PHD, NA-1, NA-2, SA-1, SA-3, DA-1, DA-2, OS and PS Districts. ~~Architecturally integrated antennas are allowed with a Conditional Use Permit approval in the RS, RO, RD, and OS Districts. Wireless telecommunications facilities co-located on existing tower structures are allowed with a Conditional Use Permit approval in the RS, RO, RD, DA-3, DA-4, and OS Districts.~~ Conditional Use Permits shall be reviewed and approved by the Board of Zoning Adjustments. Conditional Uses shall comply with the general requirements of Subsection F, “Specific Design Criteria, Subsections J.10 to J.12” as well as building permit requirements.
1. The Planning Division shall respond to each Conditional Use Permit application **in writing** within thirty (30) days after deeming the application complete. If the Planning Division fails to respond to the applicant within thirty (30) days, then the application shall be deemed to be approved.
  2. If a Conditional Use Permit application is denied by the Board of Zoning Adjustments, it may be appealed to the City Council.
- J. Application Requirements. Each applicant requesting an Administrative Review under this Ordinance shall submit the following:
1. A scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography, tower dimensions of antennas, ancillary equipment and antenna support structures, setbacks, ingress and egress, parking, fencing, landscaping, adjacent uses, and other information deemed by the Planning Division or Board of Zoning Adjustments to be necessary to assess compliance with this Section.
  2. A completed planning application.
  3. A signed letter of authorization from the underlying property owner.
  4. Photo-simulations of the proposed facility that identifies potential visual impacts. Consideration should be given to views from nearby residential areas, public rights-of-way, parks and open space, and other public viewshed areas.

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5. Manufacturer's specification sheets for the proposed antennas and ancillary equipment.
6. Photographs of the existing site conditions, as well as the surrounding land uses.
7. A copy of the carrier's **current** FCC license.
8. A stamped and signed radio-frequency report prepared by a qualified engineer.
9. A written description of the proposed project, including a description of the type of proposed installation and the location and dimensions of the proposed antennas, antenna support structures, and all ancillary equipment.
10. For treepoles, provide bark cladding and branch with leaf/needle samples for review and selection.

In addition to the requirements listed above, each applicant submitting a Conditional Use Permit application under this Ordinance shall submit the following additional application materials:

11. A five (5) year master plan, drawn to a reasonable scale, for all of the applicant's existing, planned or reasonably anticipated wireless telecommunications facility locations within the jurisdiction of the City or within one-quarter mile of the border thereof, indicating the service area covered by each such facility and including specific information about the location, height, and design of each facility.
12. An alternatives analysis that demonstrates what other sites were considered by the carrier within the coverage area.
13. Radio-Frequency Emissions. Within thirty (30) calendar days of activation of the facility, the applicant shall submit a Radio-Frequency Compliance Report demonstrating that the facility meets the FCC standards for radio-frequency emissions. This report is required in order to verify compliance with prevailing standards for public exposure and will be prepared by a qualified engineer. Such documentation shall include the following:
  - a. The make and model (or other identifying information) of the equipment tested;
  - b. The date and time of the inspection and the methodology used to make the determination;

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- c. The name and title of the person(s) conducting the tests, and a certification that the unit is properly installed and working within applicable FCC standards;
  - d. Documentation indicating that cumulative levels of radio-frequency emissions from the wireless telecommunications facility and all co-located wireless telecommunications facilities are in compliance with FCC standards, including, but not limited to, FCC Office of Engineering Technology Bulletin 65, Evaluating Compliance with FCC Guidelines for Human Exposure to Radio-frequency Electromagnetic Fields, as amended;
  - e. If the documentation demonstrates that the cumulative levels of radio-frequency emissions exceed or may exceed FCC standards, the Zoning Enforcement Official may require the applicant to modify the location or design of the wireless telecommunications facility and/or implement other mitigation measures to ensure compliance with FCC standards. The Zoning Enforcement Official may require additional independent technical evaluation of the wireless telecommunications facility, at the applicant's sole expense, to ensure compliance with FCC standards.
- K. Factors Considered in Evaluating Applications. The City shall consider the following factors in determining whether to approve an application although the City may waive or reduce the burden on the applicant of one or more of these criteria if the City concludes that the goals of this Ordinance are better served thereby, **or if the submittal is eligible under Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012.**
1. Height of the proposed wireless telecommunications facility.
  2. Proximity of the facility to residential structures, residential property lines, residential district boundaries, and elementary schools.
  3. Visual and other potential impacts to surrounding land uses.
  4. Surrounding topography.
  5. Surrounding tree coverage and foliage.
  6. Design of the facility with particular reference to design characteristics that have the effect of reducing or eliminating visual impacts.
  7. Existing and proposed parking, as well as site ingress and egress.

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8. Availability of suitable existing towers, buildings and structures that would provide site sharing and co-location opportunities in the project vicinity.

L. Availability of Suitable Co-Locations. No new monopole or tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the City that no existing or planned tower, alternative tower structure, building or structure can accommodate the applicant's proposed antenna(s). Evidence submitted to demonstrate that no existing tower, alternative tower structure, building, or structure can accommodate the applicant's proposed antenna shall include, but not be limited to, the following:

1. No existing towers, alternative tower support structures, building-mounted or roof-mounted, or architecturally-integrated wireless telecommunications facilities or structures are located within the geographic area required to meet applicant's coverage objectives.
2. Existing wireless telecommunications facilities are not of sufficient height to meet applicant's coverage objectives.
3. Existing wireless telecommunications facilities do not have sufficient structural strength to support applicant's proposed antenna(s) and related equipment. The City may, at its discretion, require the applicant to submit a structural report prepared by a qualified engineer as verification.
4. The applicant's proposed wireless telecommunications facility would cause radio-frequency interference with an existing facility, or the existing facility would cause interference with the applicant's proposed wireless telecommunications facility.
5. The applicant demonstrates that there are other limiting factors that render existing wireless telecommunications facilities unsuitable.

M. Discontinued Facilities and Removal of Abandoned Antennas and Towers. Any wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such facility shall remove same, and restore the site to its pre-installation condition, within ninety (90) days of receipt of notice from the Community Development Department Director notifying the owner of such abandonment. The notice shall specify that the owner has the opportunity to request a public hearing on the removal of the facility. If such facility is not removed within said ninety (90) days, the Community Development Director may remove such facility at the owner's expense. If there are two (2) or more users of a single facility, then this provision shall not become effective until all users cease using the facility.

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Any wireless telecommunications facility shall be removed within thirty (30) calendar days of the discontinuation of the use and shall be restored to its previous condition. The service provider shall provide the Community Development Department with a notice of intent to vacate the site a minimum of thirty (30) calendar days prior to vacation and shall obtain building permits prior to removal of equipment. For facilities located on City property, this requirement shall be included in the terms of the lease. For facilities located on other sites, the property owner shall be responsible for removal of all antennas, structures and related equipment within thirty (30) calendar days of the discontinuation of use. (Ord. 2014-011 § 2; Ord. 2001-015 § 1)

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