



DISCUSSION

Agenda Item # 1

AGENDA REPORT SUMMARY

Meeting Date: August 5, 2019

Subject: Wireless Facilities Regulations.

The City Council shall consider the following:

- a. Ordinance 2019-460: Adopt an Urgency Ordinance of the City Council of the City of Los Altos to Amend the Municipal Code to Repeal Chapter 11.12, “Personal Wireless Services And Facilities.” And Adopt New Chapter 11.12, “Wireless Facilities”; OR Introduce an Ordinance of the City Council of the City of Los Altos to Amend the Municipal Code to Repeal Chapter 11.12, “Personal Wireless Services And Facilities.” And Adopt New Chapter 11.12, “Wireless Facilities”, and Waive Further Reading
- b. Resolution 2019-35: Design Guidelines and Standards for Wireless Facilities
- c. Resolution 2019-36: Establishing a Fee Schedule for Wireless Facilities in Public Rights-of-Way and a Deposit for Consultants

Prepared by: City Staff

Attachments:

- 1) Ordinance 2019-460 (Urgency)
- 2) Ordinance 2019-460 (Regular)
- 3) Resolution 2019-35 (Design Standards)
- 4) Resolution 2019-36 (Fees)
- 5) Redlined Version of Ordinance (comparing to Mayor’s Proposal)
- 6) Redlined Version of Resolution (comparing to design standards in Mayor’s Proposal)

Initiated by:

City Staff/City Council

Previous Council Consideration:

July 9, 2019

July 30, 2019

Fiscal Impact:

None

Environmental Review:

Exempt. The Ordinance and Resolutions are not a “project” within the meaning of Section 15378 of the State CEQA Guidelines, because they have no potential for resulting in direct or indirect physical change in the environment. Rather, it is only once an application is filed that CEQA would be implicated. Further, even if they were interpreted to permit a “project,” any applicable wireless facility installation would likely be exempt from CEQA review in accordance with State CEQA Guidelines

Reviewed By:

City Manager

CJ

City Attorney

CD

Finance Director

SE



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section 15302 (replacement or reconstruction), State CEQA Guidelines section 15303 (new construction or conversion of small structures), and/or State CEQA Guidelines section 15304 (minor alterations to land.)

Policy Question(s) for Council Consideration:

- Does the City Council wish to Adopt an urgency ordinance (or Introduce a regular ordinance for first reading) and associated resolutions related to the application process and design standards and fees for applications associated with the deployment of wireless facilities within the City, including small cell nodes in the City's public rights-of way?

Summary:

- City Council received a briefing on July 9, 2019, discussing small cell nodes and how local agencies can and cannot regulate deployment of them
- The Council provided direction to staff and the City Attorney requesting an urgency ordinance be prepared and placed on the Council's July 30, 2019 Special meeting agenda
- The Council considered but did not adopt the urgency ordinance and associated resolutions at its July 30, 2019 Special meeting, and instead directed City Staff to prepare and place an alternative urgency ordinance and regular ordinance on the Council's August 5, 2019 Special meeting agenda which uses as its base the ordinance added to the July 30th council report by Mayor Lee Eng (referred to herein as the "Mayor's Proposal") with further modifications directed by the Council.
- Approval of an urgency ordinance requires approval by a minimum of 2/3rds of the members of the City Council
- Introduction of a regular ordinance requires approval by a majority of the members of the City Council
- Approval of a resolution requires approval by a majority of the members of the City Council

Staff Recommendation:

- If the City Council believes the proposed ordinances and resolutions comply with the direction the Council provided on July 30, the Council should take the following action:
 - 1) Move to adopt urgency Ordinance 2019-460 *and/or*
 - 2) Move to introduce regular Ordinance 2019-460
 - 3) Move to approve Resolution 2019-35 (Design Standards)
 - 4) Move to Approve Resolution 2019-36 (Fees)



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Purpose

Consider and adopt a new Chapter 11.12 in the form of an urgency ordinance and/or a regular ordinance, as well as a design standards resolution and a fees resolution in order to provide a new regulatory framework, standards and fees for permitting the installation of wireless facilities throughout the City, including the public rights-of-way. To avoid conflicts with existing Chapter 11.12, the ordinance would also repeal existing Chapter 11.12. Both versions of the ordinance contain identical code provisions. Additionally, the urgency ordinance contains findings necessary for an urgency ordinance.

Discussion/Analysis

At the Special meeting on July 30, 2019, Council directed Staff to prepare a new ordinance package for consideration as the City's regulatory framework, standards and fees for permitting the installation of wireless facilities throughout the City, including the public rights-of-way. The direction given included that Staff should base this new package on the Mayor's Proposal, with further modifications as directed by Council. Council also directed staff to restructure the Mayor's Proposal into a separate ordinance and design standards if time permitted.

In response, a new Chapter 11.12 in the form of an urgency ordinance (and a regular ordinance), as well as a design standards resolution and a fees resolution have been prepared for Council's consideration. To avoid conflicts with existing code provisions governing wireless facilities within the City, the ordinance would also repeal existing Chapter 11.12.

This report discusses the modifications made to the Mayor's Proposal which are also shown in redlined versions of the ordinance and design standards resolution. The report also contains alternative language for consideration if the City Council wants to make certain modifications to the proposed ordinance and design standards resolution. If the City Council believes the proposed ordinance and resolutions comply with the direction the Council provided on July 30, the Council should take the following action:

- 1) Move to adopt urgency Ordinance 2019-460 *and/or*
- 2) Move to introduce regular Ordinance 2019-460
- 3) Move to approve Resolution 2019-35 (Design Standards)
- 4) Move to Approve Resolution 2019-36 (Fees)

Discussion of Modifications and Alternatives

At the direction of the City Council, the ordinance is based on the Mayor's Proposal; however as described in detail below, a number of revisions were made in response to specific direction from the City Council on content and alternatives; to conform the Mayor's Proposal to Los Altos' existing Code and requirements; and to address other issues associated with the Council's desired framework.



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Ordinance Revisions Requested by Council

- Expanded requirement for property owner authorization and moved to rest of application requirements (Sec. 11.12.050(A)(2))
- Added voluntary Master Plan (11.12.050(A)(12)) but deleted restrictions prohibiting applications for sites other than those depicted in the master plan. The deleted Mayor's Proposal language could be interpreted as having the effect of pre-approving the locations of the sites depicted in the Master Plan (by agreeing to accept applications to those sites), without information about their placement proposals.
- Added requirement that applicant identify at least five other feasible locations which could achieve the applicant's intended service goals (11.12.050(A)(13)).
- Added notification requirement not found in Mayor's Proposal, requiring written notice in form specified by Director to all property owners and residents within 1000 feet in any direction of a proposed facility. (11.12.050(A)(14), (C)). Also, residents who submit comments pursuant to a notification will receive a copy of any decision, to allow for appeals. (11.12.080(C)).
- Specified posting of applications to City website within three days of receipt, or as soon as is reasonably practicable. (11.12.050(D)). This requirement was relocated from 11.12.050(A)(12) in the Mayor's Proposal, as it does not refer to the contents of an application.
- Annual RF compliance testing has been added in Section 11.12.060(A)(6) for all facilities. The City will be provided copies of all testing results, and the test shall be conducted by permittees. The City may separately conduct its own testing; however, a requirement that applicants pay for the City's own testing program was removed.
- Permittees will annually certify their ongoing use of each facility and its insurance coverage status. (11.12.060(A)(8)).
- Added 60-day pause in application acceptance for updating ordinance, if permitted by law, in event of material change of case law or regulation. (11.12.200).
- Specific reference to Los Altos noise ordinance compliance has been added both as an application requirement and a finding required before approval may be granted. (11.12.050(A)(8); 11.12.080(A)(4)).
- Timeframes for appeals have been set to 5 days. (11.12.210).
- Specific reference to building, electrical, and fire safety codes added as a finding required before approval. (11.12.080(A)(1)).

Ordinance Revisions Necessary to Conform to Los Altos Code

- Updated definition for public rights-of-way to match existing Los Altos code provisions (11.12.020(17)).
- Revised Section 11.12.030(B) to refer to correct portion of Los Altos code necessary to exempt wireless facilities from all zoning.



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- Removed references to conditional use permits throughout, and specifically in 11.12.050(A), as wireless permits under Los Altos existing code are “use permits,” not “conditional use permits” subject to zoning.
 - Removed reference to notice from residents requiring permit compliance in Section 11.12.140(A)(2). Only the City has the authority to exercise Code enforcement. Residents may always report issues to the City for investigation.
 - Corrected references to Planning Commission and/or Director throughout.

Other Revisions to Ordinance

- All location and design standards have been moved to accompanying design resolution, per City Council direction consistent with the urgency ordinance package presented to Council on July 30, 2019. Details of revisions to the design and placement resolution are discussed below.
- Updated the Code of Federal Regulations (CFR) references to reflect 2018 reorganization of relevant provisions of CFR. (11.12.020).
- Strengthened required showings related to RF compliance in application requirements (11.12.050(A)(5)).
- Broadened scope of consultant authority by deleting limiting language (11.12.050(B)(1)(c)).
- Moved application filing procedures to 11.12.050(E). The Mayor’s Proposal provides application submittal process for only one type of application – the Ordinance process is now applicable to all. Minor changes have been made. FCC regulations indicate that mandatory pre-submittal meetings can start the shot clock, and refusal to accept an application without such a meeting can constitute an illegal moratorium. Therefore, those meetings are strongly encouraged, rather than mandated in Mayor’s Proposal.
- Incomplete applications are deemed denied, rather than withdrawn in Mayor’s Proposal. Section 11.12.050(E)(4) places the City in a stronger position by taking the action to deny itself, rather than by imputing an action to an applicant.
- Requirements that permittees move their facilities underground to the extent possible if other utilities in an area are moved underground; that permittees provide advance notice of construction activity on the same terms currently required by Los Altos code; and that applicants maintain insurance consistent with the City’s risk management practices, have been added. These provisions were not included in the Mayor’s Proposal. (11.12.070(A)(9-11); 11.12.100(J)(16)).
- Section 6409(a) application requirements have been narrowed. Federal law restricts the scope information localities may require in an application for an Eligible Facilities Request to only that information necessary to determine whether an application properly constitutes such a request. (11.12.100(D)).
- Consequences of an application being deemed ineligible for Section 6409(a) processing have been revised to comply with the FCC rules which do not permit a denial or presumption of withdrawal if an application does not constitute a Section 6409(a)



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request. Rather the rules allow for notifying the applicant of the decision that Section 6409(a) does not apply, and best practices would also have the City advise the applicant of the alternative FCC shot clock that applies, as well as what information is missing in order to toll the applicable shot clock immediately. (11.12.100(F)).

- Appeals provisions have been moved to apply generally. All appeals will be heard by the City Council. The Mayor’s Proposal was cleaned up where it could be read to provide for multiple appeals, creating challenges with FCC shot clock compliance.

Design Standards Resolution.

- The Ordinance provides that design standards will be established by resolution of the City Council. The Design Standards Resolution provides these standards for locations and design of wireless facilities on land and within public rights-of-way because the Mayor’s Proposal addresses all locations.
- Preferred locations are described, both in terms of zoning districts, and in types of installations, as well as specific conditions requested by the Council, such as a prohibition on sites within parks, within 500 of any school within a PCF district, and a minimum separation of 1,500 feet between each small cell facility. These requirements in Section 4 of the Resolution, and others in the Resolution serve to restrict wireless facilities placement including in residential zones.
- At the direction of the Council alternative language to severely restrict facilities in residential zones is provided below. If the Council prefers this language, it should move to replace Section 4(D) of the Resolution with the following:

ALTERNATIVE Section 4(D). ***Order of Preference—Location.***

Wireless facilities shall only be permitted in the City in accordance with the following table:

<i>Description Wireless Facility</i>	<i>Private Property</i>		<i>Public Right-of-Way⁴</i>
	<i>A-J, U, W¹ Zoning Districts</i>	<i>All Other Zoning Districts</i>	<i>Non-Residential Districts</i>
<i>Roof-mounted facility, building-mounted facility, or facility mounted on an existing pole</i>	<i>Not Permitted</i>	<i>Use Permit</i>	<i>Use Permit</i>
<i>Facility mounted on a replacement pole or new telecommunications tower</i>	<i>Not Permitted</i>	<i>Use Permit</i>	<i>Use Permit</i>



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<i>New wireless telecommunications collocation facility</i>	<i>Not Permitted</i>	<i>Use Permit</i>	<i>Use Permit</i>
<i>Eligible facilities request² or application pursuant to California Government Code Section 65850.6³</i>	<i>Permitted</i>	<i>Permitted</i>	<i>Permitted</i>

1 See Section 14.04.010 (A-J, U, W) of the Code.

2 See requirements of Section 11.12.100.

3 See requirements of Section 11.12.110.

4 Non-Residential Districts are defined in Section 14.04.010(K, L, O-S, V)

Furthermore, within the general categories specified above, the order of preference for the location of wireless telecommunications facilities from most preferred to least preferred is:

- 1. Commercial districts (as defined in Section 14.04.010 (K, L, O-R, V) of the Code).*
- 2. Public districts (as defined in Section 14.04.010 (S) of the Code).*

Facilities located in the public rights-of-way shall have their preference evaluated based on the least-preferred zoning district adjacent to the proposed facility.

- The noise ordinance language specified in the Mayor’s Proposal and moved into the Design Resolution is inconsistent with Los Altos’ existing code, and has been revised to refer specifically to the City’s noise ordinance, per Council direction.
- The requirements applicable to wireless facilities in Section 6 of the Resolution (on land), will replace the existing requirements in the City’s old Chapter 11.12, Section 11.12.050. If the Council prefers to retain the existing requirements, Council should move to replace Section 6 in its entirety with the following.

Section 6 – Additional Design and Development Standards for Facilities on Land Not Regulated by Section 7

Design requirements.

Based on potential visual impact, the order of preference for facility type is: (1) building-mounted, (2) distributed, repeater, or microcell antenna systems, and (3) monopoles. If a monopole is proposed, the application shall include an explanation as to why other facility types are not being considered. Support equipment, pads, cabinets, shelters, and buildings require architectural, landscape, color, or other camouflage treatment for minimal visual impact.

The following specific design requirements shall apply to each type of personal wireless service and facility:

- A. Building-mounted antennas.*



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1. *Notwithstanding building or antenna height limits identified in Title 14 of this code, for building-mounted personal wireless service ten (10) feet above the building surface on which they are located, an additional one foot of height may be added for every ten (10) feet the antenna is set back from the building parapet, to a maximum height of fifteen (15) feet above the surface on which it is located.*
 2. *Building-mounted antennas shall be located a minimum of one hundred fifty (150) feet away from any residentially zoned property line or any public or private school property line.*
 3. *Building-mounted antennas shall be architecturally integrated with the building design in such a manner as to be visually unobtrusive.*
 4. *Building-mounted antennas shall be painted to match the existing building color.*
 5. *Building-mounted antenna equipment facilities shall be screened from public view.*
- B. *Distributed, repeater, or microcell antenna systems.*
1. *Distributed, repeater, or microcell antenna systems mounted on buildings within the office-administrative, commercial, or public and community facilities zoning district designations shall conform to the height limit of the zoning district within which the subject building is located.*
 2. *Distributed, repeater, or microcell antenna systems mounted on utility poles or other utility structures within the public right-of-way in any zoning district shall be limited in height to the height of that particular structure.*
 3. *Distributed, repeater, or microcell antenna systems shall be designed to minimize their visibility on utility poles or other structures.*
 4. *Distributed, repeater, or microcell antenna systems' equipment facilities shall be screened from public view.*
- C. *Monopole antennas.*
1. *Monopoles shall be limited to the maximum height allowed for the zoning district it is located in.*
 2. *Monopoles shall be considered only when the applicant demonstrates that the proposed facility cannot, or should not, be placed on an existing building, utility pole, or other structure.*
 3. *Monopoles shall be located a minimum of one hundred fifty (150) feet away from any residentially zoned property line or any public or private school property line.*
 4. *Substantial landscaping or other screening shall be provided to screen any adjoining residential uses from the potential visual impacts of the monopole. Landscape screening shall be designed to achieve its desired appearance within a two-year period.*
 5. *Monopoles shall be designed to minimize their visual impact to the greatest extent feasible, considering technological requirements, by means of placement, screening, and camouflage.*
 6. *Monopole equipment facilities shall be screened from public view.*



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- For facilities located within the public rights-of-way, the Mayor's Proposal does not address significant issues which may impact aesthetics throughout the City. The draft Resolution augments the Mayor's Proposal by adding provisions addressing aesthetic requirements, including concealment and undergrounding of equipment, and limiting sizes of antennas and other equipment. For example, Section 7(G) concerning Accessory Equipment could permit cabinets up to five feet in height to be installed in the public rights-of-way. The draft Resolution addresses these and other issues. Should the City Council wish to adopt the Mayor's Proposal for public rights-of-way design standards, without supplement, the Council should move to replace Section 7 of the Resolution with the following language:

*A. **Basic Requirements.** Facilities located in the public right-of-way are subject to the design and development standards set forth in this section in addition to all design and development standards that apply to all facilities.*

*B. **Right-of-Way Authority.** An encroachment permit must be obtained for any work in the public right-of-way. Only applicants authorized to enter the public right-of-way pursuant to state or federal law or a franchise or other agreement with the City shall be eligible for a permit to install or modify a wireless telecommunications facility in the public right-of-way.*

*C. **Antennas.***

*1. **Utility Poles.** The maximum height of any antenna mounted to an existing utility pole shall not exceed 24 inches above the height of an existing utility pole, nor shall any portion of the antenna or equipment mounted on a pole be less than 18 feet above any drivable road surface. All installations on utility poles shall fully comply with the California Public Utilities Commission general orders, including, but not limited to, General Order 95, as revised.*

*2. **Street Light Poles.** The maximum height of any antenna mounted to a street light pole shall not exceed seven feet above the existing height of a street light pole in a location with its closest adjacent district being a commercial zoning district and shall not exceed three feet above the existing height of a street light pole in any other zoning district. Any portion of the antenna or equipment mounted on such a pole shall be no less than 18 feet above any drivable road surface.*

*D. **Poles.***

1. Only pole-mounted antennas shall be permitted in the right-of-way. All other telecommunications towers are prohibited, and no new poles are permitted that are not replacing an existing pole.

2. Pole height and width limitations:

a. All poles shall be designed to be the minimum functional height and width required to support the proposed antenna installation and meet FCC requirements. Poles and antennas and similar structures shall be no greater in diameter or other cross-sectional dimensions than is necessary for the proper functioning of the facility.



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b. *Notwithstanding the above, no facility shall be located on a pole that is less than 26 feet in height and no facility shall exceed 35 feet in height, including, but not limited to, the pole and any antenna that protrudes above the pole.*

c. *Pole mounted equipment shall not exceed six cubic feet in dimension.*

3. *If an applicant proposes to replace a pole in order to accommodate the facility, the pole shall match the appearance of the original pole to the extent feasible, unless another design better accomplishes the objectives of this section. Such replacement pole shall not exceed the height of the pole it is replacing by more than seven feet.*

4. *If an exception is granted for placement of new poles in the right-of-way, new poles shall be designed to resemble existing poles in the right-of-way, including size, height, color, materials and style, with the exception of any existing pole designs that are scheduled to be removed and not replaced, unless another design better accomplishes the objectives of this section. Such new poles that are not replacement poles shall be located no closer than 90 feet to an existing pole.*

E. **Space Occupied.** *Facilities shall be designed to occupy the least amount of space in the right-of-way that is technically feasible.*

F. **Location.**

1. *Each component part of a facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, inconvenience to the public's use of the right-of-way, or safety hazards to pedestrians and motorists.*

2. *A facility shall not be located within any portion of the public right-of-way interfering with access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital public health and safety facility.*

3. *Facilities mounted to a telecommunications tower, above-ground accessory equipment, or walls, fences, landscaping or other screening methods shall be setback a minimum of 18 inches from the front of a curb.*

4. *Each pole mounted wireless telecommunications facility must be separated by at least 1,500 feet.*

5. *All cables, including, but not limited to, electrical and utility cables, between the pole and any accessory equipment shall be placed underground, if feasible.*

6. *All new wires needed to service the wireless telecommunications facility must be installed within the width of the existing utility pole so as to not exceed the diameter and height of the existing utility pole.*

G. **Americans with Disabilities Act Compliance.** *All facilities shall be built in compliance with the Americans with Disabilities Act (ADA).*

H. **Accessory Equipment.** *With the exception of the electric meter, which shall be pole-mounted to the extent feasible, all accessory equipment shall be located underground to the extent feasible. When above-ground is the only feasible location for a particular type of accessory equipment and when such accessory equipment cannot be pole-mounted, such accessory equipment shall be enclosed within a structure, and shall not exceed a height of five feet and a total footprint of 15 square feet, and shall be screened and camouflaged to the fullest extent*



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possible, including the use of landscaping or alternate screening. Required electrical meter cabinets shall be adequately screened and camouflaged.

*I. **Documentation.** The applicant shall provide documentation satisfactory to the City Manager establishing compliance with this section.*

- Finally, if the Council does not adopt the urgency ordinance, then Council will need to Amend Section 10 of this Resolution to Strike “Urgency Ordinance No. 460” and insert “Ordinance No.460”.

Fees Resolution.

The Fees Resolution provides for initial application fees for small wireless facilities permits using the FCC-established safe harbor rates. New language was added to address a provision allowing for collection of a deposit to be paid to cover the costs of consultants as provided in Section 11.12.050(B) of the Ordinance.

If the Council does not adopt the urgency ordinance, then Council will need to Amend Section 7 of this Resolution to Strike “Urgency Ordinance No. 460” and insert “Ordinance No. 460”.

URGENCY ORDINANCE NO. 2019-460

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS TO AMEND THE MUNICIPAL CODE TO ENACT NEW CHAPTER 11.12, “WIRELESS FACILITIES” AND TO REPEAL OLD CHAPTER 11.12, “PERSONAL WIRELESS SERVICES AND FACILITIES.”

WHEREAS, by virtue of the police powers delegated to it by the California Constitution, the City of Los Altos (“City”) has the authority to adopt such ordinances as it deems necessary and appropriate to assure good government in the City, to protect and preserve the City’s rights, property and privileges, and to preserve peace, safety and good order; and

WHEREAS, Chapter 11.12 of the Municipal Code for the City of Los Altos (“Code”) governs the installation and modification of personal wireless services facilities in the City, and exempts certain facilities in the public rights-of-way which are currently governed by the City of Los Altos “Distributed Antenna Systems for Wireless Communications Encroachment Permit Requirements”; and

WHEREAS, significant changes in federal laws that affect local authority over wireless communications facilities have occurred since the City Council adopted Chapter 11.12; and

WHEREAS, increased demand for placement of wireless facilities in public rights-of-way has occurred since the City of Los Altos “Distributed Antenna Systems for Wireless Communications Encroachment Permit Requirements” were promulgated; and

WHEREAS, in light of these changes in federal laws and wireless deployments, the City deems it necessary and appropriate to provide for certain standards and regulations relating to the location, placement, design, construction and maintenance of telecommunications towers, antennas and other structures within the City, including within the City’s public rights-of-way, and providing for the enforcement of said standards and regulations, consistent with federal and state law limitations on that authority; and

WHEREAS, therefore the City deems it necessary and appropriate to enact regulations for wireless telecommunications facilities within the City, including within the public rights-of-way by urgency ordinance under Cal. Gov. Code Section 36937(b) because the matters herein concern “the immediate preservation of the public peace, health or safety” of the City’s citizens.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the City Council:

SECTION 1: The foregoing Recitals are adopted as findings of the City Council as though set forth in fully within the body of this ordinance.

SECTION 2: Title 11 of the Municipal Code for the City (“Code”) shall be amended to repeal the existing text of Chapter 11.12 in its entirety, and replace it with a new Chapter 11.12, entitled “Wireless Facilities” to read as follows:

Chapter 11.12 WIRELESS FACILITIES

SECTION 11.12.010 Purpose.

A. The purpose and intent of this chapter is to provide a uniform and comprehensive set of regulations and standards for the permitting, development, siting, installation, design, operation and maintenance of wireless telecommunications facilities in the City of Los Altos. These regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with wireless telecommunications facilities. This chapter provides standards necessary to: (1) preserve and promote harmonious land uses and the public right-of-way in the City; (2) promote and protect public health and safety, community welfare, visual resources, and the aesthetic quality of the City consistent with the goals, objectives and policies of the General Plan; (3) provide for the orderly, managed, and efficient development of wireless telecommunications facilities in accordance with the state and federal laws, rules, and regulations; and (4) encourage new and more efficient technology in the provision of wireless telecommunications facilities.

B. This chapter is not intended to, nor shall it be interpreted or applied to: (1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services; (2) prohibit or effectively prohibit any entity's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulation for rights-of-way management; (3) unreasonably discriminate among providers of functionally equivalent services; (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions; (5) prohibit any collocation or modification that the City may not deny under federal or state law; or (6) otherwise authorize the City to preempt any applicable federal or state law.

Section 11.12.020 Definitions.

A. For the purposes of this chapter, the following defined terms shall have the meaning set forth in this section unless the context clearly indicates or requires a different meaning.

1. "Accessory equipment" means any equipment associated with the installation of a wireless telecommunications facility, including, but not limited to, cabling, generators, air conditioning units, electrical panels, equipment shelters, equipment cabinets, equipment buildings, pedestals, meters, vaults, splice boxes, and surface location markers.

2. "Antenna" means that part of a wireless telecommunications facility designed to radiate or receive radio frequency signals or electromagnetic waves for the provision of services, including, but not limited to, cellular, paging, personal communications services (PCS) and microwave communications. Such devices include, but are not limited to, directional antennas, such as panel antenna, microwave dishes, and satellite dishes; omnidirectional antennas; wireless access points (Wi-Fi); and strand-mounted wireless access points. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes designed for residential or household purposes.

3. "Base station" means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(1), as may be amended, which currently defines that term as a structure or

equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as currently defined in 47 C.F.R. Section 1.6100(b)(9) or any equipment associated with a tower. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks). The term includes any structure other than a tower that, at the time the relevant application is filed with the State or local government under this section, supports or houses equipment described in 47 C.F.R. Section 1.6100(b)(1)(i) and (ii) that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support. The term does not include any structure that, at the time the relevant application is filed with the State or local government under this section, does not support or house equipment described in 47 C.F.R. Section 1.6100(b)(1)(i) and (ii).

4. “Building-mounted” means mounted to the side or façade, but not the roof, of a building or another structure such as a water tank, pump station, church steeple, freestanding sign, or similar structure.
5. “Cellular” means an analog or digital wireless telecommunications technology that is based on a system of interconnected neighboring cell sites.
6. “City Manager” means the City Manager of the City of Los Altos, or the City Manager’s designee.
7. “Collocation” means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(2), as may be amended, which currently defines that term as the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting or receiving radio frequency signals for communications purposes. As an illustration and not a limitation, the FCC’s definition effectively means “to add” and does not necessarily refer to more than one wireless telecommunication facility installed at a single site.
8. “Eligible facilities request” means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(3), as may be amended, which currently defines that term as any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (1) collocation of new transmission equipment; (2) removal of transmission equipment; or (3) replacement of transmission equipment.
9. “Eligible support structure” means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(4), as may be amended, which currently defines that term as any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the State or local government under this section.
10. “Existing” means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(4), as may be amended, which currently provides that a constructed tower or base station is

existing for purposes of the FCC's Section 6409(a) regulations if it has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

11. "FCC" means the Federal Communications Commission or its duly appointed successor agency.
12. "Modification" means any change to an existing wireless telecommunications facility that involves any of the following: collocation, expansion, modification, alteration, enlargement, intensification, reduction, or augmentation, including, but not limited to, a change in size, shape, color, visual design, or exterior material. Modification does not include repair, replacement, or maintenance if those actions do not involve a change to the existing facility involving any of the following: collocation, expansion, modification, alteration, enlargement, intensification, reduction, or augmentation.
13. "Monopole" means a structure consisting of a single pole used to support antennas or related equipment and includes a monopine, monoredwood, and similar monopoles camouflaged to resemble trees or other objects.
14. "Personal wireless services" means the same as defined in 47 U.S.C. Section 332(c)(7)(C)(i), as may be amended, which currently defines the term as commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services.
15. "Personal wireless service facilities" means the same as defined in 47 U.S.C. Section 332(c)(7)(C)(i), as may be amended, which currently defines the term as facilities that provide personal wireless services.
16. "Pole" means a single shaft of wood, steel, concrete, or other material capable of supporting the equipment mounted thereon in a safe and adequate manner and as required by provisions of the Los Altos Municipal Code.
17. "Public right-of-way or "right-of-way" means any public street, public way, public alley or public place, laid out or dedicated, and the space on, above or below it, and all extensions thereof, and additions thereto, under the jurisdiction of the City.
18. "RF" means radio frequency or electromagnetic waves between 30 kHz and 300 GHz in the electromagnetic spectrum range.
19. "Roof-mounted" means mounted directly on the roof of any building or structure, above the eave line of such building or structure.
20. "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. Section 1455(a), as such law may be amended from time to time.
21. "Section 6409(a) approval" means the approval required by Section 6409(a).
22. "Site" means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(6), as may be amended, which currently provides that for towers other than towers in the public rights-of-way, 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.

23. “Substantial change” means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(7), as may be amended, which currently defines that term differently based on the particular wireless facility type (tower or base station) and location (in or outside the public right-of-way). For clarity, this definition organizes the FCC’s criteria and thresholds for a substantial change according to the wireless facility type and location.

- a. For towers outside the public rights-of-way, a substantial change occurs when:
 - i. The proposed collocation or modification increases the overall height more than 10% or the height of one additional antenna array not to exceed 20 feet (whichever is greater); or
 - ii. The proposed collocation or modification increases the width more than 20 feet from the edge of the wireless tower or the width of the wireless tower at the level of the appurtenance (whichever is greater); or
 - iii. The proposed collocation or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four; or
 - iv. The proposed collocation or modification involves excavation outside the current boundaries of the leased or owned property surrounding the wireless tower, including any access or utility easements currently related to the site.
- b. For towers in the public rights-of-way and for all base stations, a substantial change occurs when:
 - i. The proposed collocation or modification increases the overall height more than 10% or 10 feet (whichever is greater); or
 - ii. The proposed collocation or modification increases the width more than six feet from the edge of the wireless tower or base station; or
 - iii. The proposed collocation or modification involves the installation of any new equipment cabinets on the ground when there are no existing ground-mounted equipment cabinets; or
 - iv. The proposed collocation or modification involves the installation of any new ground-mounted equipment cabinets that are 10% larger in height or volume than any existing ground-mounted equipment cabinets; or
 - v. The proposed collocation or modification involves excavation outside the area in proximity to the structure and other transmission equipment already deployed on the ground.
- c. In addition, for all towers and base stations wherever located, a substantial change occurs when:
 - i. The proposed collocation or modification would defeat the existing concealment elements of the support structure as determined by the City Manager; or
 - ii. The proposed collocation or modification violates a prior condition of approval, provided however that the collocation need not comply with any

prior condition of approval related to height, width, equipment cabinets or excavation that is inconsistent with the thresholds for a substantial change described in this section.

The thresholds for a substantial change outlined above are disjunctive. The failure to meet any one or more of the applicable thresholds means that a substantial change would occur. The thresholds for height increases are cumulative limits. For sites with horizontally separated deployments, the cumulative limit is measured from the originally-permitted support structure without regard to any increases in size due to wireless equipment not included in the original design. For sites with vertically separated deployments, the cumulative limit is measured from the permitted site dimensions as they existed on February 22, 2012—the date that Congress passed Section 6409(a).

24. “Telecommunications tower” or “tower” means a freestanding mast, pole, monopole, guyed tower, lattice tower, free standing tower or other structure designed and primarily used to support wireless telecommunications facility antennas.

25. “Transmission equipment” means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(8), as may be amended, which currently defines that term as equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

26. “Utility pole” means a pole or tower owned by any utility company that is primarily used to support wires or cables necessary to the provision of electrical or other utility services regulated by the California Public Utilities Commission.

27. “Wireless services” means any FCC-licensed or authorized wireless communication service transmitted over frequencies in the electromagnetic spectrum.

28. “Wireless telecommunications facility” means any facility constructed, installed, or operated for wireless service. “Wireless telecommunications facility” includes, but is not limited to, antennas or other types of equipment for the transmission or receipt of such signals, telecommunications towers or similar structures supporting such equipment, related accessory equipment, equipment buildings, parking areas, and other accessory development. “Wireless telecommunications facility” does not mean any of the following:

- a. A facility that qualifies as an amateur station as defined by the FCC, 47 C.F.R. Part 97, of the Commission’s Rules, or its successor regulation.
- b. An antenna facility that is subject to the FCC Over-The-Air-Receiving Devices rule, 47 C.F.R. Section 1.4000, or any successor regulation, including, but not limited to, direct-to-home satellite dishes that are less than one meter in diameter, TV antennas used to receive television broadcast signals and wireless cable antennas.
- c. Portable radios and devices including, but not limited to, hand-held, vehicular, or other portable receivers, transmitters or transceivers, cellular phones, CB radios, emergency services radio, and other similar portable devices as determined by the City Manager.

- d. Telecommunications facilities owned and operated by any government agency.
- e. Telecommunications facilities owned and operated by any emergency medical care provider.
- f. Mobile services providing public information coverage of news events of a temporary nature.
- g. Any wireless telecommunications facilities exempted from the Los Altos Municipal Code by federal law or state law.

Section 11.12.030 Applicability.

- A. This chapter applies to all wireless telecommunications facilities as follows:
 - 1. All facilities for which applications were not approved prior to the effective date of the ordinance codified in this chapter shall be subject to and comply with all provisions of this chapter;
 - 2. All facilities, notwithstanding the date approved, shall be subject immediately to the provisions of this chapter governing the operation and maintenance, cessation of use and abandonment, removal and restoration of wireless telecommunications facilities and wireless telecommunications collocation facilities and the prohibition of dangerous conditions or obstructions by such facilities; provided, however, that in the event a condition of approval conflicts with a provision of this chapter, the condition of approval shall control unless and until the permit is amended or revoked.
- B. Title 14 of the Los Altos Municipal Code shall not apply to a wireless telecommunications facility on property owned by the City.
- C. Notwithstanding any provision of the Los Altos Municipal Code to the contrary, provisions governing the installation of a public utility facility or accessory equipment shall not apply to wireless telecommunications facilities. This chapter shall govern all applications for wireless telecommunications facilities.

Section 11.12.040 Wireless telecommunications facility permit required.

- A. **Permit Required.** No wireless telecommunications facility shall be located or modified within the City on any property, including the public right-of-way, without the issuance of a permit as required by this chapter. Such permit shall be subject to the conditions of this chapter, any design and placement standards adopted by the City Council by resolution, and shall be in addition to any other permit required pursuant to the Los Altos Municipal Code.
- B. **Non-exclusive Grant.** No approval granted under this chapter shall confer any exclusive right, privilege, license, or franchise to occupy or use the public right-of-way of the City for delivery of telecommunications services or any other purposes. Further, no approval shall be construed as any warranty of title.

Section 11.12.050 Application for permit.

A. **Application Content.** All applications for a permit required by this chapter must be made in writing on such form as the City Manager prescribes, which shall include the following information, in addition to all other information determined necessary by the City Manager:

1. Full name and contact information for the facility owner, facility operator, agent (if any).
2. If the facility will be located on or in the property of someone other than the owner of the facility (such as a street light pole, street signal pole, utility pole, utility cabinet, vault, or cable conduit), the applicant shall provide a duly executed written authorization from the property owner(s) authorizing the placement of the facility on or in the property owner's property.
2. The type of facility, including a full written description of the proposed facility, its purpose and specifications.
3. A detailed site and engineering plan of the proposed facility containing the exact proposed location of the facility, created by a qualified licensed engineer and in accordance with requirements set by the City Manager.
4. Photographs of facility equipment and an accurate visual impact analysis with before and after 360-degree photo simulations.
5. Completion of an RF exposure guidelines checklist, and proof of all applicable licenses or other approvals required by the FCC. Applicant shall also provide documentation sufficient to show that the proposed facility will comply with generally-applicable health and safety provisions of the Los Altos Municipal Code and the FCC's radio frequency emissions standards.
6. If the application is for a facility that will be located within the public right-of-way, the applicant shall certify that it is a telephone corporation or state the basis for its claimed right to enter the right-of-way, and provide a copy of its certificate of public convenience and necessity (CPCN), if a CPCN has been issued by the California Public Utilities Commission.
7. A written description identifying the geographic service area for the subject installation.
8. A written report that analyzes acoustic levels for the proposed wireless telecommunications facility and all associated equipment including, without limitation, all environmental control units, sump pumps, temporary backup power generators, and permanent backup power generators in order to demonstrate compliance with Los Altos Municipal Code Chapter 6.16 Noise Regulations. The acoustic analysis 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 written 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 limits.
9. If the applicant claims it requires an exception to the requirements of this chapter, all information and studies necessary for the City to evaluate that claim.
10. An application and processing fee and a deposit for a consultant review as set forth in subsection B of this section.

11. Any other studies or information determined necessary by the City Manager may be required.

12. Applicants are strongly encouraged to include a master plan which identifies the location of the proposed facility in relation to all existing and potential locations in the City that are reasonably anticipated for construction within two years of submittal of the application.

13. A siting analysis which identifies a minimum of five other feasible locations within or outside the City by which the applicant could achieve the service goals to be met by the facility, unless the applicant provides compelling technical reasons for fewer than the minimum. The alternative site analysis should include at least one collocation site, if feasible.

14. A sample of the proposed notice to be mailed pursuant to subsection C of this section, and a list of intended recipients (including content and mailing envelope).

B. Independent Expert.

1. The City Manager is authorized to retain on behalf of the City an independent, qualified consultant to review any application for a permit for a wireless telecommunications facility to review the technical aspects of the application, including, but not limited to, the following matters:

- a. The accuracy, adequacy, and completeness of submissions;
- b. Compliance with applicable radio frequency emission standards;
- c. Whether any requested exception is necessary;
- d. Technical demonstration of the unavailability of alternative sites, facility designs or configurations, and coverage analysis; and
- e. The validity of conclusions reached or claims made by applicant.

2. The cost of this review shall be paid by the applicant through a deposit pursuant to an adopted fee schedule resolution.

C. Notice. Within three (3) business days of submission of an application containing all information required by this Chapter and any associated regulations, an applicant shall provide notice, by mail, to all owners and residents of all property, and the residential manager for any multi-family dwelling unit that includes ten (10) or more units, any part of which is located within one thousand (1,000) feet of the location of the applicant's proposed facility. Such notice shall be in the form and include the content specified by the City Manager in a publicly stated format, as may be revised from time to time, but at a minimum must be clearly marked as a notification of proposed wireless infrastructure installation, identify the applicant and service provider(s) who will utilize the facility, and include a plain language description of the proposed facility, photosimulations or illustrations depicting the proposed wireless facility, and the address where comments may be sent to the City Manager within fifteen (15) days of the date of the notice. Applicant shall supplement its application with proof of mailing of required notices no less than two (2) days after mailing of notices

D. All applications shall be posted to the City of Los Altos website within three (3) days of receipt of the application, or as soon as is reasonably practicable. The electronic version of an

application must be in a standard format that can be easily uploaded on a web page for review by the public.

E. **Procedures for a Duly Filed Application.** The City shall not review any application unless duly filed in accordance with this section, as follows:

1. **Pre-Submittal Conference.** Before application submittal, applicants are strongly encouraged to schedule and attend a pre-application meeting with the City Manager. The pre-submittal conference is intended to streamline the review process through informal discussion that includes, without limitation, the appropriate project classification, including whether the project qualifies for Section 6409(a); any latent issues in connection with any existing tower or base station; potential concealment issues (if applicable); coordination with other City departments responsible for application review; and application completeness issues. To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications or other materials so that City staff may provide informal feedback about whether such applications or other materials may be incomplete or unacceptable.
2. **Submittal Appointment.** All applications must be filed with the City at a pre-scheduled appointment. Applicants may generally submit one application per appointment, but may schedule successive appointments for multiple applications whenever feasible and not prejudicial to other applicants. Any application received without an appointment, whether delivered in-person or through any other means, will not be considered duly filed unless the applicant received a written exemption from the City Manager at a pre-submittal conference.
3. **Appointment Scheduling Procedures.** For any event in the submittal process that requires an appointment, applicants must submit a written request to the City Manager. The City Manager shall endeavor to provide applicants with an appointment as soon as reasonably feasible and within five business days after a written request is received.
4. **Incomplete Applications Deemed Denied Without Prejudice.** To promote efficient review and timely decisions, an application will be automatically deemed denied without prejudice by the City when the applicant fails to tender a substantive response to the City within ninety (90) calendar days after the City deems the application incomplete in a written notice to the applicant. The City Manager may, in the City Manager's discretion, grant a written extension for up to an additional 30 calendar days when the applicant submits a written request prior to the 90th day that shows good cause to grant the extension. Delays due to circumstances outside the applicant's reasonable control will be considered good cause to grant the extension.
5. **Departmental Forms, Rules and Other Regulations.** The City Council authorizes the City Manager to develop and publish permit application forms, checklists, informational handouts and other related materials that the City Manager finds necessary, appropriate or useful for processing requests for Section 6409(a) approvals. Without further authorization from the City Council, the City Manager may, from time to time, update and alter any such permit application forms, checklists, informational handouts and other related materials as the City Manager deems necessary, appropriate or useful to respond to regulatory, technological or other changes related to this chapter. The City Council authorizes the City Manager to establish other reasonable rules and regulations,

which may include, without limitation, regular hours for appointments with applicants, as the City Manager deems necessary or appropriate to organize, document and manage the application intake process.

Section 11.12.060 Conditions of approval for all facilities.

A. In addition to compliance with the requirements of this chapter, upon approval all facilities shall be subject to each of the following conditions of approval, as well as any modification of these conditions or additional conditions of approval deemed necessary by the reviewing authority:

1. Before the permittee submits any application for a building permit or other permits required by the Los Altos Municipal Code, the permittee must incorporate the wireless telecommunication facility permit granted under this chapter, all conditions associated with the wireless telecommunications facility permit and the approved plans and any photo simulations (the “approved plans”) into the project plans. The permittee must construct, install and operate the wireless telecommunications facility in strict compliance with the approved plans. The permittee shall submit an as built drawing within 90 days after installation of the facility.
2. Where feasible, as new technology becomes available, the permittee shall:
 - a. Place above-ground wireless telecommunications facilities below ground, including, but not limited to, accessory equipment that has been mounted to a telecommunications tower or mounted on the ground; and
 - b. Replace larger, more visually intrusive facilities with smaller, less visually intrusive facilities, after receiving all necessary permits and approvals required pursuant to the Los Altos Municipal Code.
3. The permittee shall submit and maintain current at all times basic contact and site information on a form to be supplied by the City. The permittee shall notify the City of any changes to the information submitted within seven days of any change, including change of the name or legal status of the owner or operator. This information shall include, but is not limited to, the following:
 - a. Identity, including the name, address and 24-hour local or toll free contact phone number of the permittee, the owner, the operator, and the agent or person responsible for the maintenance of the facility.
 - b. The legal status of the owner of the wireless telecommunications facility, including official identification numbers and FCC certification.
 - c. Name, address, and telephone number of the property owner if different than the permittee.
4. The permittee shall not place any facilities that will deny access to, or otherwise interfere with, any public utility, easement, or right-of-way located on the site. The permittee shall allow the City reasonable access to, and maintenance of, all utilities and existing public improvements within or adjacent to the site, including, but not limited to, pavement, trees, public utilities, lighting and public signage.
5. At all times, all required notices and signs shall be posted on the site as required by the FCC and California Public Utilities Commission, and as approved by the City. The

location and dimensions of a sign bearing the emergency contact name and telephone number shall be posted pursuant to the approved plans.

6. At all times, the permittee shall ensure that the facility complies with the most current regulatory and operational standards including, but not limited to, radio frequency emissions standards adopted by the FCC and antenna height standards adopted by the Federal Aviation Administration. Permittee shall conduct on-site testing to ensure the facility is in compliance with all radio frequency emissions standards adopted by the FCC. Tests shall occur upon commencement of operations, and annually thereafter. Copies of the reports from such testing shall be submitted to the City within thirty (30) days of the completion of testing. The City may retain a consultant to perform testing to verify compliance with current regulatory and operational standards.

7. If the City Manager determines there is good cause to believe that the facility may emit radio frequency emissions that are likely to exceed FCC standards, the City Manager may require the permittee to submit a technically sufficient written report certified by a qualified radio frequency emissions engineer, certifying that the facility is in compliance with such FCC standards.

8. *Annual Certification.* Each year on July 1, the permittee shall submit an affidavit which shall list, by location, all facilities it owns within the City by location, and shall certify (1) each such installation remains in use; (2) that such in-use facility remains covered by insurance; and (3) each such installation which is no longer in use. Any facility which is no longer in use shall be removed by permittee within 60 days of delivery of the affidavit.

9. Permittee shall pay for and provide a performance bond, which shall be in effect until the facilities are fully and completely removed and the site reasonably returned to its original condition, to cover permittee's obligations under these conditions of approval and the Los Altos Municipal Code. The bond coverage shall include, but not be limited to, removal of the facility, maintenance obligations and landscaping obligations. The amount of the performance bond shall be set by the City Manager in an amount rationally related to the obligations covered by the bond and shall be specified in the conditions of approval.

10. Permittee shall defend, indemnify, protect and hold harmless the City, its elected and appointed Council members, boards, commissions, officers, officials, agents, consultants, employees, and volunteers from and against any and all claims, actions, or proceeding against the City and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers to attack, set aside, void or annul, an approval of the City, Planning Commission or City Council concerning this permit and the project. Such indemnification shall include damages, judgments, settlements, penalties, fines, defensive costs or expenses, including, but not limited to, interest, attorneys' fees and expert witness fees, or liability of any kind related to or arising from such claim, action, or proceeding. The City shall promptly notify the permittee of any claim, action, or proceeding. Nothing contained herein shall prohibit City from participating in a defense of any claim, action or proceeding. The City shall have the option of coordinating the defense, including, but not limited to, choosing counsel for the defense at permittee's expense.

11. All conditions of approval shall be binding as to the applicant and all successors in interest to permittee.

12. A condition setting forth the permit expiration date in accordance with Section 11.12.160 shall be included in the conditions of approval.

Section 11.12.070 Additional conditions of approval for facilities in the public right-of-way.

A. In addition to compliance with the requirements of this chapter, upon approval all facilities in the public right-of-way shall be subject to each of the conditions of approval set forth in Section 11.12.060, each of the following conditions of approval, and any modification of these conditions or additional conditions of approval deemed necessary by the City:

1. The wireless telecommunications facility shall be subject to such conditions, changes or limitations as are from time to time deemed necessary by the City engineer for the purpose of: (a) protecting the public health, safety, and welfare; (b) preventing interference with pedestrian and vehicular traffic; and (c) preventing damage to the public right-of-way or any property adjacent to it. The City may modify the permit to reflect such conditions, changes or limitations by following the same procedures as are applicable to the grant of a wireless telecommunications facility permit for similarly located facilities, except the permittee shall be given notice by personal service or by registered or certified mail at the last address provided to the City by the permittee.

2. The permittee shall not move, alter, temporarily relocate, change, or interfere with any existing structure, improvement or property without the prior consent of the owner of that structure, improvement or property. No structure, improvement or property owned by the City shall be moved to accommodate a wireless telecommunications facility unless the City determines that such movement will not adversely affect the City or any surrounding businesses or residents, and the permittee pays all costs and expenses related to the relocation of the City's structure, improvement or property. Prior to commencement of any work pursuant to an encroachment permit issued for any facility within the public right-of-way, the permittee shall provide the City with documentation establishing to the City's satisfaction that the permittee has the legal right to use or interfere with any other structure, improvement or property within the public right-of-way to be affected by applicant's facilities.

3. The permittee shall assume full liability for damage or injury caused to any property or person by the facility.

4. The permittee 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, street lights, traffic signals, improvements of any kind or nature, or utility lines and systems, underground utility line and systems, or sewer systems and sewer lines that result from any activities performed in connection with the installation or maintenance of a wireless telecommunications facility in the public right-of-way. The permittee shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. In the event the permittee fails to complete such repair within the

number of days stated on a written notice by the City Manager, the City Manager shall cause such repair to be completed at permittee's sole cost and expense.

5. Prior to issuance of a building permit, the applicant shall obtain the City Manager's approval of a tree protection plan prepared by a certified arborist if the installation of the wireless telecommunication facility will be located within the canopy of a street tree, or a protected tree on private property, or within a 10-foot radius of the base of such a tree. Depending on site specific criteria (e.g., location of tree, size, and type of tree, etc.), a radius greater than 10 feet may be required by the City Manager.

6. Should any utility company offer electrical service that does not require the use of a meter cabinet, the permittee shall at its sole cost and expense remove the meter cabinet and any related foundation within 30 days of such service being offered and reasonably restore the area to its prior condition.

7. The permittee shall modify, remove, or relocate its facility, or portion thereof, without cost or expense to the City, if and when made necessary by:

a. Any public improvement project, including, but not limited to, the construction, maintenance, or operation of any underground or aboveground facilities including, but not limited to, sewers, storm drains, conduits, gas, water, electric or other utility systems, or pipes owned by the City or any other public agency;

b. Any abandonment of any street, sidewalk, or other public facility;

c. Any change of grade, alignment or width of any street, sidewalk or other public facility; or

d. A determination by the City Manager that the wireless telecommunications facility has become incompatible with public health, safety or welfare or the public's use of the public right-of-way.

8. Any modification, removal, or relocation of the facility shall be completed within 90 days of written notification by the City unless exigencies dictate a shorter period for removal or relocation. Modification or relocation of the facility shall require submittal, review and approval of a permit amendment pursuant to the Los Altos Municipal Code. The permittee shall be entitled, on permittee's election, to either a pro-rata refund of fees paid for the original permit or to a new permit, without additional fee, at a location as close to the original location as the standards set forth in the Los Altos Municipal Code allow. In the event the facility is not modified, removed, or relocated within said period of time, the City may cause the same to be done at the sole cost and expense of permittee. Further, due to exigent circumstances as provided in the Los Altos Municipal Code, the City may modify, remove, or relocate wireless telecommunications facilities without prior notice to permittee provided permittee is notified within a reasonable period thereafter.

9. In the event that other public utilities in the public right-of-way underground their facilities where the permittee's wireless facility is located, the permittee must underground its equipment except the antennas and antenna supports. Such undergrounding shall occur at the permittee's sole cost and expense except as reimbursed pursuant to law.

10. *Pre-Construction Notice.* Prior to construction, permittee shall notify the three (3) closest adjacent property owners to the installation and the three closest property owners directly across the street from the installation at least ten (10) days prior to

commencement of any work. In addition, the permittee shall notify the City Communications Department at (650) 948-8223 of street/alley and lane closures at least 24 hours prior to any work. Furthermore, the contractor shall notify the city's Traffic Engineer at least 48 hours in advance of any excavations within 100 feet of any traffic signals.

11. *Insurance.* Permittee shall obtain and maintain throughout the term of the permit commercial general liability and property damage insurance indicating the City of Los Altos as an additional insured. Coverage shall be at least as broad as:

a. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, with limits no less than \$1,000,000 or \$2,000,000 aggregate per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. CGL insurance must include coverage for the following: Bodily Injury and Property Damage; Personal Injury/Advertising Injury; Premises/Operations Liability; Products/Completed Operations Liability; Aggregate Limits that Apply per Project; Explosion, Collapse and Underground (UCX) exclusion deleted; Contractual Liability with respect to the permit; Broad Form Property Damage; and Independent Consultants Coverage

The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

b. Automobile Liability: Insurance Services Office Form Number CA 00 01 covering, Code 1 (any auto), or if permittee has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

c. Workers' Compensation/Employer's Liability: Permittee shall certify that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and it will comply with such provisions before commencing work under this Agreement. To the extent permittee has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement permittee shall maintain insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

d. Professional Liability (Errors and Omissions) Insurance appropriate to the permittee's profession, with limit no less than \$1,000,000 per occurrence or claim. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the permittee. "Covered Professional Services" as designed in the policy must specifically include work performed under this Agreement.

e. Umbrella or Excess Liability: Umbrella or Excess Insurance. If umbrella or an excess liability insurance policy is used to satisfy the minimum requirements for CGL or Automobile Liability insurance coverage listed above, the umbrella or excess liability policies shall provide coverage at least as broad as specified for the underlying coverages and covering those insured in the underlying policies. Coverage shall be “pay on behalf,” with defense costs payable in addition to policy limits. permittee shall provide a “follow form” endorsement or schedule of underlying coverage satisfactory to the City indicating that such coverage is subject to the same terms and conditions as the underlying liability policy.

f. The relevant policy(ies) shall name the City, its elected/appointed officials, commission members, officers, representatives, agents, and employees as additional insureds. Permittee shall use its best efforts to provide thirty (30) days’ prior notice to the City of to the cancellation or material modification of any applicable insurance policy.

Section 11.12.080 Findings.

A. Where a wireless telecommunication facility requires a use permit under this chapter, the City shall not approve any application unless, in addition to the findings generally applicable to all use permits, all of the following additional findings are made:

1. The proposed facility complies with all applicable provisions of this chapter, and with design and siting guidelines adopted by the City Council, and will be in compliance with all applicable building, electrical, and fire safety codes.
2. The proposed facility has been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.
3. The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.
4. Noise generated by equipment will not be excessive, annoying nor be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in this chapter.

B. In addition to the findings in subsection A of this section, approval of a wireless telecommunications facility permit for a facility that will be located in the public right-of-way may be granted only if the following findings are made by the City:

1. The applicant has provided substantial written evidence supporting the applicant’s claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise or other agreement with the City permitting them to use the public right-of-way.
2. The applicant has demonstrated that the facility will not interfere with the use of the public right-of-way, existing subterranean infrastructure, or the City’s plans for modification or use of such location and infrastructure

C. A copy of any decision on an application made under this section shall be provided to the applicant, and to any party who submitted comments to the City Manager pursuant to notice required by this Chapter. Decisions shall also be posted on the Los Altos website within

twenty-four (24) hours of their issuance, in a manner clearly identifying the application to which the decision relates.

Section 11.12.090 Exceptions.

A. Exceptions pertaining to any provision of this chapter, including, but not limited to, exceptions from findings that would otherwise justify denial, may be granted by the City if the City makes the finding that:

1. Denial of the facility as proposed would violate federal law, state law, or both; or
2. A provision of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both.

B. An applicant may only request an exception at the time of applying for a wireless telecommunications facility permit. The request must include both the specific provision(s) of this chapter and any design or siting standards from which the exception is sought and the basis of the request. Any request for an exception after the City has deemed an application complete shall be treated as a new application.

C. Notwithstanding any other provision of this chapter, a use permit shall be required for a facility when an exception is requested.

D. The applicant shall have the burden of proving that denial of the facility as proposed would violate federal law, state law, or both, or that the provisions of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both, using the evidentiary standards required by that law at issue. The City shall have the right to hire an independent consultant, at the applicant's expense, to evaluate the issues raised by the exception request and shall have the right to submit rebuttal evidence to refute the applicant's claim.

Section 11.12.100 Wireless telecommunications facilities covered under Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012.

A. **Purpose.** Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112-96, codified in 47 U.S.C. Section 1455(a), generally requires that state and local governments "may not deny, and shall approve" requests to collocate, remove or replace transmission equipment at an existing tower or base station. Federal Communication Commission regulations interpret this statute and create procedural rules for local review, which generally preempt certain subjective land-use regulations, limit permit application content requirements and provide the applicant with a potential "deemed granted" remedy when the state or local government fails to approve or deny the request within 60 days after submittal (accounting for any tolling periods). Moreover, whereas Section 704 of the Telecommunications Act of 1996, Pub. L. 104-104, codified in 47 U.S.C. Section 332, applies to only "personal wireless service facilities" (e.g., cellular telephone towers and equipment), Section 6409(a) applies to all "wireless" facilities licensed or authorized by the FCC (e.g., cellular, Wi-Fi, satellite, microwave backhaul, etc.). The overlap between wireless deployments covered under Section 6409(a) and other wireless deployments, combined with the different substantive and procedural rules applicable to such deployments, creates a potential for confusion that harms the public interest in both efficient wireless facilities deployment and

carefully planned community development in accordance with local values. A separate permit application and review process specifically designed for compliance with Section 6409(a) contained in a section devoted to Section 6409(a) will mitigate such potential confusion, streamline local review and preserve the City's land-use authority to the maximum extent possible.

B. **Applicability.** This section applies to all collocations or modifications to an existing wireless tower or base station submitted with a written request for approval pursuant to Section 6409(a).

C. **Approval Required.** Any request to collocate, replace or remove transmission equipment at an existing wireless tower or base station submitted with a written request for a Section 6409(a) approval shall be subject to the City Manager's approval, conditional approval or denial without prejudice pursuant to the standards and procedures contained in this chapter.

D. **Other Regulatory Approvals.** No collocation or modification approved under any Section 6409(a) approval may occur unless the applicant also obtains all other applicable permits or regulatory approvals from the City and state or federal agencies. Furthermore, any Section 6409(a) approval granted under this chapter shall remain subject to any and all lawful conditions or requirements associated with such other permits or regulatory approvals from the City and state or federal agencies.

E. **Application Requirement.** The City shall not approve any wireless facility subject to this chapter except upon a duly filed application consistent with this section and any other written rules the City or the City Manager may establish from time to time. An application must include the information required by parts 1-4, 9, 10, and 14 of Section 11.12.050(A) and the following additional information:

1. A written statement that explains in plain factual detail whether and why Section 6409(a) and the related FCC regulations at 47 C.F.R. Section 1.6100 require approval for the specific project. A complete written narrative analysis will state the applicable standard and all the facts that allow the City to conclude the standard has been met. Bare conclusions not factually supported do not constitute a complete written analysis. As part of this written statement the applicant must also include: (a) whether and why the support structure qualifies as an existing tower or existing base station; and (b) whether and why the proposed collocation or modification does not cause a substantial change in height, width, excavation, equipment cabinets, concealment or permit compliance.

F. **Administrative Review—Decision Notices.** The City Manager shall administratively review an application for a Section 6409(a) approval and act on such an application without prior notice or a public hearing. Within five working days after the City Manager conditionally approves or denies an application submitted for Section 6409(a) approval or before the FCC timeframe for review expires (whichever occurs first), the City Manager shall send a written notice to the applicant. In the event that the City Manager determines that an application submitted for approval pursuant to Section 6409(a) does not qualify for approval, the City Manager will send written notice to the applicant that includes the reasons to support the review authority's decision, a statement identifying the applicable application type and shot clock, as well as additional information necessary to complete the application.

G. Required Findings for 6409(a) Approval. The City Manager may approve or conditionally approve an application submitted for Section 6409(a) approval when the City Manager finds that the proposed project:

1. Involves collocation, removal or replacement of transmission equipment on an existing wireless tower or base station; and
2. Does not substantially change the physical dimensions of the existing wireless tower or base station.

H. Criteria for Denial. Notwithstanding any other provisions in this chapter, and consistent with all applicable federal laws and regulations, the City Manager may deny without prejudice an application submitted for approval pursuant to Section 6409(a) when it finds that the proposed project:

1. Does not satisfy the criteria for approval;
2. Violates any legally enforceable standard or permit condition reasonably related to public health and safety then in effect; or
3. Involves the replacement of the entire support structure.

I. Conditional 6409(a) Approvals. Subject to any applicable limitations in federal or state law, nothing in this chapter is intended to limit the City's authority to conditionally approve an application for a Section 6409(a) approval to protect and promote the public health, safety and welfare.

J. Standard Conditions of Approval. In addition to all other conditions adopted by the City Manager, all Section 6409(a) approvals, whether approved by the City Manager or deemed approved by the operation of law, shall be automatically subject to the following conditions in this section; provided, however, that the City Manager shall have discretion to modify or amend these conditions on a case-by-case basis as may be necessary or appropriate under the circumstances:

1. **Approved Plans.** Before the permittee submits any application for a building permit or other permits required by the Los Altos Municipal Code, the permittee must incorporate the wireless telecommunications facility permit granted under this section, all conditions associated with the wireless telecommunications facility permit and the approved plans and any photo simulations (the "approved plans") into the project plans. The permittee must construct, install and operate the wireless telecommunications facility in strict compliance with the approved plans. The permittee shall submit an as built drawing within 90 days after installation of the facility.
2. **Permit Term.** The City's grant or grant by operation of law of a Section 6409(a) approval constitutes a federally-mandated modification to the underlying permit or other prior regulatory authorization for the subject tower or base station. The City's grant or grant by operation of law of a Section 6409(a) approval will not extend the permit term, if any, for any use permit, or other underlying prior regulatory authorization. Accordingly, the term for a Section 6409(a) approval shall be coterminous with the underlying permit or other prior regulatory authorization for the subject tower or base station.
3. **Accelerated Permit Terms Due to Invalidation.** In the event that any court of competent jurisdiction invalidates any portion of Section 6409(a) or any FCC rule that interprets Section 6409(a) such that federal law would not mandate approval for any

Section 6409(a) approval, such 6409(a) approvals shall automatically expire one year from the effective date of the judicial order, unless the decision would not authorize accelerated termination of previously approved Section 6409(a) approvals or the City Manager grants an extension upon written request from the permittee that shows good cause for the extension, which includes, without limitation, extreme financial hardship.

Notwithstanding anything in the previous sentence to the contrary, the City Manager may not grant a permanent exemption or indefinite extension. A permittee shall not be required to remove its improvements approved under the invalidated Section 6409(a) approval when it has submitted an application for a use permit for those improvements before the one-year period ends.

4. No Waiver of Standing. The City's grant or grant by operation of law of a Section 6409(a) approval does not waive, and shall not be construed to waive, any standing by the City to challenge Section 6409(a), any FCC rules that interpret Section 6409(a) or any Section 6409(a) approval.

5. Build-Out Period. The Section 6409(a) approval will automatically expire one year from the issuance date unless the permittee obtains all other permits and approvals required to install, construct and operate the approved wireless facility, which includes without limitation any permits or approvals required by the any federal, state or local public agencies with jurisdiction over the subject property, the wireless facility or its use. The City Manager may grant one written extension to a date certain when the permittee shows good cause to extend the limitations period in a written request for an extension submitted at least 30 days prior to the automatic expiration date in this condition. Any further extensions may be granted by the City Manager.

6. Maintenance Obligations—Vandalism. The permittee shall keep the site, which includes, without limitation, any and all improvements, equipment, structures, access routes, fences and landscape features, in a neat, clean and safe condition in accordance with the approved plans and all conditions in this Section 6409(a) approval. The permittee shall keep the site area free from all litter and debris at all times. The permittee, at no cost to the City, shall remove and remediate any graffiti or other vandalism at the site within 48 hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.

7. Compliance with Laws. The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law ("laws") applicable to the permittee, the subject property, the wireless facility or any use or activities in connection with the use authorized in this Section 6409(a) approval. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee's obligations to maintain compliance with all laws.

8. Adverse Impacts on Other Properties. The permittee shall use all reasonable efforts to avoid any and all undue or unnecessary adverse impacts on nearby properties that may arise from the permittee's construction, installation, operation, modification, maintenance, repair, removal or other activities at the site. The permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance,

repair, removal or other work that involves heavy equipment or machines on any day and at any time prohibited under the Los Altos Municipal Code. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the City. The City Manager may issue a stop work order for any work that violates this condition.

9. Noise Complaints. The permittee shall conduct all activities on the site in compliance with the noise standards in the Los Altos Municipal Code. In the event that any person files a noise complaint and the City verifies that such complaint is valid, the permittee must remedy the violation within 10 days after notice from the City, which may include a demonstration that the permittee has amended its operational guidelines in situations where the violation arises from the permittee's personnel rather than the permittee's equipment.

10. Inspections—Emergencies. The permittee expressly acknowledges and agrees that the City or its designee may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the permittee; provided, however, that the City or its designee may, but will not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The permittee will be permitted to supervise the City or its designee while such inspection or emergency access occurs.

11. Contact Information. The permittee shall furnish the City with accurate and up-to-date contact information for a person responsible for the wireless facility, which includes, without limitation, such person's full name, title, direct telephone number, facsimile number, mailing address and email address. The permittee shall keep such contact information up-to-date at all times.

12. Indemnification. The permittee and, if applicable, the property owner upon which the wireless facility is installed shall defend, indemnify and hold harmless the City, its agents, officers, officials, employees and volunteers from any and all: (a) damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs and other actions or proceedings ("claims") brought against the City or its agents, officers, officials, employees or volunteers to challenge, attack, seek to modify, set aside, void or annul the City's approval of this Section 6409(a) approval; and (b) other claims any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the permittee's or its agents', directors', officers', employees', contractors', subcontractors', licensees', or customers' acts or omissions in connection with this Section 6409(a) approval or the wireless facility. In the event the City becomes aware any claims, the City will use best efforts to promptly notify the permittee and the private property owner and shall reasonably cooperate in the defense. The permittee expressly acknowledges and agrees that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the property owner or permittee (as applicable) shall promptly reimburse the City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. The permittee expressly acknowledges and agrees that the permittee's indemnification obligations under this condition are a material consideration that

motivates the City to approve this Section 6409(a) approval, and that such indemnification obligations will survive the expiration or revocation of this Section 6409(a) approval.

13. **Performance Bond.** Before the City issues any construction permit in connection with the wireless facility, the permittee shall post a performance bond from a surety and in a form acceptable to the City Manager in an amount equal to or greater than a written estimate from a qualified contractor with experience in wireless facilities removal. The written estimate must include the cost to remove all equipment and other improvements, which includes, without limitation, all antennas, radios, batteries, generators, utilities, cabinets, mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles, footings and foundations, whether above ground or below ground, constructed or installed in connection with the wireless facility. In establishing or adjusting the bond amount required under this condition, and in accordance with California Government Code Section 65964(a), the City Manager shall take into consideration information provided by the permittee regarding the cost to remove the wireless facility.

14. **Record Retention.** The permittee must maintain complete and accurate copies of all permits and other regulatory approvals issued in connection with the wireless facility, which includes, without limitation, this approval, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval and any ministerial permits or approvals issued in connection with this approval. In the event that the permittee does not maintain such records as required in this condition, any ambiguities or uncertainties that would be resolved through an inspection of the missing records will be construed against the permittee.

15. **Compliance Obligations.** An applicant or permittee will not be relieved of its obligation to comply with every applicable provision in the Los Altos Municipal Code, any permit, any permit condition or any applicable law or regulation by reason of any failure by the City to timely notice, prompt or enforce compliance by the applicant or permittee.

16. **Insurance.** Permittee shall obtain and maintain throughout the term of the permit commercial general liability and property damage insurance indicating the City of Los Altos as an additional insured. Coverage shall be at least as broad as:

- a. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, with limits no less than \$1,000,000 or \$2,000,000 aggregate per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. CGL insurance must include coverage for the following: Bodily Injury and Property Damage; Personal Injury/Advertising Injury; Premises/Operations Liability; Products/Completed Operations Liability; Aggregate Limits that Apply per Project; Explosion, Collapse and Underground (UCX) exclusion deleted; Contractual Liability with respect to the permit; Broad Form Property Damage; and Independent Consultants Coverage. The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

b. Automobile Liability: Insurance Services Office Form Number CA 00 01 covering, Code 1 (any auto), or if permittee has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

c. Workers' Compensation/Employer's Liability: Permittee shall certify that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and it will comply with such provisions before commencing work under this Agreement. To the extent permittee has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement permittee shall maintain insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

d. Professional Liability (Errors and Omissions) Insurance appropriate to the permittee's profession, with limit no less than \$1,000,000 per occurrence or claim. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the permittee. "Covered Professional Services" as designed in the policy must specifically include work performed under this Agreement.

e. Umbrella or Excess Liability: Umbrella or Excess Insurance. If umbrella or an excess liability insurance policy is used to satisfy the minimum requirements for CGL or Automobile Liability insurance coverage listed above, the umbrella or excess liability policies shall provide coverage at least as broad as specified for the underlying coverages and covering those insured in the underlying policies. Coverage shall be "pay on behalf," with defense costs payable in addition to policy limits. permittee shall provide a "follow form" endorsement or schedule of underlying coverage satisfactory to the City indicating that such coverage is subject to the same terms and conditions as the underlying liability policy.

The relevant policy(ies) shall name the City, its elected/appointed officials, commission members, officers, representatives, agents, and employees as additional insureds.

Permittee shall use its best efforts to provide thirty (30) days' prior notice to the City of to the cancellation or material modification of any applicable insurance policy.

Section 11.12.110 Wireless telecommunications collocation facilities covered under California Government Code Section 65850.6.

A. **Purpose.** The purpose of this section is to comply with an application for a wireless telecommunications collocation facility under California Government Code Section 65850.6, for which a Section 6509(a) approval is not being requested. This section provides the requirements, standards and regulations for a wireless telecommunications collocation facility for which subsequent collocation is a permitted use pursuant to California law. Only those facilities that fully comply with the eligibility requirements set forth in California Government Code Section 65850.6, or its successor provision, and which strictly adhere to the requirements

and regulations set forth in this section shall qualify as a wireless telecommunications collocation facility.

B. **Definitions.** For the purposes of this section, the following terms are defined as follows:

1. “Collocation facility” means the placement or installation of wireless facilities, including antennas, and related equipment, on, or immediately adjacent to, a wireless telecommunications collocation facility.
2. “Wireless telecommunications facility” means equipment and network components such as towers, utility poles, transmitters, base stations, and emergency power systems that are integral to providing wireless telecommunications services.
3. “Wireless telecommunications collocation facility” means a wireless telecommunications facility that includes collocation facilities.

C. **Procedures.** An application for a wireless telecommunications collocation facility under California Government Code Section 65850.6 shall be processed in the same manner as an application for Section 6409(a) approval is processed, except that where the process requires justification for the Section 6409(a) approval, the applicant shall instead provide the justification for a wireless telecommunications collocation facility under California Government Code Section 65850.6.

D. **Requirements.** All requirements, regulations, and standards set forth in this chapter for a wireless telecommunications facility shall apply to a wireless telecommunications collocation facility; provided, however, the following shall also apply to a wireless telecommunications collocation facility:

1. The applicant for a wireless telecommunications collocation facility permit shall describe or depict:
 - a. The wireless telecommunications collocation facility as it will be initially built; and
 - b. All collocations at full build-out, including, but not limited to, all antennas, antenna support structures, and accessory equipment.
2. Any collocation shall use screening methods substantially similar to those used on the existing wireless telecommunications facilities unless other optional screening methods are specified in the conditions of approval.
3. A wireless telecommunications collocation facility permit shall not be approved unless an environmental impact report, negative declaration, or mitigated negative declaration was prepared and approved for the wireless telecommunications collocation facility.

E. **Permitted Use.** Notwithstanding any other provision of this chapter, a subsequent collocation on a wireless telecommunications collocation facility shall be a permitted use only if all of the following requirements are satisfied:

1. The wireless telecommunications collocation facility:
 - a. Was approved after January 1, 2007, by discretionary permit;
 - b. Was approved subject to an environmental impact report, negative declaration, or mitigated negative declaration; and

- c. Otherwise complies with the requirements of California Government Code Section 65850.6(b), or its successor provision, for addition of a collocation facility to a wireless telecommunications collocation facility, including, but not limited to, compliance with all performance and maintenance requirements, regulations and standards in this chapter and the conditions of approval in the wireless telecommunications collocation facility permit.
 2. The collocations were specifically considered when the relevant environmental document was prepared for the wireless telecommunications collocation facility.
 3. Before collocation, the applicant seeking collocation shall obtain all other applicable non-discretionary permits, as required pursuant to the Los Altos Municipal Code.
- F. **New or Amended Permit.** Except as otherwise provided above, approval of a new or amended permit shall be required when the facility is modified other than by collocation in accordance with this section, or the proposed collocation:
1. Increases the height of the existing permitted telecommunications tower or otherwise changes the bulk, size, location, or any other physical attributes of the existing permitted wireless telecommunications collocation facility unless specifically permitted under the conditions of approval applicable to such wireless telecommunications collocation facility; or
 2. Adds any microwave dish or other antenna not expressly permitted to be included in a collocation facility by the conditions of approval.

Section 11.12.120 Business license.

A permit issued pursuant to this chapter shall not be a substitute for any business license otherwise required under the Los Altos Municipal Code.

Section 11.12.130 Emergency deployment.

In the event of a declared federal, state, or local emergency, or when otherwise warranted by conditions that the City Manager deems to constitute an emergency, the City Manager may approve the installation and operation of a temporary wireless telecommunications facility (e.g., a cell on wheels or “COW”), which is subject to such reasonable conditions that the City Manager deems necessary.

Section 11.12.140 Operation and maintenance standards.

A. All wireless telecommunications facilities must comply at all times with the following operation and maintenance standards. All necessary repairs and restoration shall be completed by the permittee, owner, or operator within 48 hours:

1. After discovery of the need by the permittee, owner, operator or any designated maintenance agent; or
2. After permittee, owner, operator, or any designated maintenance agent receives notification from the City Manager.

B. All facilities, including, but not limited to, telecommunication towers, poles, accessory equipment, lighting, fences, walls, shields, cabinets, artificial foliage or camouflage, and the

facility site shall be maintained in good condition, including ensuring the facilities are reasonably free of:

1. General dirt and grease;
2. Chipped, faded, peeling, and cracked paint;
3. Rust and corrosion;
4. Cracks, dents, and discoloration;
5. Missing, discolored, or damaged artificial foliage or other camouflage;
6. Graffiti, bills, stickers, advertisements, litter and debris;
7. Broken and misshapen structural parts; and
8. Any damage from any cause.

C. All trees, foliage or other landscaping elements approved as part of the facility shall be maintained in good condition at all times, and the permittee, owner and operator of the facility shall be responsible for replacing any damaged, dead or decayed landscaping. No amendment to any approved landscaping plan may be made until it is submitted to and approved by the City Manager.

D. The permittee shall replace its facilities, after obtaining all required permits, if maintenance or repair is not sufficient to return the facility to the condition it was in at the time of installation.

E. Each facility shall be operated and maintained at all times in compliance with applicable federal regulations, including FCC radio frequency emissions standards.

F. Each facility shall be operated and maintained to comply at all times with the noise regulations of this chapter and shall be operated and maintained in a manner that will minimize noise impacts to surrounding residents. Except for emergency repairs, any testing and maintenance activities that will be audible beyond the property line shall only occur between the hours of 7:00 a.m. and 5:00 p.m. on Monday through Friday, excluding holidays, unless alternative hours are approved by the City Manager. Backup generators, if permitted, shall only be operated during periods of power outages or for testing.

G. If a flagpole is used for camouflaging a wireless telecommunications facility, flags shall be flown and shall be properly maintained at all times.

H. Each owner or operator of a facility shall routinely inspect each site to ensure compliance with the standards set forth in this section and the conditions of approval.

Section 11.12.150 No dangerous conditions or obstructions allowed.

No person shall install, use or maintain any wireless telecommunications facility which in whole or in part rests upon, in or over any public sidewalk or parkway, when such installation, use or maintenance endangers or is reasonably likely to endanger the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such facility unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals,

hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects permitted at or near said location.

Section 11.12.160 Permit expiration.

- A. A permit for any wireless telecommunications facility shall be valid for a period of 10 years, unless the permit states a longer period, or pursuant to another provision of the Los Altos Municipal Code the permit lapses sooner or is revoked. At the end of such period, the permit shall expire.
- B. A permittee may apply for extensions of its permit in increments of no more than 10 years and no sooner than 12 months prior to expiration of the permit.
- C. If a permit has not expired at the time an application is made for an extension, the City Manager may administratively extend the term of the permit for subsequent 10-year terms upon verification of continued compliance with the findings and conditions of approval under which the application was originally approved, as well as any other applicable provisions of the Los Altos Municipal Code that are in effect at the time the permit extension is granted.
 1. At the City Manager's discretion, additional studies and information may be required of the applicant.
 2. If the City Manager determines that the facility is nonconforming or that additional conditions of approval are necessary to bring the facility into compliance with the provisions of the Los Altos Municipal Code that are then in effect at the time of permit expiration, the City Manager shall refer the extension request to the City Council.
- D. The request for an extension shall be decided by the City Council if the permit expired before the application is made for an extension or if the City Manager refers the matter to the City Council. After notice and a public hearing, the City Council may approve, conditionally approve, or deny the extension.

Section 11.12.170 Cessation of use or abandonment.

- A. A wireless telecommunications facility is considered abandoned and shall be promptly removed as provided herein if it ceases to provide wireless telecommunications services for 90 or more consecutive days. If there are two or more users of a single facility, then this provision shall not become effective until all users cease using the facility.
- B. The operator of a facility shall notify the City in writing of its intent to abandon or cease use of a permitted site or a nonconforming site (including unpermitted sites) within 10 days of ceasing or abandoning use. Notwithstanding any other provision herein, the operator of the facility shall provide written notice to the City Manager of any discontinuation of operations of 30 days or more.
- C. Failure to inform the City Manager of cessation or discontinuation of operations of any existing facility as required by this section shall constitute a violation of any approvals and be grounds for:
 1. Prosecution;
 2. Revocation or modification of the permit;

3. Calling of any bond or other assurance required by this chapter or conditions of approval of the permit;
4. Removal of the facilities by the City in accordance with the procedures established under the Los Altos Municipal Code for abatement of a public nuisance at the owner's expense; and
5. Any other remedies permitted under the Los Altos Municipal Code.

Section 11.12.180 Removal and restoration, permit expiration, revocation or abandonment.

A. **Permittee's Removal Obligation.** Upon the expiration date of the permit, including any extensions, earlier termination or revocation of the permit or abandonment of the facility, the permittee, owner or operator shall remove its wireless telecommunications facility and restore the site to its natural condition except for retaining the landscaping improvements and any other improvements at the discretion of the City. Removal shall be in accordance with proper health and safety requirements and all ordinances, rules, and regulations of the City. The facility shall be removed from the property within 30 days, at no cost or expense to the City. If the facility is located on private property, the private property owner shall also be independently responsible for the expense of timely removal and restoration.

B. **Failure to Remove.** Failure of the permittee, owner, or operator to promptly remove its facility and restore the property within 30 days after expiration, earlier termination, or revocation of the permit, or abandonment of the facility, shall be a violation of the Los Altos Municipal Code, and be grounds for:

1. Prosecution;
2. Calling of any bond or other assurance required by this chapter or conditions of approval of permit;
3. Removal of the facilities by the City in accordance with the procedures established under the Los Altos Municipal Code for abatement of a public nuisance at the owner's expense; or
4. Any other remedies permitted under the Los Altos Municipal Code.

C. **Summary Removal.** In the event the City Manager determines that the condition or placement of a wireless telecommunications facility located in the public right-of-way constitutes a dangerous condition, obstruction of the public right-of-way, or an imminent threat to public safety, or determines other exigent circumstances require immediate corrective action (collectively, "exigent circumstances"), the City Manager may cause the facility to be removed summarily and immediately without advance notice or a hearing. Written notice of the removal shall be served upon the person who owns the facility within five business days of removal and all property removed shall be preserved for the owner's pick-up as feasible. If the owner cannot be identified following reasonable effort or if the owner fails to pick-up the property within 60 days, the facility shall be treated as abandoned property.

D. **Removal of Facilities by City.** In the event the City removes a facility in accordance with nuisance abatement procedures or summary removal, any such removal shall be without any liability to the City for any damage to such facility that may result from reasonable efforts of removal. In addition to the procedures for recovering costs of nuisance abatement, the City

may collect such costs from the performance bond posted and to the extent such costs exceed the amount of the performance bond, collect those excess costs in accordance with the Los Altos Municipal Code. Unless otherwise provided herein, the City has no obligation to store such facility. Neither the permittee nor the owner nor operator shall have any claim if the City destroys any such facility not timely removed by the permittee, owner, or operator after notice, or removed by the City due to exigent circumstances.

Section 11.12.190 Effect on other ordinances.

A. Compliance with the provisions of this chapter shall not relieve a person from complying with any other applicable provision of the Los Altos Municipal Code, including, but not limited to, obtaining any necessary encroachment or building permits. In the event of a conflict between any provision of this chapter and other provisions of the Los Altos Municipal Code, this chapter shall control.

Section 11.12.200 Effect of state or federal law.

A. In the event that state or federal law prohibits discretionary permitting requirements for certain wireless telecommunications facilities, the permits required by this chapter for those facilities shall be deemed to be ministerial permits. For those facilities, in lieu of a use permit, a ministerial permit shall be required prior to installation or modification of a wireless telecommunications facility and all provisions of this chapter shall be applicable to any such facility with the exception that the required permit shall be reviewed and administered as a ministerial permit by the City Manager rather than as a discretionary permit. Any conditions of approval set forth in this chapter or deemed necessary by the City Manager shall be imposed and administered as reasonable time, place and manner rules.

B. In the event of a material change in case law or regulations applicable to the subject matter of this Chapter, no new applications shall be accepted under this chapter for a period of sixty (60) days, if permitted by law, to provide the City with time to consider the material change and, if it so chooses, take action to implement modifications to the Chapter.

11.12.210. Appeals.

A. Notwithstanding any provision of the Los Altos Municipal Code to the contrary, any person adversely affected by a decision by the City Manager may seek appeal of that decision under this Chapter. The appeal must be filed within five (5) days of the date of the City Manager's decision. The appeal must state in plain terms the grounds for reversal and the facts that support those grounds. The City Council shall serve as the appellate authority for all appeals of all actions of the City Manager taken pursuant to this section. The City shall provide notice for an administrative hearing by the City Council. The City Council shall limit its review to whether the project should be approved or denied in accordance with the provisions in this Chapter and any applicable design and siting guidelines.

SECTION 3: The City Manager, or his or her delegate, is directed to execute all documents and to perform all other necessary City acts to implement effect this Ordinance.

SECTION 4: Urgency Findings. The City adopts this ordinance as an urgency measure pursuant to Government Code Section 36937(b) to protect the public peace, health and safety.

- a. Since the City Council adopted Chapter 11.12, significant changes in federal laws that affect local authority over wireless communication facilities and other related infrastructure deployments have occurred, including, but not limited to, the following:
 - i. On August 2, 2018, the Federal Communications Commission (“FCC”) adopted a Third Report & Order and Declaratory Ruling in the rulemaking proceeding titled Accelerating Wireline and Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, 33 FCC Rcd. 7705 (rel. Aug. 3, 2018) (the “August Order”), that, among other things, contained a declaratory ruling prohibiting express and de facto moratoria for all personal wireless services, telecommunications services and their related facilities under 47 U.S.C. § 253(a) and directed the Wireless Telecommunications Bureau and Wireline Competition Bureau to hear and resolve all complaints on an expedited basis. The declaratory ruling in the August Order was made effective upon release of the August Order which occurred on August 3, 2018; and
 - ii. On September 26, 2018, the FCC adopted a Declaratory Ruling and Third Report and Order in the same rulemaking proceeding, 33 FCC Rcd. 9088 (rel. Sep. 27, 2018) (the “September Order”), which, among many other things, created new shorter “shot clocks” for small wireless facilities (as defined in the September Order); altered existing “shot clock” regulations to require local public agencies to do more in less time; established a national standard for an effective prohibition related to small wireless facilities that replaced the existing “significant gap” test adopted by the United States Court of Appeals for the Ninth Circuit and provided that a failure to act within the applicable timeframe presumptively constitutes an effective prohibition. The September Order was made effective 90 days after publication in the Federal Register, that is, on January 14, 2019. The September Order also established that local governments should publish aesthetic standards by April 15, 2019 and that the standards must be in place before an application is submitted in order for the standards to apply to that proposed wireless facility.
- b. In light of the FCC Orders, the City deems it to be necessary and appropriate to provide for certain standards and regulations relating to the location, placement, design, construction, and maintenance of telecommunications antennas and infrastructure within the City’s public rights-of-way, and providing for the enforcement of said standards and regulations, consistent with federal and state law limitations on that authority.
- c. Further, the FCC Orders are already in effect, so if the City does not immediately amend the Code, there is a risk that the City may not be able to enforce provisions of its Code or comply with the new federal regulations.
- d. The City’s public rights-of-way are a valuable resource, and the regulation of wireless installations in the public rights-of-way is necessary to protect and preserve aesthetics in the community. There has been an increase in industry interest and applications to place wireless facilities in public rights-of-way.

- e. If not adequately regulated, the installation of small wireless facilities within the public rights-of-way can pose a threat to the public health, safety, and welfare, including disturbance to the public rights-of-way through the installation and maintenance of wireless facilities; traffic and pedestrian safety hazards due to the unsafe location of wireless facilities; impacts to trees where proximity conflicts may require unnecessary trimming of branches or require removal of roots due to related undergrounding of equipment or connection lines; land use conflicts and incompatibilities including excessive height or poles and towers; creation of visual and aesthetic blights and potential safety concerns arising from excessive size, heights, noise, or lack of camouflaging of wireless facilities, including the associated pedestals, meters, equipment and power generators, all of which may negatively impact the City and its citizens.
- f. Therefore, the City deems it necessary and appropriate to enact regulations for wireless telecommunications facilities in the public rights-of-way by urgency ordinance under Cal. Gov. Code Section 36937(b) because the matters herein concern “the immediate preservation of the public peace, health or safety” of the City’s citizens.

SECTION 5: CEQA. This Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act (“CEQA”) Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The Ordinance does not authorize any specific development or installation on any specific piece of property within the City’s boundaries. Moreover, when and if an application for installation is submitted, the City will at that time conduct preliminary review of the application in accordance with CEQA. Alternatively, even if the Ordinance is a “project” within the meaning of State CEQA Guidelines section 15378, the Ordinance is exempt from CEQA on multiple grounds. First, the Ordinance is exempt CEQA because the City Council’s adoption of the Ordinance is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. (State CEQA Guidelines, § 15061(b)(3)). That is, approval of the Ordinance will not result in the actual installation of any facilities in the City. In order to install a facility in accordance with this Ordinance, the wireless provider would have to submit an application for installation of the wireless facility. At that time, the City will have specific and definite information regarding the facility to review in accordance with CEQA. And, in fact, the City will conduct preliminary review under CEQA at that time. Moreover, in the event that the Ordinance is interpreted so as to permit installation of wireless facilities on a particular site, the installation would be exempt from CEQA review in accordance with either State CEQA Guidelines section 15302 (replacement or reconstruction), State CEQA Guidelines section 15303 (new construction or conversion of small structures), and/or State CEQA Guidelines section 15304 (minor alterations to land). The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Santa Clara within five working days of the passage and adoption of the Ordinance.

SECTION 6: Severability. If any section, subsection, provision, sentence, clause, phrase or word of this Ordinance is for any reason held to be illegal or otherwise invalid by any court of competent jurisdiction, such invalidity shall be severable, and shall not affect or impair any remaining section, subsection, provision, sentence, clause, phrase or word included within this Ordinance, it being the intent of the City that the remainder of the Ordinance shall be and shall remain in full force and effect, valid, and enforceable.

SECTION 7: In accordance with California Government Code Section 36937(b), this ordinance shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF LOS ALTOS
this _____ day of _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

Lynette Lee Eng, Mayor

ATTEST:

_____, City Clerk

APPROVED AS TO FORM:

Christopher Diaz, City Attorney

ORDINANCE NO. 2019-460

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS TO AMEND THE MUNICIPAL CODE TO ENACT NEW CHAPTER 11.12, “WIRELESS FACILITIES” AND TO REPEAL OLD CHAPTER 11.12, “PERSONAL WIRELESS SERVICES AND FACILITIES.”

WHEREAS, by virtue of the police powers delegated to it by the California Constitution, the City of Los Altos (“City”) has the authority to adopt such ordinances as it deems necessary and appropriate to assure good government in the City, to protect and preserve the City’s rights, property and privileges, and to preserve peace, safety and good order; and

WHEREAS, Chapter 11.12 of the Municipal Code for the City of Los Altos (“Code”) governs the installation and modification of personal wireless services facilities in the City, and exempts certain facilities in the public rights-of-way which are currently governed by the City of Los Altos “Distributed Antenna Systems for Wireless Communications Encroachment Permit Requirements”; and

WHEREAS, significant changes in federal laws that affect local authority over wireless communications facilities have occurred since the City Council adopted Chapter 11.12; and

WHEREAS, increased demand for placement of wireless facilities in public rights-of-way has occurred since the City of Los Altos “Distributed Antenna Systems for Wireless Communications Encroachment Permit Requirements” were promulgated; and

WHEREAS, in light of these changes in federal laws and wireless deployments, the City deems it necessary and appropriate to provide for certain standards and regulations relating to the location, placement, design, construction and maintenance of telecommunications towers, antennas and other structures within the City, including within the City’s public rights-of-way, and providing for the enforcement of said standards and regulations, consistent with federal and state law limitations on that authority.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the City Council:

SECTION 1: The foregoing Recitals are adopted as findings of the City Council as though set forth in fully within the body of this ordinance.

SECTION 2: Title 11 of the Municipal Code for the City (“Code”) shall be amended to repeal the existing text of Chapter 11.12 in its entirety, and replace it with a new Chapter 11.12, entitled “Wireless Facilities” to read as follows:

Chapter 11.12 WIRELESS FACILITIES

SECTION 11.12.010 Purpose.

A. The purpose and intent of this chapter is to provide a uniform and comprehensive set of regulations and standards for the permitting, development, siting, installation, design,

operation and maintenance of wireless telecommunications facilities in the City of Los Altos. These regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with wireless telecommunications facilities. This chapter provides standards necessary to: (1) preserve and promote harmonious land uses and the public right-of-way in the City; (2) promote and protect public health and safety, community welfare, visual resources, and the aesthetic quality of the City consistent with the goals, objectives and policies of the General Plan; (3) provide for the orderly, managed, and efficient development of wireless telecommunications facilities in accordance with the state and federal laws, rules, and regulations; and (4) encourage new and more efficient technology in the provision of wireless telecommunications facilities.

B. This chapter is not intended to, nor shall it be interpreted or applied to: (1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services; (2) prohibit or effectively prohibit any entity's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulation for rights-of-way management; (3) unreasonably discriminate among providers of functionally equivalent services; (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions; (5) prohibit any collocation or modification that the City may not deny under federal or state law; or (6) otherwise authorize the City to preempt any applicable federal or state law.

Section 11.12.020 Definitions.

A. For the purposes of this chapter, the following defined terms shall have the meaning set forth in this section unless the context clearly indicates or requires a different meaning.

1. "Accessory equipment" means any equipment associated with the installation of a wireless telecommunications facility, including, but not limited to, cabling, generators, air conditioning units, electrical panels, equipment shelters, equipment cabinets, equipment buildings, pedestals, meters, vaults, splice boxes, and surface location markers.

2. "Antenna" means that part of a wireless telecommunications facility designed to radiate or receive radio frequency signals or electromagnetic waves for the provision of services, including, but not limited to, cellular, paging, personal communications services (PCS) and microwave communications. Such devices include, but are not limited to, directional antennas, such as panel antenna, microwave dishes, and satellite dishes; omnidirectional antennas; wireless access points (Wi-Fi); and strand-mounted wireless access points. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes designed for residential or household purposes.

3. "Base station" means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(1), as may be amended, which currently defines that term as a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless

communications between user equipment and a communications network. The term does not encompass a tower as currently defined in 47 C.F.R. Section 1.6100(b)(9) or any equipment associated with a tower. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks). The term includes any structure other than a tower that, at the time the relevant application is filed with the State or local government under this section, supports or houses equipment described in 47 C.F.R. Section 1.6100(b)(1)(i) and (ii) that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support. The term does not include any structure that, at the time the relevant application is filed with the State or local government under this section, does not support or house equipment described in 47 C.F.R. Section 1.6100(b)(1)(i) and (ii).

4. “Building-mounted” means mounted to the side or façade, but not the roof, of a building or another structure such as a water tank, pump station, church steeple, freestanding sign, or similar structure.

5. “Cellular” means an analog or digital wireless telecommunications technology that is based on a system of interconnected neighboring cell sites.

6. “City Manager” means the City Manager of the City of Los Altos, or the City Manager’s designee.

7. “Collocation” means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(2), as may be amended, which currently defines that term as the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting or receiving radio frequency signals for communications purposes. As an illustration and not a limitation, the FCC’s definition effectively means “to add” and does not necessarily refer to more than one wireless telecommunication facility installed at a single site.

8. “Eligible facilities request” means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(3), as may be amended, which currently defines that term as any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (1) collocation of new transmission equipment; (2) removal of transmission equipment; or (3) replacement of transmission equipment.

9. “Eligible support structure” means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(4), as may be amended, which currently defines that term as any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the State or local government under this section.

10. “Existing” means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(4), as may be amended, which currently provides that a constructed tower or base station is existing for purposes of the FCC’s Section 6409(a) regulations if it has

been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

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

12. “Modification” means any change to an existing wireless telecommunications facility that involves any of the following: collocation, expansion, modification, alteration, enlargement, intensification, reduction, or augmentation, including, but not limited to, a change in size, shape, color, visual design, or exterior material. Modification does not include repair, replacement, or maintenance if those actions do not involve a change to the existing facility involving any of the following: collocation, expansion, modification, alteration, enlargement, intensification, reduction, or augmentation.

13. “Monopole” means a structure consisting of a single pole used to support antennas or related equipment and includes a monopine, monoredwood, and similar monopoles camouflaged to resemble trees or other objects.

14. “Personal wireless services” means the same as defined in 47 U.S.C. Section 332(c)(7)(C)(i), as may be amended, which currently defines the term as commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services.

15. “Personal wireless service facilities” means the same as defined in 47 U.S.C. Section 332(c)(7)(C)(i), as may be amended, which currently defines the term as facilities that provide personal wireless services.

16. “Pole” means a single shaft of wood, steel, concrete, or other material capable of supporting the equipment mounted thereon in a safe and adequate manner and as required by provisions of the Los Altos Municipal Code.

17. “Public right-of-way or “right-of-way” means any public street, public way, public alley or public place, laid out or dedicated, and the space on, above or below it, and all extensions thereof, and additions thereto, under the jurisdiction of the City.

18. “RF” means radio frequency or electromagnetic waves between 30 kHz and 300 GHz in the electromagnetic spectrum range.

19. “Roof-mounted” means mounted directly on the roof of any building or structure, above the eave line of such building or structure.

20. “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. Section 1455(a), as such law may be amended from time to time.

21. “Section 6409(a) approval” means the approval required by Section 6409(a).

22. “Site” means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(6), as may be amended, which currently provides that for towers other than towers in the public rights-of-way, 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.

23. “Substantial change” means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(7), as may be amended, which currently defines that term differently based on the particular wireless facility type (tower or base station) and location (in or outside the public right-of-way). For clarity, this definition organizes the FCC’s criteria and thresholds for a substantial change according to the wireless facility type and location.

- a. For towers outside the public rights-of-way, a substantial change occurs when:
 - i. The proposed collocation or modification increases the overall height more than 10% or the height of one additional antenna array not to exceed 20 feet (whichever is greater); or
 - ii. The proposed collocation or modification increases the width more than 20 feet from the edge of the wireless tower or the width of the wireless tower at the level of the appurtenance (whichever is greater); or
 - iii. The proposed collocation or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four; or
 - iv. The proposed collocation or modification involves excavation outside the current boundaries of the leased or owned property surrounding the wireless tower, including any access or utility easements currently related to the site.
- b. For towers in the public rights-of-way and for all base stations, a substantial change occurs when:
 - i. The proposed collocation or modification increases the overall height more than 10% or 10 feet (whichever is greater); or
 - ii. The proposed collocation or modification increases the width more than six feet from the edge of the wireless tower or base station; or
 - iii. The proposed collocation or modification involves the installation of any new equipment cabinets on the ground when there are no existing ground-mounted equipment cabinets; or
 - iv. The proposed collocation or modification involves the installation of any new ground-mounted equipment cabinets that are 10% larger in height or volume than any existing ground-mounted equipment cabinets; or
 - v. The proposed collocation or modification involves excavation outside the area in proximity to the structure and other transmission equipment already deployed on the ground.
- c. In addition, for all towers and base stations wherever located, a substantial change occurs when:

- i. The proposed collocation or modification would defeat the existing concealment elements of the support structure as determined by the City Manager; or
- ii. The proposed collocation or modification violates a prior condition of approval, provided however that the collocation need not comply with any prior condition of approval related to height, width, equipment cabinets or excavation that is inconsistent with the thresholds for a substantial change described in this section.

The thresholds for a substantial change outlined above are disjunctive. The failure to meet any one or more of the applicable thresholds means that a substantial change would occur. The thresholds for height increases are cumulative limits. For sites with horizontally separated deployments, the cumulative limit is measured from the originally-permitted support structure without regard to any increases in size due to wireless equipment not included in the original design. For sites with vertically separated deployments, the cumulative limit is measured from the permitted site dimensions as they existed on February 22, 2012—the date that Congress passed Section 6409(a).

24. “Telecommunications tower” or “tower” means a freestanding mast, pole, monopole, guyed tower, lattice tower, free standing tower or other structure designed and primarily used to support wireless telecommunications facility antennas.

25. “Transmission equipment” means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(8), as may be amended, which currently defines that term as equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

26. “Utility pole” means a pole or tower owned by any utility company that is primarily used to support wires or cables necessary to the provision of electrical or other utility services regulated by the California Public Utilities Commission.

27. “Wireless services” means any FCC-licensed or authorized wireless communication service transmitted over frequencies in the electromagnetic spectrum.

28. “Wireless telecommunications facility” means any facility constructed, installed, or operated for wireless service. “Wireless telecommunications facility” includes, but is not limited to, antennas or other types of equipment for the transmission or receipt of such signals, telecommunications towers or similar structures supporting such equipment, related accessory equipment, equipment buildings, parking areas, and other accessory development. “Wireless telecommunications facility” does not mean any of the following:

- a. A facility that qualifies as an amateur station as defined by the FCC, 47 C.F.R. Part 97, of the Commission’s Rules, or its successor regulation.

- b. An antenna facility that is subject to the FCC Over-The-Air-Receiving Devices rule, 47 C.F.R. Section 1.4000, or any successor regulation, including, but not limited to, direct-to-home satellite dishes that are less than one meter in diameter, TV antennas used to receive television broadcast signals and wireless cable antennas.
- c. Portable radios and devices including, but not limited to, hand-held, vehicular, or other portable receivers, transmitters or transceivers, cellular phones, CB radios, emergency services radio, and other similar portable devices as determined by the City Manager.
- d. Telecommunications facilities owned and operated by any government agency.
- e. Telecommunications facilities owned and operated by any emergency medical care provider.
- f. Mobile services providing public information coverage of news events of a temporary nature.
- g. Any wireless telecommunications facilities exempted from the Los Altos Municipal Code by federal law or state law.

Section 11.12.030 Applicability.

- A. This chapter applies to all wireless telecommunications facilities as follows:
 - 1. All facilities for which applications were not approved prior to the effective date of the ordinance codified in this chapter shall be subject to and comply with all provisions of this chapter;
 - 2. All facilities, notwithstanding the date approved, shall be subject immediately to the provisions of this chapter governing the operation and maintenance, cessation of use and abandonment, removal and restoration of wireless telecommunications facilities and wireless telecommunications collocation facilities and the prohibition of dangerous conditions or obstructions by such facilities; provided, however, that in the event a condition of approval conflicts with a provision of this chapter, the condition of approval shall control unless and until the permit is amended or revoked.
- B. Title 14 of the Los Altos Municipal Code shall not apply to a wireless telecommunications facility on property owned by the City.
- C. Notwithstanding any provision of the Los Altos Municipal Code to the contrary, provisions governing the installation of a public utility facility or accessory equipment shall not apply to wireless telecommunications facilities. This chapter shall govern all applications for wireless telecommunications facilities.

Section 11.12.040 Wireless telecommunications facility permit required.

- A. **Permit Required.** No wireless telecommunications facility shall be located or modified within the City on any property, including the public right-of-way, without the issuance of a permit as required by this chapter. Such permit shall be subject to the

conditions of this chapter, any design and placement standards adopted by the City Council by resolution, and shall be in addition to any other permit required pursuant to the Los Altos Municipal Code.

B. Non-exclusive Grant. No approval granted under this chapter shall confer any exclusive right, privilege, license, or franchise to occupy or use the public right-of-way of the City for delivery of telecommunications services or any other purposes. Further, no approval shall be construed as any warranty of title.

Section 11.12.050 Application for permit.

A. Application Content. All applications for a permit required by this chapter must be made in writing on such form as the City Manager prescribes, which shall include the following information, in addition to all other information determined necessary by the City Manager:

1. Full name and contact information for the facility owner, facility operator, agent (if any).
2. If the facility will be located on or in the property of someone other than the owner of the facility (such as a street light pole, street signal pole, utility pole, utility cabinet, vault, or cable conduit), the applicant shall provide a duly executed written authorization from the property owner(s) authorizing the placement of the facility on or in the property owner's property.
2. The type of facility, including a full written description of the proposed facility, its purpose and specifications.
3. A detailed site and engineering plan of the proposed facility containing the exact proposed location of the facility, created by a qualified licensed engineer and in accordance with requirements set by the City Manager.
4. Photographs of facility equipment and an accurate visual impact analysis with before and after 360-degree photo simulations.
5. Completion of an RF exposure guidelines checklist, and proof of all applicable licenses or other approvals required by the FCC. Applicant shall also provide documentation sufficient to show that the proposed facility will comply with generally-applicable health and safety provisions of the Los Altos Municipal Code and the FCC's radio frequency emissions standards.
6. If the application is for a facility that will be located within the public right-of-way, the applicant shall certify that it is a telephone corporation or state the basis for its claimed right to enter the right-of-way, and provide a copy of its certificate of public convenience and necessity (CPCN), if a CPCN has been issued by the California Public Utilities Commission.
7. A written description identifying the geographic service area for the subject installation.
8. A written report that analyzes acoustic levels for the proposed wireless telecommunications facility and all associated equipment including, without limitation, all environmental control units, sump pumps, temporary backup power generators, and

permanent backup power generators in order to demonstrate compliance with Los Altos Municipal Code Chapter 6.16 Noise Regulations. The acoustic analysis 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 written 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 limits.

9. If the applicant claims it requires an exception to the requirements of this chapter, all information and studies necessary for the City to evaluate that claim.

10. An application and processing fee and a deposit for a consultant review as set forth in subsection B of this section.

11. Any other studies or information determined necessary by the City Manager may be required.

12. Applicants are strongly encouraged to include a master plan which identifies the location of the proposed facility in relation to all existing and potential locations in the City that are reasonably anticipated for construction within two years of submittal of the application.

13. A siting analysis which identifies a minimum of five other feasible locations within or outside the City by which the applicant could achieve the service goals to be met by the facility, unless the applicant provides compelling technical reasons for fewer than the minimum. The alternative site analysis should include at least one collocation site, if feasible.

14. A sample of the proposed notice to be mailed pursuant to subsection C of this section, and a list of intended recipients (including content and mailing envelope).

B. Independent Expert.

1. The City Manager is authorized to retain on behalf of the City an independent, qualified consultant to review any application for a permit for a wireless telecommunications facility to review the technical aspects of the application, including, but not limited to, the following matters:

- a. The accuracy, adequacy, and completeness of submissions;
- b. Compliance with applicable radio frequency emission standards;
- c. Whether any requested exception is necessary;
- d. Technical demonstration of the unavailability of alternative sites, facility designs or configurations, and coverage analysis; and
- e. The validity of conclusions reached or claims made by applicant.

2. The cost of this review shall be paid by the applicant through a deposit pursuant to an adopted fee schedule resolution.

C. Notice. Within three (3) business days of submission of an application containing all information required by this Chapter and any associated regulations, an applicant shall provide notice, by mail, to all owners and residents of all property, and the residential manager for any multi-family dwelling unit that includes ten (10) or more units, any part of

which is located within one thousand (1,000) feet of the location of the applicant's proposed facility. Such notice shall be in the form and include the content specified by the City Manager in a publicly stated format, as may be revised from time to time, but at a minimum must be clearly marked as a notification of proposed wireless infrastructure installation, identify the applicant and service provider(s) who will utilize the facility, and include a plain language description of the proposed facility, photosimulations or illustrations depicting the proposed wireless facility, and the address where comments may be sent to the City Manager within fifteen (15) days of the date of the notice. Applicant shall supplement its application with proof of mailing of required notices no less than two (2) days after mailing of notices

D. All applications shall be posted to the City of Los Altos website within three (3) days of receipt of the application, or as soon as is reasonably practicable. The electronic version of an application must be in a standard format that can be easily uploaded on a web page for review by the public.

E. **Procedures for a Duly Filed Application.** The City shall not review any application unless duly filed in accordance with this section, as follows:

1. **Pre-Submittal Conference.** Before application submittal, applicants are strongly encouraged to schedule and attend a pre-application meeting with the City Manager. The pre-submittal conference is intended to streamline the review process through informal discussion that includes, without limitation, the appropriate project classification, including whether the project qualifies for Section 6409(a); any latent issues in connection with any existing tower or base station; potential concealment issues (if applicable); coordination with other City departments responsible for application review; and application completeness issues. To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications or other materials so that City staff may provide informal feedback about whether such applications or other materials may be incomplete or unacceptable.

2. **Submittal Appointment.** All applications must be filed with the City at a pre-scheduled appointment. Applicants may generally submit one application per appointment, but may schedule successive appointments for multiple applications whenever feasible and not prejudicial to other applicants. Any application received without an appointment, whether delivered in-person or through any other means, will not be considered duly filed unless the applicant received a written exemption from the City Manager at a pre-submittal conference.

3. **Appointment Scheduling Procedures.** For any event in the submittal process that requires an appointment, applicants must submit a written request to the City Manager. The City Manager shall endeavor to provide applicants with an appointment as soon as reasonably feasible and within five business days after a written request is received.

4. **Incomplete Applications Deemed Denied Without Prejudice.** To promote efficient review and timely decisions, an application will be automatically deemed denied without prejudice by the City when the applicant fails to tender a substantive response to the City within ninety (90) calendar days after the City deems the

application incomplete in a written notice to the applicant. The City Manager may, in the City Manager's discretion, grant a written extension for up to an additional 30 calendar days when the applicant submits a written request prior to the 90th day that shows good cause to grant the extension. Delays due to circumstances outside the applicant's reasonable control will be considered good cause to grant the extension.

5. Departmental Forms, Rules and Other Regulations. The City Council authorizes the City Manager to develop and publish permit application forms, checklists, informational handouts and other related materials that the City Manager finds necessary, appropriate or useful for processing requests for Section 6409(a) approvals. Without further authorization from the City Council, the City Manager may, from time to time, update and alter any such permit application forms, checklists, informational handouts and other related materials as the City Manager deems necessary, appropriate or useful to respond to regulatory, technological or other changes related to this chapter. The City Council authorizes the City Manager to establish other reasonable rules and regulations, which may include, without limitation, regular hours for appointments with applicants, as the City Manager deems necessary or appropriate to organize, document and manage the application intake process.

Section 11.12.060 Conditions of approval for all facilities.

A. In addition to compliance with the requirements of this chapter, upon approval all facilities shall be subject to each of the following conditions of approval, as well as any modification of these conditions or additional conditions of approval deemed necessary by the reviewing authority:

1. Before the permittee submits any application for a building permit or other permits required by the Los Altos Municipal Code, the permittee must incorporate the wireless telecommunication facility permit granted under this chapter, all conditions associated with the wireless telecommunications facility permit and the approved plans and any photo simulations (the "approved plans") into the project plans. The permittee must construct, install and operate the wireless telecommunications facility in strict compliance with the approved plans. The permittee shall submit an as built drawing within 90 days after installation of the facility.
2. Where feasible, as new technology becomes available, the permittee shall:
 - a. Place above-ground wireless telecommunications facilities below ground, including, but not limited to, accessory equipment that has been mounted to a telecommunications tower or mounted on the ground; and
 - b. Replace larger, more visually intrusive facilities with smaller, less visually intrusive facilities, after receiving all necessary permits and approvals required pursuant to the Los Altos Municipal Code.
3. The permittee shall submit and maintain current at all times basic contact and site information on a form to be supplied by the City. The permittee shall notify the City of any changes to the information submitted within seven days of any change, including change of the name or legal status of the owner or operator. This information shall include, but is not limited to, the following:

- a. Identity, including the name, address and 24-hour local or toll free contact phone number of the permittee, the owner, the operator, and the agent or person responsible for the maintenance of the facility.
 - b. The legal status of the owner of the wireless telecommunications facility, including official identification numbers and FCC certification.
 - c. Name, address, and telephone number of the property owner if different than the permittee.
4. The permittee shall not place any facilities that will deny access to, or otherwise interfere with, any public utility, easement, or right-of-way located on the site. The permittee shall allow the City reasonable access to, and maintenance of, all utilities and existing public improvements within or adjacent to the site, including, but not limited to, pavement, trees, public utilities, lighting and public signage.
5. At all times, all required notices and signs shall be posted on the site as required by the FCC and California Public Utilities Commission, and as approved by the City. The location and dimensions of a sign bearing the emergency contact name and telephone number shall be posted pursuant to the approved plans.
6. At all times, the permittee shall ensure that the facility complies with the most current regulatory and operational standards including, but not limited to, radio frequency emissions standards adopted by the FCC and antenna height standards adopted by the Federal Aviation Administration. Permittee shall conduct on-site testing to ensure the facility is in compliance with all radio frequency emissions standards adopted by the FCC. Tests shall occur upon commencement of operations, and annually thereafter. Copies of the reports from such testing shall be submitted to the City within thirty (30) days of the completion of testing. The City may retain a consultant to perform testing to verify compliance with current regulatory and operational standards.
7. If the City Manager determines there is good cause to believe that the facility may emit radio frequency emissions that are likely to exceed FCC standards, the City Manager may require the permittee to submit a technically sufficient written report certified by a qualified radio frequency emissions engineer, certifying that the facility is in compliance with such FCC standards.
8. *Annual Certification.* Each year on July 1, the permittee shall submit an affidavit which shall list, by location, all facilities it owns within the City by location, and shall certify (1) each such installation remains in use; (2) that such in-use facility remains covered by insurance; and (3) each such installation which is no longer in use. Any facility which is no longer in use shall be removed by permittee within 60 days of delivery of the affidavit.
9. Permittee shall pay for and provide a performance bond, which shall be in effect until the facilities are fully and completely removed and the site reasonably returned to its original condition, to cover permittee's obligations under these conditions of approval and the Los Altos Municipal Code. The bond coverage shall include, but not be limited to, removal of the facility, maintenance obligations and landscaping obligations. The amount of the performance bond shall be set by the City Manager in

an amount rationally related to the obligations covered by the bond and shall be specified in the conditions of approval.

10. Permittee shall defend, indemnify, protect and hold harmless the City, its elected and appointed Council members, boards, commissions, officers, officials, agents, consultants, employees, and volunteers from and against any and all claims, actions, or proceeding against the City and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers to attack, set aside, void or annul, an approval of the City, Planning Commission or City Council concerning this permit and the project. Such indemnification shall include damages, judgments, settlements, penalties, fines, defensive costs or expenses, including, but not limited to, interest, attorneys' fees and expert witness fees, or liability of any kind related to or arising from such claim, action, or proceeding. The City shall promptly notify the permittee of any claim, action, or proceeding. Nothing contained herein shall prohibit City from participating in a defense of any claim, action or proceeding. The City shall have the option of coordinating the defense, including, but not limited to, choosing counsel for the defense at permittee's expense.

11. All conditions of approval shall be binding as to the applicant and all successors in interest to permittee.

12. A condition setting forth the permit expiration date in accordance with Section 11.12.160 shall be included in the conditions of approval.

Section 11.12.070 Additional conditions of approval for facilities in the public right-of-way.

A. In addition to compliance with the requirements of this chapter, upon approval all facilities in the public right-of-way shall be subject to each of the conditions of approval set forth in Section 11.12.060, each of the following conditions of approval, and any modification of these conditions or additional conditions of approval deemed necessary by the City:

1. The wireless telecommunications facility shall be subject to such conditions, changes or limitations as are from time to time deemed necessary by the City engineer for the purpose of: (a) protecting the public health, safety, and welfare; (b) preventing interference with pedestrian and vehicular traffic; and (c) preventing damage to the public right-of-way or any property adjacent to it. The City may modify the permit to reflect such conditions, changes or limitations by following the same procedures as are applicable to the grant of a wireless telecommunications facility permit for similarly located facilities, except the permittee shall be given notice by personal service or by registered or certified mail at the last address provided to the City by the permittee.

2. The permittee shall not move, alter, temporarily relocate, change, or interfere with any existing structure, improvement or property without the prior consent of the owner of that structure, improvement or property. No structure, improvement or property owned by the City shall be moved to accommodate a wireless telecommunications facility unless the City determines that such movement will not adversely affect the City or any surrounding businesses or residents, and the permittee pays all costs and expenses related to the relocation of the City's structure, improvement or property.

Prior to commencement of any work pursuant to an encroachment permit issued for any facility within the public right-of-way, the permittee shall provide the City with documentation establishing to the City's satisfaction that the permittee has the legal right to use or interfere with any other structure, improvement or property within the public right-of-way to be affected by applicant's facilities.

3. The permittee shall assume full liability for damage or injury caused to any property or person by the facility.
4. The permittee 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, street lights, traffic signals, improvements of any kind or nature, or utility lines and systems, underground utility line and systems, or sewer systems and sewer lines that result from any activities performed in connection with the installation or maintenance of a wireless telecommunications facility in the public right-of-way. The permittee shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. In the event the permittee fails to complete such repair within the number of days stated on a written notice by the City Manager, the City Manager shall cause such repair to be completed at permittee's sole cost and expense.
5. Prior to issuance of a building permit, the applicant shall obtain the City Manager's approval of a tree protection plan prepared by a certified arborist if the installation of the wireless telecommunication facility will be located within the canopy of a street tree, or a protected tree on private property, or within a 10-foot radius of the base of such a tree. Depending on site specific criteria (e.g., location of tree, size, and type of tree, etc.), a radius greater than 10 feet may be required by the City Manager.
6. Should any utility company offer electrical service that does not require the use of a meter cabinet, the permittee shall at its sole cost and expense remove the meter cabinet and any related foundation within 30 days of such service being offered and reasonably restore the area to its prior condition.
7. The permittee shall modify, remove, or relocate its facility, or portion thereof, without cost or expense to the City, if and when made necessary by:
 - a. Any public improvement project, including, but not limited to, the construction, maintenance, or operation of any underground or aboveground facilities including, but not limited to, sewers, storm drains, conduits, gas, water, electric or other utility systems, or pipes owned by the City or any other public agency;
 - b. Any abandonment of any street, sidewalk, or other public facility;
 - c. Any change of grade, alignment or width of any street, sidewalk or other public facility; or
 - d. A determination by the City Manager that the wireless telecommunications facility has become incompatible with public health, safety or welfare or the public's use of the public right-of-way.

8. Any modification, removal, or relocation of the facility shall be completed within 90 days of written notification by the City unless exigencies dictate a shorter period for removal or relocation. Modification or relocation of the facility shall require submittal, review and approval of a permit amendment pursuant to the Los Altos Municipal Code. The permittee shall be entitled, on permittee's election, to either a pro-rata refund of fees paid for the original permit or to a new permit, without additional fee, at a location as close to the original location as the standards set forth in the Los Altos Municipal Code allow. In the event the facility is not modified, removed, or relocated within said period of time, the City may cause the same to be done at the sole cost and expense of permittee. Further, due to exigent circumstances as provided in the Los Altos Municipal Code, the City may modify, remove, or relocate wireless telecommunications facilities without prior notice to permittee provided permittee is notified within a reasonable period thereafter.

9. In the event that other public utilities in the public right-of-way underground their facilities where the permittee's wireless facility is located, the permittee must underground its equipment except the antennas and antenna supports. Such undergrounding shall occur at the permittee's sole cost and expense except as reimbursed pursuant to law.

10. *Pre-Construction Notice.* Prior to construction, permittee shall notify the three (3) closest adjacent property owners to the installation and the three closest property owners directly across the street from the installation at least ten (10) days prior to commencement of any work. In addition, the permittee shall notify the City Communications Department at (650) 948-8223 of street/alley and lane closures at least 24 hours prior to any work. Furthermore, the contractor shall notify the city's Traffic Engineer at least 48 hours in advance of any excavations within 100 feet of any traffic signals.

11. *Insurance.* Permittee shall obtain and maintain throughout the term of the permit commercial general liability and property damage insurance indicating the City of Los Altos as an additional insured. Coverage shall be at least as broad as:

a. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, with limits no less than \$1,000,000 or \$2,000,000 aggregate per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. CGL insurance must include coverage for the following: Bodily Injury and Property Damage; Personal Injury/Advertising Injury; Premises/Operations Liability; Products/Completed Operations Liability; Aggregate Limits that Apply per Project; Explosion, Collapse and Underground (UCX) exclusion deleted; Contractual Liability with respect to the permit; Broad Form Property Damage; and Independent Consultants Coverage

The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

- b. Automobile Liability: Insurance Services Office Form Number CA 00 01 covering, Code 1 (any auto), or if permittee has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
- c. Workers' Compensation/Employer's Liability: Permittee shall certify that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and it will comply with such provisions before commencing work under this Agreement. To the extent permittee has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement permittee shall maintain insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
- d. Professional Liability (Errors and Omissions) Insurance appropriate to the permittee's profession, with limit no less than \$1,000,000 per occurrence or claim. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the permittee. "Covered Professional Services" as designed in the policy must specifically include work performed under this Agreement.
- e. Umbrella or Excess Liability: Umbrella or Excess Insurance. If umbrella or an excess liability insurance policy is used to satisfy the minimum requirements for CGL or Automobile Liability insurance coverage listed above, the umbrella or excess liability policies shall provide coverage at least as broad as specified for the underlying coverages and covering those insured in the underlying policies. Coverage shall be "pay on behalf," with defense costs payable in addition to policy limits. permittee shall provide a "follow form" endorsement or schedule of underlying coverage satisfactory to the City indicating that such coverage is subject to the same terms and conditions as the underlying liability policy.
- f. The relevant policy(ies) shall name the City, its elected/appointed officials, commission members, officers, representatives, agents, and employees as additional insureds. Permittee shall use its best efforts to provide thirty (30) days' prior notice to the City of to the cancellation or material modification of any applicable insurance policy.

Section 11.12.080 Findings.

- A. Where a wireless telecommunication facility requires a use permit under this chapter, the City shall not approve any application unless, in addition to the findings generally applicable to all use permits, all of the following additional findings are made:
 - 1. The proposed facility complies with all applicable provisions of this chapter, and with design and siting guidelines adopted by the City Council, and will be in compliance with all applicable building, electrical, and fire safety codes.

2. The proposed facility has been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.
 3. The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.
 4. Noise generated by equipment will not be excessive, annoying nor be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in this chapter.
- B. In addition to the findings in subsection A of this section, approval of a wireless telecommunications facility permit for a facility that will be located in the public right-of-way may be granted only if the following findings are made by the City:
1. The applicant has provided substantial written evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise or other agreement with the City permitting them to use the public right-of-way.
 2. The applicant has demonstrated that the facility will not interfere with the use of the public right-of-way, existing subterranean infrastructure, or the City's plans for modification or use of such location and infrastructure
- C. A copy of any decision on an application made under this section shall be provided to the applicant, and to any party who submitted comments to the City Manager pursuant to notice required by this Chapter. Decisions shall also be posted on the Los Altos website within twenty-four (24) hours of their issuance, in a manner clearly identifying the application to which the decision relates.

Section 11.12.090 Exceptions.

- A. Exceptions pertaining to any provision of this chapter, including, but not limited to, exceptions from findings that would otherwise justify denial, may be granted by the City if the City makes the finding that:
1. Denial of the facility as proposed would violate federal law, state law, or both; or
 2. A provision of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both.
- B. An applicant may only request an exception at the time of applying for a wireless telecommunications facility permit. The request must include both the specific provision(s) of this chapter and any design or siting standards from which the exception is sought and the basis of the request. Any request for an exception after the City has deemed an application complete shall be treated as a new application.
- C. Notwithstanding any other provision of this chapter, a use permit shall be required for a facility when an exception is requested.
- D. The applicant shall have the burden of proving that denial of the facility as proposed would violate federal law, state law, or both, or that the provisions of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or

both, using the evidentiary standards required by that law at issue. The City shall have the right to hire an independent consultant, at the applicant's expense, to evaluate the issues raised by the exception request and shall have the right to submit rebuttal evidence to refute the applicant's claim.

Section 11.12.100 Wireless telecommunications facilities covered under Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012.

A. **Purpose.** Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112-96, codified in 47 U.S.C. Section 1455(a), generally requires that state and local governments "may not deny, and shall approve" requests to collocate, remove or replace transmission equipment at an existing tower or base station. Federal Communication Commission regulations interpret this statute and create procedural rules for local review, which generally preempt certain subjective land-use regulations, limit permit application content requirements and provide the applicant with a potential "deemed granted" remedy when the state or local government fails to approve or deny the request within 60 days after submittal (accounting for any tolling periods). Moreover, whereas Section 704 of the Telecommunications Act of 1996, Pub. L. 104-104, codified in 47 U.S.C. Section 332, applies to only "personal wireless service facilities" (e.g., cellular telephone towers and equipment), Section 6409(a) applies to all "wireless" facilities licensed or authorized by the FCC (e.g., cellular, Wi-Fi, satellite, microwave backhaul, etc.). The overlap between wireless deployments covered under Section 6409(a) and other wireless deployments, combined with the different substantive and procedural rules applicable to such deployments, creates a potential for confusion that harms the public interest in both efficient wireless facilities deployment and carefully planned community development in accordance with local values. A separate permit application and review process specifically designed for compliance with Section 6409(a) contained in a section devoted to Section 6409(a) will mitigate such potential confusion, streamline local review and preserve the City's land-use authority to the maximum extent possible.

B. **Applicability.** This section applies to all collocations or modifications to an existing wireless tower or base station submitted with a written request for approval pursuant to Section 6409(a).

C. **Approval Required.** Any request to collocate, replace or remove transmission equipment at an existing wireless tower or base station submitted with a written request for a Section 6409(a) approval shall be subject to the City Manager's approval, conditional approval or denial without prejudice pursuant to the standards and procedures contained in this chapter.

D. **Other Regulatory Approvals.** No collocation or modification approved under any Section 6409(a) approval may occur unless the applicant also obtains all other applicable permits or regulatory approvals from the City and state or federal agencies. Furthermore, any Section 6409(a) approval granted under this chapter shall remain subject to any and all lawful conditions or requirements associated with such other permits or regulatory approvals from the City and state or federal agencies.

E. **Application Requirement.** The City shall not approve any wireless facility subject to this chapter except upon a duly filed application consistent with this section and any other

written rules the City or the City Manager may establish from time to time. An application must include the information required by parts 1-4, 9, 10, and 14 of Section 11.12.050(A) and the following additional information:

1. A written statement that explains in plain factual detail whether and why Section 6409(a) and the related FCC regulations at 47 C.F.R. Section 1.6100 require approval for the specific project. A complete written narrative analysis will state the applicable standard and all the facts that allow the City to conclude the standard has been met. Bare conclusions not factually supported do not constitute a complete written analysis. As part of this written statement the applicant must also include: (a) whether and why the support structure qualifies as an existing tower or existing base station; and (b) whether and why the proposed collocation or modification does not cause a substantial change in height, width, excavation, equipment cabinets, concealment or permit compliance.

F. Administrative Review—Decision Notices. The City Manager shall administratively review an application for a Section 6409(a) approval and act on such an application without prior notice or a public hearing. Within five working days after the City Manager conditionally approves or denies an application submitted for Section 6409(a) approval or before the FCC timeframe for review expires (whichever occurs first), the City Manager shall send a written notice to the applicant. In the event that the City Manager determines that an application submitted for approval pursuant to Section 6409(a) does not qualify for approval, the City Manager will send written notice to the applicant that includes the reasons to support the review authority's decision, a statement identifying the applicable application type and shot clock, as well as additional information necessary to complete the application.

G. Required Findings for 6409(a) Approval. The City Manager may approve or conditionally approve an application submitted for Section 6409(a) approval when the City Manager finds that the proposed project:

1. Involves collocation, removal or replacement of transmission equipment on an existing wireless tower or base station; and
2. Does not substantially change the physical dimensions of the existing wireless tower or base station.

H. Criteria for Denial. Notwithstanding any other provisions in this chapter, and consistent with all applicable federal laws and regulations, the City Manager may deny without prejudice an application submitted for approval pursuant to Section 6409(a) when it finds that the proposed project:

1. Does not satisfy the criteria for approval;
2. Violates any legally enforceable standard or permit condition reasonably related to public health and safety then in effect; or
3. Involves the replacement of the entire support structure.

I. Conditional 6409(a) Approvals. Subject to any applicable limitations in federal or state law, nothing in this chapter is intended to limit the City's authority to conditionally approve an application for a Section 6409(a) approval to protect and promote the public health, safety and welfare.

J. Standard Conditions of Approval. In addition to all other conditions adopted by the City Manager, all Section 6409(a) approvals, whether approved by the City Manager or deemed approved by the operation of law, shall be automatically subject to the following conditions in this section; provided, however, that the City Manager shall have discretion to modify or amend these conditions on a case-by-case basis as may be necessary or appropriate under the circumstances:

1. **Approved Plans.** Before the permittee submits any application for a building permit or other permits required by the Los Altos Municipal Code, the permittee must incorporate the wireless telecommunications facility permit granted under this section, all conditions associated with the wireless telecommunications facility permit and the approved plans and any photo simulations (the “approved plans”) into the project plans. The permittee must construct, install and operate the wireless telecommunications facility in strict compliance with the approved plans. The permittee shall submit an as built drawing within 90 days after installation of the facility.
2. **Permit Term.** The City’s grant or grant by operation of law of a Section 6409(a) approval constitutes a federally-mandated modification to the underlying permit or other prior regulatory authorization for the subject tower or base station. The City’s grant or grant by operation of law of a Section 6409(a) approval will not extend the permit term, if any, for any use permit, or other underlying prior regulatory authorization. Accordingly, the term for a Section 6409(a) approval shall be coterminous with the underlying permit or other prior regulatory authorization for the subject tower or base station.
3. **Accelerated Permit Terms Due to Invalidation.** In the event that any court of competent jurisdiction invalidates any portion of Section 6409(a) or any FCC rule that interprets Section 6409(a) such that federal law would not mandate approval for any Section 6409(a) approval, such 6409(a) approvals shall automatically expire one year from the effective date of the judicial order, unless the decision would not authorize accelerated termination of previously approved Section 6409(a) approvals or the City Manager grants an extension upon written request from the permittee that shows good cause for the extension, which includes, without limitation, extreme financial hardship. Notwithstanding anything in the previous sentence to the contrary, the City Manager may not grant a permanent exemption or indefinite extension. A permittee shall not be required to remove its improvements approved under the invalidated Section 6409(a) approval when it has submitted an application for a use permit for those improvements before the one-year period ends.
4. **No Waiver of Standing.** The City’s grant or grant by operation of law of a Section 6409(a) approval does not waive, and shall not be construed to waive, any standing by the City to challenge Section 6409(a), any FCC rules that interpret Section 6409(a) or any Section 6409(a) approval.
5. **Build-Out Period.** The Section 6409(a) approval will automatically expire one year from the issuance date unless the permittee obtains all other permits and approvals required to install, construct and operate the approved wireless facility, which includes without limitation any permits or approvals required by the any federal, state or local

public agencies with jurisdiction over the subject property, the wireless facility or its use. The City Manager may grant one written extension to a date certain when the permittee shows good cause to extend the limitations period in a written request for an extension submitted at least 30 days prior to the automatic expiration date in this condition. Any further extensions may be granted by the City Manager.

6. Maintenance Obligations—Vandalism. The permittee shall keep the site, which includes, without limitation, any and all improvements, equipment, structures, access routes, fences and landscape features, in a neat, clean and safe condition in accordance with the approved plans and all conditions in this Section 6409(a) approval. The permittee shall keep the site area free from all litter and debris at all times. The permittee, at no cost to the City, shall remove and remediate any graffiti or other vandalism at the site within 48 hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.

7. Compliance with Laws. The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law (“laws”) applicable to the permittee, the subject property, the wireless facility or any use or activities in connection with the use authorized in this Section 6409(a) approval. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee’s obligations to maintain compliance with all laws.

8. Adverse Impacts on Other Properties. The permittee shall use all reasonable efforts to avoid any and all undue or unnecessary adverse impacts on nearby properties that may arise from the permittee’s construction, installation, operation, modification, maintenance, repair, removal or other activities at the site. The permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines on any day and at any time prohibited under the Los Altos Municipal Code. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the City. The City Manager may issue a stop work order for any work that violates this condition.

9. Noise Complaints. The permittee shall conduct all activities on the site in compliance with the noise standards in the Los Altos Municipal Code. In the event that any person files a noise complaint and the City verifies that such complaint is valid, the permittee must remedy the violation within 10 days after notice from the City, which may include a demonstration that the permittee has amended its operational guidelines in situations where the violation arises from the permittee’s personnel rather than the permittee’s equipment.

10. Inspections—Emergencies. The permittee expressly acknowledges and agrees that the City or its designee may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the permittee; provided, however, that the City or its designee may, but will not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or equipment in

emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The permittee will be permitted to supervise the City or its designee while such inspection or emergency access occurs.

11. **Contact Information.** The permittee shall furnish the City with accurate and up-to-date contact information for a person responsible for the wireless facility, which includes, without limitation, such person's full name, title, direct telephone number, facsimile number, mailing address and email address. The permittee shall keep such contact information up-to-date at all times.

12. **Indemnification.** The permittee and, if applicable, the property owner upon which the wireless facility is installed shall defend, indemnify and hold harmless the City, its agents, officers, officials, employees and volunteers from any and all: (a) damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs and other actions or proceedings ("claims") brought against the City or its agents, officers, officials, employees or volunteers to challenge, attack, seek to modify, set aside, void or annul the City's approval of this Section 6409(a) approval; and (b) other claims any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the permittee's or its agents', directors', officers', employees', contractors', subcontractors', licensees', or customers' acts or omissions in connection with this Section 6409(a) approval or the wireless facility. In the event the City becomes aware any claims, the City will use best efforts to promptly notify the permittee and the private property owner and shall reasonably cooperate in the defense. The permittee expressly acknowledges and agrees that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the property owner or permittee (as applicable) shall promptly reimburse the City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. The permittee expressly acknowledges and agrees that the permittee's indemnification obligations under this condition are a material consideration that motivates the City to approve this Section 6409(a) approval, and that such indemnification obligations will survive the expiration or revocation of this Section 6409(a) approval.

13. **Performance Bond.** Before the City issues any construction permit in connection with the wireless facility, the permittee shall post a performance bond from a surety and in a form acceptable to the City Manager in an amount equal to or greater than a written estimate from a qualified contractor with experience in wireless facilities removal. The written estimate must include the cost to remove all equipment and other improvements, which includes, without limitation, all antennas, radios, batteries, generators, utilities, cabinets, mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles, footings and foundations, whether above ground or below ground, constructed or installed in connection with the wireless facility. In establishing or adjusting the bond amount required under this condition, and in accordance with California Government Code Section 65964(a), the City Manager shall take into consideration information provided by the permittee regarding the cost to remove the wireless facility.

14. **Record Retention.** The permittee must maintain complete and accurate copies of all permits and other regulatory approvals issued in connection with the wireless

facility, which includes, without limitation, this approval, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval and any ministerial permits or approvals issued in connection with this approval. In the event that the permittee does not maintain such records as required in this condition, any ambiguities or uncertainties that would be resolved through an inspection of the missing records will be construed against the permittee.

15. **Compliance Obligations.** An applicant or permittee will not be relieved of its obligation to comply with every applicable provision in the Los Altos Municipal Code, any permit, any permit condition or any applicable law or regulation by reason of any failure by the City to timely notice, prompt or enforce compliance by the applicant or permittee.

16. **Insurance.** Permittee shall obtain and maintain throughout the term of the permit commercial general liability and property damage insurance indicating the City of Los Altos as an additional insured. Coverage shall be at least as broad as:

a. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, with limits no less than \$1,000,000 or \$2,000,000 aggregate per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. CGL insurance must include coverage for the following: Bodily Injury and Property Damage; Personal Injury/Advertising Injury; Premises/Operations Liability; Products/Completed Operations Liability; Aggregate Limits that Apply per Project; Explosion, Collapse and Underground (UCX) exclusion deleted; Contractual Liability with respect to the permit; Broad Form Property Damage; and Independent Consultants Coverage

The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

b. **Automobile Liability:** Insurance Services Office Form Number CA 00 01 covering, Code 1 (any auto), or if permittee has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

c. **Workers’ Compensation/Employer’s Liability:** Permittee shall certify that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and it will comply with such provisions before commencing work under this Agreement. To the extent permittee has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement permittee shall maintain insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

d. Professional Liability (Errors and Omissions) Insurance appropriate to the permittee's profession, with limit no less than \$1,000,000 per occurrence or claim. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the permittee. "Covered Professional Services" as designed in the policy must specifically include work performed under this Agreement.

e. Umbrella or Excess Liability: Umbrella or Excess Insurance. If umbrella or an excess liability insurance policy is used to satisfy the minimum requirements for CGL or Automobile Liability insurance coverage listed above, the umbrella or excess liability policies shall provide coverage at least as broad as specified for the underlying coverages and covering those insured in the underlying policies. Coverage shall be "pay on behalf," with defense costs payable in addition to policy limits. permittee shall provide a "follow form" endorsement or schedule of underlying coverage satisfactory to the City indicating that such coverage is subject to the same terms and conditions as the underlying liability policy.

The relevant policy(ies) shall name the City, its elected/appointed officials, commission members, officers, representatives, agents, and employees as additional insureds. Permittee shall use its best efforts to provide thirty (30) days' prior notice to the City of to the cancellation or material modification of any applicable insurance policy.

Section 11.12.110 Wireless telecommunications collocation facilities covered under California Government Code Section 65850.6.

A. **Purpose.** The purpose of this section is to comply with an application for a wireless telecommunications collocation facility under California Government Code Section 65850.6, for which a Section 6509(a) approval is not being requested. This section provides the requirements, standards and regulations for a wireless telecommunications collocation facility for which subsequent collocation is a permitted use pursuant to California law. Only those facilities that fully comply with the eligibility requirements set forth in California Government Code Section 65850.6, or its successor provision, and which strictly adhere to the requirements and regulations set forth in this section shall qualify as a wireless telecommunications collocation facility.

B. **Definitions.** For the purposes of this section, the following terms are defined as follows:

1. "Collocation facility" means the placement or installation of wireless facilities, including antennas, and related equipment, on, or immediately adjacent to, a wireless telecommunications collocation facility.
2. "Wireless telecommunications facility" means equipment and network components such as towers, utility poles, transmitters, base stations, and emergency power systems that are integral to providing wireless telecommunications services.
3. "Wireless telecommunications collocation facility" means a wireless telecommunications facility that includes collocation facilities.

C. **Procedures.** An application for a wireless telecommunications collocation facility under California Government Code Section 65850.6 shall be processed in the same manner as an application for Section 6409(a) approval is processed, except that where the process requires justification for the Section 6409(a) approval, the applicant shall instead provide the justification for a wireless telecommunications collocation facility under California Government Code Section 65850.6.

D. **Requirements.** All requirements, regulations, and standards set forth in this chapter for a wireless telecommunications facility shall apply to a wireless telecommunications collocation facility; provided, however, the following shall also apply to a wireless telecommunications collocation facility:

1. The applicant for a wireless telecommunications collocation facility permit shall describe or depict:
 - a. The wireless telecommunications collocation facility as it will be initially built; and
 - b. All collocations at full build-out, including, but not limited to, all antennas, antenna support structures, and accessory equipment.
2. Any collocation shall use screening methods substantially similar to those used on the existing wireless telecommunications facilities unless other optional screening methods are specified in the conditions of approval.
3. A wireless telecommunications collocation facility permit shall not be approved unless an environmental impact report, negative declaration, or mitigated negative declaration was prepared and approved for the wireless telecommunications collocation facility.

E. **Permitted Use.** Notwithstanding any other provision of this chapter, a subsequent collocation on a wireless telecommunications collocation facility shall be a permitted use only if all of the following requirements are satisfied:

1. The wireless telecommunications collocation facility:
 - a. Was approved after January 1, 2007, by discretionary permit;
 - b. Was approved subject to an environmental impact report, negative declaration, or mitigated negative declaration; and
 - c. Otherwise complies with the requirements of California Government Code Section 65850.6(b), or its successor provision, for addition of a collocation facility to a wireless telecommunications collocation facility, including, but not limited to, compliance with all performance and maintenance requirements, regulations and standards in this chapter and the conditions of approval in the wireless telecommunications collocation facility permit.
2. The collocations were specifically considered when the relevant environmental document was prepared for the wireless telecommunications collocation facility.
3. Before collocation, the applicant seeking collocation shall obtain all other applicable non-discretionary permits, as required pursuant to the Los Altos Municipal Code.

F. **New or Amended Permit.** Except as otherwise provided above, approval of a new or amended permit shall be required when the facility is modified other than by collocation in accordance with this section, or the proposed collocation:

1. Increases the height of the existing permitted telecommunications tower or otherwise changes the bulk, size, location, or any other physical attributes of the existing permitted wireless telecommunications collocation facility unless specifically permitted under the conditions of approval applicable to such wireless telecommunications collocation facility; or
2. Adds any microwave dish or other antenna not expressly permitted to be included in a collocation facility by the conditions of approval.

Section 11.12.120 Business license.

A permit issued pursuant to this chapter shall not be a substitute for any business license otherwise required under the Los Altos Municipal Code.

Section 11.12.130 Emergency deployment.

In the event of a declared federal, state, or local emergency, or when otherwise warranted by conditions that the City Manager deems to constitute an emergency, the City Manager may approve the installation and operation of a temporary wireless telecommunications facility (e.g., a cell on wheels or “COW”), which is subject to such reasonable conditions that the City Manager deems necessary.

Section 11.12.140 Operation and maintenance standards.

A. All wireless telecommunications facilities must comply at all times with the following operation and maintenance standards. All necessary repairs and restoration shall be completed by the permittee, owner, or operator within 48 hours:

1. After discovery of the need by the permittee, owner, operator or any designated maintenance agent; or
2. After permittee, owner, operator, or any designated maintenance agent receives notification from the City Manager.

B. All facilities, including, but not limited to, telecommunication towers, poles, accessory equipment, lighting, fences, walls, shields, cabinets, artificial foliage or camouflage, and the facility site shall be maintained in good condition, including ensuring the facilities are reasonably free of:

1. General dirt and grease;
2. Chipped, faded, peeling, and cracked paint;
3. Rust and corrosion;
4. Cracks, dents, and discoloration;
5. Missing, discolored, or damaged artificial foliage or other camouflage;
6. Graffiti, bills, stickers, advertisements, litter and debris;
7. Broken and misshapen structural parts; and

8. Any damage from any cause.
- C. All trees, foliage or other landscaping elements approved as part of the facility shall be maintained in good condition at all times, and the permittee, owner and operator of the facility shall be responsible for replacing any damaged, dead or decayed landscaping. No amendment to any approved landscaping plan may be made until it is submitted to and approved by the City Manager.
- D. The permittee shall replace its facilities, after obtaining all required permits, if maintenance or repair is not sufficient to return the facility to the condition it was in at the time of installation.
- E. Each facility shall be operated and maintained at all times in compliance with applicable federal regulations, including FCC radio frequency emissions standards.
- F. Each facility shall be operated and maintained to comply at all times with the noise regulations of this chapter and shall be operated and maintained in a manner that will minimize noise impacts to surrounding residents. Except for emergency repairs, any testing and maintenance activities that will be audible beyond the property line shall only occur between the hours of 7:00 a.m. and 5:00 p.m. on Monday through Friday, excluding holidays, unless alternative hours are approved by the City Manager. Backup generators, if permitted, shall only be operated during periods of power outages or for testing.
- G. If a flagpole is used for camouflaging a wireless telecommunications facility, flags shall be flown and shall be properly maintained at all times.
- H. Each owner or operator of a facility shall routinely inspect each site to ensure compliance with the standards set forth in this section and the conditions of approval.

Section 11.12.150 No dangerous conditions or obstructions allowed.

No person shall install, use or maintain any wireless telecommunications facility which in whole or in part rests upon, in or over any public sidewalk or parkway, when such installation, use or maintenance endangers or is reasonably likely to endanger the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such facility unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects permitted at or near said location.

Section 11.12.160 Permit expiration.

- A. A permit for any wireless telecommunications facility shall be valid for a period of 10 years, unless the permit states a longer period, or pursuant to another provision of the Los Altos Municipal Code the permit lapses sooner or is revoked. At the end of such period, the permit shall expire.
- B. A permittee may apply for extensions of its permit in increments of no more than 10 years and no sooner than 12 months prior to expiration of the permit.

C. If a permit has not expired at the time an application is made for an extension, the City Manager may administratively extend the term of the permit for subsequent 10-year terms upon verification of continued compliance with the findings and conditions of approval under which the application was originally approved, as well as any other applicable provisions of the Los Altos Municipal Code that are in effect at the time the permit extension is granted.

1. At the City Manager's discretion, additional studies and information may be required of the applicant.

2. If the City Manager determines that the facility is nonconforming or that additional conditions of approval are necessary to bring the facility into compliance with the provisions of the Los Altos Municipal Code that are then in effect at the time of permit expiration, the City Manager shall refer the extension request to the City Council.

D. The request for an extension shall be decided by the City Council if the permit expired before the application is made for an extension or if the City Manager refers the matter to the City Council. After notice and a public hearing, the City Council may approve, conditionally approve, or deny the extension.

Section 11.12.170 Cessation of use or abandonment.

A. A wireless telecommunications facility is considered abandoned and shall be promptly removed as provided herein if it ceases to provide wireless telecommunications services for 90 or more consecutive days. If there are two or more users of a single facility, then this provision shall not become effective until all users cease using the facility.

B. The operator of a facility shall notify the City in writing of its intent to abandon or cease use of a permitted site or a nonconforming site (including unpermitted sites) within 10 days of ceasing or abandoning use. Notwithstanding any other provision herein, the operator of the facility shall provide written notice to the City Manager of any discontinuation of operations of 30 days or more.

C. Failure to inform the City Manager of cessation or discontinuation of operations of any existing facility as required by this section shall constitute a violation of any approvals and be grounds for:

1. Prosecution;

2. Revocation or modification of the permit;

3. Calling of any bond or other assurance required by this chapter or conditions of approval of the permit;

4. Removal of the facilities by the City in accordance with the procedures established under the Los Altos Municipal Code for abatement of a public nuisance at the owner's expense; and

5. Any other remedies permitted under the Los Altos Municipal Code.

Section 11.12.180 Removal and restoration, permit expiration, revocation or abandonment.

A. Permittee's Removal Obligation. Upon the expiration date of the permit, including any extensions, earlier termination or revocation of the permit or abandonment of the facility, the permittee, owner or operator shall remove its wireless telecommunications facility and restore the site to its natural condition except for retaining the landscaping improvements and any other improvements at the discretion of the City. Removal shall be in accordance with proper health and safety requirements and all ordinances, rules, and regulations of the City. The facility shall be removed from the property within 30 days, at no cost or expense to the City. If the facility is located on private property, the private property owner shall also be independently responsible for the expense of timely removal and restoration.

B. Failure to Remove. Failure of the permittee, owner, or operator to promptly remove its facility and restore the property within 30 days after expiration, earlier termination, or revocation of the permit, or abandonment of the facility, shall be a violation of the Los Altos Municipal Code, and be grounds for:

1. Prosecution;
2. Calling of any bond or other assurance required by this chapter or conditions of approval of permit;
3. Removal of the facilities by the City in accordance with the procedures established under the Los Altos Municipal Code for abatement of a public nuisance at the owner's expense; or
4. Any other remedies permitted under the Los Altos Municipal Code.

C. Summary Removal. In the event the City Manager determines that the condition or placement of a wireless telecommunications facility located in the public right-of-way constitutes a dangerous condition, obstruction of the public right-of-way, or an imminent threat to public safety, or determines other exigent circumstances require immediate corrective action (collectively, "exigent circumstances"), the City Manager may cause the facility to be removed summarily and immediately without advance notice or a hearing. Written notice of the removal shall be served upon the person who owns the facility within five business days of removal and all property removed shall be preserved for the owner's pick-up as feasible. If the owner cannot be identified following reasonable effort or if the owner fails to pick-up the property within 60 days, the facility shall be treated as abandoned property.

D. Removal of Facilities by City. In the event the City removes a facility in accordance with nuisance abatement procedures or summary removal, any such removal shall be without any liability to the City for any damage to such facility that may result from reasonable efforts of removal. In addition to the procedures for recovering costs of nuisance abatement, the City may collect such costs from the performance bond posted and to the extent such costs exceed the amount of the performance bond, collect those excess costs in accordance with the Los Altos Municipal Code. Unless otherwise provided herein, the City has no obligation to store such facility. Neither the permittee nor the owner nor operator shall have any claim if the City destroys any such facility not timely removed by the permittee, owner, or operator after notice, or removed by the City due to exigent circumstances.

Section 11.12.190 Effect on other ordinances.

A. Compliance with the provisions of this chapter shall not relieve a person from complying with any other applicable provision of the Los Altos Municipal Code, including, but not limited to, obtaining any necessary encroachment or building permits. In the event of a conflict between any provision of this chapter and other provisions of the Los Altos Municipal Code, this chapter shall control.

Section 11.12.200 Effect of state or federal law.

A. In the event that state or federal law prohibits discretionary permitting requirements for certain wireless telecommunications facilities, the permits required by this chapter for those facilities shall be deemed to be ministerial permits. For those facilities, in lieu of a use permit, a ministerial permit shall be required prior to installation or modification of a wireless telecommunications facility and all provisions of this chapter shall be applicable to any such facility with the exception that the required permit shall be reviewed and administered as a ministerial permit by the City Manager rather than as a discretionary permit. Any conditions of approval set forth in this chapter or deemed necessary by the City Manager shall be imposed and administered as reasonable time, place and manner rules.

B. In the event of a material change in case law or regulations applicable to the subject matter of this Chapter, no new applications shall be accepted under this chapter for a period of sixty (60) days, if permitted by law, to provide the City with time to consider the material change and, if it so chooses, take action to implement modifications to the Chapter.

11.12.210. Appeals.

A. Notwithstanding any provision of the Los Altos Municipal Code to the contrary, any person adversely affected by a decision by the City Manager may seek appeal of that decision under this Chapter. The appeal must be filed within five (5) days of the date of the City Manager's decision. The appeal must state in plain terms the grounds for reversal and the facts that support those grounds. The City Council shall serve as the appellate authority for all appeals of all actions of the City Manager taken pursuant to this section. The City shall provide notice for an administrative hearing by the City Council. The City Council shall limit its review to whether the project should be approved or denied in accordance with the provisions in this Chapter and any applicable design and siting guidelines.

SECTION 3: The City Manager, or his or her delegate, is directed to execute all documents and to perform all other necessary City acts to implement effect this Ordinance.

SECTION 4: CEQA. This Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The Ordinance does not authorize any specific development or installation on any specific piece of property within the City's boundaries. Moreover, when and if an application for installation is submitted, the City will at that time conduct preliminary review of the application in accordance with CEQA. Alternatively, even if the Ordinance is a "project" within the meaning of State CEQA Guidelines section 15378, the Ordinance is exempt from CEQA on multiple grounds. First, the Ordinance is exempt CEQA because the City Council's adoption of the Ordinance is covered by the general rule that CEQA applies only to projects which have the potential for

causing a significant effect on the environment. (State CEQA Guidelines, § 15061(b)(3)). That is, approval of the Ordinance will not result in the actual installation of any facilities in the City. In order to install a facility in accordance with this Ordinance, the wireless provider would have to submit an application for installation of the wireless facility. At that time, the City will have specific and definite information regarding the facility to review in accordance with CEQA. And, in fact, the City will conduct preliminary review under CEQA at that time. Moreover, in the event that the Ordinance is interpreted so as to permit installation of wireless facilities on a particular site, the installation would be exempt from CEQA review in accordance with either State CEQA Guidelines section 15302 (replacement or reconstruction), State CEQA Guidelines section 15303 (new construction or conversion of small structures), and/or State CEQA Guidelines section 15304 (minor alterations to land). The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Santa Clara within five working days of the passage and adoption of the Ordinance.

SECTION 5: Severability. If any section, subsection, provision, sentence, clause, phrase or word of this Ordinance is for any reason held to be illegal or otherwise invalid by any court of competent jurisdiction, such invalidity shall be severable, and shall not affect or impair any remaining section, subsection, provision, sentence, clause, phrase or word included within this Ordinance, it being the intent of the City that the remainder of the Ordinance shall be and shall remain in full force and effect, valid, and enforceable.

SECTION 6: In accordance with _____, this ordinance shall become effective on the _____ day following its passage and adoption.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF LOS ALTOS
this _____ day of _____, 2019, by the following vote:**

AYES:

NOES:

ABSENT:

APPROVED:

Lynette Lee Eng, Mayor

ATTEST:

_____, City Clerk

APPROVED AS TO FORM:

Christopher Diaz, City Attorney

RESOLUTION NO. 2019-35

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
ADOPTING DESIGN AND SITING GUIDELINES AND STANDARDS FOR
WIRELESS FACILITIES**

WHEREAS, it is in the public interest for the City to establish reasonable, uniform and comprehensive design and siting guidelines for the installation of wireless facilities; and

WHEREAS, the adoption of design guidelines and standards by resolution will increase administrative efficiencies should future amendments become necessary; and

WHEREAS, Chapter 11.12 of the City's Municipal Code governs the permitting, installation, and regulation of wireless facilities within the City; and

WHEREAS, being authorized to do so, the City wishes to establish design and siting guidelines applicable to wireless facilities; and

WHEREAS, these guidelines contained are intended to, and should be applied to, protect and promote public health, safety and welfare, and also balance the benefits that flow from robust, advanced wireless services with the City's local values, which include, without limitation, the aesthetic character of the City, its neighborhoods and community; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOS ALTOS DOES RESOLVE AS FOLLOWS:

SECTION 1. INCORPORATION OF RECITALS. The recitals above are each incorporated by reference and adopted as findings of the City Council.

SECTION 2. DEFINITIONS. The definitions set forth in Section 11.12.020 of the Municipal Code are incorporated by reference into this Resolution. In addition, the terms used in this Resolution shall have the following meanings:

Small Cell Facility: shall have the same meaning as "small wireless facility" in 47 C.F.R. 1.6002(l), or any successor provision (which is a personal wireless services facility that meets the following conditions that, solely for convenience, have been set forth below):

(1) The facility—

(i) is mounted on a structure 50 feet or less in height, including antennas, as defined in 47 C.F.R. Section 1.1320(d), or

(ii) is mounted on a structure no more than 10 percent taller than other adjacent structures, or

(iii) does not extend an existing structure on which it is located to a height of more than 50 feet or by more than 10 percent, whichever is greater;

(2) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in 47 C.F.R. Section 1.1320(d)), is no more than three cubic feet in volume;

(3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;

(4) The facility does not require antenna structure registration under 47 C.F.R. Part 17;

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

(6) The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 C.F.R. Section 1.1307(b).

Underground areas: Those areas where there are no electrical facilities or facilities of the incumbent local exchange carrier in the right of way; or where the wires associated with the same are or are required to be located underground; or where the same are scheduled to be converted from overhead to underground. Electrical facilities are distribution facilities owned by an electric utility and do not include transmission facilities used or intended to be used to transmit electricity at nominal voltages in excess of 35,000 volts.

SECTION 3. BACKGROUND AND PURPOSE. The City of Los Altos is establishing these *Design and Siting Guidelines and Standards* for wireless facilities in order to regulate the design and placement of wireless infrastructure throughout the City.

These *Design and Siting Guidelines and Standards* provide objective aesthetic design and siting requirements that all wireless facilities must meet for approval by the City.

SECTION 4. LOCATION AND CONFIGURATION PREFERENCES

A. **Purpose.** The purpose of this section is to provide guidelines to applicants and the City regarding the preferred locations and configurations for wireless telecommunication facilities in the City, provided that nothing in this section shall be construed to permit a wireless telecommunication facility in any location or configuration that it is otherwise prohibited by this chapter.

B. **Review of Location and Configuration.** The City shall consider the extent to which a proposed wireless telecommunication facility complies with these preferences and whether there are feasible alternative locations or configurations to the proposed facility that are more preferred under this section. If the location or configuration of a proposed facility qualifies for two or more categories of preferred locations or configurations, it shall be deemed to belong to the least preferred category.

C. **Order of Preference—Configurations.** The order of preference for the configuration for wireless telecommunication facilities from most preferred to least preferred is:

1. Collocation with existing wireless facilities;
2. Roof-mounted;
3. Building-mounted;
4. Mounted on an existing pole or utility pole;
5. Mounted on a new pole or utility pole that will replace an existing pole or utility pole;
6. Mounted on a new telecommunication tower.

D. **Order of Preference—Location.**

Wireless facilities shall only be permitted in the City in accordance with the following table:

<i>Description Wireless Facility</i>	<i>Private Property</i>		<i>Public Right-of-Way</i>
	<i>A-J, U, W¹ Zoning Districts</i>	<i>All Other Zoning Districts</i>	<i>All Zoning Districts</i>
Roof-mounted facility, building-mounted facility, or facility mounted on an existing pole	Not Permitted	Use Permit	Use Permit
Facility mounted on a replacement pole or new telecommunications tower	Not Permitted	Use Permit	Use Permit
New wireless telecommunications collocation facility	Not Permitted	Use Permit	Use Permit
Eligible facilities request ² or application pursuant to California Government Code Section 65850.6 ³	Permitted	Permitted	Permitted

¹ See Section 14.04.010 (A-J, U, W) of the Code.

² See requirements of Section 11.12.100.

³ See requirements of Section 11.12.110.

Furthermore, within the general categories specified above, the order of preference for the location of wireless telecommunications facilities from most preferred to least preferred is:

1. Commercial districts (as defined in Section 14.04.010 (K, L, O-R, V) of the Code).
2. Public districts (as defined in Section 14.04.010 (S) of the Code).
3. Mixed-use districts (as defined in Section 14.04.010 (M-N) of the Code).
4. Residential districts (as defined in Section 14.04.010 (A-J, T, U, W) of the Code).

Facilities located in the public rights-of-way shall have their preference evaluated based on the least-preferred zoning district adjacent to the proposed facility.

E. Other Location Preferences.

1. Mid-block locations are preferred instead of at more visible corners and street intersections except if proposed on traffic signal control poles.
2. New poles should be located in the parkway strip whenever possible and in alignment with existing trees, utility poles, and streetlights.
3. New poles should be an approximately equal distance between trees when possible, with a minimum separation of 15 feet or the tree's drip line, whichever is greater, such that no proposed disturbance shall occur within the critical root zone of any tree.
4. No facilities shall be permitted in any public park in a Public and Community Facilities (PCF) District.
5. No facilities shall be permitted within 500 feet of any school in a PCF District.
6. Each small cell facility must be separated by at least 1,500 feet.

SECTION 5. DESIGN AND DEVELOPMENT STANDARDS FOR ALL FACILITIES.

A. Basic Requirements. The design and development standards set forth in this section apply to all wireless telecommunications facilities no matter where they are located. Wireless telecommunications facilities shall be designed and maintained so as to minimize visual, noise, and other impacts on the surrounding community and shall be planned, designed, located, and erected in accordance with the design and development standards in this section.

B. No Speculative Facilities. A wireless telecommunications facility, wireless telecommunications collocation facility, or a telecommunications tower, which is built on speculation and for which there is no wireless tenant is prohibited within the City.

C. General Guidelines. The applicant shall employ screening and camouflage design techniques in the design and placement of wireless telecommunications facilities in order to ensure that the facility is as visually inconspicuous as possible, to prevent the facility from dominating the surrounding area and to hide the facility from predominant views from surrounding properties, all in a manner that achieves compatibility with the community.

D. Traffic Safety. All facilities shall be designed and located in such a manner as to avoid adverse impacts on traffic safety.

E. Antennas. The applicant shall use the least visible antennas possible to accomplish the coverage objectives. Antenna elements shall be flush mounted, to the extent reasonably feasible. All antenna mounts shall be designed so as not to preclude possible future collocation by the same or other operators or carriers. Antennas shall be situated as to reduce visual impact without compromising their function. Whip antennas need not be screened.

F. Landscaping. Where appropriate, facilities shall be installed so as to maintain and enhance existing landscaping on the site, including trees, foliage and shrubs, whether or not utilized for screening. Additional landscaping shall be planted, irrigated, and maintained where such vegetation is deemed necessary by the City to provide screening or to block the line of sight between facilities and adjacent uses.

G. **Signage.** Wireless telecommunications facilities and wireless telecommunications collocation facilities shall not bear any signs or advertising devices other than certification, warning or other signage required by law or permitted by the City.

H. **Lighting.** No wireless telecommunications facility may be illuminated unless either specifically required by the Federal Aviation Administration or other government agency or in association with the illumination of an athletic field on City or school property. Lightning arresters and beacon lights are not permitted unless required by the Federal Aviation Administration or other government agency. Legally required lightning arresters and beacons shall be included when calculating the height of facilities such as telecommunications towers, lattice towers, and monopoles.

I. **Noise.**

1. Each wireless telecommunications facility and wireless telecommunications collocation facility shall be operated in such a manner so as to minimize any possible disruption caused by noise.

2. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 5:00 p.m. and 7:00 a.m.

3. At no time shall any facility be permitted to exceed the noise levels specified in Municipal Code Chapter 6.16.

J. **Security.** Each wireless telecommunications facility and wireless telecommunications collocation facility shall be designed to be resistant to, and minimize opportunities for, unauthorized access, climbing, vandalism, graffiti and other conditions that would result in hazardous situations, visual blight, or attractive nuisances. The City may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when, because of their location or accessibility, a facility has the potential to become an attractive nuisance.

K. **Modification.** At the time of modification of a wireless telecommunications facility, existing equipment shall, to the extent feasible, be replaced with equipment that reduces visual, noise, and other impacts, including, but not limited to, undergrounding the equipment and replacing larger, more visually intrusive facilities with smaller, less visually intrusive facilities.

SECTION 6. ADDITIONAL DESIGN AND DEVELOPMENT STANDARDS FOR FACILITIES ON LAND NOT REGULATED BY SECTION 7.

A. **Basic Requirements.** Facilities located outside the public right-of-way and public utility easements are subject to the design and development standards set forth in this section in addition to all design and development standards that apply to all facilities.

B. **No Parking Interference.** In no event shall the installation of facilities replace or interfere with parking spaces in such a way as to reduce the total number of parking spaces below the number that is required.

C. **Roof-Mounted Facilities.** Roof-mounted facilities shall be designed and constructed to be fully concealed or screened in a manner compatible with the existing architecture of the building the facility is mounted to in color, texture, and type of material. Screening shall not increase the bulk of the structure nor alter the character of the structure.

D. Facilities Mounted to a Telecommunications Tower. Facilities mounted to a telecommunications tower shall be located in close proximity to existing above-ground utilities, such as electrical towers or utility poles (which are not scheduled for removal or under grounding for at least 18 months after the date of application), light poles, trees of comparable heights, and in areas where they will not detract from the appearance of the City.

1. Facilities mounted to a telecommunications tower, including, but not limited to, the attached antennas, shall be designed to be the minimum functional height and width required to adequately support the proposed facility and meet FCC requirements. The applicant shall provide documentation satisfactory to the City Manager establishing compliance with this paragraph. In any event, facilities mounted to a telecommunications tower shall not exceed the applicable height limit for structures in the applicable zoning district.
2. Aside from the antenna itself, no additional equipment may be visible. All cables, including, but not limited to, electrical and utility cables, shall be run within the interior of the telecommunications tower and shall be camouflaged or hidden to the fullest extent feasible without jeopardizing the physical integrity of the tower.
3. Monopole installations shall be situated so as to utilize existing natural or man-made features including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening.
4. All antenna components and accessory wireless equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background or existing architectural elements so as to visually blend in with the surrounding development. Subdued colors and non-reflective materials that blend with surrounding materials and colors shall be used.
5. Monopoles shall be no greater in diameter or other cross-sectional dimensions than is necessary for the proper functioning of the facility.
6. If a faux tree is proposed for the monopole installation, it shall be of a type of tree compatible with those existing in the immediate areas of the installation. If no trees exist within the immediate areas, the applicant shall create a landscape setting that integrates the faux tree with added species of a similar height and type. Additional camouflage of the faux tree may be required depending on the type and design of faux tree proposed.

E. Accessory Equipment. All accessory equipment associated with the operation of any wireless telecommunications facility shall be fully screened or camouflaged, and located in a manner to minimize their visibility to the greatest extent possible utilizing the following methods for the type of installation:

1. Accessory equipment for roof-mounted facilities shall be installed inside the building to which it is mounted or underground, if feasible. If not feasible, such accessory equipment may be located on the roof of the building that the facility is mounted on, provided that both the equipment and screening materials are painted the color of the building, roof, or surroundings. All screening materials for roof-mounted facilities shall be of a quality and design that is architecturally integrated with the design of the building or structure.

2. Accessory equipment for facilities mounted to a telecommunications tower shall be visually screened by locating the equipment either within a nearby building, in an underground vault (with the exception of required electrical panels) or in another type of enclosed structure, which shall comply with the development and design standards of the zoning district in which the accessory equipment is located. Such enclosed structure shall be architecturally treated and adequately screened from view by landscape plantings, decorative walls, fencing or other appropriate means, selected so that the resulting screening will be visually integrated with the architecture and landscaping of the surroundings.

F. **Signage.** All wireless facilities must include signage that accurately identifies the equipment owner/operator, the site name or identification number and a toll-free number to the owner/operator's network operations center. Wireless facilities may not bear any other signage or advertisements unless expressly approved by the City, required by law or recommended under existing and future FCC or other United States governmental agencies for compliance with RF emissions regulations. RF notification signs shall be placed where appropriate, and not at pedestrian eye level, unless required by the FCC or other regulatory agencies.

SECTION 7. ADDITIONAL DESIGN AND DEVELOPMENT STANDARDS FOR FACILITIES IN THE PUBLIC RIGHT-OF-WAY AND IN PUBLIC UTILITY EASEMENTS.

A. **Basic Requirements.** Facilities located in the public right-of-way and in public utility easements are subject to the design and development standards set forth in this section in addition to all design and development standards that apply to all facilities. Only facilities qualifying for a Section 6409(a) approval and those meeting the definition of "small wireless facility" shall be permitted in the public right-of-way and within public utility easements. No small wireless facilities are allowed in public utility easements on properties zoned residential.

B. Antennas.

1. **Utility Poles.** The maximum height of any antenna mounted to an existing utility pole shall not exceed 24 inches above the height of an existing utility pole, nor shall any portion of the antenna or equipment mounted on a pole be less than 18 feet above any drivable road surface. All installations on utility poles shall fully comply with the California Public Utilities Commission (CPUC) general orders (GOs), including, but not limited to, GO 95.

2. **Street Light Poles.** The maximum height of any antenna mounted to a street light pole shall not exceed seven feet above the existing height of a street light pole in a location with its closest adjacent district being a commercial zoning district and shall not exceed three feet above the existing height of a street light pole in any other zoning district. Any portion of the antenna or equipment mounted on such a pole shall be no less than 18 feet above any drivable road surface.

3. All antennas shall be shrouded. Antenna shrouds should have an outer diameter of 15" or less and measure no more than five cubic feet in size. The shroud should be no more than 4 feet tall, including antenna, radio head, mounting bracket, and all other hardware necessary for a complete installation.

C. Poles.

1. Only pole-mounted antennas shall be permitted in the right-of-way. All other telecommunications towers are prohibited, and no new poles are permitted that are not replacing an existing pole.
2. Pole height and width limitations:
 - a. All poles shall be designed to be the minimum functional height and width required to support the proposed antenna installation and meet FCC requirements. Poles and antennas and similar structures shall be no greater in diameter or other cross-sectional dimensions than is necessary for the proper functioning of the facility.
 - b. Notwithstanding the above, no facility shall be located on a pole that is less than 26 feet in height and no facility shall exceed 35 feet in height, including, but not limited to, the pole and any antenna that protrudes above the pole.
 - c. Pole mounted equipment shall not exceed six cubic feet in dimension.
3. If an applicant proposes to replace a pole in order to accommodate the facility, the pole shall match the appearance of the original pole to the extent feasible, unless another design better accomplishes the objectives of this section. Such replacement pole shall not exceed the height of the pole it is replacing by more than seven feet.
4. If an exception is granted for placement of new poles in the right-of-way, new poles shall be designed to resemble existing poles in the right-of-way, including size, height, color, materials and style, with the exception of any existing pole designs that are scheduled to be removed and not replaced, unless another design better accomplishes the objectives of this section. Such new poles that are not replacement poles shall be located no closer than 90 feet to an existing pole.

D. Space Occupied. Facilities shall be designed to occupy the least amount of space in the right-of-way that is technically feasible.

E. Location.

1. Each component part of a facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, inconvenience to the public's use of the right-of-way, or safety hazards to pedestrians and motorists.
2. A facility shall not be located within any portion of the public right-of-way interfering with access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital public health and safety facility.
3. Facilities mounted to a telecommunications tower, above-ground accessory equipment, or walls, fences, landscaping or other screening methods shall be setback a minimum of 18 inches from the front of a curb.
4. All cables, including, but not limited to, electrical and utility cables, between the pole and any accessory equipment shall be placed underground, if feasible.
5. All new wires needed to service the wireless telecommunications facility must be installed within the width of the existing utility pole so as to not exceed the diameter and height of the existing utility pole.

6. Installations shall be located on poles that are located outside of driveway and intersection sight lines. Where feasible, installations shall be located on poles that are located as close as feasible to shared property lines between two adjacent lots and not directly in front of residences and businesses.

7. All equipment (other than the antenna, antenna supports, ancillary wires, cables and any electric meter) shall be installed underground in any underground areas.

F. Americans with Disabilities Act Compliance. All facilities shall be built in compliance with the Americans with Disabilities Act (ADA) and no facility shall be approved which would render any portion of the rights-of-way noncompliant with the ADA.

G. Accessory Equipment. With the exception of the electric meter, which shall be pole-mounted to the extent feasible, all accessory equipment shall be located underground to the extent feasible. All wireless equipment installed on poles should be completely contained within an equipment shroud. Equipment shroud and lines should be painted, treated or finished to match existing utility pole and line aesthetics. Utility line installations should be colored to a non-reflective color. Required electrical meter cabinets shall be adequately screened and camouflaged.

H. Other Requirements.

1. Small wireless facilities shall not be located on decorative streetlights.

2. Pole heights shall be minimized, but in no case shall the maximum height of any facilities exceed 50 feet. Legally required lightning arresters and beacons shall be included when calculating the height of facilities. Pole height is measured from the top of foundation, which should be flushed with the ground, to the top of pole or top of antenna, whichever is greater.

3. No portion of any wireless communications facility shall overhang a property line. Where a facility generates RF emissions in excess of applicable FCC limits for exposure to the general public, and any portion of the area occupied by those emissions is on or above any private property, the application for such facility shall include evidence of the affected property owner(s)' consent.

4. New poles are only permitted if: (a) the applicant demonstrates that above-ground support structures near the project site either do not exist or are not reasonably available to the applicant; or (b) the City specifically finds that a new, non-replacement support structure would be more aesthetically desirable and consistent with the objectives of these Guidelines than installations on existing structures near the project site. Pole material and finishes should match the existing materials of the City standard streetlight poles or match aesthetics and materials of existing decorative poles.

5. Disturbance of existing topography and on-site vegetation shall be minimized, unless such disturbance would substantially reduce the visual impacts of the facility.

6. Separation of service shall be provided by installing all new electrical conduit(s) or utilizing empty conduit(s) with conduit owner's expressed consent in writing.

7. For proposed facilities on streetlight or traffic signal control poles, a hand hole should be provided at the top of the pole to maintain fiber and electrical service for streetlights and future attachments.

8. Pole foundation calculations should be prepared and stamped by a California professionally licensed structural engineer and should be provided to City for review. Pole foundation calculations should account for all new and existing pole attachments and the pole.

9. Pole structural calculations, including seismic loads, showing the load impacts of the wireless facility on City streetlight and traffic signal control poles should be prepared and stamped by a California professionally licensed structural engineer and should be provided to City for review.

10. Design wind velocity should be 115 mph minimum per TIA-222 rev G, IBC 2012 with ASC 710, and amendments for local conditions.

11. Asphalt concrete section for trench backfill shall be a thickness equal to the existing pavement, or four-inches thick minimum, whichever is greater.

SECTION 8. If any provision of this Resolution or its application to any person or circumstance is held invalid, such invalidity has no effect on the other provisions or applications of the Resolution that can be given effect without the invalid provision or application, and to this extent, the provisions of this Resolution are severable. The City council declares that it would have adopted this Resolution irrespective of the invalidity of any portion thereof.

SECTION 9. The City Clerk shall certify the adoption of this Resolution and cause it, or a summary of it, to be published as required by law.

SECTION 10. Effective Date. This Resolution shall become effective the same date that Urgency Ordinance is adopted.

APPROVED AND ADOPTED at a Special meeting of the City Council of the City of Los Altos this _____ day of _____, 2019.

Lynette Lee Eng, Mayor
City of Los Altos

ATTEST:

_____, City Clerk
City of Los Altos

APPROVED AS TO FORM:

Christopher Diaz, City Attorney
City of Los Altos

RESOLUTION NO.2019-36

A RESOLUTION OF THE CITY OF LOS ALTOS ESTABLISHING A FEE SCHEDULE FOR APPLICATIONS FOR USE PERMITS TO INSTALL SMALL WIRELESS FACILITIES IN THE CITY AND TO ESTABLISH A DEPOSIT FOR WIRELESS CONSULTANTS

WHEREAS, the City of Los Altos Fee Schedule - FY 2018/19 Approved per Resolution No. 2018-14 (Effective Date July 22, 2018) does not have a fee for applications for permits to install wireless small wireless facilities and does not set a deposit amount for wireless consultants;

WHEREAS, the purpose of setting fees is to cover the City's costs for processing applications for permits; and

WHEREAS, the fee amounts established herein are the fees specified as safe harbors by the Federal Communications Commission for applications for permits for small wireless facilities, and the deposit amount is a reasonable estimate of the cost of wireless consultant review related to any wireless application; and

WHEREAS, such fees and deposits may be revised in the future at such a time as the City conducts a cost study to identify its costs in processing such applications, which costs it is permitted by law to recover; and

WHEREAS, all legal prerequisites to the adoption of the Resolution have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOS ALTOS DOES RESOLVE AS FOLLOWS:

SECTION 1. Findings. The recitals above are each incorporated by reference and adopted as findings by the City Council.

SECTION 2. Administration. The collection, processing, and other acts contemplated in this Resolution shall be administered by the City Manager, who is hereby authorized to take all actions on behalf of the City with regard to this Resolution.

SECTION 3. Interim Fees and Deposit. From the date hereof until the City establishes fees pursuant to a cost study, the following fees and deposit requirements shall apply:

Permit/Activity	Initial Fee and Deposit
Use Permit for Small Wireless Facilities - collocation applications - applications not constituting a collocation	\$500.00 per application for an application containing up to five (5) facilities, with an additional \$100.00 for each facility beyond five (5) \$1,000.00 per application
Deposit for wireless consultants	\$1500*

*The applicant shall be refunded the balance of the deposit remaining after the application is fully processed (if any). The City may request that the applicant replenish the deposit with additional funds to cover any additional consultant costs related to the application.

SECTION 4. Severability. If any provision of this Resolution or its application to any person or circumstance is held invalid, such invalidity has no effect on the other provisions or applications of the Resolution that can be given effect without the invalid provision or application, and to this extent, the provisions of this ordinance are severable. The City Council declares that it would have adopted this ordinance irrespective of the invalidity of any portion thereof.

SECTION 5. Records. The documents and materials associated with this Resolution that constitute the record of proceedings on which the City Council’s findings and determinations are based are located at [REDACTED].

SECTION 6. Publication of Resolution. The City Clerk shall certify the adoption of this Resolution and cause it, or a summary of it, to be published as required by law.

SECTION 7. Effective Date. This Resolution shall become effective the same date that Urgency Ordinance [REDACTED] is adopted.

APPROVED AND ADOPTED at a Special meeting of the City Council of the City of Los Altos this _____ day of _____, 2019.

Lynette Lee Eng, Mayor
City of Los Altos

ATTEST:

_____, City Clerk
City of Los Altos

APPROVED AS TO FORM:

Christopher Diaz, City Attorney
City of Los Altos

Chapter 11.14 WIRELESS FACILITIES IN THE PUBLIC RIGHT-OF-WAY

SECTION 11.14 ORDINANCE NO. []

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS TO AMEND THE MUNICIPAL CODE TO ENACT NEW CHAPTER 11.12, “WIRELESS FACILITIES” AND TO -REPEAL OLD CHAPTER 11.12, “PERSONAL WIRELESS SERVICES AND FACILITIES.”

WHEREAS, by virtue of the police powers delegated to it by the California Constitution, the City of Los Altos (“City”) has the authority to adopt such ordinances as it deems necessary and appropriate to assure good government in the City, to protect and preserve the City’s rights, property and privileges, and to preserve peace, safety and good order; and

WHEREAS, Chapter 11.12 of the Municipal Code for the City of Los Altos (“Code”) governs the installation and modification of personal wireless services facilities in the City, and exempts certain facilities in the public rights-of-way which are currently governed by the City of Los Altos “Distributed Antenna Systems for Wireless Communications Encroachment Permit Requirements”; and

WHEREAS, significant changes in federal laws that affect local authority over wireless communications facilities have occurred since the City Council adopted Chapter 11.12; and

WHEREAS, increased demand for placement of wireless facilities in public rights-of-way has occurred since the City of Los Altos “Distributed Antenna Systems for Wireless Communications Encroachment Permit Requirements” were promulgated; and

WHEREAS, in light of these changes in federal laws and wireless deployments, the City deems it necessary and appropriate to provide for certain standards and regulations relating to the location, placement, design, construction and maintenance of telecommunications towers, antennas and other structures within the City, including within the City’s public rights-of-way, and providing for the enforcement of said standards and regulations, consistent with federal and state law limitations on that authority.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the City Council:

SECTION 1: The foregoing Recitals are adopted as findings of the City Council as though set forth in fully within the body of this ordinance.

SECTION 2: Title 11 of the Municipal Code for the City (“Code”) shall be amended to repeal the existing text of Chapter 11.12 in its entirety, and replace it with a new Chapter 11.12, entitled “Wireless Facilities” to read as follows:

Chapter 11.12 WIRELESS FACILITIES

SECTION 11.12.010 Purpose.

A. The purpose and intent of this chapter is to provide a uniform and comprehensive set of regulations and standards for the permitting, development, siting, installation, design, operation and maintenance of wireless telecommunications facilities in the City of Los Altos. These regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with wireless telecommunications facilities. This chapter provides standards necessary to: (1) preserve and promote harmonious land uses and the public right-of-way in the City; (2) promote and protect public health and safety, community welfare, visual resources, and the aesthetic quality of the City consistent with the goals, objectives and policies of the General Plan; (3) provide for the orderly, managed, and efficient development of wireless telecommunications facilities in accordance with the state and federal laws, rules, and regulations; and (4) encourage new and more efficient technology in the provision of wireless telecommunications facilities.

B. This chapter is not intended to, nor shall it be interpreted or applied to: (1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services; (2) prohibit or effectively prohibit any entity's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulation for rights-of-way management; (3) unreasonably discriminate among providers of functionally equivalent services; (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions; (5) prohibit any collocation or modification that the City may not deny under federal or state law; or (6) otherwise authorize the City to preempt any applicable federal or state law.

Section 11.4412.020 Definitions.

A. For the purposes of this chapter, the following defined terms shall have the meaning set forth in this section unless the context clearly indicates or requires a different meaning.

1. "Accessory equipment" means any equipment associated with the installation of a wireless telecommunications facility, including, but not limited to, cabling, generators, air conditioning units, electrical panels, equipment shelters, equipment cabinets, equipment buildings, pedestals, meters, vaults, splice boxes, and surface location markers.

2. "Antenna" means that part of a wireless telecommunications facility designed to radiate or receive radio frequency signals or electromagnetic waves for the provision of services, including, but not limited to, cellular, paging, personal communications services (PCS) and microwave communications. Such devices include, but are not limited to, directional antennas, such as panel antenna, microwave dishes, and satellite dishes; omnidirectional antennas; wireless access points (Wi-Fi); and strand-mounted wireless access points. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes designed for residential or household purposes.

3. “Base station” means the same as defined by the FCC in 47 C.F.R. Section 1.4000+6100(b)(1), as may be amended, which currently defines that term as a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as currently defined in 47 C.F.R. Section 1.4000+6100(b)(9) or any equipment associated with a tower. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks). The term includes any structure other than a tower that, at the time the relevant application is filed with the State or local government under this section, supports or houses equipment described in 47 C.F.R. Section 1.4000+6100(b)(1)(i) and (ii) that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support. The term does not include any structure that, at the time the relevant application is filed with the State or local government under this section, does not support or house equipment described in 47 C.F.R. Section 1.4000+6100(b)(1)(i) and (ii).
4. “Building-mounted” means mounted to the side or façade, but not the roof, of a building or another structure such as a water tank, pump station, church steeple, freestanding sign, or similar structure.
5. “Cellular” means an analog or digital wireless telecommunications technology that is based on a system of interconnected neighboring cell sites.
6. “City Manager” means the City Manager of the City of Los Altos , or the City Manager’s designee.
7. “Collocation” means the same as defined by the FCC in 47 C.F.R. Section 1.4000+6100(b)(2), as may be amended, which currently defines that term as the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting or receiving radio frequency signals for communications purposes. As an illustration and not a limitation, the FCC’s definition effectively means “to add” and does not necessarily refer to more than one wireless telecommunication facility installed at a single site.
8. “Eligible facilities request” means the same as defined by the FCC in 47 C.F.R. Section 1.4000+6100(b)(3), as may be amended, which currently defines that term as any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (1) collocation of new transmission equipment; (2) removal of transmission equipment; or (3) replacement of transmission equipment.
9. “Eligible support structure” means the same as defined by the FCC in 47 C.F.R. Section 1.4000+6100(b)(4), as may be amended, which currently defines that term as any tower or base station as defined in this section, provided that it is existing at the

time the relevant application is filed with the State or local government under this section.

10. “Existing” means the same as defined by the FCC in 47 C.F.R. Section 1.4000+6100(b)(4), as may be amended, which currently provides that a constructed tower or base station is existing for purposes of the FCC’s Section 6409(a) regulations if it has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

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

12. “Modification” means any change to an existing wireless telecommunications facility that involves any of the following: collocation, expansion, modification, alteration, enlargement, intensification, reduction, or augmentation, including, but not limited to, a change in size, shape, color, visual design, or exterior material. Modification does not include repair, replacement, or maintenance if those actions do not involve a change to the existing facility involving any of the following: collocation, expansion, modification, alteration, enlargement, intensification, reduction, or augmentation.

13. “Monopole” means a structure consisting of a single pole used to support antennas or related equipment and includes a monopine, monoredwood, and similar monopoles camouflaged to resemble trees or other objects.

14. “Personal wireless services” means the same as defined in 47 U.S.C. Section 332(c)(7)(C)(i), as may be amended, which currently defines the term as commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services.

15. “Personal wireless service facilities” means the same as defined in 47 U.S.C. Section 332(c)(7)(C)(i), as may be amended, which currently defines the term as facilities that provide personal wireless services.

16. “Pole” means a single shaft of wood, steel, concrete, or other material capable of supporting the equipment mounted thereon in a safe and adequate manner and as required by provisions of the Los Altos Municipal Code.

17. “Public right-of-way or “right-of-way” means any public street, public way, public alley or public place, laid out or dedicated, and the space on, above or below it, and all extensions thereof, and additions thereto, under the jurisdiction of the City.

18. ~~“Reviewing authority” means the person or body who has the authority to review and either grant or deny a wireless telecommunications facility permit pursuant to this chapter.~~

~~19.~~ “RF” means radio frequency or electromagnetic waves between 30 kHz and 300 GHz in the electromagnetic spectrum range.

~~20~~19. “Roof-mounted” means mounted directly on the roof of any building or structure, above the eave line of such building or structure.

~~2120~~. “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. Section 1455(a), as such law may be amended from time to time.

~~2221~~. “Section 6409(a) approval” means the approval required by Section 6409(a).

~~2322~~. “Site” means the same as defined by the FCC in 47 C.F.R. Section 1.40001~~6100~~(b)(6), as may be amended, which currently provides that for towers other than towers in the public rights-of-way, 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.

~~2423~~. “Substantial change” means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(7), as may be amended, which currently defines that term differently based on the particular wireless facility type (tower or base station) and location (in or outside the public right-of-way). For clarity, this definition organizes the FCC’s criteria and thresholds for a substantial change according to the wireless facility type and location.

a. For towers outside the public rights-of-way, a substantial change occurs when:

- i. The proposed collocation or modification increases the overall height more than 10% or the height of one additional antenna array not to exceed 20 feet (whichever is greater); or
- ii. The proposed collocation or modification increases the width more than 20 feet from the edge of the wireless tower or the width of the wireless tower at the level of the appurtenance (whichever is greater); or
- iii. The proposed collocation or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four; or
- iv. The proposed collocation or modification involves excavation outside the current boundaries of the leased or owned property surrounding the wireless tower, including any access or utility easements currently related to the site.

b. For towers in the public rights-of-way and for all base stations, a substantial change occurs when:

- i. The proposed collocation or modification increases the overall height more than 10% or 10 feet (whichever is greater); or
- ii. The proposed collocation or modification increases the width more than six feet from the edge of the wireless tower or base station; or
- iii. The proposed collocation or modification involves the installation of any new equipment cabinets on the ground when there are no existing ground-mounted equipment cabinets; or

- iv. The proposed collocation or modification involves the installation of any new ground-mounted equipment cabinets that are 10% larger in height or volume than any existing ground-mounted equipment cabinets; or
 - v. The proposed collocation or modification involves excavation outside the area in proximity to the structure and other transmission equipment already deployed on the ground.
- c. In addition, for all towers and base stations wherever located, a substantial change occurs when:
- i. The proposed collocation or modification would defeat the existing concealment elements of the support structure as determined by the City Manager; or
 - ii. The proposed collocation or modification violates a prior condition of approval, provided however that the collocation need not comply with any prior condition of approval related to height, width, equipment cabinets or excavation that is inconsistent with the thresholds for a substantial change described in this section.

The thresholds for a substantial change outlined above are disjunctive. The failure to meet any one or more of the applicable thresholds means that a substantial change would occur. The thresholds for height increases are cumulative limits. For sites with horizontally separated deployments, the cumulative limit is measured from the originally-permitted support structure without regard to any increases in size due to wireless equipment not included in the original design. For sites with vertically separated deployments, the cumulative limit is measured from the permitted site dimensions as they existed on February 22, 2012—the date that Congress passed Section 6409(a).

~~25~~24. “Telecommunications tower” or “tower” means a freestanding mast, pole, monopole, guyed tower, lattice tower, free standing tower or other structure designed and primarily used to support wireless telecommunications facility antennas.

~~26~~25. “Transmission equipment” means the same as defined by the FCC in 47 C.F.R. Section 1.~~4000~~6100(b)(8), as may be amended, which currently defines that term as equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

~~27~~26. “Utility pole” means a pole or tower owned by any utility company that is primarily used to support wires or cables necessary to the provision of electrical or other utility services regulated by the California Public Utilities Commission.

~~28~~27. “Wireless services” means any FCC-licensed or authorized wireless communication service transmitted over frequencies in the electromagnetic spectrum.

~~29~~28. “Wireless telecommunications facility” means any facility constructed, installed, or operated for wireless service. “Wireless telecommunications facility”

includes, but is not limited to, antennas or other types of equipment for the transmission or receipt of such signals, telecommunications towers or similar structures supporting such equipment, related accessory equipment, equipment buildings, parking areas, and other accessory development. “Wireless telecommunications facility” does not mean any of the following:

- a. A facility that qualifies as an amateur station as defined by the FCC, 47 C.F.R. Part 97, of the Commission’s Rules, or its successor regulation.
- b. An antenna facility that is subject to the FCC Over-The-Air-Receiving Devices rule, 47 C.F.R. Section 1.4000, or any successor regulation, including, but not limited to, direct-to-home satellite dishes that are less than one meter in diameter, TV antennas used to receive television broadcast signals and wireless cable antennas.
- c. Portable radios and devices including, but not limited to, hand-held, vehicular, or other portable receivers, transmitters or transceivers, cellular phones, CB radios, emergency services radio, and other similar portable devices as determined by the City Manager.
- d. Telecommunications facilities owned and operated by any government agency.
- e. Telecommunications facilities owned and operated by any emergency medical care provider.
- f. Mobile services providing public information coverage of news events of a temporary nature.
- g. Any wireless telecommunications facilities exempted from the Los Altos Municipal Code by federal law or state law.

Section 11.4412.030 Applicability.

- A. This chapter applies to all wireless telecommunications facilities as follows:
 1. All facilities for which applications were not approved prior to the effective date of the ordinance codified in this chapter shall be subject to and comply with all provisions of this chapter;
 2. All facilities, notwithstanding the date approved, shall be subject immediately to the provisions of this chapter governing the operation and maintenance, cessation of use and abandonment, removal and restoration of wireless telecommunications facilities and wireless telecommunications collocation facilities and the prohibition of dangerous conditions or obstructions by such facilities; provided, however, that in the event a condition of approval conflicts with a provision of this chapter, the condition of approval shall control unless and until the permit is amended or revoked.
- B. ~~Title 20, including, but not limited to, this chapter~~ Title 14 of the Los Altos Municipal Code shall not apply to a wireless telecommunications facility on property owned by the City.
- C. Notwithstanding any provision of the Los Altos Municipal Code to the contrary, provisions governing the installation of a public utility facility or accessory equipment shall

not apply to wireless telecommunications facilities. This chapter shall govern all applications for wireless telecommunications facilities.

Section 11.4412.040 Wireless telecommunications facility permit required.

A. **Permit Required.** No wireless telecommunications facility shall be located or modified within the City on any property, including the public right-of-way, without the issuance of a permit as required by this chapter ~~as set forth in the table below.~~ Such permit shall be subject to the conditions of this chapter, any design and placement standards adopted by the City Council by resolution, and shall be in addition to any other permit required pursuant to the Los Altos Municipal Code.

<i>Description Wireless Facility</i>	<i>Private Property</i>		<i>Public Right-of-Way⁴</i>
	<i>A-J, U, W¹ Zoning Districts</i>	<i>All Other Zoning Districts</i>	<i>Nonresidential Zoning Districts</i>
Roof-mounted facility, building-mounted facility, or facility mounted on an existing pole	Not Permitted	Conditional Use Permit/Design Review	Conditional Use Permit/Design Review
Facility mounted on a replacement pole or new telecommunications tower	Not Permitted	Conditional Use Permit/Design Review	Conditional Use Permit/Design Review
New wireless telecommunications collocation facility	Not Permitted	Conditional Use Permit/Design Review	Conditional Use Permit/Design Review
Eligible facilities request ² or application pursuant to California Government Code Section 65850.6 ³	Permitted	Permitted	Permitted

¹ See Section 14.04.010 (A, J, U, W) of the Code.

² See requirements of Section 11.14.140.

³ See requirements of Section 11.14.150.

⁴ For any public right-of-way not within a zoning district, the location of a wireless telecommunication facility shall be determined based upon the closest district adjacent to the facility's location.

B. **Non-exclusive Grant.** No approval granted under this chapter shall confer any exclusive right, privilege, license, or franchise to occupy or use the public right-of-way of the City for delivery of telecommunications services or any other purposes. Further, no approval shall be construed as any warranty of title.

Section 11.4412.050 Application for permit.

A. **Application Content.** All applications for a permit required by this chapter must be made in writing on such form as the City Manager prescribes, which shall include the following information, in addition to all other information determined necessary by the City Manager ~~as well as all other information required by the City as part of an application for a conditional use permit:~~

1. Full name and contact information for the facility owner, facility operator, agent (if any), ~~and~~.
2. If the facility will be located on or in the property of someone other than the owner, and related letter(s) of of the facility (such as a street light pole, street signal pole, utility pole, utility cabinet, vault, or cable conduit), the applicant shall provide a duly executed written authorization from the property owner(s) authorizing the placement of the facility on or in the property owner's property.
2. The type of facility, including a full written description of the proposed facility, its purpose and specifications.
3. A detailed site and engineering plan of the proposed facility containing the exact proposed location of the facility, created by a qualified licensed engineer and in accordance with requirements set by the City Manager.
4. Photographs of facility equipment and an accurate visual impact analysis with before and after 360-degree photo simulations.
5. Completion of an RF exposure guidelines checklist, and proof of all applicable licenses or other approvals required by the FCC. Applicant shall also provide documentation sufficient to show that the proposed facility will comply with generally-applicable health and safety provisions of the Los Altos Municipal Code and the FCC's radio frequency emissions standards.
6. If the application is for a facility that will be located within the public right-of-way, the applicant shall certify that it is a telephone corporation or state the basis for its claimed right to enter the right-of-way, and provide a copy of its certificate of public convenience and necessity (CPCN), if a CPCN has been issued by the California Public Utilities Commission.
7. A written description identifying the geographic service area for the subject installation, ~~accompanied by a plan and maps showing anticipated future installations and modifications for the following two years.~~
8. A written report that analyzes acoustic levels for the proposed wireless telecommunications facility and all associated equipment including, without limitation, all environmental control units, sump pumps, temporary backup power generators, and

permanent backup power generators in order to demonstrate compliance with Los Altos Municipal Code Chapter ~~6.166.16~~ Noise Regulations. The acoustic analysis 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 written 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 limits.

9. If the applicant claims it requires an exception to the requirements of this chapter, all information and studies necessary for the City to evaluate that claim.

10. An application and processing fee and a deposit for a consultant review as set forth in subsection B of this section.

11. Any other studies or information determined necessary by the City Manager may be required.

~~12.—All applications will be posted to the City of Los Altos website within 3 days of receipt of the application. The electronic version of an application must be in a standard format that can be easily uploaded on a web page for review by the public.~~

~~13.—A Applicants are strongly encouraged to include a master plan which identifies the location of the proposed facility in relation to all existing and potential locations in the City that are reasonably anticipated for construction within two years of submittal of the application. Applicants may not file, and the City shall not accept, applications that are not consistent with the master plan for a period of two years from approval of a wireless facility use permit unless: (a) the applicant demonstrates materially changed conditions which could not have been reasonably anticipated to justify the need for a wireless telecommunications facility site not shown on a master plan submitted to the City within the prior two years; (b) the applicant establishes that the application is needed to prevent the actual or effective prohibition of the provision of telecommunications wireless services under the Telecommunications Act of 1996.~~

~~14.—~~13. A siting analysis which identifies a minimum of five other feasible locations within or outside the City by which the applicant could serve ~~achieve~~ the area intended service goals to be served ~~met~~ by the facility, unless the applicant provides compelling technical reasons for fewer than the minimum. The alternative site analysis should include at least one collocation site, if feasible.

~~15.—The city would invite~~

~~14.~~ A sample of the proposed notice to be mailed pursuant to subsection C of this section, and a list of intended recipients (including content and mailing envelope).

B. Independent Expert.

1. The City Manager is authorized to retain on behalf of the City an independent, qualified consultant to review any application for a permit for a wireless telecommunications facility to review the technical aspects of the application, including, but not limited to, the following matters:

- a. The accuracy, adequacy, and completeness of submissions;

- b. Compliance with applicable radio frequency emission standards;
 - c. Whether any requested exception is necessary ~~to close a significant gap in coverage and is the least intrusive means of doing so;~~
 - d. Technical demonstration of the unavailability of alternative sites, facility designs or configurations, and coverage analysis; and
 - e. The validity of conclusions reached or claims made by applicant.
2. The cost of this review shall be paid by the applicant through a deposit pursuant to an adopted fee schedule resolution.

C. **Notice.** Within three (3) business days of submission of an application containing all information required by this Chapter and any associated regulations, an applicant shall provide notice, by mail, to all owners and residents of all property, and the residential manager for any multi-family dwelling unit that includes ten (10) or more units, any part of which is located within one thousand (1,000) feet of the location of the applicant's proposed ~~facilities and located along the same right of way as the proposed facility. Where facilities are proposed at or near intersections, notice shall be provided along all intersecting rights of way.~~ Such notice shall be in the form and include the content specified by the ~~Director~~City Manager in a publicly stated format, as may be revised from time to time, but at a minimum must be clearly marked as a notification of proposed wireless infrastructure installation, identify the applicant and service provider(s) who will utilize the facility, and include a plain language description of the proposed facility, photosimulations or illustrations depicting the proposed wireless facility, and the address where comments may be sent to the ~~Director~~City Manager within fifteen (15) days of the date of the notice. Applicant shall supplement its application with proof of mailing of required notices no less than two (2) days after mailing of notices

D. ~~**Property Owner Authorization.** If the facility will be located on or in the property of someone other than the owner of the facility (such as a street light pole, street signal pole, utility pole, utility cabinet, vault, or cable conduit), the applicant shall provide a duly executed written authorization from the property owner(s) authorizing the placement of the facility on or in the property owner's property.~~ All applications shall be posted to the City of Los Altos website within three (3) days of receipt of the application, or as soon as is reasonably practicable. The electronic version of an application must be in a standard format that can be easily uploaded on a web page for review by the public.

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~~**Section 11.14.060 — Location and configuration preferences:**~~

~~A. — **Purpose.** The purpose of this section is to provide guidelines to applicants and the reviewing authority regarding the preferred locations and configurations for wireless telecommunication facilities in the City, provided that nothing in this section shall be construed to permit a wireless telecommunication facility in any location or configuration that it is otherwise prohibited by this chapter.~~

~~B. — **Review of Location and Configuration.** The reviewing authority shall consider the extent to which a proposed wireless telecommunication facility complies with these preferences and whether there are feasible alternative locations or configurations to the proposed facility that are more preferred under this section. If the location or configuration of a proposed facility qualifies for two~~

or more categories of preferred locations or configurations, it shall be deemed to belong to the least preferred category.

~~C.—**Order of Preference—Configurations.** The order of preference for the configuration for wireless telecommunication facilities from most preferred to least preferred is:~~

- ~~1.— Collocation with existing facilities;~~
- ~~2.— Roof mounted;~~
- ~~3.— Building mounted;~~
- ~~4.— Mounted on an existing pole or utility pole;~~
- ~~5.— Mounted on a new pole or utility pole that will replace an existing pole or utility pole;~~
- ~~6.— Mounted on a new telecommunication tower.~~

~~D.—**Order of Preference—Location.** The order of preference for the location of wireless telecommunications facilities from most preferred to least preferred is:~~

- ~~1.— Commercial districts (as defined in Section 14.04.010 (K-R) of the Code).~~
- ~~2.— Other districts (as defined in Section 14.04.010 (S-T,V) of the Code).~~

~~E.—**Accessory Equipment.** In order of preference from most preferred to least preferred, accessory equipment for wireless telecommunication facilities and wireless telecommunications collocation facilities shall be located underground, within a building or structure, on a screened roof top area or structure, or in a rear yard if not readily visible from surrounding properties and the roadway, unless the reviewing authority finds that another location is preferable under the circumstances of the application.~~

~~**Section 11.14.070—Design and development standards for all facilities:**~~

~~A.—**Basic Requirements.** The design and development standards set forth in this section apply to all wireless telecommunications facilities no matter where they are located. Wireless telecommunications facilities shall be designed and maintained so as to minimize visual, noise, and other impacts on the surrounding community and shall be planned, designed, located, and erected in accordance with the design and development standards in this section.~~

~~B.—**No Speculative Facilities.** A wireless telecommunications facility, wireless telecommunications collocation facility, or a telecommunications tower, which is built on speculation and for which there is no wireless tenant is prohibited within the City.~~

~~C.—**General Guidelines.** The applicant shall employ screening and camouflage design techniques in the design and placement of wireless telecommunications facilities in order to ensure that the facility is as visually inconspicuous as possible, to prevent the facility from dominating the surrounding area and to hide the facility from predominant views from surrounding properties, all in a manner that achieves compatibility with the community.~~

~~D.—**Traffic Safety.** All facilities shall be designed and located in such a manner as to avoid adverse impacts on traffic safety.~~

~~E.—**Antennas.** The applicant shall use the least visible antennas possible to accomplish the coverage objectives. Antenna elements shall be flush mounted, to the extent reasonably feasible. All antenna mounts shall be designed so as not to preclude possible future collocation by the same or~~

~~other operators or carriers. Antennas shall be situated as to reduce visual impact without compromising their function. Whip antennas need not be screened.~~

~~F.— **Landscaping.** Where appropriate, facilities shall be installed so as to maintain and enhance existing landscaping on the site, including trees, foliage and shrubs, whether or not utilized for screening. Additional landscaping shall be planted, irrigated, and maintained where such vegetation is deemed necessary by the City to provide screening or to block the line of sight between facilities and adjacent uses.~~

~~G.— **Signage.** Wireless telecommunications facilities and wireless telecommunications collocation facilities shall not bear any signs or advertising devices other than certification, warning or other signage required by law or permitted by the City.~~

~~H.— **Lighting.** No wireless telecommunications facility may be illuminated unless either specifically required by the Federal Aviation Administration or other government agency or in association with the illumination of an athletic field on City or school property. Lightning arresters and beacon lights are not permitted unless required by the Federal Aviation Administration or other government agency. Legally required lightning arresters and beacons shall be included when calculating the height of facilities such as telecommunications towers, lattice towers, and monopoles.~~

~~I.— **Noise.**~~

~~1.— Each wireless telecommunications facility and wireless telecommunications collocation facility shall be operated in such a manner so as to minimize any possible disruption caused by noise.~~

~~2.— Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 5:00 p.m. and 7:00 a.m.~~

~~3.— At no time shall equipment noise from any facility exceed an exterior noise level of 50 dBA at the facility's property line if the facility is located in a business or commercial zone that permits those uses, provided, however, that for any such facility located within 500 feet of any property zoned residential or improved with a residential use, such equipment noise shall at no time be audible at the property line of any such residential property. For any facility located within a residential zone, such equipment noise shall at no time be audible at the property line of any residentially improved or residential zoned property.~~

~~4.— Any equipment, including, but not limited to, air conditioning units, that may emit noise that would be audible from beyond three feet from the facility in the case of a facility located in the right of way, or in the case of other facilities the facility's property line, shall be enclosed or equipped with noise attenuation devices to the extent necessary to ensure compliance with applicable noise limitations under the Los Altos Municipal Code.~~

~~J.— **Security.** Each wireless telecommunications facility and wireless telecommunications collocation facility shall be designed to be resistant to, and minimize opportunities for, unauthorized access, climbing, vandalism, graffiti and other conditions that would result in hazardous situations, visual blight, or attractive nuisances. The reviewing authority may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when, because of their location or accessibility, a facility has the potential to become an attractive nuisance.~~

~~K.—**Modification.** At the time of modification of a wireless telecommunications facility, existing equipment shall, to the extent feasible, be replaced with equipment that reduces visual, noise, and other impacts, including, but not limited to, undergrounding the equipment and replacing larger, more visually intrusive facilities with smaller, less visually intrusive facilities.~~

~~L.—**RF Exposure Compliance.** Each year, commencing on the first anniversary of the issuance of the permit, the Permittee shall submit to the Town an affidavit which shall list all active small cell wireless installations it owns within the Town by location, certifying that (1) each active small cell installation is covered by liability insurance in the amount of \$2,000,000 per installation, naming the Town as an additional insured; and (2) each active installation has been inspected for safety and found to be in sound working condition and in compliance with all federal safety regulations concerning RF exposure limits.~~

~~M.—**Testing.** Testing of any equipment shall take place at any time of day that the City Council deems appropriate. The City shall have the right to employ a qualified RF engineer to conduct an annual random and unannounced test of the permittee's small cell wireless installations located within the City to certify their compliance with all FCC radio frequency emission limits as they pertain to exposure to the general public. The reasonable cost of such tests shall be paid by the permittee.~~

~~**Section 11.14.080 — Additional design and development standards for facilities outside the public right-of-way.**~~

~~A.—**Basic Requirements.** Facilities located outside the public right-of-way are subject to the design and development standards set forth in this section in addition to all design and development standards that apply to all facilities.~~

~~B.—**No Parking Interference.** In no event shall the installation of facilities replace or interfere with parking spaces in such a way as to reduce the total number of parking spaces below the number that is required.~~

~~C.—**Roof Mounted Facilities.** Roof mounted facilities shall be designed and constructed to be fully concealed or screened in a manner compatible with the existing architecture of the building the facility is mounted to in color, texture, and type of material. Screening shall not increase the bulk of the structure nor alter the character of the structure.~~

~~D.—**Facilities Mounted to a Telecommunications Tower.** Facilities mounted to a telecommunications tower shall be located in close proximity to existing above-ground utilities, such as electrical towers or utility poles (which are not scheduled for removal or undergrounding for at least 18 months after the date of application), light poles, trees of comparable heights, and in areas where they will not detract from the appearance of the City.~~

~~1.— Facilities mounted to a telecommunications tower, including, but not limited to, the attached antennas, shall be designed to be the minimum functional height and width required to adequately support the proposed facility and meet FCC requirements. The applicant shall provide documentation satisfactory to the City Manager establishing compliance with this paragraph. In any event, facilities mounted to a telecommunications tower shall not exceed the applicable height limit for structures in the applicable zoning district.~~

2. — Aside from the antenna itself, no additional equipment may be visible. All cables, including, but not limited to, electrical and utility cables, shall be run within the interior of the telecommunications tower and shall be camouflaged or hidden to the fullest extent feasible without jeopardizing the physical integrity of the tower.

3. — Monopole installations shall be situated so as to utilize existing natural or man-made features including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening.

4. — All antenna components and accessory wireless equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background or existing architectural elements so as to visually blend in with the surrounding development. Subdued colors and non-reflective materials that blend with surrounding materials and colors shall be used.

5. — Monopoles shall be no greater in diameter or other cross-sectional dimensions than is necessary for the proper functioning of the facility.

6. — If a faux tree is proposed for the monopole installation, it shall be of a type of tree compatible with those existing in the immediate areas of the installation. If no trees exist within the immediate areas, the applicant shall create a landscape setting that integrates the faux tree with added species of a similar height and type. Additional camouflage of the faux tree may be required depending on the type and design of faux tree proposed.

E. — Accessory Equipment. All accessory equipment associated with the operation of any wireless telecommunications facility shall be fully screened or camouflaged, and located in a manner to minimize their visibility to the greatest extent possible utilizing the following methods for the type of installation:

1. — Accessory equipment for roof-mounted facilities shall be installed inside the building to which it is mounted or underground, if feasible. If not feasible, such accessory equipment may be located on the roof of the building that the facility is mounted on, provided that both the equipment and screening materials are painted the color of the building, roof, or surroundings. All screening materials for roof-mounted facilities shall be of a quality and design that is architecturally integrated with the design of the building or structure.

2. — Accessory equipment for facilities mounted to a telecommunications tower shall be visually screened by locating the equipment either within a nearby building, in an underground vault (with the exception of required electrical panels) or in another type of enclosed structure, which shall comply with the development and design standards of the zoning district in which the accessory equipment is located. Such enclosed structure shall be architecturally treated and adequately screened from view by landscape plantings, decorative walls, fencing or other appropriate means, selected so that the resulting screening will be visually integrated with the architecture and landscaping of the surroundings.

Section 11.14.090 — Additional design and development standards for facilities in the public right-of-way.

A. — Basic Requirements. Facilities located in the public right-of-way are subject to the design and development standards set forth in this section in addition to all design and development standards that apply to all facilities.

B.—Right-of-Way Authority. An encroachment permit must be obtained for any work in the public right of way. Only applicants authorized to enter the public right of way pursuant to state or federal law or a franchise or other agreement with the City shall be eligible for a permit to install or modify a wireless telecommunications facility in the public right of way.

C.—Antennas.

1.—Utility Poles. The maximum height of any antenna mounted to an existing utility pole shall not exceed 24 inches above the height of an existing utility pole, nor shall any portion of the antenna or equipment mounted on a pole be less than 18 feet above any drivable road surface. All installations on utility poles shall fully comply with the California Public Utilities Commission general orders, including, but not limited to, General Order 95, as revised.

2.—Street Light Poles. The maximum height of any antenna mounted to a street light pole shall not exceed seven feet above the existing height of a street light pole in a location with its closest adjacent district being a commercial zoning district and shall not exceed three feet above the existing height of a street light pole in any other zoning district. Any portion of the antenna or equipment mounted on such a pole shall be no less than 18 feet above any drivable road surface.

D.—Poles.

1.—Only pole-mounted antennas shall be permitted in the right of way. All other telecommunications towers are prohibited, and no new poles are permitted that are not replacing an existing pole.

2.—Pole height and width limitations:

a.—All poles shall be designed to be the minimum functional height and width required to support the proposed antenna installation and meet FCC requirements. Poles and antennas and similar structures shall be no greater in diameter or other cross-sectional dimensions than is necessary for the proper functioning of the facility.

b.—Notwithstanding the above, no facility shall be located on a pole that is less than 26 feet in height and no facility shall exceed 35 feet in height, including, but not limited to, the pole and any antenna that protrudes above the pole.

c.—Pole-mounted equipment shall not exceed six cubic feet in dimension.

3.—If an applicant proposes to replace a pole in order to accommodate the facility, the pole shall match the appearance of the original pole to the extent feasible, unless another design better accomplishes the objectives of this section. Such replacement pole shall not exceed the height of the pole it is replacing by more than seven feet.

4.—If an exception is granted for placement of new poles in the right of way, new poles shall be designed to resemble existing poles in the right of way, including size, height, color, materials and style, with the exception of any existing pole designs that are scheduled to be removed and not replaced, unless another design better accomplishes the objectives of this section. Such new poles that are not replacement poles shall be located no closer than 90 feet to an existing pole.

E.—Space Occupied. Facilities shall be designed to occupy the least amount of space in the right-of-way that is technically feasible.

F.—Location.

1.— Each component part of a facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, inconvenience to the public's use of the right of way, or safety hazards to pedestrians and motorists.

2.— A facility shall not be located within any portion of the public right of way interfering with access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital public health and safety facility.

3.— Facilities mounted to a telecommunications tower, above ground accessory equipment, or walls, fences, landscaping or other screening methods shall be setback a minimum of 18 inches from the front of a curb.

4.— Each pole mounted wireless telecommunications facility must be separated by at least 1,500 feet.

5.— All cables, including, but not limited to, electrical and utility cables, between the pole and any accessory equipment shall be placed underground, if feasible.

6.— All new wires needed to service the wireless telecommunications facility must be installed within the width of the existing utility pole so as to not exceed the diameter and height of the existing utility pole.

~~G.— **Americans with Disabilities Act Compliance.** All facilities shall be built in compliance with the Americans with Disabilities Act (ADA).~~

~~H.— **Accessory Equipment.** With the exception of the electric meter, which shall be pole mounted to the extent feasible, all accessory equipment shall be located underground to the extent feasible. When above ground is the only feasible location for a particular type of accessory equipment and when such accessory equipment cannot be pole mounted, such accessory equipment shall be enclosed within a structure, and shall not exceed a height of five feet and a total footprint of 15 square feet, and shall be screened and camouflaged to the fullest extent possible, including the use of landscaping or alternate screening. Required electrical meter cabinets shall be adequately screened and camouflaged.~~

~~I.— **Documentation.** The applicant shall provide documentation satisfactory to the City Manager establishing compliance with this section.~~

~~**Section 11.14.100E. Procedures for a Duly Filed Application.** The City shall not review any application unless duly filed in accordance with this section, as follows:~~

~~1. **Pre-Submittal Conference.** Before application submittal, applicants are strongly encouraged to schedule and attend a pre-application meeting with the City Manager. The pre-submittal conference is intended to streamline the review process through informal discussion that includes, without limitation, the appropriate project classification, including whether the project qualifies for Section 6409(a); any latent issues in connection with any existing tower or base station; potential concealment issues (if applicable); coordination with other City departments responsible for application review; and application completeness issues. To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications or other materials so that City staff may provide informal feedback about whether such applications or other materials may be incomplete or unacceptable.~~

2. Submittal Appointment. All applications must be filed with the City at a pre-scheduled appointment. Applicants may generally submit one application per appointment, but may schedule successive appointments for multiple applications whenever feasible and not prejudicial to other applicants. Any application received without an appointment, whether delivered in-person or through any other means, will not be considered duly filed unless the applicant received a written exemption from the City Manager at a pre-submittal conference.

3. Appointment Scheduling Procedures. For any event in the submittal process that requires an appointment, applicants must submit a written request to the City Manager. The City Manager shall endeavor to provide applicants with an appointment as soon as reasonably feasible and within five business days after a written request is received.

4. Incomplete Applications Deemed Denied Without Prejudice. To promote efficient review and timely decisions, an application will be automatically deemed denied without prejudice by the City when the applicant fails to tender a substantive response to the City within ninety (90) calendar days after the City deems the application incomplete in a written notice to the applicant. The City Manager may, in the City Manager's discretion, grant a written extension for up to an additional 30 calendar days when the applicant submits a written request prior to the 90th day that shows good cause to grant the extension. Delays due to circumstances outside the applicant's reasonable control will be considered good cause to grant the extension.

5. Departmental Forms, Rules and Other Regulations. The City Council authorizes the City Manager to develop and publish permit application forms, checklists, informational handouts and other related materials that the City Manager finds necessary, appropriate or useful for processing requests for Section 6409(a) approvals. Without further authorization from the City Council, the City Manager may, from time to time, update and alter any such permit application forms, checklists, informational handouts and other related materials as the City Manager deems necessary, appropriate or useful to respond to regulatory, technological or other changes related to this chapter. The City Council authorizes the City Manager to establish other reasonable rules and regulations, which may include, without limitation, regular hours for appointments with applicants, as the City Manager deems necessary or appropriate to organize, document and manage the application intake process.

Section 11.12.060 Conditions of approval for all facilities.

A. In addition to compliance with the requirements of this chapter, upon approval all facilities shall be subject to each of the following conditions of approval, as well as any modification of these conditions or additional conditions of approval deemed necessary by the reviewing authority:

1. Before the permittee submits any application for a building permit or other permits required by the Los Altos Municipal Code, the permittee must incorporate the wireless telecommunication facility permit granted under this chapter, all conditions associated with the wireless telecommunications facility permit and the approved plans and any photo simulations (the "approved plans") into the project plans. The permittee must construct, install and operate the wireless telecommunications facility in strict

compliance with the approved plans. The permittee shall submit an as built drawing within 90 days after installation of the facility.

2. Where feasible, as new technology becomes available, the permittee shall:
 - a. Place above-ground wireless telecommunications facilities below ground, including, but not limited to, accessory equipment that has been mounted to a telecommunications tower or mounted on the ground; and
 - b. Replace larger, more visually intrusive facilities with smaller, less visually intrusive facilities, after receiving all necessary permits and approvals required pursuant to the Los Altos Municipal Code.
3. The permittee shall submit and maintain current at all times basic contact and site information on a form to be supplied by the City. The permittee shall notify the City of any changes to the information submitted within seven days of any change, including change of the name or legal status of the owner or operator. This information shall include, but is not limited to, the following:
 - a. Identity, including the name, address and 24-hour local or toll free contact phone number of the permittee, the owner, the operator, and the agent or person responsible for the maintenance of the facility.
 - b. The legal status of the owner of the wireless telecommunications facility, including official identification numbers and FCC certification.
 - c. Name, address, and telephone number of the property owner if different than the permittee.
4. The permittee shall not place any facilities that will deny access to, or otherwise interfere with, any public utility, easement, or right-of-way located on the site. The permittee shall allow the City reasonable access to, and maintenance of, all utilities and existing public improvements within or adjacent to the site, including, but not limited to, pavement, trees, public utilities, lighting and public signage.
5. At all times, all required notices and signs shall be posted on the site as required by the FCC and California Public Utilities Commission, and as approved by the City. The location and dimensions of a sign bearing the emergency contact name and telephone number shall be posted pursuant to the approved plans.
6. At all times, the permittee shall ensure that the facility complies with the most current regulatory and operational standards including, but not limited to, radio frequency emissions standards adopted by the FCC and antenna height standards adopted by the Federal Aviation Administration. Permittee shall conduct on-site testing to ensure the facility is in compliance with all radio frequency emissions standards adopted by the FCC. Tests shall occur upon commencement of operations, and annually thereafter. Copies of the reports from such testing shall be submitted to the City within thirty (30) days of the completion of testing. The City ~~shall~~may retain a consultant, ~~at the sole expense of the permittee,~~ to perform testing ~~demonstrating to verify compliance with current regulatory and operational standards. Tests shall occur upon commencement of operations and annually thereafter.~~
7. If the City Manager determines there is good cause to believe that the facility may emit radio frequency emissions that are likely to exceed FCC standards, the City

Manager may require the permittee to submit a technically sufficient written report certified by a qualified radio frequency emissions engineer, certifying that the facility is in compliance with such FCC standards.

8. Annual Certification. Each year on July 1, the permittee shall submit an affidavit which shall list, by location, all facilities it owns within the City by location, and shall certify (1) each such installation remains in use; (2) that such in-use facility remains covered by insurance; and (3) each such installation which is no longer in use. Any facility which is no longer in use shall be removed by permittee within 60 days of delivery of the affidavit.

9. Permittee shall pay for and provide a performance bond, which shall be in effect until the facilities are fully and completely removed and the site reasonably returned to its original condition, to cover permittee's obligations under these conditions of approval and the Los Altos Municipal Code. The bond coverage shall include, but not be limited to, removal of the facility, maintenance obligations and landscaping obligations. The amount of the performance bond shall be set by the City Manager in an amount rationally related to the obligations covered by the bond and shall be specified in the conditions of approval.

10. Permittee shall defend, indemnify, protect and hold harmless the City, its elected and appointed Council members, boards, commissions, officers, officials, agents, consultants, employees, and volunteers from and against any and all claims, actions, or proceeding against the City and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers to attack, set aside, void or annul, an approval of the City, Planning Commission or City Council concerning this permit and the project. Such indemnification shall include damages, judgments, settlements, penalties, fines, defensive costs or expenses, including, but not limited to, interest, attorneys' fees and expert witness fees, or liability of any kind related to or arising from such claim, action, or proceeding. The City shall promptly notify the permittee of any claim, action, or proceeding. Nothing contained herein shall prohibit City from participating in a defense of any claim, action or proceeding. The City shall have the option of coordinating the defense, including, but not limited to, choosing counsel for the defense at permittee's expense.

11. All conditions of approval shall be binding as to the applicant and all successors in interest to permittee.

12. A condition setting forth the permit expiration date in accordance with Section 11.14.20012.160 shall be included in the conditions of approval.

Section 11.14.11012.070 Additional conditions of approval for facilities in the public right-of-way.

A. In addition to compliance with the requirements of this chapter, upon approval all facilities in the public right-of-way shall be subject to each of the conditions of approval set forth in Section 11.14.10012.060, each of the following conditions of approval, and any modification of these conditions or additional conditions of approval deemed necessary by the reviewing authorityCity:

1. The wireless telecommunications facility shall be subject to such conditions, changes or limitations as are from time to time deemed necessary by the City engineer for the purpose of: (a) protecting the public health, safety, and welfare; (b) preventing interference with pedestrian and vehicular traffic; and (c) preventing damage to the public right-of-way or any property adjacent to it. The City may modify the permit to reflect such conditions, changes or limitations by following the same ~~notice and public hearing~~ procedures as are applicable to the grant of a wireless telecommunications facility permit for similarly located facilities, except the permittee shall be given notice by personal service or by registered or certified mail at the last address provided to the City by the permittee.
2. The permittee shall not move, alter, temporarily relocate, change, or interfere with any existing structure, improvement or property without the prior consent of the owner of that structure, improvement or property. No structure, improvement or property owned by the City shall be moved to accommodate a wireless telecommunications facility unless the City determines that such movement will not adversely affect the City or any surrounding businesses or residents, and the permittee pays all costs and expenses related to the relocation of the City's structure, improvement or property. Prior to commencement of any work pursuant to an encroachment permit issued for any facility within the public right-of-way, the permittee shall provide the City with documentation establishing to the City's satisfaction that the permittee has the legal right to use or interfere with any other structure, improvement or property within the public right-of-way to be affected by applicant's facilities.
3. The permittee shall assume full liability for damage or injury caused to any property or person by the facility.
4. The permittee 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, street lights, traffic signals, improvements of any kind or nature, or utility lines and systems, underground utility line and systems, or sewer systems and sewer lines that result from any activities performed in connection with the installation or maintenance of a wireless telecommunications facility in the public right-of-way. The permittee shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. In the event the permittee fails to complete such repair within the number of days stated on a written notice by the City Manager, the City Manager shall cause such repair to be completed at permittee's sole cost and expense.
5. Prior to issuance of a building permit, the applicant shall obtain the City Manager's approval of a tree protection plan prepared by a certified arborist if the installation of the wireless telecommunication facility will be located within the canopy of a street tree, or a protected tree on private property, or within a 10-foot radius of the base of such a tree. Depending on site specific criteria (e.g., location of tree, size, and type of tree, etc.), a radius greater than 10 feet may be required by the City Manager.

6. Should any utility company offer electrical service that does not require the use of a meter cabinet, the permittee shall at its sole cost and expense remove the meter cabinet and any related foundation within 30 days of such service being offered and reasonably restore the area to its prior condition.

7. The permittee shall modify, remove, or relocate its facility, or portion thereof, without cost or expense to the City, if and when made necessary by:

- a. Any public improvement project, including, but not limited to, the construction, maintenance, or operation of any underground or aboveground facilities including, but not limited to, sewers, storm drains, conduits, gas, water, electric or other utility systems, or pipes owned by the City or any other public agency;
- b. Any abandonment of any street, sidewalk, or other public facility;
- c. Any change of grade, alignment or width of any street, sidewalk or other public facility; or
- d. A determination by the City Manager that the wireless telecommunications facility has become incompatible with public health, safety or welfare or the public's use of the public right-of-way.

8. Any modification, removal, or relocation of the facility shall be completed within 90 days of written notification by the City unless exigencies dictate a shorter period for removal or relocation. Modification or relocation of the facility shall require submittal, review and approval of a permit amendment pursuant to the Los Altos Municipal Code. The permittee shall be entitled, on permittee's election, to either a pro-rata refund of fees paid for the original permit or to a new permit, without additional fee, at a location as close to the original location as the standards set forth in the Los Altos Municipal Code allow. In the event the facility is not modified, removed, or relocated within said period of time, the City may cause the same to be done at the sole cost and expense of permittee. Further, due to exigent circumstances as provided in the Los Altos Municipal Code, the City may modify, remove, or relocate wireless telecommunications facilities without prior notice to permittee provided permittee is notified within a reasonable period thereafter.

Section 11.14.120 — Findings:

9. In the event that other public utilities in the public right-of-way underground their facilities where the permittee's wireless facility is located, the permittee must underground its equipment except the antennas and antenna supports. Such undergrounding shall occur at the permittee's sole cost and expense except as reimbursed pursuant to law.

10. Pre-Construction Notice. Prior to construction, permittee shall notify the three (3) closest adjacent property owners to the installation and the three closest property owners directly across the street from the installation at least ten (10) days prior to commencement of any work. In addition, the permittee shall notify the City Communications Department at (650) 948-8223 of street/alley and lane closures at least 24 hours prior to any work. Furthermore, the contractor shall notify the city's

Traffic Engineer at least 48 hours in advance of any excavations within 100 feet of any traffic signals.

11. Insurance. Permittee shall obtain and maintain throughout the term of the permit commercial general liability and property damage insurance indicating the City of Los Altos as an additional insured. Coverage shall be at least as broad as:

a. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, with limits no less than \$1,000,000 or \$2,000,000 aggregate per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. CGL insurance must include coverage for the following: Bodily Injury and Property Damage; Personal Injury/Advertising Injury; Premises/Operations Liability; Products/Completed Operations Liability; Aggregate Limits that Apply per Project; Explosion, Collapse and Underground (UCX) exclusion deleted; Contractual Liability with respect to the permit; Broad Form Property Damage; and Independent Consultants Coverage

The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

b. Automobile Liability: Insurance Services Office Form Number CA 00 01 covering, Code 1 (any auto), or if permittee has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

c. Workers’ Compensation/Employer’s Liability: Permittee shall certify that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and it will comply with such provisions before commencing work under this Agreement. To the extent permittee has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement permittee shall maintain insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

d. Professional Liability (Errors and Omissions) Insurance appropriate to the permittee’s profession, with limit no less than \$1,000,000 per occurrence or claim. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the permittee. “Covered Professional Services” as designed in the policy must specifically include work performed under this Agreement.

e. Umbrella or Excess Liability: Umbrella or Excess Insurance. If umbrella or an excess liability insurance policy is used to satisfy the minimum requirements for CGL or Automobile Liability insurance coverage listed above, the umbrella or

excess liability policies shall provide coverage at least as broad as specified for the underlying coverages and covering those insured in the underlying policies. Coverage shall be “pay on behalf,” with defense costs payable in addition to policy limits. permittee shall provide a “follow form” endorsement or schedule of underlying coverage satisfactory to the City indicating that such coverage is subject to the same terms and conditions as the underlying liability policy.

f. The relevant policy(ies) shall name the City, its elected/appointed officials, commission members, officers, representatives, agents, and employees as additional insureds. Permittee shall use its best efforts to provide thirty (30) days’ prior notice to the City of to the cancellation or material modification of any applicable insurance policy.

Section 11.12.080 Findings.

A. Where a wireless telecommunication facility requires a ~~conditional~~-use permit under this chapter, the ~~reviewing authority~~City shall not approve any application unless, in addition to the findings generally applicable to all ~~conditional~~-use permits, all of the following additional findings are made:

1. The proposed facility complies with all applicable provisions of this chapter, and with design and siting guidelines adopted by the City Council, and will be in compliance with all applicable building, electrical, and fire safety codes.
2. The proposed facility has been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.
3. The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.
4. Noise generated by equipment will not be excessive, annoying nor be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in this chapter.

B. In addition to the findings in subsection A of this section, approval of a wireless telecommunications facility permit for a facility that will be located in the public right-of-way may be granted only if the following findings are made by the ~~reviewing authority~~City:

1. The applicant has provided substantial written evidence supporting the applicant’s claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise or other agreement with the City permitting them to use the public right-of-way.
2. The applicant has demonstrated that the facility will not interfere with the use of the public right-of-way, existing subterranean infrastructure, or the City’s plans for modification or use of such location and infrastructure

C. A copy of any decision on an application made under this section shall be provided to the applicant, and to any party who submitted comments to the City Manager pursuant to notice required by this Chapter. Decisions shall also be posted on the Los Altos website

within twenty-four (24) hours of their issuance, in a manner clearly identifying the application to which the decision relates.

Section 11.~~14.130~~12.090 Exceptions.

A. Exceptions pertaining to any provision of this chapter, including, but not limited to, exceptions from findings that would otherwise justify denial, may be granted by the ~~reviewing authority~~City if the ~~reviewing authority~~City makes the finding that:

1. Denial of the facility as proposed would violate federal law, state law, or both; or
2. A provision of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both.

B. An applicant may only request an exception at the time of applying for a wireless telecommunications facility permit. The request must include both the specific provision(s) of this chapter and any design or siting standards from which the exception is sought and the basis of the request. Any request for an exception after the City has deemed an application complete shall be treated as a new application.

C. Notwithstanding any other provision of this chapter, a~~conditional~~ use permit shall be required for a facility when an exception is requested.

D. The applicant shall have the burden of proving that denial of the facility as proposed would violate federal law, state law, or both, or that the provisions of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both, using the evidentiary standards required by that law at issue. The City shall have the right to hire an independent consultant, at the applicant's expense, to evaluate the issues raised by the exception request and shall have the right to submit rebuttal evidence to refute the applicant's claim.

Section 11.~~14.140~~12.100 Wireless telecommunications facilities covered under Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012.

A. **Purpose.** Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112-96, codified in 47 U.S.C. Section 1455(a), generally requires that state and local governments "may not deny, and shall approve" requests to collocate, remove or replace transmission equipment at an existing tower or base station. Federal Communication Commission regulations interpret this statute and create procedural rules for local review, which generally preempt certain subjective land-use regulations, limit permit application content requirements and provide the applicant with a potential "deemed granted" remedy when the state or local government fails to approve or deny the request within 60 days after submittal (accounting for any tolling periods). Moreover, whereas Section 704 of the Telecommunications Act of 1996, Pub. L. 104-104, codified in 47 U.S.C. Section 332, applies to only "personal wireless service facilities" (e.g., cellular telephone towers and equipment), Section 6409(a) applies to all "wireless" facilities licensed or authorized by the FCC (e.g., cellular, Wi-Fi, satellite, microwave backhaul, etc.).

The overlap between wireless deployments covered under Section 6409(a) and other wireless deployments, combined with the different substantive and procedural rules applicable to such deployments, creates a potential for confusion that harms the public

interest in both efficient wireless facilities deployment and carefully planned community development in accordance with local values. A separate permit application and review process specifically designed for compliance with Section 6409(a) contained in a section devoted to Section 6409(a) will mitigate such potential confusion, streamline local review and preserve the City's land-use authority to the maximum extent possible.

B. **Applicability.** This section applies to all collocations or modifications to an existing wireless tower or base station submitted with a written request for approval pursuant to Section 6409(a).

C. **Approval Required.** Any request to collocate, replace or remove transmission equipment at an existing wireless tower or base station submitted with a written request for a Section 6409(a) approval shall be subject to the City Manager's approval, conditional approval or denial without prejudice pursuant to the standards and procedures contained in this chapter.

D. **Other Regulatory Approvals.** No collocation or modification approved under any Section 6409(a) approval may occur unless the applicant also obtains all other applicable permits or regulatory approvals from the City and state or federal agencies. Furthermore, any Section 6409(a) approval granted under this chapter shall remain subject to any and all lawful conditions or requirements associated with such other permits or regulatory approvals from the City and state or federal agencies.

E. **Application Requirement.** The City shall not approve any wireless facility subject to this chapter except upon a duly filed application consistent with this section and any other written rules the City or the City Manager may establish from time to time. An application must include the information required by parts 1-4, 9, 10, and 14 of Section-11.1412.050-(A) and the following additional information:

~~1. — A title report prepared within the six months prior to the application filing date in order for the City verify the property owner's identity. If the applicant does not own the subject property, the application must include a written authorization signed by the property owner that empowers the applicant to file the application and perform all wireless facility construction, installation, operation and maintenance to the extent described in the application.~~

2.1. A written statement that explains in plain factual detail whether and why Section 6409(a) and the related FCC regulations at 47 C.F.R. Section 1.40001 et seq., 6100 require approval for the specific project. A complete written narrative analysis will state the applicable standard and all the facts that allow the City to conclude the standard has been met. Bare conclusions not factually supported do not constitute a complete written analysis. As part of this written statement the applicant must also include: (a) whether and why the support structure qualifies as an existing tower or existing base station; and (b) whether and why the proposed collocation or modification does not cause a substantial change in height, width, excavation, equipment cabinets, concealment or permit compliance.

F. ~~**Procedures for a Duly Filed Application.** The City shall not review any application unless duly filed in accordance with this section, as follows:~~

~~1. — Pre-Submittal Conference. Before application submittal, applicants must schedule and attend a pre-application meeting with the City Manager for all proposed modifications submitted for approval pursuant to Section 6409(a). The pre-submittal conference is intended~~

to streamline the review process through informal discussion that includes, without limitation, the appropriate project classification, including whether the project qualifies for Section 6409(a); any latent issues in connection with the existing tower or base station; potential concealment issues (if applicable); coordination with other City departments responsible for application review; and application completeness issues. To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications or other materials so that City staff may provide informal feedback about whether such applications or other materials may be incomplete or unacceptable. The City Manager may, in the City Manager's discretion, grant a written exemption to the submittal appointment under Section 11.14.140 (F)(2) or for a specific requirement for a complete application to any applicant who: (a) schedules, attends and fully participates in any pre-submittal conference; and (b) shows to the City Manager's satisfaction that such specific requirement duplicates information already provided in other materials to be submitted or is otherwise unnecessary to the City's review under facts and circumstances in that particular case. Any written exemption will be limited to the project discussed at the pre-submittal conference and will not be extended to any other project.

2. — Submittal Appointment. All applications must be filed with the City at a pre-scheduled appointment. Applicants may generally submit one application per appointment, but may schedule successive appointments for multiple applications whenever feasible and not prejudicial to other applicants. Any application received without an appointment, whether delivered in person or through any other means, will not be considered duly filed unless the applicant received a written exemption from the City Manager at a pre-submittal conference.

3. — Appointment Scheduling Procedures. For any event in the submittal process that requires an appointment, applicants must submit a written request to the City Manager. The City Manager shall endeavor to provide applicants with an appointment as soon as reasonably feasible and within five business days after a written request is received.

4. — Applications Deemed Withdrawn. To promote efficient review and timely decisions, an application will be automatically deemed withdrawn by the applicant when the applicant fails to tender a substantive response to the City within 90 calendar days after the City deems the application incomplete in a written notice to the applicant. The City Manager may, in the City Manager's discretion, grant a written extension for up to an additional 30 calendar days when the applicant submits a written request prior to the 90th day that shows good cause to grant the extension. Delays due to circumstances outside the applicant's reasonable control will be considered good cause to grant the extension.

5. — Departmental Forms, Rules and Other Regulations. The City Council authorizes the City Manager to develop and publish permit application forms, checklists, informational handouts and other related materials that the City Manager finds necessary, appropriate or useful for processing requests for Section 6409(a) approvals. Without further authorization from the City Council, the City Manager may, from time to time, update and alter any such permit application forms, checklists, informational handouts and other related materials as the City Manager deems necessary, appropriate or useful to respond to regulatory, technological or other changes related to this chapter. The City Council authorizes the City Manager to establish other reasonable rules and regulations, which may include, without limitation, regular hours for appointments with applicants, as the City Manager deems necessary or appropriate to organize, document and manage the application intake process.

G.—Administrative Review—Decision Notices. The City Manager shall administratively review an application for a Section 6409(a) approval and act on such an application without prior notice or a public hearing. Within five working days after the City Manager conditionally approves or denies an application submitted for Section 6409(a) approval or before the FCC timeframe for review expires (whichever occurs first), the City Manager shall send a written notice to the applicant. In the event that the City Manager determines that an application submitted for approval pursuant to Section 6409(a) does not qualify for approval, the City Manager will send written notice to the applicant that includes the reasons to support the review authority’s decision ~~and states that the application will be automatically denied without prejudice on the 60th day after the date the application was filed unless the applicant withdraws, a statement identifying the applicable application type and shot clock, as well as additional information necessary to complete~~ the application.

H.G. Required Findings for 6409(a) Approval. The City Manager may approve or conditionally approve an application submitted for Section 6409(a) approval when the City Manager finds that the proposed project:

1. Involves collocation, removal or replacement of transmission equipment on an existing wireless tower or base station; and
2. Does not substantially change the physical dimensions of the existing wireless tower or base station.

H.H. Criteria for Denial ~~Without Prejudice.~~ Notwithstanding any other provisions in this chapter, and consistent with all applicable federal laws and regulations, the City Manager may deny without prejudice an application submitted for approval pursuant to Section 6409(a) when it finds that the proposed project:

1. Does not satisfy the criteria for approval;
2. Violates any legally enforceable standard or permit condition reasonably related to public health and safety then in effect; or
3. Involves the replacement of the entire support structure.

H.I. Conditional 6409(a) Approvals. Subject to any applicable limitations in federal or state law, nothing in this chapter is intended to limit the City’s authority to conditionally approve an application for a Section 6409(a) approval to protect and promote the public health, safety and welfare.

~~**K.—Appeals.** Notwithstanding any provision of the Los Altos Municipal Code to the contrary an applicant may appeal a decision by the City Manager to deny without prejudice a Section 6409(a) application. The appeal must be filed within 10 days from the City Manager’s decision. The appeal must state in plain terms the grounds for reversal and the facts that support those grounds. The City Manager shall serve as the appellate authority for all appeals of all actions of the City Manager taken pursuant to this section. The City shall provide notice for an administrative hearing by the City Manager. The City Manager shall limit its review to whether the project should be approved or denied in accordance with the provisions in subsections H and I of this section. The decision of the City Manager shall be final and not subject to any further administrative appeals.~~

H.J. Standard Conditions of Approval. In addition to all other conditions adopted by the City Manager, all Section 6409(a) approvals, whether approved by the City Manager or deemed approved by the operation of law, shall be automatically subject to the following

conditions in this section; provided, however, that the City Manager shall have discretion to modify or amend these conditions on a case-by-case basis as may be necessary or appropriate under the circumstances:

1. **Approved Plans.** Before the permittee submits any application for a building permit or other permits required by the Los Altos Municipal Code, the permittee must incorporate the wireless telecommunications facility permit granted under this section, all conditions associated with the wireless telecommunications facility permit and the approved plans and any photo simulations (the “approved plans”) into the project plans. The permittee must construct, install and operate the wireless telecommunications facility in strict compliance with the approved plans. The permittee shall submit an as built drawing within 90 days after installation of the facility.
2. **Permit Term.** The City’s grant or grant by operation of law of a Section 6409(a) approval constitutes a federally-mandated modification to the underlying permit or other prior regulatory authorization for the subject tower or base station. The City’s grant or grant by operation of law of a Section 6409(a) approval will not extend the permit term, if any, for any ~~conditional~~-use permit, or other underlying prior regulatory authorization. Accordingly, the term for a Section 6409(a) approval shall be coterminous with the underlying permit or other prior regulatory authorization for the subject tower or base station.
3. **Accelerated Permit Terms Due to Invalidation.** In the event that any court of competent jurisdiction invalidates any portion of Section 6409(a) or any FCC rule that interprets Section 6409(a) such that federal law would not mandate approval for any Section 6409(a) approval, such 6409(a) approvals shall automatically expire one year from the effective date of the judicial order, unless the decision would not authorize accelerated termination of previously approved Section 6409(a) approvals or the City Manager grants an extension upon written request from the permittee that shows good cause for the extension, which includes, without limitation, extreme financial hardship. Notwithstanding anything in the previous sentence to the contrary, the City Manager may not grant a permanent exemption or indefinite extension. A permittee shall not be required to remove its improvements approved under the invalidated Section 6409(a) approval when it has submitted an application for a ~~conditional~~-use permit for those improvements before the one-year period ends.
4. **No Waiver of Standing.** The City’s grant or grant by operation of law of a Section 6409(a) approval does not waive, and shall not be construed to waive, any standing by the City to challenge Section 6409(a), any FCC rules that interpret Section 6409(a) or any Section 6409(a) approval.
5. **Build-Out Period.** The Section 6409(a) approval will automatically expire one year from the issuance date unless the permittee obtains all other permits and approvals required to install, construct and operate the approved wireless facility, which includes without limitation any permits or approvals required by the any federal, state or local public agencies with jurisdiction over the subject property, the wireless facility or its use. The City Manager may grant one written extension to a date certain when the permittee shows good cause to extend the limitations period in a written request for an

extension submitted at least 30 days prior to the automatic expiration date in this condition. Any further extensions may be granted by the ~~Planning Commission~~City Manager.

6. Maintenance Obligations—Vandalism. The permittee shall keep the site, which includes, without limitation, any and all improvements, equipment, structures, access routes, fences and landscape features, in a neat, clean and safe condition in accordance with the approved plans and all conditions in this Section 6409(a) approval. The permittee shall keep the site area free from all litter and debris at all times. The permittee, at no cost to the City, shall remove and remediate any graffiti or other vandalism at the site within 48 hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.

7. Compliance with Laws. The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law (“laws”) applicable to the permittee, the subject property, the wireless facility or any use or activities in connection with the use authorized in this Section 6409(a) approval. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee’s obligations to maintain compliance with all laws.

8. Adverse Impacts on Other Properties. The permittee shall use all reasonable efforts to avoid any and all undue or unnecessary adverse impacts on nearby properties that may arise from the permittee’s construction, installation, operation, modification, maintenance, repair, removal or other activities at the site. The permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines on any day and at any time prohibited under the Los Altos Municipal Code. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the City. The City Manager may issue a stop work order for any work that violates this condition.

9. Noise Complaints. The permittee shall conduct all activities on the site in compliance with the noise standards in the Los Altos Municipal Code. In the event that any person files a noise complaint and the City verifies that such complaint is valid, the permittee must remedy the violation within 10 days after notice from the City, which may include a demonstration that the permittee has amended its operational guidelines in situations where the violation arises from the permittee’s personnel rather than the permittee’s equipment.

10. Inspections—Emergencies. The permittee expressly acknowledges and agrees that the City or its designee may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the permittee; provided, however, that the City or its designee may, but will not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent

harm to property or persons. The permittee will be permitted to supervise the City or its designee while such inspection or emergency access occurs.

11. **Contact Information.** The permittee shall furnish the City with accurate and up-to-date contact information for a person responsible for the wireless facility, which includes, without limitation, such person's full name, title, direct telephone number, facsimile number, mailing address and email address. The permittee shall keep such contact information up-to-date at all times.

12. **Indemnification.** The permittee and, if applicable, the property owner upon which the wireless facility is installed shall defend, indemnify and hold harmless the City, its agents, officers, officials, employees and volunteers from any and all: (a) damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs and other actions or proceedings ("claims") brought against the City or its agents, officers, officials, employees or volunteers to challenge, attack, seek to modify, set aside, void or annul the City's approval of this Section 6409(a) approval; and (b) other claims any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the permittee's or its agents', directors', officers', employees', contractors', subcontractors', licensees', or customers' acts or omissions in connection with this Section 6409(a) approval or the wireless facility. In the event the City becomes aware any claims, the City will use best efforts to promptly notify the permittee and the private property owner and shall reasonably cooperate in the defense. The permittee expressly acknowledges and agrees that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the property owner or permittee (as applicable) shall promptly reimburse the City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. The permittee expressly acknowledges and agrees that the permittee's indemnification obligations under this condition are a material consideration that motivates the City to approve this Section 6409(a) approval, and that such indemnification obligations will survive the expiration or revocation of this Section 6409(a) approval.

13. **Performance Bond.** Before the City issues any construction permit in connection with the wireless facility, the permittee shall post a performance bond from a surety and in a form acceptable to the City Manager in an amount equal to or greater than a written estimate from a qualified contractor with experience in wireless facilities removal. The written estimate must include the cost to remove all equipment and other improvements, which includes, without limitation, all antennas, radios, batteries, generators, utilities, cabinets, mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles, footings and foundations, whether above ground or below ground, constructed or installed in connection with the wireless facility. In establishing or adjusting the bond amount required under this condition, and in accordance with California ~~Government Code~~Government Code Section 65964(a), the City Manager shall take into consideration information provided by the permittee regarding the cost to remove the wireless facility.

14. **Record Retention.** The permittee must maintain complete and accurate copies of all permits and other regulatory approvals issued in connection with the wireless facility, which includes, without limitation, this approval, the approved plans and

photo simulations incorporated into this approval, all conditions associated with this approval and any ministerial permits or approvals issued in connection with this approval. In the event that the permittee does not maintain such records as required in this condition, any ambiguities or uncertainties that would be resolved through an inspection of the missing records will be construed against the permittee.

15. Compliance Obligations. An applicant or permittee will not be relieved of its obligation to comply with every applicable provision in the Los Altos Municipal Code, any permit, any permit condition or any applicable law or regulation by reason of any failure by the City to timely notice, prompt or enforce compliance by the applicant or permittee.

16. Insurance. Permittee shall obtain and maintain throughout the term of the permit commercial general liability and property damage insurance indicating the City of Los Altos as an additional insured. Coverage shall be at least as broad as:

a. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, with limits no less than \$1,000,000 or \$2,000,000 aggregate per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. CGL insurance must include coverage for the following: Bodily Injury and Property Damage; Personal Injury/Advertising Injury; Premises/Operations Liability; Products/Completed Operations Liability; Aggregate Limits that Apply per Project; Explosion, Collapse and Underground (UCX) exclusion deleted; Contractual Liability with respect to the permit; Broad Form Property Damage; and Independent Consultants Coverage

The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

b. Automobile Liability: Insurance Services Office Form Number CA 00 01 covering, Code 1 (any auto), or if permittee has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

c. Workers' Compensation/Employer's Liability: Permittee shall certify that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and it will comply with such provisions before commencing work under this Agreement. To the extent permittee has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement permittee shall maintain insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

d. Professional Liability (Errors and Omissions) Insurance appropriate to the permittee's profession, with limit no less than \$1,000,000 per occurrence or

claim. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the permittee. "Covered Professional Services" as designed in the policy must specifically include work performed under this Agreement.

e. Umbrella or Excess Liability: Umbrella or Excess Insurance. If umbrella or an excess liability insurance policy is used to satisfy the minimum requirements for CGL or Automobile Liability insurance coverage listed above, the umbrella or excess liability policies shall provide coverage at least as broad as specified for the underlying coverages and covering those insured in the underlying policies. Coverage shall be "pay on behalf," with defense costs payable in addition to policy limits. permittee shall provide a "follow form" endorsement or schedule of underlying coverage satisfactory to the City indicating that such coverage is subject to the same terms and conditions as the underlying liability policy.

The relevant policy(ies) shall name the City, its elected/appointed officials, commission members, officers, representatives, agents, and employees as additional insureds. Permittee shall use its best efforts to provide thirty (30) days' prior notice to the City of to the cancellation or material modification of any applicable insurance policy.

Section 11.44.15012.110 Wireless telecommunications collocation facilities covered under California Government Code Section 65850.6.

A. **Purpose.** The purpose of this section is to comply with an application for a wireless telecommunications collocation facility under California ~~Government Code~~Government Code Section 65850.6, for which a Section 6509(a) approval is not being requested. This section provides the requirements, standards and regulations for a wireless telecommunications collocation facility for which subsequent collocation is a permitted use pursuant to California law. Only those facilities that fully comply with the eligibility requirements set forth in California ~~Government Code~~Government Code Section 65850.6, or its successor provision, and which strictly adhere to the requirements and regulations set forth in this section shall qualify as a wireless telecommunications collocation facility.

B. **Definitions.** For the purposes of this section, the following terms are defined as follows:

1. "Collocation facility" means the placement or installation of wireless facilities, including antennas, and related equipment, on, or immediately adjacent to, a wireless telecommunications collocation facility.
2. "Wireless telecommunications facility" means equipment and network components such as towers, utility poles, transmitters, base stations, and emergency power systems that are integral to providing wireless telecommunications services.
3. "Wireless telecommunications collocation facility" means a wireless telecommunications facility that includes collocation facilities.

C. **Procedures.** An application for a wireless telecommunications collocation facility under California ~~Government Code~~Government Code Section 65850.6 shall be processed in

the same manner as an application for Section 6409(a) approval is processed, except that where the process requires justification for the Section 6409(a) approval, the applicant shall instead provide the justification for a wireless telecommunications collocation facility under California ~~Government Code~~Government Code Section 65850.6.

D. Requirements. All requirements, regulations, and standards set forth in this chapter for a wireless telecommunications facility shall apply to a wireless telecommunications collocation facility; provided, however, the following shall also apply to a wireless telecommunications collocation facility:

1. The applicant for a wireless telecommunications collocation facility permit shall describe or depict:
 - a. The wireless telecommunications collocation facility as it will be initially built; and
 - b. All collocations at full build-out, including, but not limited to, all antennas, antenna support structures, and accessory equipment.
2. Any collocation shall use screening methods substantially similar to those used on the existing wireless telecommunications facilities unless other optional screening methods are specified in the conditions of approval.
3. A wireless telecommunications collocation facility permit shall not be approved unless an environmental impact report, negative declaration, or mitigated negative declaration was prepared and approved for the wireless telecommunications collocation facility.

E. Permitted Use. Notwithstanding any other provision of this chapter, a subsequent collocation on a wireless telecommunications collocation facility shall be a permitted use only if all of the following requirements are satisfied:

1. The wireless telecommunications collocation facility:
 - a. Was approved after January 1, 2007, by discretionary permit;
 - b. Was approved subject to an environmental impact report, negative declaration, or mitigated negative declaration; and
 - c. Otherwise complies with the requirements of California ~~Government Code~~Government Code Section 65850.6(b), or its successor provision, for addition of a collocation facility to a wireless telecommunications collocation facility, including, but not limited to, compliance with all performance and maintenance requirements, regulations and standards in this chapter and the conditions of approval in the wireless telecommunications collocation facility permit.
2. The collocations were specifically considered when the relevant environmental document was prepared for the wireless telecommunications collocation facility.
3. Before collocation, the applicant seeking collocation shall obtain all other applicable non-discretionary permits, as required pursuant to the Los Altos Municipal Code.

F. **New or Amended Permit.** Except as otherwise provided above, approval of a new or amended permit shall be required when the facility is modified other than by collocation in accordance with this section, or the proposed collocation:

1. Increases the height of the existing permitted telecommunications tower or otherwise changes the bulk, size, location, or any other physical attributes of the existing permitted wireless telecommunications collocation facility unless specifically permitted under the conditions of approval applicable to such wireless telecommunications collocation facility; or
2. Adds any microwave dish or other antenna not expressly permitted to be included in a collocation facility by the conditions of approval.

~~G. **Appeals.** Notwithstanding any provision of the Los Altos Municipal Code to the contrary, any applicant may appeal a decision by the City Manager. The appeal must be filed within 15 days from the City Manager's decision. The appeal must state in plain terms the grounds for reversal and the facts that support those grounds. The City Council shall serve as the appellate authority for all appeals of all actions of the City Manager taken pursuant to this section. The City shall provide notice for an administrative hearing by the City Council. The City Council shall limit its review to whether the project should be approved or denied in accordance with the provisions in this section. The decision of the City Council shall be final and not subject to any further administrative appeals.~~

Section 11.~~44.160~~12.120 Business license.

A permit issued pursuant to this chapter shall not be a substitute for any business license otherwise required under the Los Altos Municipal Code.

Section 11.~~44.170~~12.130 Emergency deployment.

In the event of a declared federal, state, or local emergency, or when otherwise warranted by conditions that the City Manager deems to constitute an emergency, the City Manager may approve the installation and operation of a temporary wireless telecommunications facility (e.g., a cell on wheels or "COW"), which is subject to such reasonable conditions that the City Manager deems necessary.

Section 11.~~44.180~~12.140 Operation and maintenance standards.

A. All wireless telecommunications facilities must comply at all times with the following operation and maintenance standards. All necessary repairs and restoration shall be completed by the permittee, owner, or operator within 48 hours:

1. After discovery of the need by the permittee, owner, operator or any designated maintenance agent; or
2. After permittee, owner, operator, or any designated maintenance agent receives notification from ~~a resident or~~ the City Manager.

B. All facilities, including, but not limited to, telecommunication towers, poles, accessory equipment, lighting, fences, walls, shields, cabinets, artificial foliage or camouflage, and the facility site shall be maintained in good condition, including ensuring the facilities are reasonably free of:

1. General dirt and grease;
2. Chipped, faded, peeling, and cracked paint;
3. Rust and corrosion;
4. Cracks, dents, and discoloration;
5. Missing, discolored, or damaged artificial foliage or other camouflage;
6. Graffiti, bills, stickers, advertisements, litter and debris;
7. Broken and misshapen structural parts; and
8. Any damage from any cause.

C. All trees, foliage or other landscaping elements approved as part of the facility shall be maintained in good condition at all times, and the permittee, owner and operator of the facility shall be responsible for replacing any damaged, dead or decayed landscaping. No amendment to any approved landscaping plan may be made until it is submitted to and approved by the City Manager.

D. The permittee shall replace its facilities, after obtaining all required permits, if maintenance or repair is not sufficient to return the facility to the condition it was in at the time of installation.

E. Each facility shall be operated and maintained at all times in compliance with applicable federal regulations, including FCC radio frequency emissions standards.

F. Each facility shall be operated and maintained to comply at all times with the noise regulations of this chapter and shall be operated and maintained in a manner that will minimize noise impacts to surrounding residents. Except for emergency repairs, any testing and maintenance activities that will be audible beyond the property line shall only occur between the hours of 7:00 a.m. and 5:00 p.m. on Monday through Friday, excluding holidays, unless alternative hours are approved by the City Manager. Backup generators, if permitted, shall only be operated during periods of power outages or for testing.

G. If a flagpole is used for camouflaging a wireless telecommunications facility, flags shall be flown and shall be properly maintained at all times.

H. Each owner or operator of a facility shall routinely inspect each site to ensure compliance with the standards set forth in this section and the conditions of approval.

Section ~~11.44.190~~12.150 No dangerous conditions or obstructions allowed.

No person shall install, use or maintain any wireless telecommunications facility which in whole or in part rests upon, in or over any public sidewalk or parkway, when such installation, use or maintenance endangers or is reasonably likely to endanger the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such facility unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects permitted at or near said location.

Section 11.~~14.200~~12.160 **Permit expiration.**

A. A permit for any wireless telecommunications facility shall be valid for a period of 10 years, unless the ~~Planning Commission authorizes~~ permit states a longer period, or pursuant to another provision of the Los Altos Municipal Code the permit lapses sooner or is revoked. At the end of such period, the permit shall expire.

B. A permittee may apply for extensions of its permit in increments of no more than 10 years and no sooner than 12 months prior to expiration of the permit.

C. If a permit has not expired at the time an application is made for an extension, the City Manager may administratively extend the term of the permit for subsequent 10-year terms upon verification of continued compliance with the findings and conditions of approval under which the application was originally approved, as well as any other applicable provisions of the Los Altos Municipal Code that are in effect at the time the permit extension is granted.

1. At the City Manager's discretion, additional studies and information may be required of the applicant.

2. If the City Manager determines that the facility is nonconforming or that additional conditions of approval are necessary to bring the facility into compliance with the provisions of the Los Altos Municipal Code that are then in effect at the time of permit expiration, the City Manager shall refer the extension request to the ~~Planning Commission~~ City Council.

D. The request for an extension shall be decided by the ~~Planning Commission~~ City Council if the permit expired before the application is made for an extension or if the City Manager refers the matter to the ~~Planning Commission~~ City Council. After notice and a public hearing, the ~~Planning Commission~~ City Council may approve, conditionally approve, or deny the extension.

Section 11.~~14.210~~12.170 **Cessation of use or abandonment.**

A. A wireless telecommunications facility is considered abandoned and shall be promptly removed as provided herein if it ceases to provide wireless telecommunications services for 90 or more consecutive days. If there are two or more users of a single facility, then this provision shall not become effective until all users cease using the facility.

B. The operator of a facility shall notify the City in writing of its intent to abandon or cease use of a permitted site or a nonconforming site (including unpermitted sites) within 10 days of ceasing or abandoning use. Notwithstanding any other provision herein, the operator of the facility shall provide written notice to the City Manager of any discontinuation of operations of 30 days or more.

C. Failure to inform the City Manager of cessation or discontinuation of operations of any existing facility as required by this section shall constitute a violation of any approvals and be grounds for:

1. Prosecution;

2. Revocation or modification of the permit;

3. Calling of any bond or other assurance required by this chapter or conditions of approval of the permit;
4. Removal of the facilities by the City in accordance with the procedures established under the Los Altos Municipal Code for abatement of a public nuisance at the owner's expense; and
5. Any other remedies permitted under the Los Altos Municipal Code.

Section 11.14.22012.180 Removal and restoration, permit expiration, revocation or abandonment.

A. **Permittee's Removal Obligation.** Upon the expiration date of the permit, including any extensions, earlier termination or revocation of the permit or abandonment of the facility, the permittee, owner or operator shall remove its wireless telecommunications facility and restore the site to its natural condition except for retaining the landscaping improvements and any other improvements at the discretion of the City. Removal shall be in accordance with proper health and safety requirements and all ordinances, rules, and regulations of the City. The facility shall be removed from the property within 30 days, at no cost or expense to the City. If the facility is located on private property, the private property owner shall also be independently responsible for the expense of timely removal and restoration.

B. **Failure to Remove.** Failure of the permittee, owner, or operator to promptly remove its facility and restore the property within 30 days after expiration, earlier termination, or revocation of the permit, or abandonment of the facility, shall be a violation of the Los Altos Municipal Code, and be grounds for:

1. Prosecution;
2. Calling of any bond or other assurance required by this chapter or conditions of approval of permit;
3. Removal of the facilities by the City in accordance with the procedures established under the Los Altos Municipal Code for abatement of a public nuisance at the owner's expense; or
4. Any other remedies permitted under the Los Altos Municipal Code.

C. **Summary Removal.** In the event the City Manager determines that the condition or placement of a wireless telecommunications facility located in the public right-of-way constitutes a dangerous condition, obstruction of the public right-of-way, or an imminent threat to public safety, or determines other exigent circumstances require immediate corrective action (collectively, "exigent circumstances"), the City Manager may cause the facility to be removed summarily and immediately without advance notice or a hearing. Written notice of the removal shall be served upon the person who owns the facility within five business days of removal and all property removed shall be preserved for the owner's pick-up as feasible. If the owner cannot be identified following reasonable effort or if the owner fails to pick-up the property within 60 days, the facility shall be treated as abandoned property.

D. **Removal of Facilities by City.** In the event the City removes a facility in accordance with nuisance abatement procedures or summary removal, any such removal shall be

without any liability to the City for any damage to such facility that may result from reasonable efforts of removal. In addition to the procedures for recovering costs of nuisance abatement, the City may collect such costs from the performance bond posted and to the extent such costs exceed the amount of the performance bond, collect those excess costs in accordance with the Los Altos Municipal Code. Unless otherwise provided herein, the City has no obligation to store such facility. Neither the permittee nor the owner nor operator shall have any claim if the City destroys any such facility not timely removed by the permittee, owner, or operator after notice, or removed by the City due to exigent circumstances.

Section 11.~~14.230~~12.190 Effect on other ordinances.

A. Compliance with the provisions of this chapter shall not relieve a person from complying with any other applicable provision of the Los Altos Municipal Code, including, but not limited to, obtaining any necessary encroachment or building permits. In the event of a conflict between any provision of this chapter and other provisions of the Los Altos Municipal Code, this chapter shall control.

Section 11.~~14.240~~12.200 Effect of state or federal law.

A. In the event that state or federal law prohibits discretionary permitting requirements for certain wireless telecommunications facilities, the permits required by this chapter for those facilities shall be deemed to be ministerial permits. For those facilities, in lieu of a ~~conditional~~ use permit, a ministerial permit shall be required prior to installation or modification of a wireless telecommunications facility and all provisions of this chapter shall be applicable to any such facility with the exception that the required permit shall be reviewed and administered as a ministerial permit by the City Manager rather than as a discretionary permit. Any conditions of approval set forth in this chapter or deemed necessary by the City Manager shall be imposed and administered as reasonable time, place and manner rules.

B. In the event of a material change in case law or regulations applicable to the subject matter of this Chapter, no new applications shall be accepted under this chapter for a period of sixty (60) days, if permitted by law, to provide the City with time to consider the material change and, if it so chooses, take action to implement modifications to the Chapter.

11.12.210. Appeals.

A. Notwithstanding any provision of the Los Altos Municipal Code to the contrary, any person adversely affected by a decision by the City Manager may seek appeal of that decision under this Chapter. The appeal must be filed within five (5) days of the date of the City Manager's decision. The appeal must state in plain terms the grounds for reversal and the facts that support those grounds. The City Council shall serve as the appellate authority for all appeals of all actions of the City Manager taken pursuant to this section. The City shall provide notice for an administrative hearing by the City Council. The City Council shall limit its review to whether the project should be approved or denied in accordance with the provisions in this Chapter and any applicable design and siting guidelines.

SECTION 3: The City Manager, or his or her delegate, is directed to execute all documents and to perform all other necessary City acts to implement effect this Ordinance.

SECTION 4: CEQA. This Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The Ordinance does not authorize any specific development or installation on any specific piece of property within the City's boundaries. Moreover, when and if an application for installation is submitted, the City will at that time conduct preliminary review of the application in accordance with CEQA. Alternatively, even if the Ordinance is a "project" within the meaning of State CEQA Guidelines section 15378, the Ordinance is exempt from CEQA on multiple grounds. First, the Ordinance is exempt CEQA because the City Council's adoption of the Ordinance is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. (State CEQA Guidelines, § 15061(b)(3)). That is, approval of the Ordinance will not result in the actual installation of any facilities in the City. In order to install a facility in accordance with this Ordinance, the wireless provider would have to submit an application for installation of the wireless facility. At that time, the City will have specific and definite information regarding the facility to review in accordance with CEQA. And, in fact, the City will conduct preliminary review under CEQA at that time. Moreover, in the event that the Ordinance is interpreted so as to permit installation of wireless facilities on a particular site, the installation would be exempt from CEQA review in accordance with either State CEQA Guidelines section 15302 (replacement or reconstruction), State CEQA Guidelines section 15303 (new construction or conversion of small structures), and/or State CEQA Guidelines section 15304 (minor alterations to land). The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Santa Clara within five working days of the passage and adoption of the Ordinance.

SECTION 5: Severability. If any section, subsection, provision, sentence, clause, phrase or word of this Ordinance is for any reason held to be illegal or otherwise invalid by any court of competent jurisdiction, such invalidity shall be severable, and shall not affect or impair any remaining section, subsection, provision, sentence, clause, phrase or word included within this Ordinance, it being the intent of the City that the remainder of the Ordinance shall be and shall remain in full force and effect, valid, and enforceable.

SECTION 6: In accordance with _____, this ordinance shall become effective on the _____ day following its passage and adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF LOS ALTOS
this _____ day of _____, 2019, by the following vote:

AYES: _____

NOES: _____

ABSENT:

APPROVED:

ATTEST:

_____, **City Clerk**

APPROVED AS TO FORM:

_____, **City Attorney**

<i>Description Wireless Facility</i>	<i>Private Property</i>		<i>Public Right-of-Way⁴</i>
	<i>A-J, U, W¹ Zoning Districts</i>	<i>All Other Zoning Districts</i>	<i>Nonresidential Zoning Districts</i>
Roof-mounted facility, building-mounted facility, or facility mounted on an existing pole	Not Permitted	Conditional Use Permit/Design Review	Conditional Use Permit/Design Review
Facility mounted on a replacement pole or new telecommunications tower	Not Permitted	Conditional Use Permit/Design Review	Conditional Use Permit/Design Review
New wireless telecommunications collocation facility	Not Permitted	Conditional Use Permit/Design Review	Conditional Use Permit/Design Review
Eligible facilities request ² or application pursuant to California Government Code Section 65850.6 ³	Permitted	Permitted	Permitted

¹ See Section 14.04.010 (A, J, U, W) of the Code.

² See requirements of Section 11.14.140.

³ See requirements of Section 11.14.150.

⁴ For any **RESOLUTION NO. 2019-**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS ADOPTING DESIGN AND SITING GUIDELINES AND STANDARDS FOR WIRELESS FACILITIES

WHEREAS, it is in the public right of way not within a zoning district interest for the location of a City to establish reasonable, uniform and comprehensive design and siting guidelines for the installation of wireless facilities; and

WHEREAS, the adoption of design guidelines and standards by resolution will increase administrative efficiencies should future amendments become necessary; and

WHEREAS, Chapter 11.12 of the City's Municipal Code governs the permitting,

installation, and regulation of wireless telecommunication facility facilities within the City; and

WHEREAS, being authorized to do so, the City wishes to establish design and siting guidelines applicable to wireless facilities; and

WHEREAS, these guidelines contained are intended to, and should be applied to, protect and promote public health, safety and welfare, and also balance the benefits that flow from robust, advanced wireless services with the City's local values, which include, without limitation, the aesthetic character of the City, its neighborhoods and community; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOS ALTOS DOES RESOLVE AS FOLLOWS:

SECTION 1. INCORPORATION OF RECITALS. The recitals above are each incorporated by reference and adopted as findings of the City Council.

SECTION 2. DEFINITIONS. The definitions set forth in Section 11.12.020 of the Municipal Code are incorporated by reference into this Resolution. In addition, the terms used in this Resolution shall be determined based upon the closest district have the following meanings:

Small Cell Facility: shall have the same meaning as "small wireless facility" in 47 C.F.R. 1.6002(l), or any successor provision (which is a personal wireless services facility that meets the following conditions that, solely for convenience, have been set forth below):

(1) The facility—

(i) is mounted on a structure 50 feet or less in height, including antennas, as defined in 47 C.F.R. Section 1.1320(d), or

(ii) is mounted on a structure no more than 10 percent taller than other adjacent to the facility's location structures, or

(iii) does not extend an existing structure on which it are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;

(2) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in 47 C.F.R. Section 1.1320(d)), is no more than three cubic feet in volume;

(3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;

(4) The facility does not require antenna structure registration under 47 C.F.R. Part 17;

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

(6) The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 C.F.R. Section ~~41.14.060~~ Location and configuration preferences: 1.1307(b).

Underground areas: Those areas where there are no electrical facilities or facilities of the incumbent local exchange carrier in the right of way; or where the wires associated with the same are or are required to be located underground; or where the same are scheduled to be converted from overhead to underground. Electrical facilities are distribution facilities owned by an electric utility and do not include transmission facilities used or intended to be used to transmit electricity at nominal voltages in excess of 35,000 volts.

SECTION 3. BACKGROUND AND PURPOSE. The City of Los Altos is establishing these *Design and Siting Guidelines and Standards* for wireless facilities in order to regulate the design and placement of wireless infrastructure throughout the City.

These *Design and Siting Guidelines and Standards* provide objective aesthetic design and siting requirements that all wireless facilities must meet for approval by the City.

SECTION 4. LOCATION AND CONFIGURATION PREFERENCES

A. Purpose. The purpose of this section is to provide guidelines to applicants and the ~~reviewing authority~~City regarding the preferred locations and configurations for wireless telecommunication facilities in the City, provided that nothing in this section shall be construed to permit a wireless telecommunication facility in any location or configuration that it is otherwise prohibited by this chapter.

B. Review of Location and Configuration. The ~~reviewing authority~~City shall consider the extent to which a proposed wireless telecommunication facility complies with these preferences and whether there are feasible alternative locations or configurations to the proposed facility that are more preferred under this section. If the location or configuration of a proposed facility qualifies for two or more categories of preferred locations or configurations, it shall be deemed to belong to the least preferred category.

C. Order of Preference—Configurations. The order of preference for the configuration for wireless telecommunication facilities from most preferred to least preferred is:

1. Collocation with existing wireless facilities;
2. Roof-mounted;

3. Building-mounted;
4. Mounted on an existing pole or utility pole;
5. Mounted on a new pole or utility pole that will replace an existing pole or utility pole;
6. Mounted on a new telecommunication tower.

D. Order of Preference—Location. ~~The~~

Wireless facilities shall only be permitted in the City in accordance with the following table:

<u>Description Wireless Facility</u>	<u>Private Property</u>		<u>Public Right-of-Way</u>
	<u>A-J, U, W¹ Zoning Districts</u>	<u>All Other Zoning Districts</u>	<u>All Zoning Districts</u>
<u>Roof-mounted facility, building-mounted facility, or facility mounted on an existing pole</u>	<u>Not Permitted</u>	<u>Use Permit</u>	<u>Use Permit</u>
<u>Facility mounted on a replacement pole or new telecommunications tower</u>	<u>Not Permitted</u>	<u>Use Permit</u>	<u>Use Permit</u>
<u>New wireless telecommunications collocation facility</u>	<u>Not Permitted</u>	<u>Use Permit</u>	<u>Use Permit</u>
<u>Eligible facilities request² or application pursuant to California Government Code Section 65850.6³</u>	<u>Permitted</u>	<u>Permitted</u>	<u>Permitted</u>

¹ See Section 14.04.010 (A-J, U, W) of the Code.

² See requirements of Section 11.12.100.

³ See requirements of Section 11.12.110.

Furthermore, within the general categories specified above, the order of preference for the location of wireless telecommunications facilities from most preferred to least preferred is:

1. Commercial districts (as defined in Section 14.04.010 (K, L, O-R, V) of the Code).
2. ~~Other~~Public districts (as defined in Section 14.04.010 (S-~~T, V~~)) of the Code).

~~E.—Accessory Equipment. In order of preference from most preferred to least preferred, accessory equipment for wireless telecommunication facilities and wireless telecommunications collocation facilities shall be located underground, within a building or structure, on a screened roof top area or structure, or in a rear yard if not readily visible from surrounding properties and the~~

roadway, unless the reviewing authority finds that another location is preferable under the circumstances of the application.

~~Section 11.14.070 Design and development standards for all facilities.~~3. Mixed-use districts (as defined in Section 14.04.010 (M-N) of the Code).

4. Residential districts (as defined in Section 14.04.010 (A-J, T, U, W) of the Code).

Facilities located in the public rights-of-way shall have their preference evaluated based on the least-preferred zoning district adjacent to the proposed facility.

E. Other Location Preferences.

1. Mid-block locations are preferred instead of at more visible corners and street intersections except if proposed on traffic signal control poles.

2. New poles should be located in the parkway strip whenever possible and in alignment with existing trees, utility poles, and streetlights.

3. New poles should be an approximately equal distance between trees when possible, with a minimum separation of 15 feet or the tree's drip line, whichever is greater, such that no proposed disturbance shall occur within the critical root zone of any tree.

4. No facilities shall be permitted in any public park in a Public and Community Facilities (PCF) District.

5. No facilities shall be permitted within 500 feet of any school in a PCF District.

6. Each small cell facility must be separated by at least 1,500 feet.

SECTION 5. DESIGN AND DEVELOPMENT STANDARDS FOR ALL FACILITIES.

A. **Basic Requirements.** The design and development standards set forth in this section apply to all wireless telecommunications facilities no matter where they are located. Wireless telecommunications facilities shall be designed and maintained so as to minimize visual, noise, and other impacts on the surrounding community and shall be planned, designed, located, and erected in accordance with the design and development standards in this section.

B. **No Speculative Facilities.** A wireless telecommunications facility, wireless telecommunications collocation facility, or a telecommunications tower, which is built on speculation and for which there is no wireless tenant is prohibited within the City.

C. **General Guidelines.** The applicant shall employ screening and camouflage design techniques in the design and placement of wireless telecommunications facilities in order to ensure that the facility is as visually inconspicuous as possible, to prevent the facility from dominating the surrounding area and to hide the facility from predominant views from surrounding properties, all in a manner that achieves compatibility with the community.

D. **Traffic Safety.** All facilities shall be designed and located in such a manner as to avoid adverse impacts on traffic safety.

E. **Antennas.** The applicant shall use the least visible antennas possible to accomplish the coverage objectives. Antenna elements shall be flush mounted, to the extent reasonably feasible. All antenna mounts shall be designed so as not to preclude possible future collocation by the same or other operators or carriers. Antennas shall be situated as to reduce visual impact without compromising their function. Whip antennas need not be screened.

F. **Landscaping.** Where appropriate, facilities shall be installed so as to maintain and enhance existing landscaping on the site, including trees, foliage and shrubs, whether or not utilized for screening. Additional landscaping shall be planted, irrigated, and maintained where such vegetation is deemed necessary by the City to provide screening or to block the line of sight between facilities and adjacent uses.

G. **Signage.** Wireless telecommunications facilities and wireless telecommunications collocation facilities shall not bear any signs or advertising devices other than certification, warning or other signage required by law or permitted by the City.

H. **Lighting.** No wireless telecommunications facility may be illuminated unless either specifically required by the Federal Aviation Administration or other government agency or in association with the illumination of an athletic field on City or school property. Lightning arresters and beacon lights are not permitted unless required by the Federal Aviation Administration or other government agency. Legally required lightning arresters and beacons shall be included when calculating the height of facilities such as telecommunications towers, lattice towers, and monopoles.

I. **Noise.**

1. Each wireless telecommunications facility and wireless telecommunications collocation facility shall be operated in such a manner so as to minimize any possible disruption caused by noise.

2. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 5:00 p.m. and 7:00 a.m.

3. ~~At no time shall equipment noise from any facility exceed an exterior noise level of 50 dBA at the facility's property line if the facility is located in a business or commercial zone that permits those uses, provided, however, that for any such facility located within 500 feet of any property zoned residential or improved with a residential use, such equipment noise shall at no time be audible at the property line of any such residential property. For any facility located within a residential zone, such equipment noise shall at no time be audible at the property line of any residentially improved or residential zoned property.~~ At no time shall any facility be permitted to exceed the noise levels specified in Municipal Code Chapter 6.16.

4. ~~Any equipment, including, but not limited to, air conditioning units, that may emit noise that would be audible from beyond three feet from the facility in the case of a facility located in the right of way, or in the case of other facilities the facility's property line, shall be enclosed or equipped with noise attenuation devices to the extent necessary to ensure compliance with applicable noise limitations under the Los Altos Municipal Code.~~

J. **Security.** Each wireless telecommunications facility and wireless telecommunications collocation facility shall be designed to be resistant to, and minimize opportunities for, unauthorized access, climbing, vandalism, graffiti and other conditions that would result in hazardous situations, visual blight, or attractive nuisances. The ~~reviewing authority~~City may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when, because of their location or accessibility, a facility has the potential to become an attractive nuisance.

K. **Modification.** At the time of modification of a wireless telecommunications facility, existing equipment shall, to the extent feasible, be replaced with equipment that reduces visual, noise, and other impacts, including, but not limited to, undergrounding the equipment and replacing larger, more visually intrusive facilities with smaller, less visually intrusive facilities.

~~L. **RF Exposure Compliance.** Each year, commencing on the first anniversary of the issuance of the permit, the Permittee shall submit to the Town an affidavit which shall list all active small cell wireless installations it owns within the Town by location, certifying that (1) each active small cell installation is covered by liability insurance in the amount of \$2,000,000 per installation, naming the Town as an additional insured; and (2) each active installation has been inspected for safety and found to be in sound working condition and in compliance with all federal safety regulations concerning RF exposure limits.~~

~~M. **Testing.** Testing of any equipment shall take place at any time of day that the City Council deems appropriate. The City shall have the right to employ a qualified RF engineer to conduct an annual random and unannounced test of the permittee's small cell wireless installations located within the City to certify their compliance with all FCC radio frequency emission limits as they pertain to exposure to the general public. The reasonable cost of such tests shall be paid by the permittee.~~

~~Section 11.14.080 — **Additional design and development standards for facilities outside the public right-of-way.**~~

SECTION 6. ADDITIONAL DESIGN AND DEVELOPMENT STANDARDS FOR FACILITIES ON LAND NOT REGULATED BY SECTION 7.

A. **Basic Requirements.** Facilities located outside the public right-of-way and public utility easements are subject to the design and development standards set forth in this section in addition to all design and development standards that apply to all facilities.

B. **No Parking Interference.** In no event shall the installation of facilities replace or interfere with parking spaces in such a way as to reduce the total number of parking spaces below the number that is required.

C. **Roof-Mounted Facilities.** Roof-mounted facilities shall be designed and constructed to be fully concealed or screened in a manner compatible with the existing architecture of the building the facility is mounted to in color, texture, and type of material. Screening shall not increase the bulk of the structure nor alter the character of the structure.

D. **Facilities Mounted to a Telecommunications Tower.** Facilities mounted to a telecommunications tower shall be located in close proximity to existing above-ground utilities, such

as electrical towers or utility poles (which are not scheduled for removal or under grounding for at least 18 months after the date of application), light poles, trees of comparable heights, and in areas where they will not detract from the appearance of the City.

1. Facilities mounted to a telecommunications tower, including, but not limited to, the attached antennas, shall be designed to be the minimum functional height and width required to adequately support the proposed facility and meet FCC requirements. The applicant shall provide documentation satisfactory to the City Manager establishing compliance with this paragraph. In any event, facilities mounted to a telecommunications tower shall not exceed the applicable height limit for structures in the applicable zoning district.
2. Aside from the antenna itself, no additional equipment may be visible. All cables, including, but not limited to, electrical and utility cables, shall be run within the interior of the telecommunications tower and shall be camouflaged or hidden to the fullest extent feasible without jeopardizing the physical integrity of the tower.
3. Monopole installations shall be situated so as to utilize existing natural or man-made features including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening.
4. All antenna components and accessory wireless equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background or existing architectural elements so as to visually blend in with the surrounding development. Subdued colors and non-reflective materials that blend with surrounding materials and colors shall be used.
5. Monopoles shall be no greater in diameter or other cross-sectional dimensions than is necessary for the proper functioning of the facility.
6. If a faux tree is proposed for the monopole installation, it shall be of a type of tree compatible with those existing in the immediate areas of the installation. If no trees exist within the immediate areas, the applicant shall create a landscape setting that integrates the faux tree with added species of a similar height and type. Additional camouflage of the faux tree may be required depending on the type and design of faux tree proposed.

E. Accessory Equipment. All accessory equipment associated with the operation of any wireless telecommunications facility shall be fully screened or camouflaged, and located in a manner to minimize their visibility to the greatest extent possible utilizing the following methods for the type of installation:

1. Accessory equipment for roof-mounted facilities shall be installed inside the building to which it is mounted or underground, if feasible. If not feasible, such accessory equipment may be located on the roof of the building that the facility is mounted on, provided that both the equipment and screening materials are painted the color of the building, roof, or surroundings. All screening materials for roof-mounted facilities shall be of a quality and design that is architecturally integrated with the design of the building or structure.

2. Accessory equipment for facilities mounted to a telecommunications tower shall be visually screened by locating the equipment either within a nearby building, in an underground vault (with the exception of required electrical panels) or in another type of enclosed structure, which shall comply with the development and design standards of the zoning district in which the accessory equipment is located. Such enclosed structure shall be architecturally treated and adequately screened from view by landscape plantings, decorative walls, fencing or other appropriate means, selected so that the resulting screening will be visually integrated with the architecture and landscaping of the surroundings.

~~Section 11.14.090 — Additional design and development standards for facilities in the public right-of-way.~~

~~F. **Signage.** All wireless facilities must include signage that accurately identifies the equipment owner/operator, the site name or identification number and a toll-free number to the owner/operator's network operations center. Wireless facilities may not bear any other signage or advertisements unless expressly approved by the City, required by law or recommended under existing and future FCC or other United States governmental agencies for compliance with RF emissions regulations. RF notification signs shall be placed where appropriate, and not at pedestrian eye level, unless required by the FCC or other regulatory agencies.~~

~~**SECTION 7. ADDITIONAL DESIGN AND DEVELOPMENT STANDARDS FOR FACILITIES IN THE PUBLIC RIGHT-OF-WAY AND IN PUBLIC UTILITY EASEMENTS.**~~

~~A. **Basic Requirements.** Facilities located in the public right-of-way and in public utility easements are subject to the design and development standards set forth in this section in addition to all design and development standards that apply to all facilities.~~

~~B. **Right-of-Way Authority.** An encroachment permit must be obtained for any work in the public right-of-way. Only applicants authorized to enter the public right-of-way pursuant to state or federal law or a franchise or other agreement with the City shall be eligible facilities qualifying for a permit to install or modify Section 6409(a) approval and those meeting the definition of "small wireless telecommunications facility" shall be permitted in the public right-of-way and within public utility easements. No small wireless facilities are allowed in ~~the public right-of-way~~ utility easements on properties zoned residential.~~

~~**B. Antennas.**~~

1. **Utility Poles.** The maximum height of any antenna mounted to an existing utility pole shall not exceed 24 inches above the height of an existing utility pole, nor shall any portion of the antenna or equipment mounted on a pole be less than 18 feet above any drivable road surface. All installations on utility poles shall fully comply with the California Public Utilities Commission (CPUC) general orders, (GOs), including, but not limited to, General Order GO 95, as revised.

2. **Street Light Poles.** The maximum height of any antenna mounted to a street light pole shall not exceed seven feet above the existing height of a street light pole in a location with its closest adjacent district being a

commercial zoning district and shall not exceed three feet above the existing height of a street light pole in any other zoning district. Any portion of the antenna or equipment mounted on such a pole shall be no less than 18 feet above any drivable road surface.

Ð3. All antennas shall be shrouded. Antenna shrouds should have an outer diameter of 15" or less and measure no more than five cubic feet in size. The shroud should be no more than 4 feet tall, including antenna, radio head, mounting bracket, and all other hardware necessary for a complete installation.

C. Poles.

1. Only pole-mounted antennas shall be permitted in the right-of-way. All other telecommunications towers are prohibited, and no new poles are permitted that are not replacing an existing pole.
2. Pole height and width limitations:
 - a. All poles shall be designed to be the minimum functional height and width required to support the proposed antenna installation and meet FCC requirements. Poles and antennas and similar structures shall be no greater in diameter or other cross-sectional dimensions than is necessary for the proper functioning of the facility.
 - b. Notwithstanding the above, no facility shall be located on a pole that is less than 26 feet in height and no facility shall exceed 35 feet in height, including, but not limited to, the pole and any antenna that protrudes above the pole.
 - c. Pole mounted equipment shall not exceed six cubic feet in dimension.
3. If an applicant proposes to replace a pole in order to accommodate the facility, the pole shall match the appearance of the original pole to the extent feasible, unless another design better accomplishes the objectives of this section. Such replacement pole shall not exceed the height of the pole it is replacing by more than seven feet.
4. If an exception is granted for placement of new poles in the right-of-way, new poles shall be designed to resemble existing poles in the right-of-way, including size, height, color, materials and style, with the exception of any existing pole designs that are scheduled to be removed and not replaced, unless another design better accomplishes the objectives of this section. Such new poles that are not replacement poles shall be located no closer than 90 feet to an existing pole.

ÐD. Space Occupied. Facilities shall be designed to occupy the least amount of space in the right-of-way that is technically feasible.

ÐE. Location.

1. Each component part of a facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, inconvenience to the public's use of the right-of-way, or safety hazards to pedestrians and motorists.

2. A facility shall not be located within any portion of the public right-of-way interfering with access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital public health and safety facility.

3. Facilities mounted to a telecommunications tower, above-ground accessory equipment, or walls, fences, landscaping or other screening methods shall be setback a minimum of 18 inches from the front of a curb.

4. ~~Each pole mounted wireless telecommunications facility must be separated by at least 1,500 feet.~~

5. All cables, including, but not limited to, electrical and utility cables, between the pole and any accessory equipment shall be placed underground, if feasible.

6. All new wires needed to service the wireless telecommunications facility must be installed within the width of the existing utility pole so as to not exceed the diameter and height of the existing utility pole.

6. Installations shall be located on poles that are located outside of driveway and intersection sight lines. Where feasible, installations shall be located on poles that are located as close as feasible to shared property lines between two adjacent lots and not directly in front of residences and businesses.

7. All equipment (other than the antenna, antenna supports, ancillary wires, cables and any electric meter) shall be installed underground in any underground areas.

F. Americans with Disabilities Act Compliance. All facilities shall be built in compliance with the Americans with Disabilities Act (ADA) ~~and no facility shall be approved which would render any portion of the rights-of-way noncompliant with the ADA.~~

H.G. Accessory Equipment. With the exception of the electric meter, which shall be pole-mounted to the extent feasible, all accessory equipment shall be located underground to the extent feasible. ~~When above ground is the only feasible location for a particular type of accessory equipment and when such accessory equipment cannot be pole mounted, such accessory equipment shall be enclosed within a structure, and shall not exceed a height of five feet and a total footprint of 15 square feet, and shall be screened and camouflaged to the fullest extent possible, including the use of landscaping or alternate screening. All wireless equipment installed on poles should be completely contained within an equipment shroud. Equipment shroud and lines should be painted, treated or finished to match existing utility pole and line aesthetics. Utility line installations should be colored to a non-reflective color.~~ Required electrical meter cabinets shall be adequately screened and camouflaged.

I. Documentation. The applicant

H. Other Requirements.

1. Small wireless facilities shall ~~provide documentation satisfactory~~ not be located on decorative streetlights.

2. Pole heights shall be minimized, but in no case shall the maximum height of any facilities exceed 50 feet. Legally required lightning arresters and beacons shall be included when calculating the height of facilities. Pole height

is measured from the top of foundation, which should be flushed with the ground, to the top of pole or top of antenna, whichever is greater.

3. No portion of any wireless communications facility shall overhang a property line. Where a facility generates RF emissions in excess of applicable FCC limits for exposure to the general public, and any portion of the area occupied by those emissions is on or above any private property, the application for such facility shall include evidence of the affected property owner(s)' consent.

4. New poles are only permitted if: (a) the applicant demonstrates that above-ground support structures near the project site either do not exist or are not reasonably available to the applicant; or (b) the City Manager establishing compliance with this specifically finds that a new, non-replacement support structure would be more aesthetically desirable and consistent with the objectives of these Guidelines than installations on existing structures near the project site. Pole material and finishes should match the existing materials of the City standard streetlight poles or match aesthetics and materials of existing decorative poles.

5. Disturbance of existing topography and on-site vegetation shall be minimized, unless such disturbance would substantially reduce the visual impacts of the facility.

6. Separation of service shall be provided by installing all new electrical conduit(s) or utilizing empty conduit(s) with conduit owner's expressed consent in writing.

7. For proposed facilities on streetlight or traffic signal control poles, a hand hole should be provided at the top of the pole to maintain fiber and electrical service for streetlights and future attachments.

8. Pole foundation calculations should be prepared and stamped by a California professionally licensed structural engineer and should be provided to City for review. Pole foundation calculations should account for all new and existing pole attachments and the pole.

9. Pole structural calculations, including seismic loads, showing the load impacts of the wireless facility on City streetlight and traffic signal control poles should be prepared and stamped by a California professionally licensed structural engineer and should be provided to City for review.

10. Design wind velocity should be 115 mph minimum per TIA-222 rev G, IBC 2012 with ASC 710, and amendments for local conditions.

11. Asphalt concrete section for trench backfill shall be a thickness equal to the existing pavement, or four-inches thick minimum, whichever is greater.

SECTION 8. If any provision of this Resolution or its application to any person or circumstance is held invalid, such invalidity has no effect on the other provisions or applications of the Resolution that can be given effect without the invalid provision or application, and to this extent, the provisions of this Resolution are severable. The City

council declares that it would have adopted this Resolution irrespective of the invalidity of any portion thereof.

SECTION 9. The City Clerk shall certify the adoption of this Resolution and cause it, or a summary of it, to be published as required by law.

SECTION 10. Effective Date. This Resolution shall become effective the same date that Urgency Ordinance [redacted] is adopted.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby adopts the above wireless facility design and siting guidelines and engineering design standards for wireless facilities in the public rights-of-way and within utility easements in public property for the City of Los Altos.

Dated: _____

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney

I, _____, City Clerk, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Los Altos on this _____ day of _____ 2019, by the following vote:

AYES: Councilmembers: _____

NOES: Councilmembers: _____

ABSENT:
Councilmembers:

DRAFT