

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 1.6100(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. 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.
3. The type of facility, including a full written description of the proposed facility, its purpose and specifications.
4. 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.
5. Photographs of facility equipment and an accurate visual impact analysis with before and after 360-degree photo simulations.
6. 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.
7. 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.
8. A written description identifying the geographic service area for the subject installation.
9. 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 and Resolution 2019-35. 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.

10. 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.

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

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

13. 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.

14. 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.

15. 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 a one thousand (1,000) foot radius 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 pole, 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 City:

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 chapter 6.16 of the Municipal Code and Resolution 2019-35.
- 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, or as soon as reasonably practicable, 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:

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 and Resolution 2019-35. 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 Chapter 6.16 of the Municipal Code and Resolution 2019-35 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 with the City Clerk 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.

The foregoing ordinance was duly and properly passed and adopted on August 5, 2019 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:


Lynette Lee Eng, MAYOR

Attest:


Jon Maginot, CMC, CITY CLERK



STATE OF CALIFORNIA)
COUNTY OF SANTA CLARA) CERTIFIED COPY OF ORDINANCE
CITY OF LOS ALTOS) SECOND READING/ADOPTION

I, Jon Maginot, City Clerk for the City of Los Altos in said County of Santa Clara, and State of California, do hereby certify that the attached is a true and correct copy of Ordinance No. 2019-460, adopted by the Los Altos City Council on August 5, 2019 by the following vote:

AYES: ENANDER, FLIGOR, LEE ENG, PEPPER
NOES: NONE
ABSTAIN: NONE
ABSENT: BRUINS

I hereby further certify that a summary of the ordinance was published in accordance with Government Code Section 36933 on the following date: August 28, 2019 Said ordinance shall be effective immediately.

Dated this 9 day of September, 2019.


Jon Maginot, CMC
City Clerk

