

ATTACHMENT A

RESOLUTION NO. 2022-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS MAKING FINDINGS ADOPTING A NEGATIVE DECLARATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the City of Los Altos is proposing revisions to its existing standards for development of wireless telecommunications facilities, including a new wireless ordinance to regulate the permissible location of wireless facilities along with revisions to Municipal Code Chapter 11.12 modifying permit requirements; and

WHEREAS, the City also proposes to expand existing development standards and design guidelines and preferences for wireless telecommunications facilities; and

WHEREAS, the City prepared an Initial Study in accordance with the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code § 21000 *et seq.*) and the CEQA Guidelines (14 California Code of Regulations, Title 14 Chapter 3, Section 15000 *et seq.*); and

WHEREAS, the Initial Study determined that no significant impacts would result from adoption of the proposed wireless telecommunications ordinance and design guidelines; and

WHEREAS, the City issued a Notice of Intent to Adopt a Notice of Declaration (Notice of Intent) on January 26, 2022; and

WHEREAS, the Initial Study/Negative Declaration was made available for a 30-day public review period beginning on January 26 and ending on February 24, 2022; and

WHEREAS, written comments were received during the 30-day public review period and are set forth in Attachment B; and

WHEREAS, none of the information contained in the written comments present substantial evidence that the proposed wireless telecommunications ordinance and design guidelines would have a significant effect upon the environment; and

WHEREAS, on March 3, 2022, the Planning Commission conducted a public hearing on the proposed wireless telecommunications ordinance, design guidelines,

and Negative Declaration, at which time interested persons and organizations had an opportunity to testify and provide comments; and

WHEREAS, the Planning Commission reviewed and considered the proposed Negative Declaration as required by CEQA Guidelines Section 15074(a); and

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission that the above recitals are true and correct and are incorporated herein by reference as if set forth in full.

BE IT FURTHER RESOLVED that the Planning Commission recommends that the City Council of the City of Los Altos adopt the Negative Declaration contained in Attachment A.

Attachment A

NEGATIVE DECLARATION

The City Council of the City of Los Altos has considered the project identified below and has adopted the following Negative Declaration pursuant to the California Environmental Quality Act:

- 1. Project Title:** Wireless Telecommunications Facilities Ordinance and Design Guidelines
- 2. Lead Agency:** City of Los Altos
- 3. Contact Person:** Gabriel Engeland, City Manager
City of Los Altos
One North San Antonio Road
Los Altos, CA 94022
(650) 947-2632
- 4. Project Location:** Citywide
- 5. Project Description:**

The proposed project involves revisions to the City of Los Altos' existing standards for development of wireless telecommunications facilities, including an ordinance to regulate permissible locations and preferences for the location of wireless facilities. These locational standards, which would replace the locational standards now provided in City of Los Altos Resolution No. 2019-35, would be adopted by ordinance into Chapter 11.82 of the Los Altos Municipal Code.

In addition, the City proposes to expand and supplement existing development standards and design guidelines and preferences for wireless telecommunications facilities contained in Resolution No. 2019-35 by (1) adding a set of basic design principles that would apply to all wireless telecommunications facilities and (2) identifying configuration preferences along with design guidelines for specific types of wireless facilities.
- 6. Findings:**

The Initial Study prepared for the proposed Wireless Telecommunications Facilities Development Standards and Design Guidelines indicates for each environmental issue it analyzed that environmental impacts would be less than significant or that no impact would occur. There is no substantial evidence, in light of the whole record before the lead agency (the City of Los Altos), that the project may have a significant effect on the environment.

Attachment B

**Written Comments on the
Proposed Negative Declaration**

From: [Ed Nieda](#)
To: [Los Altos Planning Commission](#); [City Council](#); [Gabriel Engeland](#)
Subject: Please cease on the Cell Phone tower project
Date: Monday, February 14, 2022 11:22:13 AM

To: PlanningCommission@losaltosca.gov

CC: council@losaltosca.gov, gengeland@losaltosca.gov

Subject: No Cell Towers Near Homes & Schools

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

Visual blight: The City's utility poles are visually unappealing. I don't want to increase the unsightliness with cell towers on the tops of these poles, not to mention a refrigerator's worth of equipment hanging to the side.

Noise: Cell towers make considerable noise from their cooling fans. Having these towers placed so close to our homes would negatively impact our living environment.

Safety: Most cell towers have a refrigerator's worth of equipment, including lithium ion batteries that have been known to cause fires. It's not safe to place flammable materials on combustible wooden poles that could potentially burn down a home or neighborhood.

Property Values: Cell towers placed so close to homes will reduce the attractiveness of homes in the area. According to Realtor Magazine, a study found that [94% of homebuyers](#) would not purchase a home near a cell tower.

Cell Towers, Antennas Problematic for Buyers

Home buyers and renters say they are less interest and would pay less for properties located near cell towers an...

Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident
Ed Nieda
[REDACTED] Ave.

From: [Melissa Smith](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 11:27:14 AM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Melissa Smith
Los Altos Resident

From: [Los Altos](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 11:29:36 AM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident

From: [Ken Elefant](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 12:21:46 PM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Ken Elefant
Los Altos Resident

From: [Phyliss Brazell](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes
Date: Monday, February 14, 2022 12:23:10 PM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos website that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes. Please find alternative locations.

Sincerely,
Los Altos Resident

From: [Judith Simon](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 12:25:39 PM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident

From: [Alex Liang](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 12:55:48 PM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident

Alex Liang


From: [Patrick yuen](#)
To: [Los Altos Planning Commission](#); [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 1:10:20 PM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos website that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident
Patrick Yuen

Cell : 650-996-6181

From: [Sean Chen](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 1:18:04 PM

Dear City of Los Altos Planning Commission,

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,

Los Altos Resident

--
Sean

From: [Aronson, Jeff](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#); [Kristine Chin \(kchin5001@gmail.com\)](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 3:11:07 PM
Attachments: [image001.png](#)

Dear City of Los Altos Planning Commission,

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Sincerely,
Jeff & Kristine Aronson

Los Altos

Jeffrey D. Aronson
Partner



DLA Piper LLP (US)
2000 University Avenue
East Palo Alto, CA 94303-2215



dlapiper.com

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From: [mary ann kanyal](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: Please honor the decision that was agreed to in 2019 and stay true to the original ordinance
Date: Monday, February 14, 2022 3:34:57 PM

To: PlanningCommission@losaltosca.gov

CC: council@losaltosca.gov, gengeland@losaltosca.gov

Subject: No Cell Towers Near Homes & Schools

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident
Mary Ann Kanyal

From: [REYNETTE AU](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 5:48:15 PM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Sincerely,
Reynette Au
30 year Los Altos Resident

From: [Allison Marras](#)
To: [Los Altos Planning Commission](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 6:28:43 PM

Subject: No Cell Towers Near Homes & Schools

Dear City of Los Altos Planning Commission,

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Sincerely,
Los Altos Resident

[Sent from Yahoo Mail for iPhone](#)

From: [Yeeping Zhong](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Date: Monday, February 14, 2022 8:22:19 PM

Dear City of Los Altos Planning Commission,

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Sincerely,
Los Altos Resident

Yeeping Zhong ([REDACTED])

From: [R. K. Johnson](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#)
Subject: The "wireless emergency ordinance" that was put into place in 2019
Date: Tuesday, February 15, 2022 2:54:18 PM

Dear City of Los Altos Planning Commission,

NO CELL TOWERS near homes or schools

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Sincerely,
Los Altos Resident

From: [Freddie Park](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#)
Subject: 5G cell towers
Date: Saturday, February 19, 2022 4:10:39 PM

Dear Los Altos Planning Commissioners,

I am a resident and home owner of 27+ years in Los Altos. I understand that the city is amending the Urgency Ordinance relating to 5G towers due to the litigation against the city by AT&T and Verizon. I realize we are in between a rock and a hard place regarding the ordinance and federal law. I would ask that you do your very best to make certain that 5G towers are required to be as far away from our homes and schools as possible.

Thank you for your consideration.

Sincerely,

Freddie Park Wheeler

Steve Golden

From: C. Y. <[REDACTED]>
Sent: Tuesday, February 22, 2022 10:00 AM
To: Los Altos Planning Commission
Cc: City Council; Gabriel Engeland
Subject: No Cell Towers Near Homes & Schools

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

Visual blight: The City's utility poles are visually unappealing. I don't want to increase the unsightliness with cell towers on the tops of these poles, not to mention a refrigerator's worth of equipment hanging to the side.

Noise: Cell towers make considerable noise from their cooling fans. Having these towers placed so close to our homes would negatively impact our living environment.

Safety: Most cell towers have a refrigerator's worth of equipment, including lithium ion batteries that have been known to cause fires. It's not safe to place flammable materials on combustible wooden poles that could potentially burn down a home or neighborhood.

Property Values: Cell towers placed so close to homes will reduce the attractiveness of homes in the area. According to *Realtor Magazine*, a study found that [94% of homebuyers](#) would not purchase a home near a cell tower.

Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
C.Y.

Steve Golden

From: Los Altan <[REDACTED]>
Sent: Wednesday, February 23, 2022 11:04 AM
To: Los Altos Planning Commission
Cc: City Council; Gabriel Engeland
Subject: Re: No Cell Towers Near Homes & Schools

I also wanted to mention that when this issue was raised in 2019, we had over 1,100 residents in Los Altos sign the following petition: <https://www.change.org/p/town-of-los-altos-no-cell-towers-next-to-homes-and-schools-in-los-altos-ca>

Please keep this in mind when augmenting this ordinance.

Thanks,
Los Altos Resident

On Mon, Feb 14, 2022 at 11:29 AM Los Altan <losaltan94022@gmail.com> wrote:

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

Visual blight: The City's utility poles are visually unappealing. I don't want to increase the unsightliness with cell towers on the tops of these poles, not to mention a refrigerator's worth of equipment hanging to the side.

Noise: Cell towers make considerable noise from their cooling fans. Having these towers placed so close to our homes would negatively impact our living environment.

Safety: Most cell towers have a refrigerator's worth of equipment, including lithium ion batteries that have been known to cause fires. It's not safe to place flammable materials on combustible wooden poles that could potentially burn down a home or neighborhood.

Property Values: Cell towers placed so close to homes will reduce the attractiveness of homes in the area. According to Realtor Magazine, a study found that [94% of homebuyers](#) would not purchase a home near a cell tower.

Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident

Steve Golden

From: Gregory Burns <[REDACTED]>
Sent: Wednesday, February 23, 2022 12:04 PM
To: Los Altos Planning Commission
Cc: Gregory Burns; City Council; Gabriel Engeland
Subject: Los Altos small cell node ordinance

Dear City of Los Altos Planning Commission,

It is my understanding that the city is proposing changes to the wireless emergency ordinance that was put into place in 2019.

Please stay as true to the original ordinance as possible; cell nodes should not be installed close to residences and schools. I feel you should strongly enforce preferred location requirements; as well as consider setback requirements to keep utility pole mounted cell nodes away from our homes. The noise and visual blight from these units negatively affect the quality of life and property values of our quiet neighborhoods.

Furthermore, I also request you reconsider even stricter proposed noise limits for residential zones. A product designed to run 24 hours a day should not be allowed to negatively impact our living environment. Please require noise limits to be INAUDIBLE at any property lines.

Again, please do not place cell nodes close to our homes and schools. Please find alternative locations.

Sincerely,
Gregory Burns
Los Altos Resident

Steve Golden

From: Donna Wing <[REDACTED]>
Sent: Wednesday, February 23, 2022 9:46 PM
To: Los Altos Planning Commission
Cc: City Council
Subject: Cell Towers In Los Altos

Dear City of Los Altos Planning Commission,
I just received information that the Council plans on revisiting the possibility of placing cell towers on the telephone poles.

I live at 689 Linden Ave and the decision would impact our home since there are telephone poles in the back and in front of our home. I am a cancer survivor and had chemo and radiation as treatment. I do not wish to have any cell towers near me due to health reasons.

Also, the cell towers are unsightly and noisy. We moved to Los Altos for the trees and quiet beauty of nature. Having cell towers would decrease property values and they are unsafe near schools. We live in an area where there are 3 schools near us within walking distance: Egan Jr. High, Bullis Charter School and Santa Rita.

Please find alternative locations to place cell towers- not near schools and homes.

Sincerely,
Donna Wing

MACKENZIE & ALBRITTON LLP

155 SANSOME STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE 415 / 288-4000
FACSIMILE 415 / 288-4010

February 22, 2022

VIA EMAIL

Gabriel Engeland
City Manager
City of Los Altos
One North San Antonio Road
Los Altos, California 94022

Re: Draft Ordinance and Design Guidelines, Wireless Telecommunications Facilities

Dear Gabriel:

We write on behalf of Verizon Wireless regarding the draft ordinance regulating wireless telecommunications facilities (the “Draft Ordinance”) and the accompanying draft *Design and Development Standards for Wireless Telecommunications Facilities* (the “Draft Guidelines”). Verizon Wireless appreciates the opportunity for advance review, and we suggest several revisions to ensure that these proposed regulations are consistent with federal and state law.

The Draft Ordinance location standards must be revised so that all Los Altos rights-of-way are subject to the reasonable 500-foot search distance for preferred locations, without subjecting certain local residential streets to preempted approval criteria. Some location prohibitions should be restated as preferences, including the ban on new small cells within 1,000 feet of existing small cells. The Draft Guidelines should be revised to accommodate typical small cell designs required for service, providing specific standards that are technically feasible. We urge staff to revise the Draft Ordinance and Draft Guidelines prior to review by the Planning Commission.

The FCC’s Infrastructure Order

In its 2018 Infrastructure Order, the FCC confirmed that a city’s aesthetic criteria for small cells must be “reasonable,” that is, technically feasible and meant to avoid “out-of-character” deployments, and also “published in advance.” *See Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, 33 FCC Rcd. 9088, ¶¶ 86-88 (September 27, 2018). The FCC also found that that local requirements that “materially inhibit” service improvements and new technology constitute an effective prohibition of service under the Telecommunications Act. *Id.*, ¶¶ 35-37; *see also* 47 U.S.C. §§ 253(a), 332(c)(7)(B)(i)(II). In 2020, the Ninth Circuit Court of Appeals upheld these FCC requirements. *See City of Portland v. United States*, 969 F.3d 1020 (9th Cir. 2020), *cert. denied*, 141 S.Ct. 2855 (Mem) (U.S. June 26, 2021).

Our comments are as follows.

Draft Ordinance

14.82.030 – Location Preferences

The City should avoid location restrictions that would “materially inhibit” service improvements in contradiction of the FCC’s Infrastructure Order, and that would violate California Public Utilities Code Section 7901 which grants telephone corporations a statewide right to place their equipment along any right-of-way. The City should include all rights-of-way in the location preference lists, while converting absolute location prohibitions to less-favored preferences. This will ensure that all rights-of-way are subject to the reasonable 500-foot search distance for any preferred location options, avoiding conflict with federal and state law.

A(2), (3). Preferred, less-preferred locations. All right-of-way locations should be included in one of these preference lists, but several are missing, notably the following.

- **All local streets.** As drafted, Section (A)(3)(e) addresses only certain stretches of local streets in residential zones: those within 200 feet of Foothill Expressway, 500 feet of listed arterials, or 300 feet of collectors or local collectors. Local streets away from those major roadways are not included in the preference lists, and so would be subject to different approval criteria under Section 14.82.050 that are preempted, as we explain below. *Section 14.82.030(A)(3)(e) should be revised to simply state “local streets in residential zones.”*
- **CN zone.** A few parcels zoned CN—Commercial Neighborhood are not located along preferred expressways or arterials. *The CN zone should be added to the preferred location list of Section 14.82.030(A)(2).*
- **Local streets fronting schools in PCF zone.** The presence of a school should not bar placement of a small cell on an adjacent local street. *The phrase “local street” should be added to Section 14.82.030(A)(3)(f).*
- **PCF/R1-10 zone.** There are seven school properties zoned PCF/R1-10, and their adjacent rights-of-way should be available, as with the PCF zone. *The phrase “Public and Community Facilities/Single-Family District” should be added to Section 14.82.030(A)(3)(f) after the reference to the PCF zone.*

A(4). 1,000-foot separation of small cells. Phrased as a prohibition, not a preference, this would bar new small cells in all rights-of-way within a 72-acre area surrounding an existing small cell. This could prohibit new facilities at busy intersections that otherwise are preferred locations, and where clustering small cells could avoid placement on local residential streets. *We suggest converting this prohibition to a preference, by adding “a location within 1,000 feet of an existing small wireless telecommunications facility” to the less-preferred list of 14.82.030(A)(3), and deleting Section A(4).*

A(5)(c). Ban on central 50% of parcel frontage. Another prohibition, this could bar use of some existing poles already located along the middle of parcel frontages in residential zones. By converting this to a preference, the City could steer small cells to any nearby poles closer to property lines, if feasible. *We suggest adding “rights-of-way adjacent to Residential Zoning Districts within the central fifty percent (50%) of an immediately adjacent parcel’s street frontage” to the less-preferred list of Section 14.82.030(A)(3), and deleting Section A(5)(c).*

A(6), (7). Not in front of business. This blunt prohibition could materially inhibit service improvements in commercial areas, and it is unnecessary because the accompanying language already directs applicants to locate as close as feasible to property lines. *The phrase “not directly in front of a business” should be deleted.*

A(8). Inconvenience to public use of right-of-way. The vague term “inconvenience” exceeds the standard in Public Utilities Code Section 7901, that telephone equipment not “incommode” the public use of the right-of-way. *We suggest replacing “inconvenience” with “impair.”*

A(11). Requirement to use poles outside sight lines. Because small cell equipment is elevated above motorist sight lines, there is no reason to bar placement on poles that are already within sight lines. The small cell would pose no more safety impact than the existing pole. *This prohibition should be deleted.*

B(1), (2). Private property location preferences. There are several churches in residential zones where a new facility could be fully-concealed within compatible architecture. *The City should consider allowing camouflaged facilities on residentially-zoned parcels with a non-residential use.*

14.82.040 – Requirements for Approval of Less-Preferred Locations

C. Evidence of need. There is no reason to require additional “evidence demonstrating the need for approval of the proposed location” because Section A already allows less-preferred locations if any preferred options are unavailable or technically infeasible. Technical feasibility is a factor for the FCC’s “reasonableness” standard, but the need for a facility is not. The City cannot compel applicants to demonstrate the need for new small cells in the right-of-way. The FCC found that small cells are needed to densify networks, enhance existing service and introduce new services, so denials based on need would materially inhibit these goals. Infrastructure Order, ¶ 37. Further, Section 7901 grants telephone corporations a statewide right to place their equipment along any right-of-way with no demonstration of need. *This provision should be deleted.*

14.82.050 – Alternative to Wireless Telecommunications Facilities at Preferred and Less Preferred Locations

This section imposes a different scheme for approval of locations that are neither preferred or less-preferred, such as those on local residential streets away from major roadways. Instead of the reasonable 500-foot search distance and technical feasibility standard, this section requires

applicants to evaluate alternative macro and/or small cell facilities in a broad area beyond the target coverage area. As noted, requirements to prove the need for a right-of-way facility are preempted by Section 7901, which grants telephone corporations the right to use any right-of-way. Section 7901 also bars the City from redirecting a proposed facility from the right-of-way to private property (e.g., a macro site).

Further, the City cannot require small cell applicants to evaluate a “significant gap,” because the FCC determined that small cells are needed to densify networks, enhance existing service and introduce new services. These are Verizon Wireless’s goals in placing small cells in Los Altos. The FCC also disfavored dated service standards based on “coverage gaps” and the like. Infrastructure Order, ¶¶ 37-40.

The direction to minimize wireless facilities in residential areas where needed would “materially inhibit” service improvements, constituting a prohibition of service. It also could penalize and discriminate against wireless carriers in the future, in conflict with the Telecommunications Act. 47 U.S.C. § 332(c)(7)(B)(i)(I). *This section should be deleted. Instead, as discussed above, all right-of-way locations should be addressed in the location preferences so they are subject to the reasonable 500-foot search distance and the FCC’s technical feasibility standard.*

14.82.070 – Eligible Facilities Requests

The only factors for approval of eligible facilities requests are the FCC’s “substantial change” thresholds codified at 47 C.F.R. Section 1.6100(b)(7) and restated in Municipal Code Section 11.12.020(A)(23). The ordinance location preferences and any City design guidelines are preempted by FCC rules. Eligible facilities requests provide a streamlined path to approval of collocations compared to Government Code Section 65850.6, which is superseded. *This section is preempted and unnecessary, and should be deleted.*

Following are comments on the Draft Ordinance changes to the existing Municipal Code.

11.12.050 – Application for Permit

E(2). Submittal appointment. The FCC confirmed that a mandatory pre-application process starts the Shot Clock, so Verizon Wireless will calculate the clock to start on the day it requests an appointment. Infrastructure Order, ¶ 145; 47 C.F.R. § 1.6003(e). By delaying the appointment, the City could consume most or all of its 10-day period to issue a notice of incomplete application that would pause the Shot Clock. 47 C.F.R. § 1.6003(d)(1). A limit of one appointment would constitute an effective moratorium on applications, but that is preempted by FCC rules and would not delay the start of the Shot Clock. Infrastructure Order, ¶ 145 (“...the shot clock begins to run when the application is proffered”). The City should ensure that applicants can submit batch applications, consistent with FCC rules. 47 C.F.R. § 1.6003(c)(2). *A submittal appointment should be optional, not mandatory.*

11.12.060 – Conditions of Approval for All Facilities

A(1). Incorporating wireless permit into plans for building permit application. This would require sequential submittal and review of zoning and building permit applications. However, the FCC confirmed that all authorizations required for a new wireless facility must be reviewed within the same “Shot Clock” period. Infrastructure Order, ¶ 132. The City could run afoul of this requirement by delaying submittal of a building permit application until after the Planning Division approves a wireless permit. *This condition should be deleted.*

A(3). Undergrounding/replacement due to new technology. The City cannot compel wireless carriers to dismantle and rebuild any portion of a permitted facility that was constructed in reliance on approved plans. This would violate the vested rights of permittees as well as Government Code Section 65964(b) which generally guarantees a 10-year term for wireless facility permits. *This condition must be deleted.*

A(6)(e). Noise limit. The City is proposing to repeal the referenced Resolution 2019-35. *That reference should be deleted.*

A(7). Annual RF emissions testing. Once an installed wireless facility is shown to comply with the FCC’s radio frequency exposure guidelines, the City cannot require repeat exposure tests, as that regulation of operational requirements is preempted by federal law. *See 47 U.S.C. § 332(c)(7)(B)(iv); see also Crown Castle USA Inc. v. City of Calabasas* (Los Angeles Superior Court BS140933, 2014) (“...the regulation of a facility’s planned or ongoing operation constitutes an unlawful supplemental regulation into an area of federal preemption.”) *The reference to “annually thereafter” should be deleted.*

Existing Code Provisions Requiring Revision

Several problematic Code provisions are not addressed by the Draft Ordinance, including the following.

11.12.050(A)(8). Submittal of geographic service area. With respect to small cells and the right-of-way, this is a preempted demonstration of need. *This provision should not apply to small cells.*

11.12.050(A)(14). Alternatives analysis. This is unnecessary if siting in a most-preferred location. *Instead, the City should require small cell applicants to identify any more-preferred locations within 500 feet and provide evidence that they are technically infeasible or unavailable.*

11.12.050(C). 1,000-foot public notice. This is excessive for small cells, which pose minimal visual impact compared to other right-of-way utility infrastructure. Such broad notice would capture residences well beyond the 500-foot search distance. *We suggest reducing public notice for right-of-way facilities to 500 feet.*

Draft Guidelines

II – Design and Development Standards for all Wireless Telecommunications Facilities

B, D. Basic design principles, general guidelines. The Draft Guidelines impose various subjective standards such as “minimize visual, noise, and other impacts on the surrounding community” and “prevent facility from dominating the surrounding area.” Such vague standards could be used to deny facilities that otherwise satisfy specific design criteria, and would be unreasonable if applied to small cells that are not “out-of-character” among other right-of-way infrastructure. Denials based on vague, subjective determinations would frustrate applicants who followed specific design criteria (such as equipment dimension limits), and would “materially inhibit” service improvements. *For small cells, the City should rely on reasonable, specific design standards.*

D(7)(b). 45 dBA noise limit. This imposes a stringent noise limit for all wireless facilities in Los Altos, without specifying the location where noise is measured. In contrast, the City’s noise ordinance evaluates the noise level as “measured on any other property,” which is an appropriate standard. Code § 6.16.050(A)(2). The noise ordinance also provides a higher noise limit in non-residential zones. Code § 6.16.050(A)(1), Table 1. *The blanket 45 dBA limit should be deleted, and this section revised to require compliance with Code Chapter 6.16.*

D(9). Upgrades with new technology. Per our comment on Draft Ordinance Section 11.12.060(A)(3), requiring applicants for modifications to change unaltered existing facility components would violate their vested rights and Government Code Section 65964(b). *This provision must be deleted.*

III – Additional Design and Development Standards for Facilities in the Public Right-of-Way and in Public Utility Easements

The City must ensure that its small cell design standards are consistent with federal and state law. To be reasonable per the FCC’s Infrastructure Order, equipment dimension limits must be technically feasible for new and emerging technologies, accommodating the antenna and radio models available from manufacturers. In addition to the low-band frequencies currently in use, Verizon Wireless recently licensed mid-band and high-band frequencies from the FCC. These require different equipment. Accordingly, certain small cells may involve several types of antennas, and up to three of each, facing different directions where they provide service. The design standards must accommodate multiple types of antennas to avoid violating California Government Code Section 65964.1(h) which bars cities from “unreasonably discriminating in favor of, or against, any particular wireless technology.”

Verizon Wireless would be pleased to work with the City to ensure that the design standards are technically feasible for its anticipated deployments.

B, C, D. Preferred, less-preferred configurations. These lists favor light poles owned by the City, but if strictly applied, that would contradict California Government Code Section 65964(c)

which bars local governments from limiting wireless facilities to sites owned by particular parties. Verizon Wireless may place its equipment on joint utility poles as a member of the North California Joint Pole Authority, and may place and own new stand-alone poles in the right-of-way pursuant to Public Utilities Code Section 7901.

Structure preferences are akin to location preferences, and so should be qualified by the 500-foot search distance, which is missing from Section (D). Section D(1)(b) introduces an optional “aesthetically superior” criterion that could be a factor when choosing between several feasible poles, but also a mechanism to favor City-owned poles. *We suggest a clear list of structure preferences: 1) An existing or replacement pole of any owner, or 2) A new stand-alone pole, if there is no technically feasible, available existing pole within 500 feet along the right-of-way.*

B(1)(c), C(3)(c). Light poles – antenna shroud limited to pole diameter, base limited to 6 inches wider than pole. These provisions impose antenna and equipment size constraints that are technically infeasible and therefore unreasonable. As noted, some small cells may require multiple types of antennas, and up to three of each, mounted at the same height and facing different directions. In this configuration, the antenna models available from manufacturers cannot fit into a single shroud limited to a narrow pole diameter. Further, some mid- and high-frequency antennas cannot be fully shrouded or otherwise covered because that impedes signal propagation. However, they can be placed in specially-designed partial shrouds with “cut-outs” allowing unimpeded signal. *These sections should specify that antennas and any shrouds should not exceed 21 inches in total diameter.*

Radio units, other network gear, mounting hardware and cables cannot fit into a pole base only six inches wider than a typical streetlight pole. *Section C(1) (light pole facilities with all equipment within the pole) should allow a base up to 20 inches square and four feet tall to conceal radios and associated network components. Section C(3) (light pole facilities with some equipment not within the pole) should allow for small radio units and other gear on the side of a pole, not to exceed nine cubic feet, aside from any PG&E electric meter and disconnect switch.*

C(1)(a). Utility poles – antenna height limited to 24 inches above pole, minimum equipment height of 18 feet. These limits run afoul of Public Utilities Commission General Order 95 (“GO 95”), referenced in the same provision. Pole-top antennas must be elevated six feet above electric supply conductors. GO 95 Rule 94.4(C). The City should allow four-foot antennas, as Section C(1)(b) suggests that the City would be comfortable with a four-foot antenna shroud. In some cases, four-foot antennas provide expanded service and can lessen the need for additional small cells. *We recommend allowing an antenna to extend up to four feet above a utility pole, plus the safety clearance required by GO 95.*

As to associated (non-antenna) equipment, there generally is not enough room above 18 feet, particularly on utility poles shared by communication companies. The area above 18 feet is used for the communication lines, which are subject to their own GO 95 clearances. In some cases, Verizon Wireless can fit a two-foot tall side-mounted antenna and mounting bracket in a pole’s communication zone, occupying only approximately 3.5 feet of vertical space. However, there would be insufficient room for associated equipment that may include radios, power supplies,

fiber boxes, meters and disconnect switches. Further, PG&E requires that electric meters on utility poles be mounted between 7 and 8 feet. PG&E Document 027911, *Installation Details for Service to Pole-Mounted Communication Equipment*. Generally, radios and other equipment are stacked vertically above the meter, up to 18 feet. *The minimum height of associated equipment on a utility pole should be changed from 18 feet to 7 feet.*

We note that the facility on a utility pole next to 745 Distel Drive, shown on Page 16 of the Draft Guidelines, is one of the typical small cell designs for utility poles, with the antenna elevated six feet above the electric supply lines, and associated equipment below 18 feet.

C(1)(b). All equipment within one shroud on utility pole. A typical “cantenna” placed on a utility pole is manufactured in its own sleek radome, and does not require an additional shroud that only adds bulk. Requiring all radios and other hardware in the same shroud as antennas would be infeasible if they cannot fit within the narrow 15-inch diameter limit, and generally radios are placed on the side of a utility pole below 18 feet. For side-mounted antennas, GO 95 requires two feet of separation from the pole centerline, so Verizon Wireless may place a single two-foot tall “cantenna” on a side-arm mount, or two or three small integrated antenna/radio units on opposite ends of a cross-arm, facing different directions. GO 95 Rule 94.4(E). As noted above, some mid- and high-band antennas cannot be shrouded as that impedes signal propagation. For these reasons, this blanket shrouding requirement would be technically infeasible and unreasonable. *This provision should be deleted.*

C(2), F, G(2). New stand-alone poles. These sections regulate new stand-alone poles in the right-of-way (also using the terms “telecommunication tower” and “monopole”). Section C(2) limits antenna shrouds to 14 inches, but per our comments on Sections B(1) and C(3) (light poles), the allowed maximum antenna and shroud diameter should be 21 inches. Associated equipment can be placed within a pole base, given adequate dimensions, or on the side of the pole and covered in a shroud. *These provisions should be consolidated for clarity and to avoid contradiction. Section C(2)(b) should be revised to specify that antennas and any shrouds should not exceed 21 inches in total diameter, and associated equipment can be concealed in a pole base up to 20 inches square and four feet tall, or within a side-mounted shroud up to 16 inches wide, 12 inches deep and 5.5 feet tall.*

C(3)(b). Light poles – minimum equipment height of 18 feet. This section regulates light pole facilities with some equipment not within the pole, and would require associated equipment on the side to be placed above 18 feet. This would be infeasible for electric meters and/or disconnect switches that must be placed between 7 and 8 feet per PG&E rules, as described above. On some light poles, there may not be room above 18 feet for small radio units if that area is occupied by the luminaire arm and multiple antennas. All of this equipment could lead to a crowded appearance if placed high on a pole, whereas small radio units can be placed much lower on a pole and vertically stacked to reduce visual impact. *The minimum height of associated equipment on a light pole should be changed from 18 feet to 7 feet.*

E(1)(b). Limit of pole-mounted equipment to six cubic feet. For small cells on utility poles, this may not accommodate all antennas, radios, meters, disconnect switches and mounting

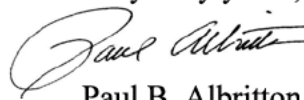
hardware required for service. This volume limit should be modestly expanded, and should not include antennas or PG&E electric equipment. *We suggest specifying a nine cubic foot volume limit for “associated” (non-antenna) equipment, aside from any PG&E electric meter and disconnect switch.*

G(2). Accessory equipment (ground cabinets). This provision appears to be drafted for private property sites, not the right-of-way (e.g., placing equipment “within a nearby building,” with references to “landscape plantings, decorative walls, fencing”). The Draft Guidelines should better address ground-mounted cabinets in the right-of-way, which would be required for associated equipment in some cases, such as Verizon Wireless’s proposed facility in the right-of-way next to Los Altos High School. New ground cabinets are not “out-of-character” because the City has already allowed them in various rights-of-way (such as the corner of South El Monte Avenue and Benvenue Avenue). Section 7901 allows telephone corporations to place equipment upon the right-of-way. Electric meters can be attached directly to ground-mounted wireless equipment cabinets, avoiding a separate meter pedestal. *The City should allow placement of ground-mounted cabinets for associated equipment up to 28 cubic feet, with no requirement for landscaping or screening.*

G(5). Wires within utility pole. PG&E will not allow any utility to bore through wood utility poles to conceal wires within, because that would compromise structural integrity and safety. Instead, vertical wires and conduit for all utilities are concealed within risers mounted flush to the side of the wood pole. *This provision should be deleted.*

G(6), (7). Undergrounding. These provisions would require small cell accessory equipment such as radios to be placed underground where feasible. This is unreasonable in two ways. First, undergrounding generally is technically infeasible due to sidewalk space constraints, utility lines already routed underground, and undue environmental and operational impacts for required active cooling and dewatering equipment. Second, small radios are not “out-of-character” compared to other right-of-way infrastructure such as poles, utility lines, electric transformers and cable television boxes. *The City should allow up to nine cubic feet of associated (non-antenna) equipment on the side of a pole before undergrounding is considered, aside from any PG&E electric meter and disconnect switch, per our comment on Section E(1)(b). The City could require radios to be concealed within a narrow shroud, but not meters or disconnect switches, which cannot be covered per PG&E rules.*

Verizon Wireless appreciates the opportunity to provide comment on the Draft Ordinance and Draft Guidelines. We urge the City to incorporate our suggested revisions prior to review by the Planning Commission.

Very truly yours,

Paul B. Albritton

Gabriel Engeland
City of Los Altos
February 22, 2022
Page 10 of 10

cc: Jolie Houston, Esq.
David Mehretu, Esq.
Deborah Fox, Esq.
Laura Simpson
Steve Golden

ORDINANCE NO. ____

AN ORDINANCE OF THE LOS ALTOS CITY COUNCIL AMENDING CHAPTER 11.12 AND ADDING CHAPTER 14.82 RELATING TO WIRELESS TELECOMMUNICATIONS FACILITIES AND UTILITY INFRASTRUCTURE SETTING NEW LOCATIONAL REQUIREMENTS AND REVISING DEVELOPMENT STANDARDS

THE LOS ALTOS CITY COUNCIL HEREBY FINDS AND ORDAINS:

SECTION 1. FINDINGS

A. Pursuant to the California Constitution, Article XI, section 7; California Government Code § 37100 and other applicable law, the City Council may make and enforce within its limits all local, police, sanitary and other ordinances, resolutions and other regulations not in conflict with general laws.

B. Los Altos' public rights-of-way are a uniquely valuable public resource, closely linked with the City's rural character and natural beauty. Los Altos has a population of 30,000 and is suburban community near Silicon Valley. The City has a small town, semi-rural atmosphere – with wooded, quiet low-density single-family homes. The regulation of wireless communication facilities both within the public right-of-way and other locations within the City, is necessary to protect and preserve the aesthetics of the community. The City's General Plan also provides for the undergrounding of new telephone and utility lines, "maintaining the low density, low profile residential character of the community through zoning regulations and design guidelines," and "ensuring compatibility between residential and non-residential development through zoning regulations and design review." The City's concerns for preservation of its community including public safety, visual impact, and aesthetics relate to preserving the residential character of the community by imposing various design standards that relate to location, camouflaging, height, size and spacing of wireless telecommunications facilities. Providing separation between wireless telecommunications facilities and the front of homes along permitted rights-of-way within residential zones serves to reduce the intrusiveness of any new wireless telecommunications facilities.

C. The City is mindful of the need to minimize the potential adverse impacts on the community which includes amongst other things, limiting wireless site visibility and impacts to the City's aesthetic well-being, while balancing same against the need for sufficient cell coverage for emergency needs and complying with both federal and state laws. The regulation as to wireless site visibility is particularly focused on minimizing visibility from residences, encouraging undergrounding of utilities, and limiting the height of such facilities to be consistent with the single-family residences that predominate the housing stock of Los Altos. In keeping with these goals, the City has revised the locational standards to encourage the location of wireless telecommunications facilities within the rights-of-way of Expressways, Arterials, Collectors, and Local Collectors designated on the City's General Plan Circulation Map, while continuing to permit these facilities along local non-residential streets. And, allowing for the permitting wireless telecommunications facilities within the rights-of-way of local residential streets in close proximity to Expressways, Arterials, Collectors, and Local Collectors, as an

alternative to concentrating facilities along any one street right of way. These sound land use locational provisions will serve to ensure the preservation of the local residential areas while also being mindful of avoiding the over saturation of wireless telecommunication facilities on a single roadway.

D. If not adequately regulated, installation of small cell and other wireless telecommunications facilities within the public right-of-way can pose a threat to the public health, safety and welfare, including disturbance to the right-of-way through the installation and maintenance of wireless telecommunication 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 of poles and/or towers; creation of visual and aesthetic blights and potential safety concerns arising from excessive size, heights, noise or lack of camouflaging of wireless telecommunications facilities including the associated pedestals, meters, equipment and power generators; and the creation of unnecessary visual and aesthetic blight by failing to utilize alternative technologies or capitalizing on collocation opportunities, all of which has the potential to yield serious negative impacts on the unique quality and character of Los Altos. The reasonably regulated and orderly development of wireless telecommunication facilities in the public-right-of-way is desirable, and unregulated or disorderly development represents a threat to the health, welfare, and safety of the Los Altos community.

E. The City's beauty is an important reason for businesses to locate in the City and for residents to live here. Beautiful views enhance property values and increase the City's tax base. The City's economy, as well as the health and well-being of all who visit, work or live in the City, depends in part on maintaining the City's beauty. The City has been moving towards the undergrounding of various utilities, including the First Street and Lincoln Park Undergrounding Utility projects, and needs to ensure that this effort is not hindered by the addition of numerous wireless telecommunications facilities cabinet, wires, cables, and bulky equipment that visually impede and clutter the City's public rights of way. The City's development and operational standards serve to encourage the reduction of all appurtenant equipment, screening of same, and efforts at undergrounding.

F. The City Council takes legislative notice of the various federal court decisions that have set applicable standards and metrics that the City must meet in the regulation of wireless telecommunications facilities. The City recognizes that there is a long-standing test in California that looks to whether and applicant has shown that there is a "significant gap" in service and an applicant has chosen the "least intrusive means of closing that gap." *MetroPCS, Inc v. City & County of San Francisco*, 400 F.3d 715,733 (9th Cir. 2005) abrogated on other grounds in *T-Mobile S., LLC v. City of Roswell, Georgia*, 574 U.S. 293 (2015). More recently, the FCC adopted an Order in a proceeding focused on small wireless facilities and 5G, which found that local regulations are preempted if those regulations "materially inhibit" the provision of wireless services. The FCC Order goes on to state that local aesthetic requirements that are reasonable in that they are technically feasible and reasonably directed to avoiding or remedying the intangible public harm of unsightly or out-of-character deployments are permissible. *In the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Inv.*, 33 F.C.C. Rcd. 9088 (2018), *aff'd in part, rev'd in part, City of Portland v United States*, 969 F.3d

1020, 1032 (9th Cir. 2020). That is, reasonable aesthetic requirements by definition do not “materially inhibit” service. The City is mindful of these various evolving legal decisions and FCC Orders in its provision of these revised siting and various development standards.

G. The City acknowledges that there have been significant changes in federal laws that affect local authority over wireless telecommunication facilities and other related infrastructure deployments have occurred. These changes in federal law have occurred concurrently with an ever-increasing demand for the placement of wireless telecommunication facilities within the public rights of way, in order to offer increased coverage in the way of numerous expanding technologies such as: cell phones, video streaming, and on line access to work from home during the COVID -19 pandemic. In connection with the ever increasing demand for expanding technologies, the City is also mindful of the carriers desire to move forward with 5G and the recent published decision in *Environmental Health Trust v. Federal Communications Commission*, 9 Fed. 4th 893, 905 (D.C. Cir. 2021) , wherein that Court noted that the FCC had failed to provide a reasoned explanation for its determination that exposure to RF as implicated by various technological developments that have occurred since 1996, including the ubiquity of wireless devices and Wi-Fi, and the emergence of 5G technology.

H. The City takes legislative notice of the Federal Communications Commission ("FCC") adoption on August 2, 2018, of 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 Red. 7705 (rel. Aug. 3, 2018) (“the August 2018 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; and that the FCC adopted a Declaratory Ruling and Third Report and Order in September of 2018, --- FCC Red. ---, FCC 18-133 (rel. Sep. 27, 2018) (the "September 2018 Order"), which, among many other things, creates new shorter "shot clocks" for small wireless facilities (as defined in the September 2018 Order), alters existing "shot clock" regulations to require local public agencies to do more in less time.

I. The City recognizes its responsibilities under the Federal Telecommunications Act of 1996 and state law, and believes that it is acting consistent with the current state of the law in ensuring that irreversible development activity does not occur that would harm the public health, safety, or welfare. The City does not intend that this Ordinance prohibit or have the effect of prohibiting telecommunications service, as those terms are used in the Federal Telecommunications Act; rather, the City includes appropriate regulations to ensure that the installation, augmentation and relocation of wireless telecommunications facilities in the public rights-of-way are conducted in such a manner as to lawfully balance the legal rights of applicants under the Federal Telecommunications Act and the California Public Utilities Code while, at the same time, protect to the full extent feasible against the safety and land use concerns described herein. Indeed, the City has engaged a land use expert to map the available sites that are permissible for the siting of wireless telecommunication facilities under these siting criteria and he concludes that this current locations standards would permit small wireless

telecommunications along more than 101,185 linear feet of roadway right-of-way within Los Altos.

J. The overarching intent of this Ordinance is to make wireless telecommunications reasonably available while preserving the essential rural character of Los Altos. This will be realized by: minimizing the visual and physical effects of wireless telecommunications facilities through appropriate design, siting, screening techniques and location standards; encouraging the installation of Wireless Telecommunications Facilities at locations where other such facilities already exist; and encouraging the installation of such facilities where and in a manner such that potential adverse impacts to Los Altos is minimized.

K. The City adopted an Ordinance regulating wireless telecommunication facilities in August of 2019. This occurred after the City held a study session and several public hearings, at which stakeholders discussed wireless and other infrastructure deployment issues, potential local regulatory responses to the recent changes in federal law in the FCC orders and expressed their design and location preferences, practical and safety concerns, aesthetic concerns, policy views and the essential local values that make Los Altos a uniquely small suburban community. The City's residents in the summer of 2019 called out the numerous concerns at play with aesthetics, and these concerns included numerous objections that were focused on visual blight such as:

- Small cell nodes previously proposed by carriers, AT&T and Verizon, to the City of Los Altos were visually intrusive and unsightly;
- The City should continue to be judicious about and distaste for visual blight;
- The need to eliminate visual blight;
- The need to consider potential visual blight, to mitigate noise, heat, and exposure to EMF, and to protect our enjoyment of our property and its market value;
- These cell towers should be placed in commercial areas, in the medians of major streets, and such. They should not be placed in residential neighborhoods;
- Wireless facilities should be installed in some public/commercial place instead of residential street and so close to people's house. Los Altos neighborhood aesthetic guidelines and property value is one of the main reasons people are willing to stay in this great City.
- Cell towers or small cells are unsightly, noisy and add to the visual blight from the existing electric and telephone lines. While urging that small cells should not be placed in a small residential neighborhood cul de sac street but rather, it would be better to locate same on a major street or in the back of a commercial property;
- Cell towers are ugly and there is no need for extra eye sores;
- The mounting of "small" refrigerator-sized boxes on the side of an existing utility poles is unsightly and adds to visual blight; and
- The cell tower is an eye sore that emits an annoying fan type noise that has a negative impact on the quality of life of the residents who live there or who walk within the community.

These same concerns as to visual blight, aesthetic impairment and noise remain at play today. The visual and aesthetic impacts of the proposed wireless telecommunications facilities is much greater in a residential area versus in a non-residential area such as downtown Los Altos, or Loyola Corners, or along a main arterial or collector streets within Los Altos.

L. On _____, 2022, the City Planning Commission held a duly noticed public hearing to consider an Ordinance to add Chapter 14.82 and to amend Chapter 11.12 at which the Planning Commission received, reviewed, and considered the staff report, written and oral testimony from the public and other information in the record, and recommended to the City Council the adoption of this Ordinance regulating the placement of wireless telecommunication facilities.

M. The City recognizes its responsibilities under the Federal Telecommunications Act of 1996 and state law, and believes that it is acting consistent with the current state of the law in ensuring that irreversible development activity does not occur that would harm the public health, safety, or welfare. The City does not intend that this Ordinance prohibit or have the effect of prohibiting telecommunications service; rather, the City includes appropriate regulations to ensure that the installation, augmentation and relocation of wireless telecommunications facilities in the public rights-of-way are conducted in such a manner as to lawfully balance the legal rights of applicants under the Federal Telecommunications Act and the California Public Utilities Code while, at the same time, protect to the full extent feasible against the safety and land use concerns described herein.

N. It is not the purpose or intent of this Ordinance, nor shall it be interpreted or applied to: (1) prohibit or to have the effect of prohibiting wireless telecommunications services; or (2) unreasonably discriminate among providers of functionally equivalent wireless communications services; or (3) regulate the placement, construction or modification of Wireless Telecommunication Facilities on the basis of the environmental effects of radio frequency ("RF") emissions where it is demonstrated that the Wireless Telecommunication Facilities does or will comply with the applicable FCC regulations; or (4) 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; or (5) prohibit or effectively prohibit collocations or modifications that the City must approve under state or federal law; or (6) otherwise authorize the City to preempt any applicable federal or state law.

O. The regulations of wireless installations are necessary to protect and preserve the aesthetic character of the community and to ensure that all wireless telecommunications facilities are installed using the least intrusive means possible. The City is also mindful of the fact that there are a number of different bands that can be utilized by carriers for wireless telecommunication facilities (including 700 MHz, 800 MHz, 1900 MHz, and 2100 MHz), and that these additional available band options need to be reviewed and considered in the determination of the least intrusive alternatives. As well, there are available a number of alternative means to provide coverage within Los Altos, including but not limited to: the

upgrading of existing telecommunications facilities, the placement of macro towers, the co-location of wireless telecommunications facilities, the provision of micro towers, etc.

SECTION 2. LOCATIONAL CRITERIA

A. Chapter 14.82 of the Los Altos Municipal Code is added to provide as follows:

Chapter 14.82 Standards for the Location of Wireless Telecommunications Facilities

- 14.82.010 Purpose**
- 14.82.020 Definitions**
- 14.82.030 Wireless Telecommunications Facilities Locational Preferences**
- 14.82.040 Requirements for Approval of Less Preferred Locations**
- 14.82.050 Alternative to Wireless Telecommunications Facilities at Preferred and Less Preferred Locations**
- 14.82.060 Additional Locational Preferences**
- 14.82.070 Eligible Facilities Requested Per Municipal Code 12.12.100 and Applications Pursuant to Government Code § 65850.6**

14.82.010 Purpose

The purpose of the following siting criteria is to provide for the location of wireless telecommunications facilities within the City of Los Altos in a manner that minimizes the visual intrusiveness of wireless telecommunications facilities and provides for coverage throughout the City.

14.82.020 Definitions

The definitions called out in Chapter 11.12 shall apply here unless a specific alternative definition is provided.

14.82.030 Wireless Telecommunications Facilities Locational Preferences

- A. Wireless Telecommunications Facilities Located within Public Rights-of-Way and Utility Easements**
 - 1. Only facilities qualifying for a Section 6409(a) approval and those meeting the definition of a “small wireless facility” shall be permitted within public rights-of-way and public utility easements.
 - 2. The preferred location for a wireless telecommunications facility within a public right-of-way or public utility easement is within the right-of-way of

one of the following roadway types as designated on the Los Altos General Plan Circulation Element as may be amended from time to time.

- (a) Expressways;
- (b) Arterials;
- (c) Collectors fronting **non-Residential Zoning Districts** identified in the following subsections of Municipal Code Section 14.04.010.
 - K. Office-Administrative District, OA (OA);
 - L. Office-Administrative District (OA-1 and OA-4.5);
 - O. Commercial Downtown District (CD);
 - P. Commercial Retail Sales District (CRS);
 - Q. Commercial Thoroughfare District (CT);
 - R. Commercial Retail Sales/Office District (CRS/OAD); and
 - V. Loyola Corners Specific Plan Overlay District (LCSPZ).

- (d) Collectors fronting the Public and Community Facilities District (PCF) (Municipal Code Section 14.04.010 S).

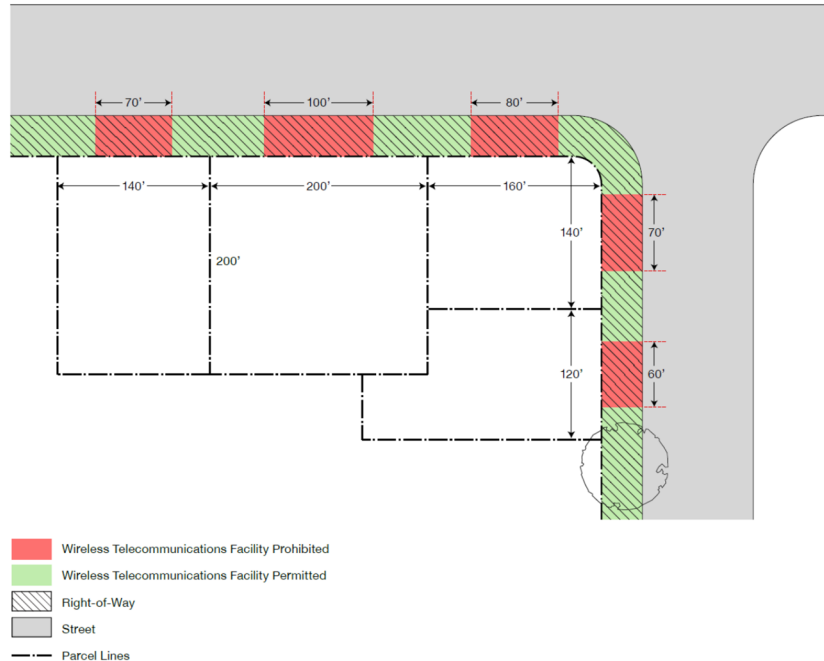
3. Less preferred locations for wireless telecommunications facilities within public rights-of-way and public utility easements include:

- (a) Rights-of-way for Local Collectors fronting non-Residential Zoning Districts (Municipal Code Sections 14.04.010 K-L, O-R, V); and
- (b) Public utility easements adjacent to non-Residential Zoning Districts (Municipal Code Sections 14.04.010 K-L, O-R, V) as designated on the City of Los Altos General Plan Circulation Plan (Figure C-1).
- (c) Rights-of-way for Local Streets fronting non-Residential Zoning Districts (Municipal Code Sections 14.04.010 K-L, O-R, V);
- (d) Rights-of-way for Expressways, Arterials, Collectors, and Local Collectors fronting Residential Zoning Districts identified in the following subsections of Municipal Code Section 14.04.010.
 - 1. Single-Family District (R1-10);
 - 2. Single-Family District (R1-H);

3. Single-Family District (R1-20);
 4. Single-Family District (R1-40);
 5. Single-Story Single-Family Overlay District (R1-S);
 6. Multiple-Family District (R3-4.5);
 7. Multiple-Family District (R3-5);
 8. Multiple-Family District (R3-3);
 9. Multiple-Family District (R3.1.8);
 10. Multiple-Family District (R3-1);
 11. Commercial Downtown/Multiple-Family District (CD/R3);
 12. Planned Community (PC); and
 13. W. Planned Unit Development (PUD).
- (e) To avoid concentration of wireless telecommunications facilities within the right-of-way of any one street within the City, small wireless telecommunications facilities may also be located within the street rights-of-way for local streets fronting Residential Zoning Districts (Municipal Code Sections 14.04.010 A-J, M, U, W) where the facility would be:
- i. Within 200 feet of the Foothill Expressway right-of-way;
 - ii. Within 500 feet of the San Antonio Avenue, El Monte Drive, Magdalena Avenue, or Homestead Road right-of-way;
 - iii. Within 300 feet of a Collector or Local Collector right-of-way.
- (f) Rights-of-way for Expressways, Arterials, Collectors, and Local Collectors and public utilities easements fronting a school in the Public and Community Facilities District (Municipal Code Section 14.04.010 S)
4. Small wireless telecommunications facilities are not permitted within 1000 feet of another small wireless telecommunications facility.

5. Placement Criteria

- (a) No portion of any wireless communications facility within a public right-of-way shall overhang a property line.
- (b) Wireless telecommunications facilities and any associated equipment or improvements shall not physically interfere with or impede access to any:
 - 1. Worker access to any above-ground or underground infrastructure for traffic control, streetlight or public transportation, including without limitation any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, barricade reflectors;
 - 2. Access to any public transportation vehicles, shelters, street furniture or other improvements at any public transportation stop;
 - 3. Worker access to above-ground or underground infrastructure owned or operated by any public or private utility agency;
 - 4. Fire hydrant or water valve;
 - 5. Access to any doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building appurtenant to the rights-of-way; or
 - 6. Access to any fire escape.
- (c) No wireless telecommunications facility within a roadway right-of-way adjacent to Residential Zoning Districts (Municipal Code Sections 14.04.010 A-J, M, U, W) shall be placed within the central fifty percent (50%) of an immediately adjacent parcel's street frontage. For corner lots, this standard shall apply to both roadway frontages.



6. Wireless telecommunication facilities within roadway rights-of-way adjacent to non-Residential Zoning Districts (Municipal Code Sections 14.04.010 K-L, O-R, V) should be located on poles that are as close as feasible to shared property lines between two adjacent lots and not directly in front of a business.
7. Wireless telecommunication facilities should be located on poles that are as close as feasible to shared property lines between two adjacent lots and not directly in front of a business.
8. All components of a wireless telecommunications facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, inconvenience to the public's use of the right-of-way, or safety hazards to pedestrians and motorists.
9. Wireless telecommunications facilities shall not be located so as to interfere with access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital public health and safety facility.
10. Facilities mounted to a telecommunications tower, above-ground accessory equipment, or walls, fences, landscaping or other screening methods shall be setback a minimum of 18 inches from the front of a curb.
11. Wireless telecommunication facilities shall be located on poles that are outside of driveway and intersection sight lines.

B. Wireless Telecommunications Facilities Located on Properties Outside of Public Rights-of-Way and Public Utility Easements

1. The preferred locations for wireless telecommunications facilities include properties within one of the following Zoning Districts identified in the following subsections of Municipal Code Section 14.04.010.
 - K. Office-Administrative District, OA (OA);
 - L. Office-Administrative District (OA-1 and OA-4.5);
 - O. Commercial Downtown District (CD);
 - P. Commercial Retail Sales District (CRS);
 - Q. Commercial Thoroughfare District (CT);
 - R. Commercial Retail Sales/Office District (CRS/OAD); and
 - V. Loyola Corners Specific Plan Overlay District (LCSPZ).

2. Less preferred locations for wireless telecommunications facilities include any City-owned property and properties within one of the following Zoning Districts identified in the following subsections of Municipal Code Section 14.04.010.
 - N. Commercial Neighborhood District (CN); and
 - S. Public and Community Facilities District (PCF).
 - T. Public and Community Facilities/Single-Family District (PCF/R1-10)

3. Location of Wireless Telecommunications Facilities on Properties Outside of Public Rights-of-Way and Public Utility Easements
 - (a) No portion of a wireless telecommunications facility may be permitted to encroach into any applicable setback for main structures for the zoning district within which it is located unless the facility is designed per the City's Design Guidelines.
 - (b) Wireless telecommunications facilities and any associated equipment or improvements shall not physically interfere with or impede access to any:
 - i. Worker access to above-ground or underground infrastructure owned or operated by any public or private utility agency;
 - ii. Fire hydrant or water valve;

- iii. Doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building; or
 - iv. Fire escape.
- (c) No wireless telecommunications facility shall be located so as to replace or interfere with parking spaces in such a way as to reduce the total number of parking spaces below the number that is required, nor shall any facility be located so as to interfere with require access to parking spaces.

14.82.040 Requirements for Approval of Less Preferred Locations

- A. Applications that involve less-preferred locations may be approved only if the applicant demonstrates that:
- (1) It does not own any property or facilities within 500 feet from the proposed site that could provide service in lieu of the proposed facility;
 - (2) No preferred location exists within 500 feet from the proposed site; or
 - (3) Any preferred location within 500 feet from the proposed site would be technically infeasible.
- B. The burden of proof for demonstrating compliance with these above noted conditions shall be on the applicant and must be satisfied with clear and convincing evidence.
- C. Applications that involve a less-preferred location shall be accompanied by clear and convincing written evidence demonstrating the need for approval of the proposed location rather than a more preferred location.
- D. In reviewing a request for a less-preferred location, the City may hire an independent consultant at the applicant's expense to evaluate the applicant's demonstration of need for the proposed less-preferred location.

14.82.050 Alternative to Wireless Telecommunications Facilities at Preferred and Less Preferred Locations

- A. An application may be approved for a small wireless telecommunications facility within the right-of-way of a local residential street that is neither a preferred nor a less preferred location per the requirements of this Chapter only if:
- (1) A combination of macro and small wireless telecommunications facilities, as well as colocation with existing facilities of other

carriers at preferred and less preferred locations within the City would leave a significant gap in coverage;

(2) The total number of wireless telecommunications facilities within Residential Zoning Districts (Municipal Code Sections 14.04.010 A-J, M, U, W) is minimized.

- B. The burden of proof for demonstrating the need for one or more small wireless telecommunications facilities within the right-of-way of a local residential street that are neither a preferred nor a less preferred location per the requirements of Section 14.82.030A shall lie with the applicant and shall be included in the application submitted to the City.
- C. Applications pursuant to Section 14.82.050 shall be accompanied by clear and convincing written evidence that demonstrates the applicant's existing network configuration serving the City of Los Altos cannot be expanded and/or reconfigured or modified to provide adequate service through a combination of new and relocated wireless telecommunications facilities, as well as colocation with existing facilities of other carriers at preferred and less preferred locations; and
- D. In reviewing a permit request for facilities covered by Section 14.82.050, the City shall hire an independent consultant at the applicant's expense to evaluate the applicant's current network configuration and demonstration of need to verify that a combination of facilities within the preferred and less preferred locations cannot provide service throughout the City.

14.82.060 Additional Locational Preferences

- A. Mid-block locations are preferred to more visible corners and intersections unless:
 - (1) The wireless telecommunications facility is mounted on a traffic signal control pole or streetlight;
 - (2) The wireless telecommunications facility is designed per the City's Design Guidelines.
- B. The location of a new pole, if permitted, is preferred:
 - (1) Within the parkway strip if one is present.
 - (2) In alignment with existing trees, utility poles, and streetlights.
 - (3) At an equal distance between trees, when possible, with a minimum separation of 15 feet from the tree's trunk or outside of the tree's drip line, whichever is greater, such that no disturbance occurs within the critical root zone of any tree.

14.82.070 Eligible Facilities Requested per Municipal Code Section 12.12.100 and Applications Pursuant to Government Code Section 65850.6

Eligible facilities requested per Municipal Code Section 12.12.100 and applications pursuant to California Government Code Section 65850.6 (see Municipal Code Section 12.12.110), are permitted within all Zoning Districts and within all public rights-of-way subject to the locational preferences identified in Sections 1.2.1 and 1.2.2, above; and the City's Design Guidelines.

SECTION 3. WIRELESS TELECOMMUNICATIONS FACILITIES; PERMIT PROVISIONS

A. Title 11.12 of the Municipal Code for the City shall be repealed and/or amended to make the following changes to the existing text of Chapter 11.12:

1. Section 11.12.040.A is repealed and replaced as follows:

Section 11.12.040A. 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 must comply with the locational standards set forth in Chapter 14.82 of the City's Municipal Code regulating zoning. In addition, such permit shall be subject to the conditions of Chapter 11.12, along with the City's Design Guidelines calling forth various 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.

2. Section 11.12.050.A.9 is repealed and replaced as follows:
3. Section 11.12.050.A.9. Intentionally omitted
4. Section 11.12.050.B.1.c. is repealed and replaced as follows:

Section 11.12.050.B.1.c. Analysis of an application that involves a less-preferred location as set forth in the locational standards of this Chapter, to determine if the applicant owns any property or facilities within 500 feet of the proposed site that could provide service in lieu of the proposed facility, and whether there is a preferred location within 500 feet and to determine whether any such preferred location is technically feasible.

5. Section 11.12.050.E.2 is repealed and replaced as follows:

Section 11.12.050.E.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 until a submittal appointment is obtained.

6. Section 11.12.060 is repealed and replaced as follows:

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.
2. 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 ninety (90) days after installation of the facility.
3. 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.
4. 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 twenty-four (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.
5. 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.
6. To minimize environmental effects of installation and operations, wireless telecommunications facilities shall comply with the following performance standards:
 - a. Where ground disturbance is required for installation of a wireless telecommunications facility, applicable best management practices (BMPs) shall be implemented to minimize loss or topsoil and site erosion and to reduce diesel particulate (PM₁₀) and PM_{2.5} emissions.
 - b. In the event of an unanticipated discovery of historical, archaeological, or Tribal cultural resources during construction, ground-disturbing activities shall be halted until a City-approved qualified consulting archaeologist assesses the significance of the find according to CEQA Guidelines §15064.5. If any find is determined to be a potential Tribal cultural resource or a unique archaeological resource, the City, consulting archaeologist, and the applicable Tribal authority would determine the appropriate measures to be taken. Any Tribal cultural resources identified would be subject to Tribal mitigation requirements. Any archaeological resources recovered would be subject to scientific analysis, professional museum curation, and documentation according to current professional standards.
 - c. Installations of wireless telecommunications facilities shall meet the most current California Building Code standards required at the time of construction to reduce the potential for substantial adverse effects related to ground shaking.
 - d. In the event of an unanticipated discovery during project construction, ground-disturbing activities would be halted until a qualified paleontologist meeting the Society of Vertebrate Paleontology (SVP) Standards determines their significance, and, if significant, supervises their collection for curation. Any fossils collected during site-specific development project-related excavations, and determined to be significant by the qualified

paleontologist, shall be prepared to the point of identification and curated into an accredited repository with retrievable storage.

- e. Noise generated by equipment will not be detrimental to the public health, safety and welfare and shall not exceed the standards set forth in [chapter 6.16](#) of the Municipal Code and Resolution 2019-35.
 - f. Where temporary closure of a sidewalk or roadway travel lane would be necessary for installation of a wireless telecommunications facility, preparation and implementation of a Traffic Control Plan approved by the City Engineer shall be required. Should installation of a wireless telecommunications facility occur adjacent to a transit stop and require temporary relocation of the stop, the applicant for such facility shall provide needed improvements for such a temporary transit stop.
6. 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.
 7. 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.
 8. 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.
 9. 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 sixty (60) days of delivery of the affidavit.

10. 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.
11. 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.
12. All conditions of approval shall be binding as to the applicant and all successors in interest to permittee.
13. A condition setting forth the permit expiration date in accordance with Section 11.12.060 shall be included in the conditions of approval.
7. Section 11.12.080 A. is repealed and replaced as follows:

Section 11.12.080. Findings.

A. Where a wireless telecommunication facility requires a telecom use permit as provided for in this Chapter, the City shall not approve any application unless, all of the following findings are made:

1. The proposed facility complies with the locational and siting standards set forth in Chapter 14.82 and with all applicable building, electrical and fire safety codes.
2. The proposed facility complies with all applicable provisions of Chapter 14.82 and with the Design Guidelines adopted by the City.
3. The proposed facility complies with all applicable building, electrical and fire safety codes.
4. The proposed facility has been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.
5. 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.
8. Section 11.12.090 Exceptions is repealed in its entirety.
9. Section 11.12.160.B is repealed and replaced as follows:

Section 11.12.160B. After the expiration of the wireless telecommunications permit provided for in Section A, above, a permittee shall apply for a new permit and comply with all the requirements of the City Code then at play.

10. Section 11.12.160. C and D are repealed in their entirety.
11. Section 11.12.180.A is repealed and replaced as follows:

A. Permittee's Removal Obligation. Upon the expiration date of the permit, or upon earlier termination or revocation of the permit, or abandonment of the facility after a period of ninety (90) days, 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. Should the City be required to remove the facility or restore a site within the public right-of-way, the owner/operator of the facility shall reimburse the City for its actual costs.

12. Section 11.02.080.C is repealed and replaced as follows:

Section 11.02.080.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. And, the decision shall also be posted on the site of the proposed wireless telecommunications facility.

SECTION 4. DESIGN STANDARDS

The City Council hereby reviews the prior Design Standards called forth in Resolution No. 2019-35 adopted on August 5, 2019 and repeals same in its entirety and concurrently adopts New Design Guidelines in a separation resolution to regulate the design standards for wireless telecommunication facilities.

SECTION 5. CEQA

The Initial Study prepared for the proposed Wireless Telecommunications Facilities Development Standards and Design Guidelines indicates for each environmental issue it analyzed that environmental impacts would be less than significant or that no impact would occur. There is no substantial evidence, in light of the whole record before the lead agency (the City of Los Altos), that the project may have a significant effect on the environment.

SECTION 6. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be unconstitutional or otherwise invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Los Altos City Council hereby declares that it would have adopted the remainder of this ordinance, including each section, subsection, sentence, clause, phrase or portion irrespective of the invalidity of any other article, section, subsection, sentence, clause, phrase, or portion.

SECTION 7. AUTHORITY AND EFFECTIVE DATE.

This Ordinance is enacted pursuant to the authority conferred upon the Los Altos City Council by Government Code Section 36934 and will be effective thirty (30) days after second reading.

Anita Enander
Mayor, City of Los Altos

Attest: Andrea Chelemengos
City Clerk

ORDINANCE NO. _____ of the City of Los Altos adopted on _____, 2022 by the following roll call vote of the City Council:

ATTACHMENT C

RESOLUTION No. 2022-__

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

THE CITY COUNCIL OF THE CITY OF LOS ALTOS DOES RESOLVE AS FOLLOWS:

SECTION 1. FINDINGS

A. Pursuant to the California Constitution, Article XI, section 7; California Government Code § 37100 and other applicable law, the City Council may make and enforce within its limits all local, police, sanitary and other ordinances, resolutions and other regulations not in conflict with general laws.

B. It is in the public interest for the City to establish reasonable, uniform and comprehensive design and siting guidelines for the installation of wireless facilities . The City having previously established design guidelines pursuant to Resolution No. 2019-35 adopted on August 5, 2019 (hereinafter “the Existing Design Guidelines”), now wishes to rescind the Existing Design Guidelines and replace them with new design guidelines set forth below in the **Appendix** as discussed below in Section 2 (“New Design Guidelines”), in order to protect the City of Los Altos and its aesthetics and preserve the public health and safety of the community.

C. These New Design Guidelines are intended to, and should be applied to, protect and promote public health, safety and welfare, and also balance the benefits that flow from wireless services with the City's local rules which include, without limitation, the aesthetic character of the City, its neighborhoods and community.

D. Los Altos’ public rights-of-way are a uniquely valuable public resource, closely linked with the City’s rural character and natural beauty. Los Altos has a population of 30,000 and is suburban community near Silicon Valley. The City has a small town, semi-rural atmosphere – with wooded, quiet low-density single-family homes. The regulation of wireless communication facilities both within the public right-of-way and other locations within the City, is necessary to protect and preserve the aesthetics of the community. The City’s General Plan also provides for the undergrounding of new telephone and utility lines, “maintaining the low density, low profile residential character of the community through zoning regulations and design guidelines,” and “ensuring compatibility between residential and non-residential development through zoning regulations and design review.” The City’s concerns for preservation of its community including public safety, visual impact, and aesthetics relate to preserving the residential character of the community by imposing these New Design Guidelines that relate to location, camouflaging, height, size and spacing of wireless telecommunications facilities. As well, the New Design Guidelines also provide separation between wireless telecommunications facilities and the front of homes along permitted rights-of-way within residential zones serves to reduce the intrusiveness of any new wireless telecommunications facilities.

E. The City is mindful of the need to minimize the potential adverse impacts on the community which includes amongst other things, limiting wireless site visibility and impacts to

the City's aesthetic well-being, while balancing same against the need for sufficient cell coverage for emergency needs and complying with both federal and state laws. These New Design Guidelines are particularly focused on minimizing visibility from residences, encouraging undergrounding of utilities, and limiting the height of such facilities to be consistent with the single-family residences that predominate the housing stock of Los Altos. In keeping with these goals, these New Design Guidelines serve to ensure the preservation of the local residential areas.

F. These New Design Guidelines serve to help minimize and/or alleviate possible threats to the public health, safety and welfare of the City of Los Altos, including but not limited to, potential disturbance to the right-of-way through the installation and maintenance of wireless telecommunication 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 of poles and/or towers; creation of visual and aesthetic blights and potential safety concerns arising from excessive size, heights, noise or lack of camouflaging of wireless telecommunications facilities including the associated pedestals, meters, equipment and power generators; and the creation of unnecessary visual and aesthetic blight by failing to utilize alternative technologies or capitalizing on collocation opportunities, all of which has the potential to yield serious negative impacts on the unique quality and character of Los Altos.

G. The reasonably regulated and orderly development of wireless telecommunication facilities in the public-right-of-way is desirable, and unregulated or disorderly development represents a threat to the health, welfare, and safety of the Los Altos community.

H. The City's beauty is an important reason for businesses to locate in the City and for residents to live here. The City's economy, as well as the health and well-being of all who visit, work or live in the City, depends in part on maintaining the City's beauty. The City has been moving towards the undergrounding of various utilities, including the First Street and Lincoln Park Undergrounding Utility projects, and needs to ensure that this effort is not hindered by the addition of numerous wireless telecommunications facilities cabinet, wires, cables, and bulky equipment that visually impede and clutter the City's public rights of way. The New Design Guidelines serve to encourage the reduction of all appurtenant equipment, screening of same, and efforts at undergrounding.

I. The City Council takes legislative notice of the various federal court decisions and FCC Order that have recognized the City's ability to impose the New Design Guidelines to protect the aesthetics of Los Altos. In fact, the FCC Order goes on to state that local aesthetic requirements that are reasonable in that they are technically feasible and reasonably directed to avoiding or remedying the intangible public harm of unsightly or out-of-character deployments are permissible. *In the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Inv.*, 33 F.C.C. Rcd. 9088 (2018), *aff'd in part, rev'd in part, City of*

Portland v United States, 969 F.3d 1020, 1032 (9th Cir. 2020) and *see also Sprint PCS v. City of Palos Verdes Estates* (2009) 583 F.3d 716.

J. The City acknowledges that there has been an ever-increasing demand for the placement of wireless telecommunication facilities within the public rights of way, in order to offer increased coverage in the way of numerous expanding technologies such as: cell phones, video streaming, and on line access to work from home during the COVID -19 pandemic. In connection with the ever increasing demand for expanding technologies, the City is also mindful of the carriers desire to move forward with 5G and the potential increase in applications for wireless facilities within this small suburban community has the potential to greatly impact the quality of life and the bucolic nature of the community.

K. The overarching intent of the New Design Guidelines is to make wireless telecommunications reasonably available while preserving the essential rural character of Los Altos. The New Design Guidelines will foster such by minimizing the visual and physical effects of wireless telecommunications facilities through appropriate design, screening techniques and location standards; and encouraging the installation of such facilities where and in a manner such that potential adverse impacts to Los Altos is minimized.

L. The City adopted its Current Design Guidelines back in August of 2019. This occurred after the City held a study session and several public hearings, at which stakeholders discussed wireless and other infrastructure deployment issues, and expressed their design and location preferences, practical and safety concerns, aesthetic concerns, policy views and the essential local values that make Los Altos a uniquely small suburban community. The City's residents in the summer of 2019 called out the numerous concerns at play with aesthetics, and these concerns included numerous objections that were focused on visual blight such as:

- Small cell nodes previously proposed by carriers, AT&T and Verizon, to the City of Los Altos were visually intrusive and unsightly;
- The City should continue to be judicious about and distaste for visual blight;
- The need to eliminate visual blight;
- The need to consider potential visual blight, to mitigate noise and heat;
- Wireless facilities should be regulated in order to preserve Los Altos' neighborhood aesthetic guidelines;
- Cell towers or small cells are unsightly, noisy and add to the visual blight from the existing electric and telephone lines;
- Cell towers are ugly and there is no need for extra eye sores;
- The mounting of "small" refrigerator-sized boxes on the side of an existing utility poles is unsightly and adds to visual blight; and
- The cell tower is an eye sore that emits an annoying fan type noise that has a negative impact on the quality of life of the residents who live there or who walk within the community.

These same concerns as to visual blight, aesthetic impairment and noise remain at play today.

SECTION 2. DESIGN GUIDELINES: REPEAL OF PRIOR RESOLUTION.

The City Council previously adopted Resolution No. 2019-35 on August 5, 2019. The Council hereby repeals Resolution No. 2019-35 in its entirety.

SECTION 3. NEW DESIGN GUIDELINES.

The City Council hereby adopts the New Design Guidelines set forth in the **Appendix**, which New Design Guidelines are incorporated with this Resolution

SECTION 4. DEFINITIONS

The definitions set forth in Section 11.12.020 of the Municipal Code are incorporated by reference into this Resolution. In addition, the **Appendix** provides definitions for “Small Cell Facility” and Underground Areas.”

SECTION 5. SEVERABILITY.

If any provision of this Resolution or its application to any person or circumstances is held invalid, such invalidity has no effect on the other provisions or applications of the Resolution that can be given effect without the invalid provision or application, and to this extend, the provisions of this Resolution irrespective of the invalidity of any portion thereof.

SECTION 6. EFFECTIVE DATE.

The City Clerk shall certify the adoption of this Resolution and cause it, or a summary of it to be published as required by law. This Resolution shall become effective the same date that it is adopted.

APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Los Alto this ___ day of _____, 2022.

Anita Enander
Mayor, City of Los Altos

Attest: Andrea Chelemengos
City Clerk

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APPENDIX TO CITY OF LOS ALTOS RESOLUTION 2022-___
DESIGN AND DEVELOPMENT STANDARDS FOR WIRELESS
TELECOMMUNICATIONS FACILITIES

I. Definitions

A. Small Cell Facility: shall have the same meaning as “small wireless facility” in 47 C.F.R. 1.60020), or any successor provision (which is a personal wireless services facility that meets the following conditions that, solely for convenience, have been set forth below):

1. The facility-
 - a. is mounted on a structure 50 feet or less in height, including antennas, as defined in 47 C.F.R. Section 1.1320(d), or
 - b. is mounted on a structure no more than 10 percent taller than other adjacent structures, or
 - c. does not extend an existing structure on which it is located to a height of more than 50 feet by more than 10 percent, whichever is greater;
2. Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in 47 C.F.R. Section 1.1320(d)), is no more than three cubic feet in volume;
3. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
4. The facility does not require antenna structure registration under 47 C.F.R. Part 17;
5. The facility is not located on Tribal lands, as defined under 36 C.F. R. Section 800.16(x); and
6. The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 C.F.R. Section 1.1307(6).

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

II. Design And Development Standards for all Wireless Telecommunications Facilities.

A. Purpose. The purpose of this section is to provide guidelines to applicants and the City that prescribe clear, reasonable, and predictable design criteria to reduce visual and land use impacts associated with wireless telecommunication facilities in the City. Nothing in this section shall be construed to permit a wireless telecommunication facility in any location or configuration that it is otherwise prohibited by the City’s locational and development standards found in Chapter 14.82.

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

1. Impact Minimization. The overall impacts of a wireless telecommunications facility shall be minimized in relation to aesthetic, land use, noise, traffic, and other considerations. Although this is generally accomplished with the smallest feasible design for any given facility, a larger facility may sometimes be appropriate if it is well concealed, compatible with the surrounding neighborhood, and can reduce the overall number of wireless telecommunications facilities required to provide service within the City.

2. Integration and Concealment. Integration and concealment of a wireless telecommunications facility and its resulting visibility are a function of site context as well as the design and placement of a facility on a specific site.

a. Overall, new wireless telecommunications facilities and modifications to existing facilities shall be visually integrated into their sites and as hidden from view as feasible.

b. Non-integrated (unconcealed) installations are less preferred and permitted only where an integrated (concealed) facility is either infeasible or would reduce the number and overall visual intrusiveness of wireless telecommunications facilities required to provide service within the City.



Figure 1: This well-concealed wireless telecommunications facility has its antennas architecturally integrated into the building.

- c. Complete concealment (e.g., no visible exterior equipment) is preferred over other methods.
 - d. Covering or painting antennas and equipment does not necessarily mean they are well-concealed and must be evaluated based on their actual ability to conceal the facility. Factors to be considered include the visibility of exterior pole equipment on a pole regardless of its color and concealment methods (antenna skirts, fiberglass paneling, fiber-reinforced plastic [FRP] boxes, etc.) themselves.
 - e. RF safety barriers shall be the least visible barrier feasible. When feasible, striping and restricted access shall be used instead of posts, chains, and/or fencing. When barriers must be visible, building materials should be integrated into the design of the facility and its adjacent surroundings.
 - f. Any feature that is represented on plans and photo simulations submitted to the City as providing concealment (adjacent landscaping, paint colors, architectural elements, etc.) shall be present for the life of the project, and therefore need to be within the applicant's control.
 - g. Future modifications to a site or facility reduce concealment that was provided with the initial installation shall not be permitted unless no feasible alternative exists, or the proposed modification involves colocation and an overall reduction of the visual intrusiveness of wireless telecommunications facilities within the City.
- 3. Context.** Specific situations require specific design solutions. What integrates well into one site and conceals a wireless telecommunications facility might not be appropriate for another situation. Proposed designs shall therefore be evaluated based on the following considerations.
- a. Concealment behind a parapet might be a good design solution; however, designs that raise the parapet or only a portion of the parapet might not be.
 - b. Façade-mounted antennas or a cupola might be appropriate for certain styles of architecture, but not for others.
 - c. Placement of a wireless telecommunications facility on an existing pole or a replacement pole might or might not be visually unobtrusive, depending on the extent to which the facility adds to the height of the pole and the presence and extent of external equipment and cabling added to the pole.
 - d. Placement of a new pole within a street right-of-way might or might not be appropriate depending on the location of any nearby utility poles, streetlights, or traffic signals.
 - e. Placement of a new pole on a property outside of a right-of-way (such as on a new flagpole) might or might not be appropriate depending on its design and location in relation to buildings and other onsite features.

- f. A wireless telecommunications facility that fits into its context (e.g., a faux tree within an area having existing trees) is generally more integrated (concealed) than one that does not (e.g., a faux tree in the middle of a non-landscaped parking lot or a faux tree that is poorly designed or of a species not otherwise present in the area).
- g. New wireless telecommunications facilities are generally appropriate as a means of reducing the overall number of facilities within the community but might be visually intrusive depending on their height, design, and placement.

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

D. General Guidelines.

- 1. Concealment.** Each facility shall be designed to be as visually inconspicuous as feasible, to prevent the facility from dominating the surrounding area, and to conceal the facility from predominant views from surrounding properties, all in a manner that achieves compatibility with the community.
 - a. Cabling and equipment should be concealed wherever feasible. Where cabling and/or equipment cannot feasibly be fully concealed from public view, they should be designed and located so as to minimize their visual intrusiveness.
- 2. Traffic Safety.** All facilities shall be designed and located in such a manner as to avoid adverse impacts on traffic safety.
 - a. Any wireless telecommunications facility attachments placed less than 16 feet above ground level shall not be placed closer than 18 inches to a curb, nor shall they extend over a sidewalk (Caltrans Highway Design Manual Section 309).
 - b. All wireless telecommunications facility equipment shall maintain at least 3 feet separation from any curb cut.
- 3. Antennas.** The applicant shall use the least visible antennas possible to accomplish the coverage objectives. Antenna elements shall be flush mounted, to the extent reasonably feasible. All antenna mounts shall be designed so as not to preclude possible future collocation by the same or other operators or carriers. Antennas shall be situated to reduce visual impact without compromising their function. Whip antennas need not be screened.

4. Landscaping.

- a. Where appropriate, facilities shall be installed so as to maintain and enhance existing landscaping on the site, including trees, foliage, and shrubs, whether or not the landscaping is used for screening.
 - b. The wireless telecommunications facility's design shall be consistent with the existing and/or proposed landscape design of the adjacent site, using a similar or complementary plant palette.
 - c. Existing, mature trees shall be retained when feasible. Any existing landscaping removed or damaged by installation shall be replaced in kind.
 - d. Additional landscaping shall be planted, irrigated, and maintained where such vegetation is deemed necessary by the City to provide screening or to block the line of sight between facilities and adjacent uses. Landscaping to screen wireless telecommunications facilities shall not, however, block the lines of sight and create hazards for motorists, bicyclists, and pedestrians.
 - e. Any proposed underground vaults shall be designed and constructed so as to protect existing street trees, including roots within the tree's drip line.
 - (1) A report from an experienced arborist shall be provided to the City upon request confirming the tree's root system has been adequately protected.
 - f. Landscaping proposed to screen, conceal, complement, or soften the visual intrusiveness of a wireless telecommunications facility shall remain for the life of the permit, even if not located within the applicant's lease area. Adequate provisions shall be entered into with property owners to ensure that required landscaping is not removed, and that it is properly maintained. Landscaping outside the applicant's control is generally not considered to provide concealment, but concealment provided by such landscaping can be considered on a case-by-case basis.
- 5. Signage.** Wireless telecommunications facilities and wireless telecommunications collocation facilities shall not bear any signs or advertising devices other than certification, wattage, or other signage required by law or permitted by the City.
- 6. Lighting.** A wireless telecommunications facility shall not be illuminated unless lighting is specifically required by the Federal Aviation Administration or other government agency, or the lighting is in association with the illumination of an athletic field on City or school property. Lighting arresters and beacon lights are not permitted unless required by the Federal Aviation Administration or other government agency. Legally required lightning arresters and beacons shall be included when calculating the height of facilities such as telecommunications towers, lattice towers, and monopoles.

7. Noise.

- a. Each wireless telecommunications facility and wireless telecommunications collocation facility shall be operated in such a manner so as to minimize any disruption caused by noise.
- b. At no time shall any facility be permitted to generate noise exceeding 45 dBA except for backup generators operated during periods of power outages.
- c. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends, on holidays, or on weekdays between the hours of 5:00 p.m. and 7:00 a.m. Noise from backup generators shall not exceed the noise levels specified in Municipal Code Chapter 6.16.
- d. Where feasible, passive louvers and/or other passive ventilation shall be provided as the primary means of temperature control.

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

9. Modification of Existing Equipment. At the time of modification of a wireless telecommunications facility, existing equipment shall, to the extent feasible, be modified or replaced to reduce visual, noise, and other impacts. This shall include the reduction of the size of the ground cabinet and/or replacement with an underground vault. Examples include, but are not limited to, undergrounding the equipment or replacing larger, more visually intrusive facilities with smaller, less visually intrusive facilities.

II. Additional Design and Development Standards for Facilities Outside of the Public Right-of-Way and Public Utility Easements.

A. Basic Requirements. Facilities located outside the public right-of-way and public utility easements are subject to the design and development standards set forth in this section in addition to the design and development standards that apply to all facilities (Section 4).

B. Preferred Designs.

1. Façade-Concealed Antennas. Façade-concealed antennas have antennas, mounting apparatus, and any associated components fully concealed from all sides within a structure that achieves complete architectural integration with the existing building (for example, antennas behind fiber-reinforced plastic [FRP] in a parapet, and

equipment inside an existing building), or within outbuildings that are architecturally integrated into a site and are expected components of the setting. This preferred installation type has the following additional characteristics.

- a. Cables and cable trays are completely hidden from view with cables routed internally or buried underground.



Figure 2: This completely concealed wireless telecommunications facility, including antennas, is cited in the City of San Diego's Land Development Manual in its guidelines for wireless communications facilities.

- (1) Exterior cable trays designed to replicate an existing vertical element may be considered on a case-by-case basis.
- (2) Standard cable trays painted and textured to match the existing building are indicative of a façade-mounted facility rather than the preferred façade-concealed facility.

- b. Equipment and equipment areas shall be completely hidden.

- (1) Associated equipment shall be completely concealed inside an existing building, inside an underground vault, or by the same method as the antennas (RRUs, RRHs, surge suppressors, and similar).

- (2) Screen walls, fences, and prefabricated facilities are generally not indicative of building-concealed facilities; however, equipment enclosures designed to replicate existing buildings and structures may be considered on a case-by-case basis. This guideline shall apply to any existing or proposed mechanical equipment that serves the wireless

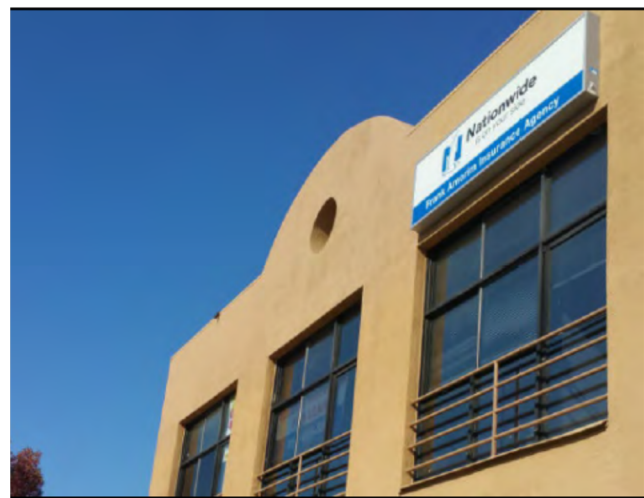


Figure 3: Antennas are concealed behind the circular element.

telecommunications facility, including, but not limited to, generators, air conditioning units, and similar equipment.

- c. FRPs shall be both textured and painted to match adjacent building faces. Paint and texture should match completely.
 - d. There should be no noticeable transitions (e.g., seams or differences in paint or texture) between FRP and adjacent surfaces.
 - e. If concealed within a parapet, the top, sides, and rear of antennas and associated components shall also be enclosed or otherwise screened from view. No wireless telecommunications facility components, including antenna, mounting apparatus, cabling, or equipment, should be visible.
 - f. If a project extends the parapet upward, the extensions should have symmetry in all visible dimensions. Antennas and concealment elements shall not dominate the element on which they are placed.
- 2. Faux Architectural Elements.** Faux architectural elements are existing or proposed architectural elements on a building that completely conceal antennas. They are distinguished from façade-concealed antennas in that they appear to be architectural elements of a building.

- a. This preferred installation type may take a variety of forms, such as tower elements and cupolas. Architectural integration may also include tapered columns (which may hide façade-mounted antennas individually), wing walls, dormers, statues, façade-mounted signage, and other elements.
- b. This preferred installation type shall be appropriate to the architectural context and have the following additional characteristics:



Figure 4: A cupola (above) and a clock tower (below) conceal antennas.

- (1) Design that matches the style of the building and is designed as a feature commonly found on the type or style of building upon which the element is proposed; and
 - (2) Colors and textures that match the existing building, including finishing features such as reveals, windows, tapers, cornices, tiling, roofing materials, and trim.
- c. Antennas and related equipment shall not encroach from a building into the public right-of way or onto an adjacent property.

3. Rooftop Concealment. If accessory equipment for roof-mounted facilities cannot be installed inside the building or underground, such accessory equipment may be located on the roof of the building that the facility is mounted on , provided that both the equipment and screening materials are painted the color of the building, roof, or surroundings. Rooftop facilities that appear to be a building façade, architectural element, or parapet are considered to be façade-concealed, façade-mounted, or faux architectural facilities. Rooftop concealment is considered to be a preferred design where façade integration is not feasible.

- a. Roof-mounted facilities shall be designed and constructed to be fully concealed or screened in a manner compatible in color, texture, and type of material with the existing architecture of the building on which the facility is mounted. Screening shall not increase the bulk of the structure nor alter the character of the structure.
 - (1) All screening materials for roof-mounted facilities shall be of a quality and design that is architecturally integrated with the design of the building or structure.
 - (2) Rooftop concealment shall be appropriate to the architectural setting, matching the colors and textures of existing building (including features such as reveals, cornices, tiling, roofing materials, and trim), and shall be designed as a feature commonly found on the type or style of building upon which the facility is proposed.
 - (3) Integration into existing rooftop elements is preferred over creating new rooftop elements unless integration would be architecturally undesirable.
 - (4) The height of rooftop screening shall not exceed the maximum height permitted by the zoning district within which the facility is located.
 - (5) Roof-mounted wireless telecommunications facilities shall not be visible from any side and may need to be concealed from the top if adjacent structures are taller and have views onto the roof where wireless telecommunications facilities are proposed to be mounted.
 - (6) Equipment located on the roof of an existing structure shall be set back or located to minimize visibility, especially from the public right of-way or

viewing locations accessible to the public. Rooftop screening elements will generally need to be set back from the roof edge at least as far as they are tall.

(7) Rooftop screening shall not dominate a façade. For example, an antenna screen that approaches the height of a building story and runs most of the length of a façade containing windows would substantially increase building height but not appear as part of the structure. In this case, it would be more desirable to extend the parapet and make the building itself appear taller.

- b. Unconcealed rooftop installations such as lattice towers, monopoles, and rack mounts that are visible from the public right-of-way or viewing locations accessible to the public shall not be permitted.
- 4. Architecturally Designed Stand-Alone Towers.** Towers that are designed to appear as buildings or signs, and that conceal antennas completely within them, may be permitted where appropriate to the site on which they are proposed. Examples include, but are not limited to, clock towers and obelisks.
- a. Architecturally designed stand-alone towers shall be of high-quality design and provide variation in planes, textures, colors, or treatments to avoid the look of a simple box.
 - b. Clock towers shall have a functioning clock at all times.
 - c. A separate sign permit may be required for any onsite sign used to conceal antennas.
 - d. A wireless telecommunications facility permit may not be used to request signage that does not comply with Municipal Code standards for signage.
- 5. Athletic Field Lights.** The guidelines in this section are for lights used to illuminate large areas for the purposes of recreation. For lights used to illuminate the immediate area for pedestrian or driver safety, see Section C.4, Parking Lot Light Standards, below.
- a. Antennas shall be mounted as close as possible to the pole and within an antenna shroud that conceals the antennas and any associated components. No wireless telecommunications facility component except the antenna shroud shall be visibly mounted to a pole.
 - b. Antennas and mounting components shall be painted the same color as the pole.
 - c. All cables and conduit to and from the light standard shall be routed from the caisson up into the pole. Cable coverings may be permitted in limited circumstances where they would be minimally visible.
 - d. When a wireless telecommunications facility is proposed on a field with no existing lighting or no functional lighting, the applicant shall provide additional lighting as required to provide a functionally illuminated sports field. Partial lighting of a sports field is not acceptable.

C. Other Permitted Designs.

1. Façade-Mounted Antennas. Façade-mounted antennas are any antennas mounted on the exterior of a building that are not faux architectural elements. Façade-mounted antennas shall:

- a. Employ a symmetrical, balanced design.
 - (1) No interruption of architectural lines or horizontal or vertical reveals should occur.
 - (2) Antennas should be no longer or wider than the façade on which they are proposed and shall not encroach into window areas or protrude above or below the surface on which they are mounted.
 - (3) Antennas should be mounted with their tops at the roofline unless there is an obstacle, or unless to do so would decrease concealment.
- b. Use the smallest mounting brackets available to provide the smallest offset from the building.
- c. Limit the distance from the front of the antenna (or antenna shroud/FRP) to the face of the building to 12 inches. Panel antennas may be mounted up to 18 inches away from a building façade when the applicant provides evidence demonstrating that the wireless communication facility cannot operate without incorporating a tilt greater than 12 inches.
- d. Fit each antenna into the design of an existing façade, with each antenna being no longer or wider than the portion of the façade upon which it is mounted. The antennas should not interrupt the architectural lines of the façade.
- e. Conceal associated mounting brackets and cable from view. Any pipes or similar apparatus used to attach panel antennas to a building façade shall not extend beyond the length or width of the panel antenna. Measurements may be verified during inspection.



Figure 5: Although façade-mounted boxes are not preferred, this example from San Diego achieves integration with the structure.

- f. If a façade-mounted facility dominates a façade element, use façade-mounted FRP boxes that look like an extension of the façade.
 - g. If not covered by an FRP box, use skirts and chin covers to conceal mounting hardware, create a cleaner appearance, and minimize visual impact. Chin covers shall be designed to replicate the antenna profile. Transitions between antennas and screening devices should not be visible (no gaps). Antennas should appear to be the same length, width, and depth, spaced uniformly.
 - h. Match the color and texture of concealment measures to adjacent building surfaces, including includes trim, reveals, lines, and similar features. No visible transition lines or gaps should occur.
 - i. Avoid exposed cabling.
 - j. If not covered by an FRP box, provide a unified appearance. If antennas differ in shape or size, they should all be given unified dimensions using skirts and chin straps spaced uniformly across a façade.
 - k. Locate ventilation openings on the top or bottom of screening elements only.
 - l. Not encroach from a building into the public right-of way or onto an adjacent property.
- 2. Faux Trees.** Wireless telecommunications facilities may be designed to emulate trees where trees similar in size and species are present. Faux trees may also be appropriate when natural trees of similar species are planted concurrent with faux tree installation, depending on the density and size of trees being planted.

- a. Faux trees shall be of a type and size to adequately conceal antennas within them while appearing natural.

- (1) Faux trees shall replicate the shape, structure, and color of live trees, and be designed to look like the tree species they intend to replicate (e.g., a faux pine tree shall be shaped like a pine tree). Branching shall not make the tree look top-heavy or unnatural.



Figure 6: In this example, antennas are concealed by the faux "mono-pine."

- (2) If no trees exist within the immediate area, the applicant shall create a landscape setting that integrates the faux tree with added species of a similar height and type.
 - (3) All branches at the antenna level shall extend a minimum of 24 inches beyond the entire vertical length of the antennas for maximum concealment. Antenna socks shall not count toward this requirement.
 - (4) Faux trees shall be designed with a minimum of four branches per foot for full density coverage with limited spacing between the branches unless three dimensional (3D) models justify lower branch counts.
 - (5) There shall be no gaps in branch coverage. All branch ports shall be used for branches. Branches shall blend down the tree with no abrupt transitions.
 - (6) Poles should be five feet shorter than the overall height of the faux tree to allow branching at the top of the tree.
 - (7) Due to the physical form of palm trees and the difficulty of providing concealment for wireless telecommunications facilities, faux palms shall not be permitted.
- b. Applications proposing faux tree installations shall provide detailed specifications during plan review, including:
 - (1) 3D-modeled photo simulations illustrating branches, foliage, pole, and equipment; and
 - (2) Sufficient samples, models, or other means to demonstrate the quality, appearance, and durability of the faux tree.
 - c. Projects shall not be approved at final inspection if they do not match the approved exhibits, including photo simulations.
- 3. Flagpoles and Similar Vertical Elements.** This section addresses the design of wireless telecommunications facilities designed as flagpoles or other stand-alone pole-like elements that are not used for illumination or above-ground utilities.
- a. Flagpoles shall replicate the design, diameter, and proportion of the vertical element they are intended to imitate and shall maintain a tapered design.
 - b. Generally, flagpoles should be 30 feet or less in height and not exceed 9 inches in diameter.
 - (1) Flagpoles that are higher than 30 feet and/or exceed 9 inches in diameter may be permitted where the flagpole is located in a suitable setting and appropriately tapered to maintain the appearance of an authentic flagpole.
 - b. Antennas and any pole-mounted equipment shall be enclosed within the flagpole. Flagpoles shall not have an antenna shroud.

- c. Flagpoles shall comply with the U.S. Flag Code at all times.
 - d. All cables shall be routed directly from the ground up through the pole.
- 4. Parking Lot Light Standards.** These guidelines are for lights used to illuminate the immediate area for vehicular and pedestrian safety within a parking lot.
- a. Light standards used for wireless telecommunications facilities shall:
 - (1) Replicate the design, diameter, and proportion of the vertical element they are intending to imitate; and
 - (2) Replicate as closely as possible the design of any other lighting standard within the parking lot, including but not limited to the height of other parking lot lighting standards and the design, material, and color of nearby light poles.
 - b. All cables and conduit to and from the light standard shall be routed from the caisson through the pole to the antennas.
 - c. All antennas shall be concealed inside an antenna shroud of a shall be compatible with the diameter of the pole or concealed within the pole.
 - d. Light fixtures shall be sized and balanced with the design and height of the overall light pole.

D. Pole-Mounted Telecommunications Facilities.

- 1. Facilities mounted to a telecommunications tower, including, but not limited to, the attached antennas, shall be designed to be the minimum functional height and width required to adequately support the proposed facility and meet Federal Communications Commission (FCC) requirements. The applicant shall provide documentation satisfactory to the City Manager establishing compliance with this paragraph.
- 2. Monopole installations shall be situated so as to utilize existing natural or man-made features including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening.
- 3. All antenna components and accessory wireless equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background or existing architectural elements so as to visually blend in with the surrounding development. Subdued colors and non-reflective materials that blend with surrounding materials and colors shall be used.
- 4. Monopoles shall be no greater in diameter or other cross-sectional dimensions than is necessary for the proper functioning of the facility.

E. Accessory Equipment.

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

F. Signage.

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

III. Additional Design and Development Standards for Facilities in the Public Right-of-Way and in Public Utility Easements.

A. Basic Requirements. Facilities located in the public right-of-way and in public utility easements are subject to the design and development standards set forth in this section in addition to the design and development standards that apply to all facilities. Only pole-mounted antennas shall be permitted in the right-of-way. All other telecommunications towers are prohibited.

B. Preferred Configurations

- 1. Light Poles Wherein all Equipment, Cabling, and Antennas are Within the Pole Itself and/or Entirely Under the Ground.**
 - a. Use of light poles for wireless telecommunications facilities may be permitted where there are existing light poles or in areas where a new light pole would be appropriate (e.g., intersections).

- b. The maximum height of any antenna mounted to a street light pole shall not exceed seven feet above the existing height of a street light pole in a location where the closest adjacent district is a commercial zoning district and shall not exceed three feet above the existing height of a street light pole in any other zoning district. Any portion of the antenna or equipment mounted on such a pole shall be no less than 18 feet above any drivable road surface.
- c. Antenna shrouds shall be the same diameter as the pole. The bottom 66 inches of a pole (the “base”) may be up to 6 inches in diameter wider to accommodate equipment.
- d. To prevent accumulation of trash, facilities shall be designed to avoid flat surfaces in the transition from the base to the upper pole.
- e. Poles shall be painted and textured to City standards to match existing streetlights in the vicinity.

C. Less Preferred Configurations.

1. Existing or Replacement Utility Poles.

- a. The maximum height of any antenna mounted to an existing utility pole shall not exceed 24 inches above the height of an existing utility pole, nor shall any portion of the antenna or equipment mounted on a pole be less than 18 feet above any drivable road surface. All installations on utility poles shall fully comply with the California Public Utilities Commission (CPUC) general orders (GOs), including, but not limited to, GO 95.1.
- b. All antennas shall be shrouded. Antenna shrouds should have an outer diameter of 15" or less and measure no more than five cubic feet in size. The shroud should be no more than 4 feet tall, including antenna, radio head, mounting bracket, and all other hardware necessary for a complete installation.



Figure7: Landscaping conceals wireless telecommunications equipment mounted on the exterior of this pole located on Distel Drive.

2. Stand-Alone Poles along Rights-of-Way with No Existing Overhead Utility Lines.

- a. Where a stand-alone pole is proposed within a right-of-way or public utility easement with no overhead utility lines, the preferred configuration is for all equipment to be concealed within the pole itself, with an antenna/shroud mounted directly to the top of the pole and no visible transitions. No equipment shall be visible outside the pole. Equipment may, however, be placed in an underground vault.
- b. Antenna shrouds shall be the same diameter as the pole, which should be no wider than 14 inches. The bottom 66 inches of a pole (the “base”) may be up to 18 inches to accommodate equipment. To prevent accumulation of trash, facilities shall be designed to avoid flat surfaces in the transition from the base to the upper pole.
- c. Stand-alone poles match the height and color of any nearby streetlight or utility pole.



Figure 8: Stand-alone small cell poles (as shown in this example) are not preferred but may be permitted if enclosure of all equipment within the pole or in an underground vault is technically infeasible.

3. Light Poles Wherein Equipment, Cabling, and Antennas are Not Completely within the Pole Itself and/or Entirely Under the Ground.

- a. Use of light poles for wireless telecommunications facilities may be permitted only in areas where light poles are appropriate.
- b. The maximum height of any antenna mounted to a street light pole shall not exceed seven feet above the existing height of a street light pole in a location where the closest adjacent district is a commercial zoning district and shall not exceed three feet above the existing height of a street light pole in any other zoning district. Any portion of the antenna or equipment mounted on such a pole shall be no less than 18 feet above any drivable road surface.
- c. Antenna shrouds shall be the same diameter as the pole. The bottom 66 inches of a pole (the “base”) may be up to 6 inches in diameter wider to accommodate equipment.
- d. To prevent accumulation of trash, facilities shall be designed to avoid flat surfaces in the transition from the base to the upper pole.

- e. Poles shall be painted and textured to City standards to match existing streetlights in the vicinity

D. Requirements for Approval of Less-Preferred Configurations.

1. **Application Requirements.** Applications that involve less-preferred configurations may be approved only if the applicant demonstrates that:
 - a. No preferred configuration would be technically feasible; or
 - b. The proposed configuration would be aesthetically superior to a preferred configuration due to existing conditions at the proposed site.

The burden of proof for demonstrating that one of these two conditions exists shall lie with the applicant.

2. **Accompanying Evidence.** Applications that involve a less-preferred configuration shall be accompanied by clear and convincing written evidence demonstrating the need for approval of the proposed configuration rather than a preferred configuration.
3. **Independent Consultant.** In reviewing a request for a less-preferred configuration, the City may hire an independent consultant at the applicant's expense to evaluate the applicant's demonstration of need for the proposed less-preferred configuration.

E. Pole Requirements.

1. Pole Height and Width Limitations.

- a. All poles for wireless telecommunications facilities shall be designed to be the minimum functional height and width required to support the proposed antenna installation and meet FCC requirements. Poles, antennas, and similar structures shall be no greater in diameter or other cross-sectional dimension than is necessary for the proper functioning of the facility.
- b. Pole-mounted equipment shall not exceed six cubic feet in dimension.

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

3. **Requirements for New Poles.** New poles shall be designed to resemble existing poles in the right-of-way, including size, height, color, materials, and style, unless (a) the existing poles are scheduled to be removed and not replaced, or (b) another design better accomplishes the objectives of this section.

F. Pole-Mounted Facilities Requirements.

1. Facilities Mounted to a Telecommunications Tower.

- a. Facilities mounted to a telecommunications tower, including, but not limited to, the attached antennas, shall be designed to be the minimum functional height and width required to adequately support the proposed facility and meet FCC requirements. The applicant shall provide documentation satisfactory to the City Manager establishing compliance with this paragraph. In any event, facilities mounted to a telecommunications tower shall not exceed the applicable height limit for structures in the applicable zoning district.
- b. Aside from the antenna itself, no additional equipment may be visible. All cables, including, but not limited to, electrical and utility cables, shall be run within the interior of the telecommunications tower and shall be camouflaged or hidden to the fullest extent feasible without jeopardizing the physical integrity of the tower.

2. Monopoles.

- a. Monopole installations shall be situated so as to utilize existing natural or man-made features including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening.
- b. All antenna components and accessory wireless equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background or existing architectural elements so as to visually blend in with the surrounding development. Subdued colors and non-reflective materials that blend with surrounding materials and colors shall be used.
- c. Monopoles shall be no greater in diameter or other cross-sectional dimension than is necessary for the proper functioning of the facility.

G. Accessory Equipment.

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

3. **Space Occupied.** Facilities shall be designed to occupy the least amount of space in the right-of-way that is technically feasible.
4. **Cables.** All cables, including, but not limited to, electrical and utility cables, between the pole and any accessory equipment shall be placed underground, if feasible.
5. **Wires.** All new wires needed to service the wireless telecommunications facility shall be installed within the width of the existing utility pole so as to not exceed the diameter and height of the existing utility pole.
6. **Equipment Undergrounding.** All equipment (other than the antenna, antenna supports, ancillary wires, cables and any electric meter) shall be installed underground wherever feasible.
7. With the exception of the electric meter, which shall be pole-mounted to the extent feasible, all accessory equipment shall be located underground to the extent feasible. All wireless equipment installed on poles should be completely contained within an equipment shroud. Equipment shroud and lines should be painted, treated or finished to match existing utility pole and line aesthetics. Utility line installations should have a non-reflective color and finish. Required electrical meter cabinets shall be adequately screened and camouflaged.

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

I. Other Requirements.

1. **Facilities on Decorative Streetlights Prohibited.** Small wireless facilities shall not be located on decorative streetlights.
2. **Pole Height Calculation.** Legally required lightning arresters and beacons shall be included when calculating the height of facilities. Pole height shall be is measured from the top of foundation, which should be flush with the ground, to the top of pole or top of antenna, whichever is greater.
3. **New Pole Material and Finish** New pole material and finishes should match the existing materials of the City standard streetlight poles or match aesthetics and materials of existing decorative poles.
4. **Disturbance of Topography and Vegetation.** Disturbance of existing topography and on-site vegetation shall be minimized unless such disturbance would substantially reduce the visual impacts of the facility.
5. **Separation of Service.** Separation of service shall be provided by installing all new electrical conduit(s) or using empty conduit(s) with the conduit owner's express consent in writing.

- 6. Facilities on Streetlight or Traffic Signal Control Poles.** For proposed facilities on streetlight or traffic signal control poles, a hand hole should be provided at the top of the pole to maintain fiber and electrical service for streetlights and future attachments.
- 7. Pole Foundation Calculations.** Pole foundation calculations shall be prepared and stamped by a California professionally licensed structural engineer and provided to the City for review. Pole foundation calculations shall account for all new and existing pole attachments and the pole.
- 8. Pole Structural Calculations.** Pole structural calculations, including seismic loads, showing the load impacts of the wireless facility on City streetlight and traffic signal control poles, shall be prepared and stamped by a California professionally licensed structural engineer and provided to the City for review.
- 9. Design Wind Velocity.** Design wind velocity shall be 115 miles per hour (mph) minimum in accordance with TIA-222 rev G, IBC 2012 with ASC 710, and amendments for local conditions.
- 10. Trench Backfill.** Asphalt concrete sections for trench backfills shall be a thickness

ATTACHMENT D

From: [Ed Nieda](#)
To: [Los Altos Planning Commission](#); [City Council](#); [Gabriel Engeland](#)
Subject: Please cease on the Cell Phone tower project
Date: Monday, February 14, 2022 11:22:13 AM

To: PlanningCommission@losaltosca.gov

CC: council@losaltosca.gov, gengeland@losaltosca.gov

Subject: No Cell Towers Near Homes & Schools

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

Visual blight: The City's utility poles are visually unappealing. I don't want to increase the unsightliness with cell towers on the tops of these poles, not to mention a refrigerator's worth of equipment hanging to the side.

Noise: Cell towers make considerable noise from their cooling fans. Having these towers placed so close to our homes would negatively impact our living environment.

Safety: Most cell towers have a refrigerator's worth of equipment, including lithium ion batteries that have been known to cause fires. It's not safe to place flammable materials on combustible wooden poles that could potentially burn down a home or neighborhood.

Property Values: Cell towers placed so close to homes will reduce the attractiveness of homes in the area. According to Realtor Magazine, a study found that [94% of homebuyers](#) would not purchase a home near a cell tower.

Cell Towers, Antennas Problematic for Buyers

Home buyers and renters say they are less interest and would pay less for properties located near cell towers an...

Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident
Ed Nieda
[REDACTED] Ave.

From: [Melissa Smith](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 11:27:14 AM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Melissa Smith
Los Altos Resident

From: [Los Altos](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 11:29:36 AM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

Visual blight: The City's utility poles are visually unappealing. I don't want to increase the unsightliness with cell towers on the tops of these poles, not to mention a refrigerator's worth of equipment hanging to the side.

Noise: Cell towers make considerable noise from their cooling fans. Having these towers placed so close to our homes would negatively impact our living environment.

Safety: Most cell towers have a refrigerator's worth of equipment, including lithium ion batteries that have been known to cause fires. It's not safe to place flammable materials on combustible wooden poles that could potentially burn down a home or neighborhood.

Property Values: Cell towers placed so close to homes will reduce the attractiveness of homes in the area. According to Realtor Magazine, a study found that [94% of homebuyers](#) would not purchase a home near a cell tower.

Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident

From: [Ken Elefant](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 12:21:46 PM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Noise: Cell towers make considerable noise from their cooling fans. Having these towers placed so close to our homes would negatively impact our living environment.

Safety: Most cell towers have a refrigerator's worth of equipment, including lithium ion batteries that have been known to cause fires. It's not safe to place flammable materials on combustible wooden poles that could potentially burn down a home or neighborhood.

Property Values: Cell towers placed so close to homes will reduce the attractiveness of homes in the area. According to Realtor Magazine, a study found that [94% of homebuyers](#) would not purchase a home near a cell tower.

Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Ken Elefant
Los Altos Resident

From: [Phyliss Brazell](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes
Date: Monday, February 14, 2022 12:23:10 PM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos website that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Property Values: Cell towers placed so close to homes will reduce the attractiveness of homes in the area. According to Realtor Magazine, a study found that 94% of homebuyers would not purchase a home near a cell tower.

Again, please do not place cell towers close to our homes. Please find alternative locations.

Sincerely,
Los Altos Resident

From: [Judith Simon](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 12:25:39 PM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

Visual blight: The City's utility poles are visually unappealing. I don't want to increase the unsightliness with cell towers on the tops of these poles, not to mention a refrigerator's worth of equipment hanging to the side.

Noise: Cell towers make considerable noise from their cooling fans. Having these towers placed so close to our homes would negatively impact our living environment.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident

From: [Alex Liang](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 12:55:48 PM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident

Alex Liang


From: [Patrick yuen](#)
To: [Los Altos Planning Commission](#); [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 1:10:20 PM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos website that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident
Patrick Yuen

Cell : 650-996-6181

From: [Sean Chen](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 1:18:04 PM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,

Los Altos Resident

--

Sean

From: [Aronson, Jeff](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#); [Kristine Chin \(kchin5001@gmail.com\)](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 3:11:07 PM
Attachments: [image001.png](#)

Dear City of Los Altos Planning Commission,

We have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. We implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, we understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues we would like the City to consider including visual blight, noise, safety and property values.


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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Jeff & Kristine Aronson

Los Altos

Jeffrey D. Aronson
Partner






DLA Piper LLP (US)
2000 University Avenue
East Palo Alto, CA 94303-2215



dlapiper.com

The information contained in this email may be confidential and/or legally privileged. It has been sent for the sole use of the intended recipient(s). If the reader of this message is not an intended recipient, you are hereby notified that any unauthorized review, use, disclosure, dissemination, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please reply to the sender and destroy all copies of the message. To contact us directly, send to postmaster@dlapiper.com. Thank you.

From: [mary ann kanyal](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: Please honor the decision that was agreed to in 2019 and stay true to the original ordinance
Date: Monday, February 14, 2022 3:34:57 PM

To: PlanningCommission@losaltosca.gov

CC: council@losaltosca.gov, gengeland@losaltosca.gov

Subject: No Cell Towers Near Homes & Schools

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident
Mary Ann Kanyal

From: [REYNETTE AU](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 5:48:15 PM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Reynette Au
30 year Los Altos Resident

From: [Allison Marras](#)
To: [Los Altos Planning Commission](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 6:28:43 PM

Subject: No Cell Towers Near Homes & Schools

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident

[Sent from Yahoo Mail for iPhone](#)

From: [Yeeping Zhong](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Date: Monday, February 14, 2022 8:22:19 PM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident

Yeeping Zhong ([REDACTED])

From: [R. K. Johnson](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#)
Subject: The "wireless emergency ordinance" that was put into place in 2019
Date: Tuesday, February 15, 2022 2:54:18 PM

Dear City of Los Altos Planning Commission,

NO CELL TOWERS near homes or schools

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident

From: [Freddie Park](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#)
Subject: 5G cell towers
Date: Saturday, February 19, 2022 4:10:39 PM

Dear Los Altos Planning Commissioners,

I am a resident and home owner of 27+ years in Los Altos. I understand that the city is amending the Urgency Ordinance relating to 5G towers due to the litigation against the city by AT&T and Verizon. I realize we are in between a rock and a hard place regarding the ordinance and federal law. I would ask that you do your very best to make certain that 5G towers are required to be as far away from our homes and schools as possible.

Thank you for your consideration.

Sincerely,

Freddie Park Wheeler

Steve Golden

From: C. Y. <[REDACTED]>
Sent: Tuesday, February 22, 2022 10:00 AM
To: Los Altos Planning Commission
Cc: City Council; Gabriel Engeland
Subject: No Cell Towers Near Homes & Schools

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
C.Y.

Steve Golden

From: Los Altan <[REDACTED]>
Sent: Wednesday, February 23, 2022 11:04 AM
To: Los Altos Planning Commission
Cc: City Council; Gabriel Engeland
Subject: Re: No Cell Towers Near Homes & Schools

I also wanted to mention that when this issue was raised in 2019, we had over 1,100 residents in Los Altos sign the following petition: <https://www.change.org/p/town-of-los-altos-no-cell-towers-next-to-homes-and-schools-in-los-altos-ca>

Please keep this in mind when augmenting this ordinance.

Thanks,
Los Altos Resident

On Mon, Feb 14, 2022 at 11:29 AM Los Altan <losaltan94022@gmail.com> wrote:

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident

Steve Golden

From: Gregory Burns <[REDACTED]>
Sent: Wednesday, February 23, 2022 12:04 PM
To: Los Altos Planning Commission
Cc: Gregory Burns; City Council; Gabriel Engeland
Subject: Los Altos small cell node ordinance

Dear City of Los Altos Planning Commission,

It is my understanding that the city is proposing changes to the wireless emergency ordinance that was put into place in 2019.

Please stay as true to the original ordinance as possible; cell nodes should not be installed close to residences and schools. I feel you should strongly enforce preferred location requirements; as well as consider setback requirements to keep utility pole mounted cell nodes away from our homes. The noise and visual blight from these units negatively affect the quality of life and property values of our quiet neighborhoods.

Furthermore, I also request you reconsider even stricter proposed noise limits for residential zones. A product designed to run 24 hours a day should not be allowed to negatively impact our living environment. Please require noise limits to be INAUDIBLE at any property lines.

Again, please do not place cell nodes close to our homes and schools. Please find alternative locations.

Sincerely,
Gregory Burns
Los Altos Resident

Steve Golden

From: Donna Wing <[REDACTED]>
Sent: Wednesday, February 23, 2022 9:46 PM
To: Los Altos Planning Commission
Cc: City Council
Subject: Cell Towers In Los Altos

Dear City of Los Altos Planning Commission,
I just received information that the Council plans on revisiting the possibility of placing cell towers on the telephone poles.

I live at 689 Linden Ave and the decision would impact our home since there are telephone poles in the back and in front of our home. I am a cancer survivor and had chemo and radiation as treatment. I do not wish to have any cell towers near me due to health reasons.

Also, the cell towers are unsightly and noisy. We moved to Los Altos for the trees and quiet beauty of nature. Having cell towers would decrease property values and they are unsafe near schools. We live in an area where there are 3 schools near us within walking distance: Egan Jr. High, Bullis Charter School and Santa Rita.

Please find alternative locations to place cell towers- not near schools and homes.

Sincerely,
Donna Wing

MACKENZIE & ALBRITTON LLP

155 SANSOME STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE 415 / 288-4000
FACSIMILE 415 / 288-4010

February 22, 2022

VIA EMAIL

Gabriel Engeland
City Manager
City of Los Altos
One North San Antonio Road
Los Altos, California 94022

Re: Draft Ordinance and Design Guidelines, Wireless Telecommunications Facilities

Dear Gabriel:

We write on behalf of Verizon Wireless regarding the draft ordinance regulating wireless telecommunications facilities (the “Draft Ordinance”) and the accompanying draft *Design and Development Standards for Wireless Telecommunications Facilities* (the “Draft Guidelines”). Verizon Wireless appreciates the opportunity for advance review, and we suggest several revisions to ensure that these proposed regulations are consistent with federal and state law.

The Draft Ordinance location standards must be revised so that all Los Altos rights-of-way are subject to the reasonable 500-foot search distance for preferred locations, without subjecting certain local residential streets to preempted approval criteria. Some location prohibitions should be restated as preferences, including the ban on new small cells within 1,000 feet of existing small cells. The Draft Guidelines should be revised to accommodate typical small cell designs required for service, providing specific standards that are technically feasible. We urge staff to revise the Draft Ordinance and Draft Guidelines prior to review by the Planning Commission.

The FCC’s Infrastructure Order

In its 2018 Infrastructure Order, the FCC confirmed that a city’s aesthetic criteria for small cells must be “reasonable,” that is, technically feasible and meant to avoid “out-of-character” deployments, and also “published in advance.” *See Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, 33 FCC Rcd. 9088, ¶¶ 86-88 (September 27, 2018). The FCC also found that that local requirements that “materially inhibit” service improvements and new technology constitute an effective prohibition of service under the Telecommunications Act. *Id.*, ¶¶ 35-37; *see also* 47 U.S.C. §§ 253(a), 332(c)(7)(B)(i)(II). In 2020, the Ninth Circuit Court of Appeals upheld these FCC requirements. *See City of Portland v. United States*, 969 F.3d 1020 (9th Cir. 2020), *cert. denied*, 141 S.Ct. 2855 (Mem) (U.S. June 26, 2021).

Our comments are as follows.

Draft Ordinance

14.82.030 – Location Preferences

The City should avoid location restrictions that would “materially inhibit” service improvements in contradiction of the FCC’s Infrastructure Order, and that would violate California Public Utilities Code Section 7901 which grants telephone corporations a statewide right to place their equipment along any right-of-way. The City should include all rights-of-way in the location preference lists, while converting absolute location prohibitions to less-favored preferences. This will ensure that all rights-of-way are subject to the reasonable 500-foot search distance for any preferred location options, avoiding conflict with federal and state law.

A(2), (3). Preferred, less-preferred locations. All right-of-way locations should be included in one of these preference lists, but several are missing, notably the following.

- **All local streets.** As drafted, Section (A)(3)(e) addresses only certain stretches of local streets in residential zones: those within 200 feet of Foothill Expressway, 500 feet of listed arterials, or 300 feet of collectors or local collectors. Local streets away from those major roadways are not included in the preference lists, and so would be subject to different approval criteria under Section 14.82.050 that are preempted, as we explain below. *Section 14.82.030(A)(3)(e) should be revised to simply state “local streets in residential zones.”*
- **CN zone.** A few parcels zoned CN—Commercial Neighborhood are not located along preferred expressways or arterials. *The CN zone should be added to the preferred location list of Section 14.82.030(A)(2).*
- **Local streets fronting schools in PCF zone.** The presence of a school should not bar placement of a small cell on an adjacent local street. *The phrase “local street” should be added to Section 14.82.030(A)(3)(f).*
- **PCF/R1-10 zone.** There are seven school properties zoned PCF/R1-10, and their adjacent rights-of-way should be available, as with the PCF zone. *The phrase “Public and Community Facilities/Single-Family District” should be added to Section 14.82.030(A)(3)(f) after the reference to the PCF zone.*

A(4). 1,000-foot separation of small cells. Phrased as a prohibition, not a preference, this would bar new small cells in all rights-of-way within a 72-acre area surrounding an existing small cell. This could prohibit new facilities at busy intersections that otherwise are preferred locations, and where clustering small cells could avoid placement on local residential streets. *We suggest converting this prohibition to a preference, by adding “a location within 1,000 feet of an existing small wireless telecommunications facility” to the less-preferred list of 14.82.030(A)(3), and deleting Section A(4).*

A(5)(c). Ban on central 50% of parcel frontage. Another prohibition, this could bar use of some existing poles already located along the middle of parcel frontages in residential zones. By converting this to a preference, the City could steer small cells to any nearby poles closer to property lines, if feasible. *We suggest adding “rights-of-way adjacent to Residential Zoning Districts within the central fifty percent (50%) of an immediately adjacent parcel’s street frontage” to the less-preferred list of Section 14.82.030(A)(3), and deleting Section A(5)(c).*

A(6), (7). Not in front of business. This blunt prohibition could materially inhibit service improvements in commercial areas, and it is unnecessary because the accompanying language already directs applicants to locate as close as feasible to property lines. *The phrase “not directly in front of a business” should be deleted.*

A(8). Inconvenience to public use of right-of-way. The vague term “inconvenience” exceeds the standard in Public Utilities Code Section 7901, that telephone equipment not “incommode” the public use of the right-of-way. *We suggest replacing “inconvenience” with “impair.”*

A(11). Requirement to use poles outside sight lines. Because small cell equipment is elevated above motorist sight lines, there is no reason to bar placement on poles that are already within sight lines. The small cell would pose no more safety impact than the existing pole. *This prohibition should be deleted.*

B(1), (2). Private property location preferences. There are several churches in residential zones where a new facility could be fully-concealed within compatible architecture. *The City should consider allowing camouflaged facilities on residentially-zoned parcels with a non-residential use.*

14.82.040 – Requirements for Approval of Less-Preferred Locations

C. Evidence of need. There is no reason to require additional “evidence demonstrating the need for approval of the proposed location” because Section A already allows less-preferred locations if any preferred options are unavailable or technically infeasible. Technical feasibility is a factor for the FCC’s “reasonableness” standard, but the need for a facility is not. The City cannot compel applicants to demonstrate the need for new small cells in the right-of-way. The FCC found that small cells are needed to densify networks, enhance existing service and introduce new services, so denials based on need would materially inhibit these goals. Infrastructure Order, ¶ 37. Further, Section 7901 grants telephone corporations a statewide right to place their equipment along any right-of-way with no demonstration of need. *This provision should be deleted.*

14.82.050 – Alternative to Wireless Telecommunications Facilities at Preferred and Less Preferred Locations

This section imposes a different scheme for approval of locations that are neither preferred or less-preferred, such as those on local residential streets away from major roadways. Instead of the reasonable 500-foot search distance and technical feasibility standard, this section requires

applicants to evaluate alternative macro and/or small cell facilities in a broad area beyond the target coverage area. As noted, requirements to prove the need for a right-of-way facility are preempted by Section 7901, which grants telephone corporations the right to use any right-of-way. Section 7901 also bars the City from redirecting a proposed facility from the right-of-way to private property (e.g., a macro site).

Further, the City cannot require small cell applicants to evaluate a “significant gap,” because the FCC determined that small cells are needed to densify networks, enhance existing service and introduce new services. These are Verizon Wireless’s goals in placing small cells in Los Altos. The FCC also disfavored dated service standards based on “coverage gaps” and the like. Infrastructure Order, ¶¶ 37-40.

The direction to minimize wireless facilities in residential areas where needed would “materially inhibit” service improvements, constituting a prohibition of service. It also could penalize and discriminate against wireless carriers in the future, in conflict with the Telecommunications Act. 47 U.S.C. § 332(c)(7)(B)(i)(I). *This section should be deleted. Instead, as discussed above, all right-of-way locations should be addressed in the location preferences so they are subject to the reasonable 500-foot search distance and the FCC’s technical feasibility standard.*

14.82.070 – Eligible Facilities Requests

The only factors for approval of eligible facilities requests are the FCC’s “substantial change” thresholds codified at 47 C.F.R. Section 1.6100(b)(7) and restated in Municipal Code Section 11.12.020(A)(23). The ordinance location preferences and any City design guidelines are preempted by FCC rules. Eligible facilities requests provide a streamlined path to approval of collocations compared to Government Code Section 65850.6, which is superseded. *This section is preempted and unnecessary, and should be deleted.*

Following are comments on the Draft Ordinance changes to the existing Municipal Code.

11.12.050 – Application for Permit

E(2). Submittal appointment. The FCC confirmed that a mandatory pre-application process starts the Shot Clock, so Verizon Wireless will calculate the clock to start on the day it requests an appointment. Infrastructure Order, ¶ 145; 47 C.F.R. § 1.6003(e). By delaying the appointment, the City could consume most or all of its 10-day period to issue a notice of incomplete application that would pause the Shot Clock. 47 C.F.R. § 1.6003(d)(1). A limit of one appointment would constitute an effective moratorium on applications, but that is preempted by FCC rules and would not delay the start of the Shot Clock. Infrastructure Order, ¶ 145 (“...the shot clock begins to run when the application is proffered”). The City should ensure that applicants can submit batch applications, consistent with FCC rules. 47 C.F.R. § 1.6003(c)(2). *A submittal appointment should be optional, not mandatory.*

11.12.060 – Conditions of Approval for All Facilities

A(1). Incorporating wireless permit into plans for building permit application. This would require sequential submittal and review of zoning and building permit applications. However, the FCC confirmed that all authorizations required for a new wireless facility must be reviewed within the same “Shot Clock” period. Infrastructure Order, ¶ 132. The City could run afoul of this requirement by delaying submittal of a building permit application until after the Planning Division approves a wireless permit. *This condition should be deleted.*

A(3). Undergrounding/replacement due to new technology. The City cannot compel wireless carriers to dismantle and rebuild any portion of a permitted facility that was constructed in reliance on approved plans. This would violate the vested rights of permittees as well as Government Code Section 65964(b) which generally guarantees a 10-year term for wireless facility permits. *This condition must be deleted.*

A(6)(e). Noise limit. The City is proposing to repeal the referenced Resolution 2019-35. *That reference should be deleted.*

A(7). Annual RF emissions testing. Once an installed wireless facility is shown to comply with the FCC’s radio frequency exposure guidelines, the City cannot require repeat exposure tests, as that regulation of operational requirements is preempted by federal law. *See 47 U.S.C. § 332(c)(7)(B)(iv); see also Crown Castle USA Inc. v. City of Calabasas* (Los Angeles Superior Court BS140933, 2014) (“...the regulation of a facility’s planned or ongoing operation constitutes an unlawful supplemental regulation into an area of federal preemption.”) *The reference to “annually thereafter” should be deleted.*

Existing Code Provisions Requiring Revision

Several problematic Code provisions are not addressed by the Draft Ordinance, including the following.

11.12.050(A)(8). Submittal of geographic service area. With respect to small cells and the right-of-way, this is a preempted demonstration of need. *This provision should not apply to small cells.*

11.12.050(A)(14). Alternatives analysis. This is unnecessary if siting in a most-preferred location. *Instead, the City should require small cell applicants to identify any more-preferred locations within 500 feet and provide evidence that they are technically infeasible or unavailable.*

11.12.050(C). 1,000-foot public notice. This is excessive for small cells, which pose minimal visual impact compared to other right-of-way utility infrastructure. Such broad notice would capture residences well beyond the 500-foot search distance. *We suggest reducing public notice for right-of-way facilities to 500 feet.*

Draft Guidelines

II – Design and Development Standards for all Wireless Telecommunications Facilities

B, D. Basic design principles, general guidelines. The Draft Guidelines impose various subjective standards such as “minimize visual, noise, and other impacts on the surrounding community” and “prevent facility from dominating the surrounding area.” Such vague standards could be used to deny facilities that otherwise satisfy specific design criteria, and would be unreasonable if applied to small cells that are not “out-of-character” among other right-of-way infrastructure. Denials based on vague, subjective determinations would frustrate applicants who followed specific design criteria (such as equipment dimension limits), and would “materially inhibit” service improvements. *For small cells, the City should rely on reasonable, specific design standards.*

D(7)(b). 45 dBA noise limit. This imposes a stringent noise limit for all wireless facilities in Los Altos, without specifying the location where noise is measured. In contrast, the City’s noise ordinance evaluates the noise level as “measured on any other property,” which is an appropriate standard. Code § 6.16.050(A)(2). The noise ordinance also provides a higher noise limit in non-residential zones. Code § 6.16.050(A)(1), Table 1. *The blanket 45 dBA limit should be deleted, and this section revised to require compliance with Code Chapter 6.16.*

D(9). Upgrades with new technology. Per our comment on Draft Ordinance Section 11.12.060(A)(3), requiring applicants for modifications to change unaltered existing facility components would violate their vested rights and Government Code Section 65964(b). *This provision must be deleted.*

III – Additional Design and Development Standards for Facilities in the Public Right-of-Way and in Public Utility Easements

The City must ensure that its small cell design standards are consistent with federal and state law. To be reasonable per the FCC’s Infrastructure Order, equipment dimension limits must be technically feasible for new and emerging technologies, accommodating the antenna and radio models available from manufacturers. In addition to the low-band frequencies currently in use, Verizon Wireless recently licensed mid-band and high-band frequencies from the FCC. These require different equipment. Accordingly, certain small cells may involve several types of antennas, and up to three of each, facing different directions where they provide service. The design standards must accommodate multiple types of antennas to avoid violating California Government Code Section 65964.1(h) which bars cities from “unreasonably discriminating in favor of, or against, any particular wireless technology.”

Verizon Wireless would be pleased to work with the City to ensure that the design standards are technically feasible for its anticipated deployments.

B, C, D. Preferred, less-preferred configurations. These lists favor light poles owned by the City, but if strictly applied, that would contradict California Government Code Section 65964(c)

which bars local governments from limiting wireless facilities to sites owned by particular parties. Verizon Wireless may place its equipment on joint utility poles as a member of the North California Joint Pole Authority, and may place and own new stand-alone poles in the right-of-way pursuant to Public Utilities Code Section 7901.

Structure preferences are akin to location preferences, and so should be qualified by the 500-foot search distance, which is missing from Section (D). Section D(1)(b) introduces an optional “aesthetically superior” criterion that could be a factor when choosing between several feasible poles, but also a mechanism to favor City-owned poles. *We suggest a clear list of structure preferences: 1) An existing or replacement pole of any owner, or 2) A new stand-alone pole, if there is no technically feasible, available existing pole within 500 feet along the right-of-way.*

B(1)(c), C(3)(c). Light poles – antenna shroud limited to pole diameter, base limited to 6 inches wider than pole. These provisions impose antenna and equipment size constraints that are technically infeasible and therefore unreasonable. As noted, some small cells may require multiple types of antennas, and up to three of each, mounted at the same height and facing different directions. In this configuration, the antenna models available from manufacturers cannot fit into a single shroud limited to a narrow pole diameter. Further, some mid- and high-frequency antennas cannot be fully shrouded or otherwise covered because that impedes signal propagation. However, they can be placed in specially-designed partial shrouds with “cut-outs” allowing unimpeded signal. *These sections should specify that antennas and any shrouds should not exceed 21 inches in total diameter.*

Radio units, other network gear, mounting hardware and cables cannot fit into a pole base only six inches wider than a typical streetlight pole. *Section C(1) (light pole facilities with all equipment within the pole) should allow a base up to 20 inches square and four feet tall to conceal radios and associated network components. Section C(3) (light pole facilities with some equipment not within the pole) should allow for small radio units and other gear on the side of a pole, not to exceed nine cubic feet, aside from any PG&E electric meter and disconnect switch.*

C(1)(a). Utility poles – antenna height limited to 24 inches above pole, minimum equipment height of 18 feet. These limits run afoul of Public Utilities Commission General Order 95 (“GO 95”), referenced in the same provision. Pole-top antennas must be elevated six feet above electric supply conductors. GO 95 Rule 94.4(C). The City should allow four-foot antennas, as Section C(1)(b) suggests that the City would be comfortable with a four-foot antenna shroud. In some cases, four-foot antennas provide expanded service and can lessen the need for additional small cells. *We recommend allowing an antenna to extend up to four feet above a utility pole, plus the safety clearance required by GO 95.*

As to associated (non-antenna) equipment, there generally is not enough room above 18 feet, particularly on utility poles shared by communication companies. The area above 18 feet is used for the communication lines, which are subject to their own GO 95 clearances. In some cases, Verizon Wireless can fit a two-foot tall side-mounted antenna and mounting bracket in a pole’s communication zone, occupying only approximately 3.5 feet of vertical space. However, there would be insufficient room for associated equipment that may include radios, power supplies,

fiber boxes, meters and disconnect switches. Further, PG&E requires that electric meters on utility poles be mounted between 7 and 8 feet. PG&E Document 027911, *Installation Details for Service to Pole-Mounted Communication Equipment*. Generally, radios and other equipment are stacked vertically above the meter, up to 18 feet. *The minimum height of associated equipment on a utility pole should be changed from 18 feet to 7 feet.*

We note that the facility on a utility pole next to 745 Distel Drive, shown on Page 16 of the Draft Guidelines, is one of the typical small cell designs for utility poles, with the antenna elevated six feet above the electric supply lines, and associated equipment below 18 feet.

C(1)(b). All equipment within one shroud on utility pole. A typical “cantenna” placed on a utility pole is manufactured in its own sleek radome, and does not require an additional shroud that only adds bulk. Requiring all radios and other hardware in the same shroud as antennas would be infeasible if they cannot fit within the narrow 15-inch diameter limit, and generally radios are placed on the side of a utility pole below 18 feet. For side-mounted antennas, GO 95 requires two feet of separation from the pole centerline, so Verizon Wireless may place a single two-foot tall “cantenna” on a side-arm mount, or two or three small integrated antenna/radio units on opposite ends of a cross-arm, facing different directions. GO 95 Rule 94.4(E). As noted above, some mid- and high-band antennas cannot be shrouded as that impedes signal propagation. For these reasons, this blanket shrouding requirement would be technically infeasible and unreasonable. *This provision should be deleted.*

C(2), F, G(2). New stand-alone poles. These sections regulate new stand-alone poles in the right-of-way (also using the terms “telecommunication tower” and “monopole”). Section C(2) limits antenna shrouds to 14 inches, but per our comments on Sections B(1) and C(3) (light poles), the allowed maximum antenna and shroud diameter should be 21 inches. Associated equipment can be placed within a pole base, given adequate dimensions, or on the side of the pole and covered in a shroud. *These provisions should be consolidated for clarity and to avoid contradiction. Section C(2)(b) should be revised to specify that antennas and any shrouds should not exceed 21 inches in total diameter, and associated equipment can be concealed in a pole base up to 20 inches square and four feet tall, or within a side-mounted shroud up to 16 inches wide, 12 inches deep and 5.5 feet tall.*

C(3)(b). Light poles – minimum equipment height of 18 feet. This section regulates light pole facilities with some equipment not within the pole, and would require associated equipment on the side to be placed above 18 feet. This would be infeasible for electric meters and/or disconnect switches that must be placed between 7 and 8 feet per PG&E rules, as described above. On some light poles, there may not be room above 18 feet for small radio units if that area is occupied by the luminaire arm and multiple antennas. All of this equipment could lead to a crowded appearance if placed high on a pole, whereas small radio units can be placed much lower on a pole and vertically stacked to reduce visual impact. *The minimum height of associated equipment on a light pole should be changed from 18 feet to 7 feet.*

E(1)(b). Limit of pole-mounted equipment to six cubic feet. For small cells on utility poles, this may not accommodate all antennas, radios, meters, disconnect switches and mounting

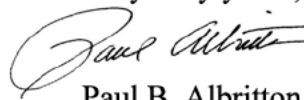
hardware required for service. This volume limit should be modestly expanded, and should not include antennas or PG&E electric equipment. *We suggest specifying a nine cubic foot volume limit for “associated” (non-antenna) equipment, aside from any PG&E electric meter and disconnect switch.*

G(2). Accessory equipment (ground cabinets). This provision appears to be drafted for private property sites, not the right-of-way (e.g., placing equipment “within a nearby building,” with references to “landscape plantings, decorative walls, fencing”). The Draft Guidelines should better address ground-mounted cabinets in the right-of-way, which would be required for associated equipment in some cases, such as Verizon Wireless’s proposed facility in the right-of-way next to Los Altos High School. New ground cabinets are not “out-of-character” because the City has already allowed them in various rights-of-way (such as the corner of South El Monte Avenue and Benvenue Avenue). Section 7901 allows telephone corporations to place equipment upon the right-of-way. Electric meters can be attached directly to ground-mounted wireless equipment cabinets, avoiding a separate meter pedestal. *The City should allow placement of ground-mounted cabinets for associated equipment up to 28 cubic feet, with no requirement for landscaping or screening.*

G(5). Wires within utility pole. PG&E will not allow any utility to bore through wood utility poles to conceal wires within, because that would compromise structural integrity and safety. Instead, vertical wires and conduit for all utilities are concealed within risers mounted flush to the side of the wood pole. *This provision should be deleted.*

G(6), (7). Undergrounding. These provisions would require small cell accessory equipment such as radios to be placed underground where feasible. This is unreasonable in two ways. First, undergrounding generally is technically infeasible due to sidewalk space constraints, utility lines already routed underground, and undue environmental and operational impacts for required active cooling and dewatering equipment. Second, small radios are not “out-of-character” compared to other right-of-way infrastructure such as poles, utility lines, electric transformers and cable television boxes. *The City should allow up to nine cubic feet of associated (non-antenna) equipment on the side of a pole before undergrounding is considered, aside from any PG&E electric meter and disconnect switch, per our comment on Section E(1)(b). The City could require radios to be concealed within a narrow shroud, but not meters or disconnect switches, which cannot be covered per PG&E rules.*

Verizon Wireless appreciates the opportunity to provide comment on the Draft Ordinance and Draft Guidelines. We urge the City to incorporate our suggested revisions prior to review by the Planning Commission.

Very truly yours,

Paul B. Albritton

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February 22, 2022
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