Chapter 18.110 PERSONAL WIRELESS SERVICE FACILITIES

EXHIBIT D

18.110.005 Purpose.

The purpose and intent of this chapter is to provide a comprehensive set of standards for the development and installation of personal wireless service facilities. The regulations contained herein are designed to protect and promote public safety and community welfare, property values, and the character and aesthetic quality of Pleasanton, while at the same time not unduly restricting the development of personal wireless service facilities, and not unreasonably discriminating among personal wireless service providers of functionally equivalent services. (Ord. 1743 § 1, 1998)

18.110.010 Applicability.

A. This chapter shall apply to all property owned by private persons, firms, corporations or organizations, and property owned by the city, including public streets and alleys, and property owned by any agencies of the city, or by any local, state, or federal government, agency, or political subdivision thereof required to comply with local government regulations as required by law or by written agreement, with the exception of the following facilities:

1. Amateur (including ham and shortwave) radio facilities on private property provided that the antenna does not exceed 65 feet in height or is not more than 25 feet above the height limit prescribed by the regulations for the district in which the facility is located, whichever is less. Amateur radio facilities on private property are subject to design review as provided in subsection 18.20.040(B)(2) of this title.

2. Amateur (including ham and shortwave) radio facilities on public property provided:

   a. The facilities do not exceed 65 feet in height or are not more than 25 feet above the height limit prescribed by the regulations for the district in which the facilities are located, whichever is less;

   b. The facilities provide emergency communication backup services for the city;

   c. The facilities are officially recognized and approved by the city's emergency preparedness officer, fire chief, or community development director and operations services director.

   d. Amateur radio facilities are prohibited on public property in any zoning district unless the facility meets the requirements of this section.

3. Personal wireless service facilities which are not licensed by the Federal Communications Commission and are determined by the zoning administrator to have little or no adverse visual impact.

4. Direct-to-home satellite services.

5. Personal wireless service facilities used only by the city, hospitals, and ambulance services in emergencies or for the protection and promotion of the public health, safety, and general welfare.

6. Any personal wireless service facility located on land owned by one of the public entities listed below and operated for the public entity's public purpose only and not for commercial reasons:

a. The United States of America or any of its agencies;

b. The State or any of its agencies or political subdivisions not required by state law to comply with local zoning ordinances;

c. Any other city (other than the city of Pleasanton), county, or special district;

d. The Pleasanton unified school district. (Ord. 2000 § 1, 2009; Ord. 1743 § 1, 1998)

18.110.020 Notice and approval process.

A. All personal wireless service facilities shall be subject to design review approval by the zoning administrator as provided in Chapter 18.20 of this title. The zoning administrator, upon making a finding that the proposed personal wireless service facility meets all applicable provisions of this chapter, shall approve or conditionally approve the design review application for the personal wireless service facility. The zoning administrator may refer any personal wireless service application to the planning commission for review and action.

B. All property owners within 300 feet of a property on which a personal wireless service facility is proposed shall be notified of the personal wireless service facility application by mail. Notice is not required where a facility's antennas will be concealed within the architecture of a building. Public hearings can be requested as provided in subsection 18.20.040(B)(2) of this title. (Ord. 1743 § 1, 1998)

18.110.030 Revocation of approval.

A. If the zoning administrator finds that a use is not in compliance with this chapter, that conditions of approval have not been fulfilled, or that there is a compelling public necessity, the zoning administrator shall notify the personal wireless service facility provider of the same, in writing, and state the actions necessary to cure. After 30 days from the date of notification, if the use is not brought into compliance with this chapter, the conditions of approval have not been fulfilled, or there is still a compelling public necessity, the zoning administrator shall refer the use to the planning commission for review. Such reviews shall occur at a noticed public hearing where the personal wireless service provider may present relevant evidence. If, upon such review, the commission finds that any of the above has occurred, the commission may modify or revoke all approvals and/or permits.

B. The terms of this section shall not apply to preexisting legal nonconforming personal wireless service facilities which are subject to Section 18.110.260 of this chapter. (Ord. 1743 § 1, 1998)

18.110.040 Submittals.

A. For all proposed personal wireless service facilities, the personal wireless service provider shall provide the following to the zoning administrator:

1. A completed design review application which includes the signature of the personal wireless service provider and the property owner.

2. All applicable fees including deposit fees for peer review. The Zoning Administrator is authorized at his/her discretion to employ on behalf of the City an independent technical expert to review any materials submitted by the applicant and to provide an analysis of issues including but not limited to, whether the wireless facility meets the emission standards set forth by the Federal Communications Commission, whether a a significant gap in coverage exists, whether there are alternative sites and the feasibility of those sites, whether there are ways to mitigate aesthetic impacts. The applicant shall pay all costs of the peer review consultant and shall submit a deposit for peer and staff review.

3. Site plan, landscape plan, and elevations drawn to scale. The elevation drawings shall include all buildings on which the personal wireless service facilities are proposed to be located.

4. Cross sections and floor plans, drawn to scale, if an antenna is proposed to be façade- or roof-mounted.

5. Before and after photo-simulations and elevation drawings showing the height, design, color, and location of the proposed facility as viewed from public places and if requested by the Zoning Administrator, from private properties.

6. Proposed means of establishing and maintaining maximum visual screening of facilities which includes submitting sample exterior materials and colors of towers, antennas, and accessory structures (such as equipment cabinets and structures), landscaping, and security fences.

7. The number, type, and dimensions of antennas, equipment cabinets, and related facilities proposed for use by the personal wireless service provider. If an applicant is proposing an emergency standby generator, include the unit's dimensions and specifications including noise emission levels.

8. A report from a structural engineer, licensed by the state, regarding the number and type of antennas that a proposed or existing structure is designed to support.

9. Justification of why the proposed height and visual impact of the personal wireless service facility cannot be reduced on the proposed site.

10. A letter, including service area maps and other information demonstrating that the proposed location is essential for the personal wireless service provider to fulfill a significant gap in coverage needs. A map based on drive tests (or similar engineering data) at the proposed site and its vicinity showing the estimated coverage area for the proposed personal wireless service facility. As used herein, drive tests are field tests to demonstrate the coverage of a proposed antenna in which one person holds a transmitter at the proposed site and another drives away from the site with a receiver to determine the outer perimeter of the radio signals that can be transmitted from the site.

11. A letter explaining the site selection process including information about three other sites which could service the same or similar coverage area and the reasons for their rejection, provided that three such alternatives exist and are reasonably available for the provider's use in the coverage area.

12. A letter demonstrating whether the facility could be collocated, where that collocated antennas and equipment could be placed, and how that future facility may look.

13. A letter which states the personal wireless service provider's commitment to allow other personal wireless service providers to collocate antennas on their proposed facilities wherever structurally and technically feasible, and to provide at any time additional information, as requested by the zoning administrator, to aid in determining whether or not another personal wireless service provider could collocate on/near their facilities if approved.

14. A letter certifying that the proposed facility will at all times comply with all applicable health requirements and standards pertaining to radio frequency (RF) emissions as required by the FCC. The letter must include documentation showing the specific frequency range that the facility will use and a certification by a licensed engineer-expert in the field of wireless communication systems that the facility will comply with FCC radio frequency emission standards and will not interfere with the City communication operations and the communication systems of emergency service providers. An application for a co-located facility must also include certification showing the cumulative radio frequency emissions from both the existing and proposed facilities comply with FCC emission standards and will not cause interference.

15. Reference to any easements necessary.

16. All proposed signage, including emergency signage as required by Section 18.110.160(B) of this chapter.

B. Additional information as deemed necessary by the zoning administrator which may include, but is not limited to, the following:

1. Information sufficient to determine that the personal wireless service provider has obtained all applicable operating licenses or other approvals required by the Federal Communications Commission and California Public Utilities Commission.

2. A USGS topographic map or survey, to scale, with existing topographic contours showing the proposed antennas and accessory structures.

3. Title reports.

4. Installation of "story poles" to show the height or overall size of the proposed antennas or accessory structures.

5. A letter stating specifically the reasons for not collocating on any existing personal wireless service facility tower or at any site with existing antennas within the city. The reasons for not collocating may include evidence that the existing facilities will not meet the provider's coverage needs, letters from personal wireless service providers with existing facilities stating reasons for not permitting collocation, or evidence that personal wireless

service providers have not responded, or, if the reasons for refusal to collocate are structural, the structural calculations for review by the planning division.

6. Noise impact analysis.

7. A letter to the zoning administrator which describes in detail the maintenance program for the facility as well as a security plan to prevent unauthorized access and vandalism.

8. Written proof of the availability of any required irrigation facilities on-site prior to permit issuance. This may be in the form of a letter from the owner of the land allowing the personal wireless service provider the use of required water facilities for landscaping. (Ord. 2000 § 1, 2009; Ord. 1743 § 1, 1998)

18.110.50 Locational Standards.

A. Locational Priorities
For the purposes of this section, when a parcel is zoned PUD (Planned Unit Development), planning staff shall look to the zoning districts listed under the particular PUD and apply those zoning districts to this section.

1. Properties zoned Commercial, Office, or Industrial (C, O, I, or M-U). Where feasible, personal wireless facilities shall be located on properties with a commercial, office, industrial, or mixed use zoning designation.

a. Concealed Facility: Where feasible, personal wireless service facilities shall be concealed from view and shall not be visible by persons at ground level. By way of example, a facility will be considered "concealed" if the antennas are contained within new or existing architectural details of a building, e.g., real or faux clock or bell tower, or on the roof of a building and concealed by parapets or screenwalls, or concealed by any other means, so long as the project does not substantially compromise the aesthetics of the building.

b. Camouflaged Facility: If it is not feasible to conceal a facility, personal wireless facilities shall be camouflaged in a manner that the facility is designed to be compatible with the surroundings. By way of example, antennas may be camouflaged in a faux tree, faux bush, flagpole, or otherwise designed in a manner to be compatible with the appurtenant architecture, building, or natural surroundings.

c. If a facility is Concealed, the antennas and accessory equipment may be placed anywhere on the property without regard to separation from other uses.

d. If a facility is Camouflaged (and not Concealed), the facility must be located a minimum of 200 feet away from the following: existing dwelling units (but not accessory structures, detached garages, sheds, poolhouses, etc.); senior care or nursing homes and assisted living facilities; public or private schools for children (including nursery schools); and neighborhood parks, community parks, or regional parks, as designated in the General Plan. Notwithstanding the above, if a dwelling unit is located within a Commercial (C), Office (O), or Industrial (I) zone, the 200-

foot separation requirement does not apply since the primary purpose of the C, O, or I zones is for non-residential uses.

2. Properties Zoned Agriculture, Public, Public and Institutional (A, P, P&I). If it is not feasible to locate a personal wireless service facility on a parcel zoned C, O, I or M-U, a facility may be located on properties zoned A, P, or P&I.

a. Concealed preferred over Camouflaged: Facilities are encouraged to be concealed but, at a minimum, shall be camouflaged. If a facility is Concealed, the antennas and accessory equipment may be placed anywhere on the property without regard to separation from other uses.

b. Facilities in these zoning designations may not be located within 200 feet of the following: existing dwelling units (but not accessory structures, detached garages, sheds, poolhouses, etc.); senior care or nursing homes and assisted living facilities; public or private schools for children (including nursery schools); and neighborhood parks, community parks, or regional parks, as designated in the General Plan.

3. Iron Horse Trail between Santa Rita Road and Mohr Avenue. The Iron Horse Trail between Santa Rita Road and Mohr Avenue has no zoning designation and is primarily bordered by property zoned Industrial. There are two approved Camouflaged personal wireless service facilities located in the Iron Horse Trail between Santa Rita Road and Mohr Avenue. Future personal wireless service facilities may be placed in this section of the Iron Horse Trail, so long as the facilities are either Concealed or Camouflaged. If a facility is Concealed, then the antennas and accessory equipment may be placed anywhere on the property without regard to separation from other uses. If a facility is Camouflaged, it may not be located within 200 feet of any existing dwelling units (but not accessory structures, detached garages, sheds, poolhouses, etc).

4. All Other Zoning Classifications. Unless specifically identified in section 1 or 2 above, personal wireless service facilities shall be prohibited in all other zoning districts with one exception. Regardless of the underlying zoning designation, personal wireless service facilities may be located on any parcel that contains a City water tank or on any parcel that is adjacent to a City water tank, so long as the following conditions are satisfied:

a. Facilities are encouraged to be Concealed but, at a minimum, shall be Camouflaged; and

b. The personal wireless service facility (antennas and equipment cabinets) must be located within 200 feet of a City water tank; and

c. Personal wireless facilities are encouraged to locate as far away from existing dwelling units as is feasible but in no event shall a personal wireless service facility (antennas or equipment cabinets) be located within 200 feet of an existing dwelling unit (but not detached garages, sheds, poolhouses, etc.).

5. Feasibility. An applicant may demonstrate feasibility by providing evidence demonstrating that there are no other locations that: meet the applicant's coverage needs; are structurally or technically feasible; or are available to lease or otherwise economically

feasible. At the applicant's expense, the City may hire an expert to review the provider's evidence and determine whether other locations may be feasible.

6. Visibility from Freeways. Personal wireless service facilities shall be prohibited at locations that are readily visible from the I-580 and I-680 freeways unless the provider can demonstrate that there are no other feasible sites and that every effort has been made to conceal or camouflage the facility.

7. Exception Required to Meet State or Federal Law. The decision-making body may grant an exception to any requirement of this ordinance, including the Locational Priorities in this section, if the applicant can show that strict compliance with the code would violate federal or state law.

18.110.060 Collocation.

The zoning administrator may require a personal wireless service provider to collocate its personal wireless service facilities with other existing or proposed facilities if the proposed antennas would comply with the provisions of this chapter and it would be structurally and technically feasible that the collocation site can service the same or a similar coverage area as proposed; and if the zoning administrator determines that the proposed personal wireless service facilities would have less of an adverse visual impact than two or more single noncollocated personal wireless service facilities. (Ord. 1743 § 1, 1998)

18.110.070 Stealth techniques.

A. All personal wireless service facilities shall be located so as to minimize their visibility and, unless determined by the zoning administrator to be concealed from view, designed to ensure that they will not appear as an antenna facility. To minimize visual impacts, all personal wireless service facilities determined by the zoning administrator to be visible to the public or properties in the vicinity shall incorporate appropriate stealth techniques to camouflage, disguise and/or blend them into the surrounding environment. Personal wireless service facilities shall be in scale and architecturally integrated with surrounding building design(s) or natural setting in such a manner as to be visually unobtrusive.

B. Antennas mounted on structures or on architectural details of a building shall be treated to match existing architectural features and colors found on the building. Façade-mounted antennas shall be integrated into the building's architecture through design, color, and texture.

C. Roof-mounted antennas shall be located in an area of the roof where the visual impact is minimized. Roof-mounted and ground-mounted antennas shall not be allowed when they are placed in direct line of sight of significant or sensitive view corridors or where they adversely affect scenic vistas, unless facilities incorporate appropriate, creative stealth techniques to camouflage, disguise, and/or blend them into the surrounding environment, as determined by the zoning administrator.

D. Aboveground and partially buried equipment cabinets shall be located where they will be the least visible from surrounding properties and public places. Aboveground and partially buried equipment cabinets shall require screening from surrounding properties and public view. Any visible portion of an equipment cabinet shall be treated to be architecturally compatible with surrounding structures and/or screened using appropriate techniques to camouflage, disguise, and/or blend it into the environment. If the zoning administrator determines that an equipment cabinet is not or cannot be adequately screened from adjacent properties or from public view or architecturally treated to

blend in with the environment, the equipment cabinet shall be placed underground or inside the existing building where the antenna is located. (Ord. 1743 § 1, 1998)

18.110.080 Height.

A. The height of a personal wireless service facility shall include the height of any structure upon which it is placed.

B. The height of a personal wireless service facility shall be based on a visual analysis demonstrating that views of the facility are minimized or are substantially screened, and on an engineering analysis justifying the height of the proposed personal wireless service facility and demonstrating that a lower height is not feasible. (Ord. 1743 § 1, 1998)

18.110.090 Colors and materials.

A. The visible exterior surfaces of personal wireless service facilities shall be constructed out of nonreflective materials.

B. All colors and materials are subject to the zoning administrator's approval. The colors and materials of antennas, equipment cabinets, and other appurtenances shall be chosen to minimize the visibility of the personal wireless service facility, except as specifically required by the Federal Aviation Administration. Facilities which will be primarily viewed against soils, trees, or grasslands shall be painted colors matching these landscapes.

C. Lightning arrester rods and beacon lights shall not be included as part of the design of any personal wireless service facility, unless the personal wireless service provider can prove that it is necessary for health and safety purposes, or required by the Federal Aviation Administration. (Ord. 1743 § 1, 1998)

18.110.100 Landscaping.

A. Landscaping may be required to screen personal wireless service facilities from adjacent properties or public view and/or to provide a backdrop to camouflage the facilities. All proposed landscaping is subject to the zoning administrator's review and approval. Existing on-site vegetation shall be preserved or improved, and disturbance of the existing topography shall be minimized. Additional trees and other vegetation shall be planted and maintained around the facility, in the vicinity of the project site, and along access roads in appropriate situations where such vegetation is deemed necessary to provide screening of personal wireless service facilities and related access roads.

B. All ground-mounted antennas and related equipment and roads shall be substantially screened by landscaping so that their visual impact is minimized.

C. All trees used in landscaping shall be a minimum of 15 gallons in size and all shrubs a minimum of five gallons, unless otherwise approved.

D. Any adjacent, existing landscaping shall be preserved and refurbished if damaged during construction.

E. The personal wireless service provider shall enter into an agreement with the city, approved by the city attorney, which guarantees that all landscaping and open space areas included in the

project shall be maintained at all times in a manner consistent with the approved landscape plan for the personal wireless service facility and its related equipment and roads. (Ord. 1743 § 1, 1998)

18.110.110 Setbacks and projections into yards.

A. All setbacks shall be measured from the furthest extent of a personal wireless service facility to the closest applicable property line or structure, with the exception of equipment shelters. Equipment shelters shall be measured from the outside wall of the shelter to the closest applicable property line or structure.

B. Personal wireless service facilities shall meet all applicable regulations for Class I or II accessory structures, whichever is applicable, in accordance with Chapter 18.84 of this title, with the following exceptions:

1. Underground equipment shelters or cabinets may adjoin property lines, if approved by the building division.

2. Ground-mounted antennas and related equipment shall not be located in front of main structures and/or along major street frontages where they will be readily visible.

3. The clear vertical height under a projection shall be at least 15 feet. (Ord. 2000 § 1, 2009; Ord. 1743 § 1, 1998)

18.110.120 Projections into public rights-of-way.

A. Ground-mounted antennas and related equipment shall not extend over a sidewalk, street, or other public right-of-way, except that ground-mounted antennas and related equipment on streetlight poles, traffic signals, and existing telephone poles may extend over a sidewalk or street, subject to zoning administrator and city engineer approvals.

B. Roof-mounted and façade-mounted antennas and their related equipment shall not extend over a street.

C. Roof-mounted and façade-mounted antennas and their related equipment may extend over a sidewalk provided that there shall be a setback of at least two feet between the curb and any portion of an antenna and its related equipment.

D. The clear vertical height under a projection shall be at least 15 feet. (Ord. 2000 § 1, 2009; Ord. 1743 § 1, 1998)

18.110.130 Number of antennas and facilities permitted.

A. The zoning administrator shall determine the number of antennas allowed per site on a case-by-case basis, with the goal of minimizing adverse visual impacts.

B. No more than three personal wireless service facility providers shall be permitted to collocate on a single building, tower, monopole, or other supporting structure, unless the Zoning Administrator determines that having additional facilities at that location is desirable and will not create aesthetic impacts. (Ord. 1743 § 1, 1998)

18.110.140 Noise.

A. All personal wireless service facilities shall be constructed and operated in such a manner as to minimize the amount of noise impacts and to comply with the noise standards of the municipal code. Noise attenuation measures shall be required for all air-conditioning units. Backup generators shall only be operated during power outages and for testing and maintenance purposes. At any time, noise attenuation measures may be required by the zoning administrator when deemed necessary.

B. Testing and maintenance activities of personal wireless service facilities which generate audible noise shall occur between the hours of 8:00 a.m. and 5:00 p.m., weekdays (Monday through Friday, non-holiday) excluding emergency repairs, unless allowed at other times by the zoning administrator. Testing and maintenance activities which do not generate audible noise may occur at any time, unless otherwise approved by the zoning administrator. (Ord. 1743 § 1, 1998)

18.110.150 Interference.

All personal wireless service facilities shall be operated in a manner which complies with the Federal Communication Commission's regulations regarding signal interference. (Ord. 1743 § 1, 1998)

18.110.160 Maintenance and safety.

A. Personal wireless service facilities shall comply with all Federal Communications Commission and California Public Utilities Commission requirements.

B. All personal wireless service providers shall provide signage, as required by the zoning administrator, which shall identify the name and phone number of the personal wireless service provider for use in case of an emergency.

1. The design, materials, colors, and location of the identification signs shall be subject to zoning administrator review and approval.

2. If at any time a new personal wireless service provider takes over operation of an existing personal wireless service facility, the new personal wireless service provider shall notify the planning division of the change in operation within 30 days and the required and approved signs shall be updated within 30 days to reflect the name and phone number of the new wireless service provider. The colors, materials and design of the updated signs shall match those of the required and approved signs.

C. In addition to providing visual screening, each antenna site may be required to provide warning signs, fencing, anticlimbing devices, or other techniques to achieve the same end to control access to the facilities in order to prevent unauthorized access and vandalism. However, the use of fencing shall not unnecessarily add to the visual impact of the facility, and the design of the fencing and other access control devices shall be subject to zoning administrator review and approval. All signs shall be legible from a distance of at least 10 feet from the personal wireless service facility. No sign shall be greater than two square feet in size.

D. All personal wireless service facilities, including, but not limited to, antennas, towers, equipment cabinets, structures, accessory structures, and signs shall be maintained by the wireless service provider in good condition. This shall include keeping all personal wireless service facilities graffiti-free and maintaining security fences in good condition.

E. All personal wireless service facilities shall be required to be reviewed by an electrical engineer licensed by the state. Within 45 days of initial operation or modification of a personal wireless service facility, the personal wireless service provider shall submit to the planning division a written certification by an electrical engineer licensed by the state that the personal wireless service facility, including the actual radio frequency radiation of the facility, is in compliance with the application submitted, any conditions imposed, and all other provisions of this chapter in order to continue operations past the 45-day period. At the personal wireless service provider's expense, the zoning administrator may employ on behalf of the city an independent technical expert to confirm and periodically reconfirm compliance with the provisions of this chapter.

F. All personal wireless service facilities providing service to the government or general public shall be designed to survive a natural disaster without interruption in operation. To this end the following measures shall be implemented:

1. Nonflammable exterior wall and roof covering shall be used in the construction of all aboveground equipment shelters and cabinets.

2. Openings in all aboveground equipment shelters and cabinets shall be protected against penetration by fire and windblown embers.

3. The material used as supports for the antennas shall be fire resistant, termite proof, and subject to all the requirements of the Uniform Building Code.

4. Personal wireless service facility towers shall be designed to withstand the forces expected during the "maximum credible earthquake." All equipment mounting racks and attached equipment shall be anchored in such a manner that such a quake will not tip them over, throw the equipment off its shelves, or otherwise act to damage it.

5. All connections between various components of the personal wireless service facility and with necessary power and telephone lines shall be protected against damage by fire, flooding, and earthquake.

6. Measures shall be taken to keep personal wireless service facilities in operation in the event of a disaster.

7. All equipment shelters and personal wireless service facility towers shall be reviewed and approved by the fire department.

8. A building permit shall be required for the construction, installation, repair, or alteration of all support structures for personal wireless service facilities equipment. Personal wireless service facilities must be stable and must comply with the Uniform Building Code and any conditions imposed as a condition of issuing a building permit. (Ord. 2000 § 1, 2009; Ord. 1743 § 1, 1998)

18.110.170 Antennas located on an undeveloped parcel.

A. All ground-mounted antennas that are located on undeveloped sites, where allowed, shall be converted to roof- or façade-mounted antennas with the development of the site when feasible and technically possible.

B. All aboveground and partially buried equipment shelters and cabinets that are located on undeveloped sites, where allowed, shall be located where they will be the least visible from surrounding properties and public places. (Ord. 1743 § 1, 1998)

18.110.180 Access roads.

All personal wireless service facilities shall use existing access roads, where available. Unless visual impacts can be adequately mitigated, no new access roads shall be allowed with any proposed personal wireless service facility. (Ord. 1743 § 1, 1998)

18.110.190 Advertising.

No advertising shall be placed on personal wireless service facilities. (Ord. 1743 § 1, 1998)

18.110.200 Federal Aviation Administration.

A. Personal wireless service facilities shall comply with all Federal Aviation Administration requirements.

B. No personal wireless service facility shall be installed in a location where special painting or lighting will be required by the Federal Aviation Administration unless technical evidence acceptable to the zoning administrator is submitted showing that this is the only technically feasible location for this facility, and the proposed facility meets all of the other requirements of this chapter. When lighting is required and is permitted by the Federal Aviation Administration or other federal or state authority, it shall be turned inward so as not to project on surrounding property. (Ord. 1743 § 1, 1998)

18.110.210 Historical and archaeological sites.

No personal wireless service facility shall be sited such that its design and/or construction will damage an archaeological site or have an adverse effect on the historic character of an historic structure, feature, or site. (Ord. 1743 § 1, 1998)

18.110.220 Minor modifications.

Minor modifications to personal wireless service facility equipment design, location, height, and other elements may be allowed, subject to the approval of the zoning administrator, if such modifications are in keeping with the architectural statement and layout design of the original approval, and meet the requirements of this chapter. (Ord. 1743 § 1, 1998)

18.110.230 Cessation of operation on-site.

A. Personal wireless service providers shall provide the city with a notice of intent to vacate a site a minimum of 30 days prior to the vacation.

B. A new permit shall be required if a site is to be used again for the same purpose as permitted under the original permit if a consecutive period of six months have lapsed since cessation of operations.

C. All equipment associated with a personal wireless service facility shall be removed by the property owner after cessation of the said use for more than six consecutive months, and the site

shall be restored to its original preconstruction condition. Any access road installed shall also be removed by the property owner and the ground returned to its natural condition after continuous cessation of the said use for more than six months unless the property owner establishes to the satisfaction of the zoning administrator that these sections of road are necessary to serve another use which is permitted or conditionally permitted and has been approved for the property or to provide access to adjoining parcels. An exception to this subsection may be made by the zoning administrator for an extension of up to 12 months if the property owner continues to make a good faith attempt to sell or lease the property as a personal wireless service facility site, as certified by a licensed real estate broker who is under contract with a right to sell or lease the property.

D. The personal wireless service provider shall be responsible for providing the financial guarantee required in Section 18.110.250(B) of this chapter.

E. Any personal wireless service provider that is buying, leasing, or is considering a transfer of ownership of an already approved facility shall submit a letter of notification of intent to the zoning administrator. (Ord. 1743 § 1, 1998)

18.110.240 Fees.

A. The zoning administrator is authorized at his or her discretion to employ on behalf of the city an independent technical expert to review any technical materials submitted. The zoning administrator shall consult with all interested personal wireless service facility providers to compile a list of independent technical experts from which the zoning administrator shall choose the reviewing technical expert. The personal wireless service provider shall pay all reasonable costs of said review, not including administrative costs.

B. Prior to erecting a personal wireless service facility, the personal wireless service provider shall provide a financial guarantee, satisfactory to the city attorney, for the removal of the facility in the event that its use is abandoned, or its approval is terminated. This subsection shall not apply to personal wireless service facilities approved prior to the effective date hereof. (Ord. 1743 § 1, 1998)

18.110.250 Preexisting and nonconforming personal wireless service facilities.

A. As of the effective date of this ordinance, there are four legal nonconforming personal wireless facilities in the City. These facilities shall not be altered or modified unless approved by the zoning administrator subject to the determination that the alteration or modification will cause the personal wireless service facility to be in greater conformance with this chapter.

B. A facility that meets the requirements of this chapter shall not later be deemed nonconforming in the event that one of the following uses locates near the existing facility in a manner that would make the facility noncompliant with the Locational Standards of section 18.110.050: dwelling units (but not accessory structures, detached garages, sheds, poolhouses, etc.); senior care or nursing homes and assisted living facilities; public or private schools for children (including nursery schools); and neighborhood parks, community parks, or regional parks, as designated in the General Plan.

18.110.260 Length of approvals.

A. Length of Permit. A design review approval for a wireless communication facility shall be valid for an initial maximum period of ten (10) years.

B. Extensions. The permit may be administratively extended by the Zoning Administrator for a period of time to be determined by the Zoning Administrator upon verification of continued compliance with the findings and conditions of approval under which the application was originally approved, as well as any other provisions provided for in this chapter or in the municipal code which are in effect at the time of permit renewal. Additionally, the Zoning Administrator shall look at whether the personal wireless service provider has agreed in writing to upgrade the existing facility to minimize the facility's adverse visual impact to the extent permitted by the technology that exists at the time of the renewal.

C. Notwithstanding the foregoing, no public hearing to schedule a denial of an extension pursuant to this section shall be calendared until the zoning administrator has first provided a written notice to the personal wireless service provider including with reasonable specificity: (a) the nature of the deficiency or violation; (b) a reasonably ascertainable means to correct such deficiency or violation; and (c) a reasonable opportunity to cure the same if the deficiency or violation is curable, which time period in no event shall be less than 30 days from the date of notification or such lesser period as may be warranted by virtue of a public emergency.

D. A nonconforming personal wireless service facility shall not receive an extension or be altered or modified unless approved by the zoning administrator subject to a determination that the extension, alteration, or modification will cause the personal wireless service facility to be in greater conformance with this chapter.

E. The zoning administrator's decision to deny a renewal may be appealed as described in Section 18.144.050 of this title.

F. At the zoning administrator's request, the personal wireless service provider shall provide a written summary certifying the commencement date and expiration date of any lease, license, property right, or other use agreement for the personal wireless service facility, including any options or renewal terms contained therein.

G. An approval for a personal wireless service facility may be modified or revoked by the planning commission as described in Section 18.110.030 of this chapter.

18.110.270 Change in federal or state regulations.

All personal wireless service facilities shall meet the current standards and regulations of the Federal Communications Commission, the California Public Utilities Commission, and any other agency of the federal or state government with the authority to regulate personal wireless service providers. If such standards and regulations are changed, the personal wireless service provider shall bring its facilities into compliance with such revised standards and regulations within 90 days of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal or state agency. Failure to bring personal wireless service facilities into compliance with such revised standards and regulations shall constitute grounds for the immediate removal of such facilities at the personal wireless service provider's expense. (Ord. 1743 § 1, 1998)

18.110.280 Indemnity and liability.

A. The personal wireless service provider shall defend, indemnify and hold harmless the city or any of its boards, commissions, agents, officers, and employees from any claim, action or

proceeding against the city, its boards, commissions, agents, officers, or employees to attack, set aside, void, or annul, the approval of the project, unless such claim, action, or proceeding is based on the city's negligence or misconduct, when such claim or action is brought within the time period provided for in applicable state and local statutes. The city shall promptly notify the providers of any such claim, action or proceeding. Nothing contained in this subsection shall prohibit the city from participating in a defense of any claim, action, or proceeding if the city bears its own attorney fees and costs, and the city defends the action in good faith.

B. Personal wireless service providers shall be strictly liable for any and all sudden and accidental pollution and gradual pollution from the usage of their personal wireless service facilities within the city. This liability shall include cleanup, injury or damage to persons or property. Additionally, personal wireless service providers shall be responsible for any sanctions, fines, or other monetary costs imposed as a result of the release of pollutants from their operations.

C. Personal wireless service providers shall be strictly liable for any and all damages resulting from electromagnetic waves or radio frequency emissions in excess of the Federal Communication Commission's standards. (Ord. 1743 § 1, 1998)

18.110.290 Severability.

If any section or portion of this chapter is found to be invalid by a court of competent jurisdiction, such finding shall not affect the validity of the remainder of the chapter, which shall continue in full force and effect. (Ord. 1743 § 1, 1998)