CITY OF PLEASANTON	**POLICY NO. [*RESERVED*]**
CITY COUNCIL POLICY	**Adopted:** March 11, 2019 **Amended and Restated:** April 21, 2026
GENERAL SUBJECT: SMALL WIRELESS FACILITIES	

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Section 1. INTRODUCTION AND BACKGROUND

Local authority over communications facilities in the public rights-of-way exists at an often-complex intersection between state law, federal law, changes in technologies and public policies. Laws and regulations impact not only whether municipalities may regulate, but how, when and even for what purpose.

These introductory remarks provide a brief background on the legal and technological developments relevant to the City of Pleasanton's ability to regulate commercial wireless facilities within the public rights-of-way.

California Law

The legislature's control over the relationship between municipalities and communication providers is as longstanding as the state itself is old. In 1850, the California legislature enacted a law to give telegraph corporations a so-called statewide franchise to use the public rights-of-way in the state to provide their services, so long as the use did not "incommode" the streets for other public uses. The legislature codified this law in 1872 as Civil Code Section 536 and then recodified it in 1951 as Public Utilities Code Section 7901. The current version applies to "telephone corporations" and includes personal wireless service providers.[1]

Section 7901 prohibits local franchises for telephone corporations but does not completely displace all other police powers held by municipalities in California.[2] For example, municipalities retain traditional zoning authority to regulate placement and aesthetics to ensure that communications infrastructure does not incommode the public rights-of-way.[3] In addition, Public Utilities Code Section 7901.1, a sister statute to Section 7901, bolsters local authority to regulate the time, place manner in which communications providers perform construction, maintenance and other operations within the public rights-of-way.[4]

Overall, California state law strikes a balance between the state-wide interest in a broadly available communications network and the local interest in well-planned development. Local governments cannot flatly refuse to approve deployments, but providers cannot build whatever they want wherever they want. These state laws must be reconciled with federal laws that affect local authority over communication facilities in the public rights-of-way.

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[1] CAL. PUB. UTILS. CODE § 7901; *Huntington Beach v. CPUC*, 154 Cal. Rptr. 3d 241, 257 (Ct. App. 2013); *GTE Mobilnet of Cal. Ltd. v. San Francisco*, 440 F. Supp. 2d 1097, 1103 (N.D. Cal. 2006).
[2] *See T-Mobile West LLC v. City & County of San Francisco*, 438 P.3d 239, 249 (Cal. 2019)
[3] *See id.* at 244–45.
[4] CAL. PUB. UTILS. CODE § 7901.1; *see also San Francisco*, 438 P.3d at 250.

Federal Law

In 1996, Congress adopted the Telecommunications Act[5] to balance the national interest in advanced communications services and infrastructure with legitimate local government authority to enforce zoning and other regulations to manage infrastructure deployments on private property and in the public rights-of-way. Under Section 704, which applies to personal wireless service facilities, local governments retain all their traditional zoning authority subject to specifically enumerated limitations.[6] Section 253 preempts local regulations that prohibit or effectively prohibit telecommunication services (*i.e.*, common carrier services) except competitively neutral and nondiscriminatory regulations to manage the public rights-of-way and require fair and reasonable compensation.[7]

Small Wireless Facilities and Changes in Federal Law

Communication technologies have significantly changed since 1996. Whereas cell sites were traditionally deployed on tall towers and rooftops over low frequency bands that travel long distances, cell sites are increasingly installed on streetlights and utility infrastructure on new frequency bands that travel shorter distances. According to the Federal Communications Commission ("FCC") and the wireless industry, these so-called "small wireless facilities" or "small cells" are essential to the next technological evolution. The industry currently estimates that each national carrier will need to deploy between 30 and 60 small cells, connected by approximately 8 miles of fiber optic cable, per square mile.

FCC regulations seek to promote these new technologies by preempting state and local authority the FCC views as an impediment to deployment. On September 27, 2018, the FCC adopted a Declaratory Ruling and Third Report and Order, FCC 18-133 (the "*Small Cell Order*"), in connection with two informal rulemaking proceedings entitled Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79, and Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84. In general, the *Small Cell Order*: (1) restricted the fees and other compensation state and local governments may receive from applicants; (2) required all aesthetic regulations to be reasonable, no more burdensome than those applied to other infrastructure deployments, objective and published in advance; (3) mandated that local officials negotiate access agreements, review permit applications and conduct any appeals within significantly shorter timeframes; and (4) created new evidentiary presumptions that make it more difficult for local governments to defend themselves if an action or failure to act is challenged in court.

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[5] Pub. L. No. 104-104, 110 Stat. 56 (1996).

[6] 47 U.S.C. § 332(c)(7)(A); *T-Mobile S., LLC v. City of Roswell*, 574 U.S. 293, 300 (2015). These limitations include substantive restrictions on municipal authority to prohibit or effectively prohibit services, unreasonably discriminate among functionally equivalent service providers and regulate based on environmental effects from radiofrequency ("RF") emissions that meet federal exposure standards. 47 U.S.C. §§ 332(c)(7)(B)(i), (iv). Section 704 also imposes procedural requirements that require local officials to act on applications within a reasonable time and issue written decisions supported by substantial evidence. *Id.* §§ 332(c)(7)(B)(ii)–(iii).

[7] 47 U.S.C. §§ 253(a), (c).

This controversial order significantly curtailed state and local authority over wireless and wireline communication facilities reserved to them in the Telecommunications Act.

Municipalities, large and small, urban and rural, from all over the United States challenged the *Small Cell Order* in federal court. On August 12, 2020, the United States Court of Appeals for the Ninth Circuit invalidated many aesthetic restrictions in the *Small Cell Order* but largely upheld the other restrictions. *Portland v. United States*, 969 F.3d 1020 (9th Cir. 2020). The court specifically invalidated the requirements that aesthetic regulations be objective and no more burdensome than those applied to other infrastructure deployments. *See id.* at 1039–42. Although municipalities may exercise reasonable discretion over small wireless facilities, they must do so on an expedited basis to meet the short shot clock limits. Municipalities sought review by the United States Supreme Court on the Ninth Circuit's decision to uphold the FCC's fee restrictions, but the Supreme Court denied that petition. *See* Order Denying Petition for Certiorari, *Sprint Corp. v. FCC*, No. 20-1354 (June 28, 2021). Thus, the *Small Cell Order*, as modified by the Ninth Circuit's partial invalidation, is final with no further pending judicial review.

Small Wireless Facilities and Changes in State Law

On October 8, 2023, Governor Gavin Newsom signed into law Assembly Bill 965 which added Section 65964.3 to the Government Code to require local agencies to undertake batch broadband permit processing of two or more broadband permit applications for substantially similar broadband project sites under a single permit. The definition of "broadband project" under the statute is broad enough to include small wireless facilities. The statute also extends the existing state law "deemed approved" remedy in Government Code Section 65964.1 if a city or county fails to approve or disapprove a broadband permit application within a reasonable period of time specified in applicable law subject to certain requirements and limitations.

Pleasanton's Small Cell Wireless Policy

On March 11, 2019, the Pleasanton City Council adopted an initial small wireless facilities policy.

On April 21, 2026, and pursuant to Section 18.110.040 of the Municipal Code, the City Council adopted this amended and restated policy to update and conform the City's permit process for small wireless facilities with applicable law.

Section 2. PURPOSE AND INTENT

(a) The City intends this policy to establish reasonable, uniform and comprehensive standards and procedures for small wireless facilities deployment, construction, installation, collocation, modification, operation, relocation and removal within the City's public rights-of-way, consistent with and to the extent permitted under federal and California state law.

(b) The standards and procedures contained in this policy are intended to, and should be applied, consistent with federal and state law, to protect and promote public health, safety and welfare, and balance the benefits that flow from robust, advanced wireless services with the City's local values, which include without limitation the aesthetic character of the City, its neighborhoods and community.

(c) This policy is also intended to reflect and promote the community interest by (1) ensuring that an appropriate balance between public and private interests are maintained; (2) protecting the City's visual character and property values from potential adverse impacts and/or visual blight created and/or exacerbated by small wireless facilities and related communications infrastructure; (3) protecting and preserving the City's environmental resources; (4) protecting and preserving the City's public rights-of-way and municipal infrastructure located within the City's public rights-of-way; (5) protecting the City's residential neighborhoods and other family-oriented environments, and (6) ensuring appropriate placement of high-quality, advanced wireless services for the City's residents, businesses and visitors.

(d) This policy is intended to establish clear procedures for application intake and completeness review. The City Council finds that chronically incomplete applications significantly contribute to unreasonable delay and create barriers to infrastructure deployment. Chronically incomplete applications unfairly prejudice other applicants who may be prepared to submit complete applications for infrastructure in the same or substantially the same location. Chronically incomplete applications also unfairly prejudice the City's ability to act on such applications within the "presumptively reasonable" timeframes established by the FCC. The provisions in this policy afford applicants and City staff opportunities for direct, real-time communication about completeness issues to mitigate incomplete applications prior to submittal. The provisions in this policy also encourage applicants to timely respond to incomplete notices.

(e) This policy is not intended to, nor shall it be interpreted or applied to: (1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services; (2) prohibit or effectively prohibit any entity's ability to provide any telecommunications service, subject to any competitively neutral and nondiscriminatory rules, regulations or other legal requirements for rights-of-way management; (3) unreasonably discriminate among providers of functionally equivalent personal wireless services; (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions; (5) prohibit any collocation or modification that the City may not deny under federal or California state law; (6) impose any unreasonable, discriminatory or anticompetitive fees that exceed the reasonable cost to provide the services for which the fee is charged; or (7) otherwise authorize the City to violate any applicable federal or California state law.

Section 3. DEFINITIONS

The abbreviation, phrases, terms and words used in this policy will have the following meanings assigned to them unless context indicates otherwise. Undefined phrases, terms or words in this section will have the meanings assigned to them in 1 U.S.C. § 1, as may be amended or superseded, and, if not defined therein, will have their ordinary meanings.

The definitions in this policy shall control over conflicting definitions for the same or similar abbreviations, phrases, terms or words as may be defined in the Municipal Code. However, if any definition assigned to any phrase, term or word in this chapter conflicts with any federal or state-mandated definition, the federal or state-mandated definition will control. All references to codified statutes, regulations or other rules shall be deemed to refer to such statutes, regulations or other rules as they may be amended or superseded.

(a) "**accessory equipment**" means equipment other than antennas used in connection with a small wireless facility. The term includes "transmission equipment" as defined by the FCC in 47 C.F.R. § 1.6100(b)(8).

(b) "**amateur station**" means the same as defined by the FCC in 47 C.F.R. § 97.3, which defines the term as "a station in an amateur radio service consisting of the apparatus necessary for carrying on radiocommunications." This term includes amateur radio antennas and related facilities used for amateur radio services.

(c) "**antenna**" means the same as defined by the FCC in 47 C.F.R. § 1.6002(b).

(d) "**appellate authority**" means the City official or appointed/elected body responsible for review of approval authority decisions and vested with authority to consider and decide appeals. For appeals from the approval authority, the appellate authority shall be the City Manager or their designee.

(e) "**approval authority**" means the City official or appointed/elected body responsible for application review and vested with authority to approve, conditionally approve or deny such applications as provided in this policy. The approval authority for applications in connection with small wireless facilities shall be the Director or their designee.

(f) "**architecturally integrated**" means stealth concealment that mimics the existing architecture, design, materials and finishes of the underlying structure such that the small wireless facility appears to be something other than a small wireless facility and part of the original structure's design.

(g) "**arterial road**" means a road designed to feed through-traffic to freeways, provide access to adjacent land uses – mostly at intersections – and feature traffic control measures. The term "arterial road" as used in this policy is defined in the City of Pleasanton General Plan, Circulation Element.

(h) "**batched application**" means the same as defined in California Government Code § 65964.3.

(i) "**City**" means the City of Pleasanton, California.

(j) "**City Council**" means the City Council of the City of Pleasanton, California.

(k) "**City Manager**" means the City Manager of the City of Pleasanton, California or the City Manager's designee.

(l) "**collector road**" means a road designed to provide access to adjacent land uses and feed local traffic to arterials. The term "collector road" as used in this policy includes collectors as defined in the City of Pleasanton General Plan, Circulation Element.

(m) "**collocation**" means the same as defined by the FCC in 47 C.F.R. § 1.6002(g).

(n) "**CPUC**" means the California Public Utilities Commission established in the California Constitution, Article XII, § 5, or its duly appointed successor agency.

(o) "**decorative pole**" means any pole that includes decorative or ornamental features, design elements and/or materials for aesthetic purposes.

(p) "**Department**" means the City of Pleasanton Community and Economic Development Department.

(q) "**Director**" means the City of Pleasanton Community and Economic Development Department Director or the Community and Economic Development Department Director's designee.

(r) "**eligible facilities request**" means the same as defined in 47 U.S.C. § 1455(a)(2), and as interpreted by the FCC in 47 C.F.R. § 1.6100(b)(3).

(s) "**FCC**" means the "Federal Communications Commission", as constituted by the Communications Act of 1934, Pub. L: 73-416, 48 Stat. 1064, codified as 47 U.S.C. §§ 151 *et seq.* or its duly appointed successor agency.

(t) "**Fire Safety Authority**" means the Livermore-Pleasanton Fire Department or their designee.

(u) "**historic resource**" means any prehistoric or historic district, neighborhood, site, building, structure or object included in, or eligible for inclusion in the National Register of Historic Places or the California Register of Historical Resources, or identified in the City of Pleasanton General Plan or the Downtown Specific Plan. The term includes artifacts, records and remains related to or located within such

properties. The term also includes properties with traditional religious and/or cultural importance to any Native American tribe.

(v) "**local road**" means a road designed to serve only adjacent land uses in both commercial and residential areas and provide direct access to these land uses. The term "local road" as used in this policy includes local streets as defined in the City of Pleasanton General Plan, Circulation Element.

(w) "**ministerial permit**" means any City-issued non-discretionary permit required to commence or complete any construction or other activity subject to the City's jurisdiction. Ministerial permits may include, without limitation, any building permit, construction permit, electrical permit, excavation permit, traffic control permit, encroachment permit and/or any similar over-the-counter approval issued by the City's departments.

(x) "**Municipal Code**" means the City of Pleasanton Municipal Code.

(y) "**non-pole concealment structure**" means a structure within the public rights-of-way, other than a pole, that can be adapted (either in its current form or through a replacement) to conceal antennas and/or accessory equipment for small wireless facilities. Examples may include, without limitation, monuments, kiosks, bus shelters and other street furniture.

(z) "**OTARD**" means any "over-the-air reception device" subject to 47 C.F.R. §§ 1.4000 *et seq.*, which generally includes satellite television dishes and certain fixed wireless antennas not greater than one meter in diameter.

(aa) "**personal wireless service facilities**" means the same as defined in 47 U.S.C. § 332(c)(7)(C)(ii).

(bb) "**personal wireless services**" means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i).

(cc) "**persons entitled to notice**" means (1) all real property owners; and (2) all occupants of each physical address for all properties, each within 300 feet of the exterior boundaries of the proposed small wireless facility. Mailed notice will be deemed given to real property owners when sent to the address listed on the most recent equalized assessment roll. Mailed notice will be deemed given to all occupants when sent to the real property's physical address.

(dd) "**prohibited support structure**" means any support structure on which the City prohibits the deployment of small wireless facilities, except when authorized as a pre-approved design pursuant to this policy. Prohibited support structures include decorative poles and decorative streetlights; the Main Street "Pleasanton Arch"; traffic signals, signs, poles, cabinets and related devices and structures; new, nonreplacement wood poles; and any utility pole scheduled or reasonably

anticipated to be scheduled for removal within 18 months from the time the Director acts on the application for such pole.

(ee) "**public right-of-way**" or "**public rights-of-way**" means land or an interest in land which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for or dedicated to or open to the use by the general public for road or highway purposes. The term does not include private or public utility easements unless such easement is reserved for or dedicated to or open to the use by the general public for road or highway purposes.

(ff) "**residential collector road**" means a road designed to provide access to residential areas and feed traffic from local streets to arterials. The term "residential collector road" as used in this policy includes residential collectors as defined in the City of Pleasanton General Plan, Circulation Element.

(gg) "**RF**" means radio frequency.

(hh) "**Section 6409**" means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. § 1455(a).

(ii) "**shot clock**" means the presumptively reasonable time defined by the FCC, or time specified under state law, if applicable, in which a state or local government must act on an application or request for authorization to place, construct or modify personal wireless service facilities.

(jj) "**Small Cell Permit**" means the permit approval required by the City of Pleasanton Community and Economic Development Department to authorize the use of small wireless facilities subject to this policy.

(kk) "**small wireless facility**", "**small wireless facilities**" or "**SWF**" means the same as defined by the FCC in 47 C.F.R. § 1.6002(*l*).

(ll) "**stealth**" means concealment elements, measures and techniques to: (1) architecturally integrate a small wireless facility into the underlying support structure; or (2) add new architectural features in style, proportion and construction quality with the underlying support structure or blend with or mimic the surrounding built or natural environment and adjacent uses (*e.g.*, antennas mounted within a radome above a streetlight, equipment cabinets in the public rights-of-way painted or wrapped to match the background, etc.), and in either event, to completely screen all transmission equipment from public view. The foregoing stealth concealment techniques examples are included without limitation.

Section 4. APPLICABILITY

(a) **General.** This policy applies to all requests for the City's regulatory authorization to construct, install, operate, collocate, modify, relocate, remove or otherwise deploy small wireless facilities within the public rights-of-way within the City's territorial and jurisdictional boundaries, unless expressly exempted pursuant to this Section 4.

(b) **Small Wireless Facilities on City Property or Structures.** This policy applies to permit applications, submitted to the City in its regulatory capacity as the permitting agency, for small wireless facilities on property or structures owned or controlled by the City and located within the public rights-of-way; provided, however, that this policy does not govern whether or under what terms and conditions the City, in its proprietary capacity as the property or structure owner, would lease, license or otherwise allow a small wireless facility on such property or structures.

(c) **Eligible Facilities Requests.** Notwithstanding anything in this policy to the contrary, this policy shall not be applicable to eligible facilities requests and/or other applications submitted for approval pursuant to Section 6409.

(d) **Other Exemptions.** Notwithstanding anything in this policy to the contrary, this policy shall not be applicable to the following:

(1) wireless facilities operated for public purposes by the City or through joint powers authorities that the City is a member;

(2) small wireless facilities installed completely indoors and used to extend personal wireless services into a business or the subscriber's private residence, such as a femto cell or indoor distributed antenna system;

(3) OTARD antennas;

(4) antennas and related transmission equipment used in connection with a duly authorized amateur station; or

(5) wireless facilities or other transmission equipment owned and operated by CPUC-regulated electric companies for use in connection with electrical power, generation, transmission and distribution facilities subject to CPUC General Order 131-E.

Section 5. REQUIRED PERMITS AND APPROVALS

(a) **Required Permits.** All small wireless facilities located in whole or in part within the public right-of-way subject to this policy shall require a Small Cell Permit subject to the approval authority's prior review and approval in accordance with this policy.

(b) **Other Permits and Regulatory Approvals.** In addition to a Small Cell Permit required under this policy, the applicant must obtain all other permits and

regulatory approvals as may be required by any other federal, state, regional or local government agencies, which includes without limitation any permits and/or approvals issued by other City departments or divisions such as encroachment permits for work or facilities in the public right-of-way. All applications for ministerial permits submitted in connection with a proposed small wireless facility or other infrastructure deployment must contain a valid Small Cell Permit issued by the City for the proposed small wireless facility. Any application for any ministerial permits submitted without such Small Cell Permit may be denied without prejudice. Any Small Cell Permit granted under this policy or deemed granted or deemed approved by the operation of law shall remain subject to any and all lawful conditions and/or legal requirements associated with such other permits or approvals. Furthermore, and to avoid potential confusion, an exemption from the Small Cell Permit requirement under Section 4(d) does not exempt the same wireless facilities or other infrastructure deployments from any other permits or approvals, which includes without limitation any ministerial permits from the City.

Section 6. Administrative Orders and Regulations

In addition to the requirements in this policy, the Director may adopt such orders or regulations as the Director deems necessary or appropriate to protect and maintain public health, safety, welfare and convenience. The Director is also authorized to establish other reasonable rules and regulations for duly filed applications, which may include without limitation regular hours for submittal appointments with applicants, as the Director deems necessary or appropriate to organize, document and manage the application intake process. All such requirements, materials, rules and regulations must be in written form and publicly stated.

Section 7. Permit Applications

(a) **Application Required.** The approval authority shall not approve any requests for authorization to construct, install, operate, collocate, modify, relocate, remove or otherwise deploy small wireless facilities within the public right-of-way except upon a complete and duly filed application consistent with this section and any other written rules or requirements the City or the Director may establish from time to time in any publicly-stated format.

(b) **Application Fee/Deposit.** The applicant shall submit the applicable permit application fee, application review deposit, or combination application fee and review deposit adopted by City Council resolution at the time of application. Batched applications must include the permit application fee, review deposit, or combination application fee and review deposit for each small wireless facility in the batch unless a specific batched application fee, review deposit, or combination application fee and review deposit has been adopted by City Council resolution at the time of application. The foregoing fee requirement for batched applications shall apply separately to applications for Small Cell Permits and any other permit or approval required at the time such fees for such other permit or approval are

due (*e.g.*, Small Cell Permit application fees required for each small wireless facility in the batch, and subsequent encroachment permit applications fees required for each small wireless facility in the batch). If no permit application fee, application review deposit, or combination application fee and review deposit has been adopted at the time of application, then the applicant must submit a signed written statement that acknowledges that the applicant will be required to submit a deposit estimated by the Director to reimburse the City for its reasonable costs incurred in connection with the application within 10 business days after the City issues a written demand for reimbursement. Additional deposits shall be required if the deposit is inadequate and must be replenished. If the deposit exceeds the actual costs, the difference will be returned to the applicant following final inspection in event of an approval, withdrawal of the application, or the conclusion of any appeals or expiration of any appeal periods, whichever occurs later, in event of a denial.

(c) **Application Content.** All applications for a permit must include all the information and materials required by the Director for the application. The Director is authorized to develop, publish and from time-to-time update or amend permit application requirements, forms, checklists, guidelines, informational handouts and other related materials that the Director finds necessary, appropriate or useful for processing any application governed under this policy. All such requirements must be in written form and publicly stated and available. All applications shall, at a minimum, require the applicant to demonstrate that the proposed project will be in planned compliance with all applicable health and safety laws, regulations or other rules, which include without limitation all building codes, electric codes and all FCC rules for human exposure to RF emissions.

(d) **Batched Applications.** Pursuant and subject to California Government Code § 65964.3, an applicant may submit up to 50 substantially similar wireless broadband projects under a single application for a Small Cell Permit. Notwithstanding the foregoing: (1) all substantially similar wireless broadband projects or small wireless facilities in a batch must be proposed with substantially the same equipment in the same configuration and on the same support structure type; (2) each substantially similar wireless broadband project or small wireless facility in a batch must meet all the requirements for a complete application, which includes without limitation the applicable batched application fees pursuant to Section 7(b); (3) if the application materials for any substantially similar wireless broadband project or small wireless facility in a batch is deemed incomplete, the entire match shall be automatically deemed incomplete; (4) if the application for a batch is deemed withdrawn, such deemed withdrawn status shall apply to all substantially similar wireless broadband projects or small wireless facilities in the batched application; (5) if any substantially similar wireless broadband project or small wireless facility in a batch fails to meet the required findings for approval, the entire batch shall be denied; (6) any conditions of approval associated with the Small Cell Permit, including but not limited to those provided in Section 14, shall be applied individually to each wireless broadband project or small wireless facility in the

batch; (7) the applicant shall obtain individual construction, encroachment, excavation, traffic control and other similar ministerial permits for each substantially similar wireless broadband project or small wireless facility approved or deemed-approved in a batch; and (8) the Director will have final authority over whether all wireless broadband projects or small wireless facilities in a batch are "substantially similar".

(e) **Voluntary Pre-Application Conferences.** The Department shall provide prospective applicants with the opportunity to schedule and attend a voluntary pre-application conference with Department staff. The City strongly encourages, but does not require, pre-application conferences for all applications. This voluntary pre-application conference process, including but not limited to any requests for conferences or meetings, submittal of pre-application materials, or the occurrence of any conferences or meetings, does not, and shall not be deemed to, commence any shot clocks. This voluntary pre-application conference is intended to streamline the review process through informal discussion that includes, without limitation, the appropriate project classification and review process, any latent issues in connection with the proposed or existing small wireless facility, such as compliance with generally applicable rules for public health and safety; potential stealth or concealment issues or concerns (if applicable); coordination with other City departments and/or divisions responsible for application review; and application completeness issues. To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications or other materials so that City staff may provide informal feedback and guidance about whether such applications or other materials may be incomplete or unacceptable. The Department shall use reasonable efforts to provide the applicant with an appointment within five working days after receiving a written request and any applicable fee or deposit to reimburse the City for its reasonable costs to provide the services rendered in the pre-application conference.

(f) **Application Submittal.** Unless the Director establishes an alternative submittal procedure pursuant to Section 6, all applications submitted, or resubmitted in response to an incomplete notice as the case may be, under this policy must be submitted to the Department through the online permitting portal only during the Department's "Permit Center Hours" as published on the Department's website. The Department's Permit Center Hours exclude City holidays or other days that the City is closed. Any applications submitted, or resubmitted as the case may be, after such Permit Center Hours will be deemed submitted, or resubmitted, and received by the Department at the start of "Permit Center Hours" on the next scheduled working day. Any application received in a manner not authorized by this policy or alternatives established by the Director, whether delivered in-person, by mail, electronically or through any other means, will not be considered duly filed whether the City retains the submitted materials or not.

(g) **Voluntary Community Meetings.** The City strongly encourages, but does not require, applicants to schedule, notice, arrange, and attend a voluntary community meeting with all interested members of the public. Community meetings may be conducted before or after submittal. This voluntary community meeting does not cause the FCC shot clock to begin and is intended to give applicants the opportunity to hear from members of the public regarding the proposed small wireless facility project. Applicants should schedule any voluntary community meetings at times and in locations that are conducive to maximizing public participation. Applicants are encouraged (but not required) to bring any draft applications, plans, maps, presentations or other materials to facilitate the public's understanding of the applicant's small wireless facility project. Applicants are also encouraged (but not required) to maintain minutes or a comment log of the community meeting. The City seeks to encourage dialogue that may allow applicants to address areas of concern and may lessen the likelihood of appeals. Community meetings may be conducted before or after submittal. Public notice for a community meeting should be given in the manner described for persons entitled to notice, except that the applicant is responsible for the cost and implementation of noticing.

(h) **Applications Deemed Withdrawn.** To promote efficient review and timely decisions, any application governed under this policy will be automatically deemed withdrawn by the applicant when the applicant fails to tender a substantive response to the Department within 90 calendar days after the Department deems the application incomplete in a written notice to the applicant. The Director, in the Director's discretion, may grant a written extension for up to an additional 60 calendar days when the applicant submits a written request prior to the 90th day that shows good cause to grant the extension. Good cause for an extension shall include, without limitation, delays due to circumstances outside the applicant's reasonable control.

Section 8. PEER AND INDEPENDENT CONSULTANT REVIEW

(a) **Authorization.** The Director is authorized to, in the Director's discretion, select and retain an independent consultant with specialized training, experience and/or expertise in telecommunications issues in connection with any permit application. The Director may request an independent consultant review on any issue that involves specialized or expert knowledge in connection with wireless facilities deployment or permit applications for wireless facilities, which include, without limitation: (1) permit application completeness and/or accuracy; (2) compliance with applicable regulations for human exposure to RF emissions; (3) whether and to what extent a proposed project will comply with applicable laws, including but not limited to this policy and its design standards; (4) the applicability, reliability and/or sufficiency of any information, analyses or methodologies used by the applicant to reach any conclusions about any issue with the City's discretion to review; and (5) any other issue identified by the Director that requires expert or specialized knowledge, which includes, without limitation, any issues related to an

exception requested by the applicant pursuant to Section 15. The Director may request that the independent consultant prepare written reports, testify at public meetings, hearings and/or appeals and attend meetings with City staff and/or the applicant.

(b) **Cost Reimbursement / Deposit.** Subject to applicable laws, if the Director elects to retain an independent consultant in connection with any permit application, then the applicant shall be responsible for the actual and reasonable costs incurred by the City in connection with the services provided, which may include, without limitation, actual and reasonable costs incurred by the independent consultant to attend and participate in any meetings or hearings related to the permit application and the City's actual and reasonable costs incurred to administer the independent consultant contract. The applicant shall tender to the City a deposit in an amount equal to the estimated actual and reasonable cost for the services to be provided, as determined by the Director if not deposit amount has been established and paid pursuant to Section 7(b) of this policy. The deposit funds shall be applied to the independent consultant's invoices as such invoices are approved by the Director. The Director may request additional deposits as reasonably necessary to ensure sufficient funds are available to cover the reasonable costs in connection with the independent consultant's services. If the deposit exceeds the total costs for the independent consultant's services, then the Director shall promptly return any unused funds to the applicant after the small wireless facility has been installed and passes a final inspection. If the reasonable costs for the independent consultant's services exceed the deposit, then the Director shall invoice the applicant for the balance. The Director is authorized to develop, publish and from time-to-time, update a standard deposit agreement consistent with this section. The City shall not issue any construction or encroachment permits to any applicant with any unpaid deposit requests or invoices.

(c) **Fire Safety Authority Independent Consultants.** In addition, the Fire Safety Authority has the authority to select and retain an independent consultant with expertise and/or specialized training in fire safety and fire hazard mitigation and prevention satisfactory to the Fire Safety Authority in connection with any application. The Fire Safety Authority may request independent consultant review on any matter referred or committed to the Fire Safety Authority for review or approval. Subject to applicable laws, in the event that the Fire Safety Authority elects to retain an independent consultant in connection with any application, the applicant shall be responsible for the actual and reasonable costs in connection with the services provided, which may include without limitation any actual and reasonable costs incurred by the independent consultant to attend and participate in any meetings or hearings and the Fire Safety Authority's actual and reasonable costs to administer the independent consultant contract. The same procedures for fee deposits, cost reimbursements and refunds to the applicant as described above in Section 8(b) shall be applicable to independent consultant review required by the Fire Safety Authority.

Section 9. PUBLIC NOTICE

(a) **Preface.** The City strongly favors public participation in the community development process, which requires effective public notice. However, federal regulations that generally require approvals or denials within a relatively short timeframe interfere with the City's ability to provide public notice and conduct public hearings in the same manner as the City would for other commercial development projects. To promote the City's and the community's legitimate interest in public participation, while at the same time enabling the City to act on applications within the timeframe prescribed by law, this Section 9 establishes notice requirements designed to give interested parties notices through multiple mediums and at times intended to maximize such parties' ability to stay informed and exercise their right to be heard.

(b) **Mailed Notice.** Within 10 calendar days of an application being filed for a personal wireless service facility, the Department shall mail a written notice to all persons entitled to notice. The notice shall include: (1) the project location with a street address and/or GPS coordinates; (2) the City's permit application number; (3) a general project description; (4) contact information for the Department so that persons may request additional information or submit comments; and (5) a statement that the Director will act on the application without a public hearing, but that any interested person or entity may appeal the Director's decision directly to the City Manager.

Section 10. APPROVALS; DENIALS; APPEALS

(a) **Initial Administrative Decision.** The approval authority may approve, conditionally approve or deny a complete and duly filed permit application without a public hearing.

(b) **Required Findings for Approval.** The approval authority (or appellate authority on appeal) may approve or conditionally approve an application for a Small Cell Permit only when it makes all the following findings:

(1) the proposed project qualifies as a "small wireless facility" as defined by the FCC;

(2) the proposed small wireless facility is in a preferred location as defined in this policy; or the proposed small wireless facility is in a discouraged location as defined in this policy and the applicant has demonstrated through a meaningful comparative analysis that no more preferred location would be technically feasible and potentially available;

(3) the proposed small wireless facility would not be located on a prohibited support structure identified in this Policy;

(4) the proposed small wireless facility is on a preferred support structure as defined in this policy; or the proposed small wireless facility is on a discouraged support structure as defined in this policy and the applicant has demonstrated through a meaningful comparative analysis that no more preferred support structure would be technically feasible and potentially available;

(5) the proposed small wireless facility complies with all applicable development standards in this policy, the Municipal Code and any other applicable regulations;

(6) the applicant has shown that it can obtain any wireline communications and electrical service connections necessary to operate the proposed small wireless facility and the project plans show the proposed route for all such connections between their source and the proposed small wireless facility;

(7) the applicant has demonstrated that the proposed small wireless facility will comply with all applicable FCC regulations and guidelines for human exposure to RF emissions and will not, either individually or cumulatively with other transmitters in the vicinity, result in RF exposures that exceed the FCC's maximum permissible exposure level for the general population;

(8) all public notices required for the application have been given; and

(9) any required California Environmental Quality Act findings have been made.

(c) **Conditional Approvals; Denials without Prejudice.** Subject to any applicable federal or state laws, nothing in this policy is intended to limit the approval authority's ability to conditionally approve or deny without prejudice any permit application governed under this policy as may be necessary or appropriate to protect and promote the public health, safety and welfare, and to advance the goals or policies in the general plan and any applicable specific plan, this policy or the Municipal Code.

(d) **Decision Notices.** Within five calendar days after the approval authority acts on an application governed under this policy or before the shot clock expires (whichever occurs first), the Department shall provide a written notice to the applicant. If the approval authority (or appellate authority) denies the application (with or without prejudice), the written notice to the applicant must contain the reasons for the denial.

(e) **Appeals.** Any interested person may appeal the approval authority's decision to the City Manager provided that: (1) an appeal notice must be filed with the City Clerk within seven calendar days from the date of the approval authority's decision; (2) an appeal must be timely and duly filed with the City Clerk on a form provided by the City Clerk, or if no such form is available, in a writing that states in plain terms the grounds for appeal and the facts that support those grounds; (3) appeals

from an approval shall not be permitted when based on reasons otherwise compliant under this policy, including appeals based on duly adopted preapproved designs or the environmental effects from RF emissions that are compliant with applicable FCC regulations and guidelines; and (4) the City Manager shall consider appeals *de novo*. The City Manager shall issue the applicant and appellant a written decision within 15 calendar days of receipt of the appeal. If the City Manager denies the application on appeal (whether by affirmation or reversal), the written notice shall contain the reasons for the decision. The City Manager's decision shall be final and not subject to any further City appeals or petitions for reconsideration.

Section 11. LOCATION STANDARDS

(a) **Preface.** This section sets out criteria to determine the preferred location and support structure for small wireless facilities. The City considers the most preferred location and support structure to be the least intrusive means for an applicant to provide its services to the public. Subsection (b)(1) describes roads in or adjacent to zoning areas where small wireless facilities are generally most preferred. Subsection (b)(2) provides specific locations where small wireless facilities are discouraged. It is possible for a proposed facility to be simultaneously in a "preferred" and "discouraged" location, for example, a small wireless facility on or adjacent to an arterial road in an "Industrial, Commercial & Offices" zoning area that is also within 100 feet of a residential dwelling unit. In such cases, the location shall be deemed a "discouraged" location.

(b) **Locations.** To assist applicants, staff, and the approval authority understand and respond to the community's aesthetic preferences and values, this Section 11(b) describes preferred and discouraged locations for small wireless facilities in the public rights-of-way.

(1) **Preferred Locations.** All applicants must, to the extent technically feasible and potentially available, propose new small wireless facilities in a preferred location. The following locations are all considered "preferred locations" and are ranked in order of most preferred to least preferred. Applicants must propose new facilities on parcels with the most preferred land use designation whenever technically feasible and potentially available. Road designations within the below are also ranked in order of most preferred to least preferred. Applications must include a written justification as part of their application submittal, supported by factual and verifiable evidence, that demonstrates no location with a more preferred land use or road designation is technically feasible and available.

(A) locations on arterial, collector, residential collector, or local roads in or adjacent to zoning areas categorized as "Industrial, Commercial & Offices", "Mixed Use" or "Open Space" as defined and mapped in the City of Pleasanton General Plan, Land Use Element;

(B) locations on arterial, collector, residential collector, or local roads in or adjacent to zoning areas categorized as "Community Facilities" or "Open Space" as defined and mapped in the City of Pleasanton General Plan, Land Use Element;

(C) locations on arterial or collector roads in or adjacent to zoning areas categorized as "Residential" as defined and mapped in the City of Pleasanton General Plan, Land Use Element;

(2) **Discouraged Locations.** When no preferred location is technically feasible and potentially available, the applicant may propose a wireless facility in a discouraged location pursuant to an exception under Section 15, including a written justification supported by factual and verifiable evidence, demonstrating that no preferred location is technically feasible and potentially available. If a small wireless facility must be placed in a discouraged location, the applicant shall use the least-discouraged location that is technically feasible and potentially available. The following locations are discouraged, and ordered from least discouraged to most discouraged, and road designations within the below are also ranked in order of least discouraged to most discouraged

(A) locations on local or residential collector roads in or adjacent to zoning areas categorized as "Residential" as defined and mapped in the City of Pleasanton General Plan, Land Use Element;

(B) on Main Street between Bernal Avenue and Del Valle Parkway;

(C) any location within a designated historic or scenic corridor or any location on or within 200 feet from a historic resource;

(D) any location within 100 feet from a residential dwelling unit (but not accessory structures, detached garages, sheds, pool houses, etc.), irrespective of the underlying zoning district;

(3) **Additional Location Standards.** In addition to all other location standards in this Section 11, small wireless facilities and all associated antennas, accessory equipment or improvements in the public rights-of-way shall:

(A) be placed as close as possible to alignment with the property line that divides two parcels abutting the public rights-of-way

(B) not be placed directly in front of any ground-level door;

(C) not be placed directly in front of any first- or second-story window;

(D) on arterials, be placed as close to mid-block as technically feasible and consistent with the other location requirements in this policy;

(E) not be placed within any clear zone at any intersections;

(F) not be placed within any visibility triangle area that crosses a front property line and blocks visibility above 36 inches from grade level;

(G) not be placed in any location that obstructs view lines for traveling vehicles, bicycles and pedestrian;

(H) not be placed in any location that obstructs views of any traffic signs or signals;

(I) not be placed in any location that obstructs illumination patterns for existing streetlights;

(J) not be placed in any location that interferes with access to fire stations, fire hydrants, water valves, underground vault, vault housing structure, or any other public health and safety facility;

(K) not be placed in any location that obstructs physical access to, on or over the public rights-of-way in violation of the Americans with Disabilities Act or other applicable laws;

(L) for new, non-replacement support structures, be placed at least 50 feet from any streetlight, utility pole or other similar support structure;

(M) not be placed within 250 feet from another small wireless facility;

(c) **Support Structures.** This Section 11(c) describes preferred, discouraged and prohibited support structures.

(1) **Preferred Support Structures.** The City's preferences for support structures are as follows, order from most preferred to least preferred:

(A) existing or replacement metal or composite streetlight poles;

(B) existing or replacement metal or composite utility poles;

(C) existing or replacement wood utility poles;

(2) **Discouraged Support Structures.** When no preferred support structure is technically feasible and potentially available, the applicant may propose a wireless facility on a discouraged support structure pursuant to an exception under Section 15, including a written justification supported by factual and

verifiable evidence, demonstrating that no preferred support structure is technically feasible and potentially available. If a small wireless facility must be installed on a discouraged support structure, the applicant shall use the least-discouraged support structure that is technically feasible and potentially available. The following support structures are discouraged, and ordered from least discouraged to most discouraged:

(A) existing or replacement non-pole concealment structures, such as monuments, kiosks, bus shelters and other street furniture;

(B) new, non-replacement metal or composite streetlight poles;

(C) new, non-replacement metal or composite concealment poles for small wireless facilities;

(3) **Prohibited Support Structures.** Small wireless facilities shall not be installed on the following prohibited support structures:

(A) decorative poles and decorative streetlights;

(B) the Main Street "Pleasanton Arch";

(C) traffic signals, signs, poles, cabinets and related devices and structures;

(D) new, non-replacement wood poles;

(E) any utility pole scheduled or reasonably anticipated to be scheduled for removal within 18 months from the time the Director acts on the application for such pole;

(d) **New and Replacement Pole Locations.** All new and replacement poles must be: (1) if a replacement pole, located as close to the removed pole's location as possible not to exceed five feet; (2) aligned with the other existing poles along the public right-of-way; (3) designed to resemble existing poles, including an overall height that is no greater than the replaced pole or, if a new pole, the nearest adjacent pole; and (4) compliant with all applicable standards and specifications issued by the City, which may include, without limitation, requirements related to aesthetics, materials and safety. Notwithstanding anything in this subsection to the contrary, the Director may approve a deviation from the foregoing requirements if, in the Director's discretion, an alternative placement location would result in a more aesthetically desirable outcome consistent with the goals of this policy. All replaced poles must be removed within 24 hours after the replacement pole has been erected and any utilities have been cutover.

(e) **Encroachments Over Private Property.** No small wireless facility, or any antenna, accessory equipment or other improvements associated with a small

wireless facility, may extend onto or over any private or public property outside the public right-of-way without the property owner's prior written consent and a recorded easement or other similar legal instrument.

Section 12. DESIGN STANDARDS

(a) **General Design Standards.** The standards in this Section 12(a) shall be applicable to all small wireless facilities in the public rights-of-way:

(1) **Stealth/Concealment.** All small wireless facilities must be stealth to the maximum extent feasible with concealment elements, measures and techniques that mimic or blend with the underlying support structure, surrounding environment and adjacent uses.

(2) **Least Visible Equipment.** The applicant must use the smallest and least visible antennas and accessory equipment possible to accomplish the service objectives.

(3) **Overall Height.** No equipment associated with a small wireless facility may extend more than five feet above the support structure, plus any minimum separation between the antenna and other pole attachments required by applicable health and safety regulations.

(4) **Finishes.** All exterior surfaces shall be painted, colored and/or wrapped in flat, non-reflective hues that match the underlying support structure or blend with the surrounding environment, minimizing visibility to the greatest extent feasible. All exterior surfaces on small wireless facilities shall be constructed from, or coated with, graffiti-resistant materials or sealant. All finishes shall be subject to the approval authority's prior approval.

(5) **Noise.** All small wireless facilities must be compliant with all applicable noise regulations, which includes, without limitation, any noise regulations in the Municipal Code, including Chapter 9.04 (Noise Regulations) of the Municipal Code. Equipment likely to create noise, such as cooling fans, are strongly discouraged except when placed in an underground vault. The approval authority may require the applicant to incorporate appropriate noise-baffling materials and/or noise-mitigation strategies to avoid any ambient noise from equipment reasonably likely to exceed the applicable noise regulations.

(6) **Lights.** All new or replacement street lights and street light fixtures must be aimed and shielded so that their illumination effects are directed downwards and confined within the public rights-of-way in a manner consistent with any other standards and specifications as identified or required by the approval authority. Small wireless facilities may not include exterior lights other than as may be required under Federal Aviation Administration, FCC or other applicable federal or state governmental regulations. All antennas, accessory

equipment and other improvements with indicator, status or other lights must be installed in locations and within enclosures that eliminate illumination impacts visible from publicly accessible areas. Any light beacons or lightning arresters shall be included in the overall height calculation.

(7) **Trees and Landscaping.** Small wireless facilities shall not be installed (in whole or in part) within any tree drip line. Small wireless facilities may not displace any existing tree, landscape or hardscape features. All small wireless facilities proposed to be placed in a landscaped area in the public rights-of-way must include landscape and/or hardscape features (which may include, without limitation, shrubs and ground cover) located at least 18 inches from the curb and gutter flow line and a landscape maintenance plan. The existing native vegetation shall be maintained to the maximum extent feasible. The approval authority may require additional landscape or hardscape features for small wireless facilities proposed to be placed in a landscaped area in the public rights-of-way to screen the small wireless facility from public view, avoid or mitigate potential adverse impacts on adjacent properties or otherwise enhance the stealth techniques required under this policy. All plants proposed or required must be native and/or drought-resistant and consistent with any landscaping requirements for the underlying zone and are further subject to approval by the approval authority.

(8) **Signage; Decals; Advertisements.** All small wireless facilities must include signage that accurately identifies the equipment owner/operator, the owner/operator's site name or identification number and a 24 hours-per-day, seven days-per-week, toll-free telephone number to the owner/operator's network operations center. Small wireless facilities may not bear any other signage, decals or advertisements unless expressly approved by the approval authority, required by law or recommended under FCC or other federal governmental agencies for compliance with RF emissions regulations.

(9) **Security Measures.** To prevent unauthorized access, theft, vandalism, attractive nuisance or other hazards, reasonable and appropriate security measures, such as locks, removable climbing pegs and anti-climbing devices, may be approved. Security measures shall be designed and implemented in a manner that enhances or contributes to the overall stealth techniques, and the approval authority may condition approval on additional stealth elements to mitigate any aesthetic impacts, which may include, without limitation, additional landscape or hardscape features. Barbed wire, razor ribbon, electrified fences or any similar security measures are prohibited. Cabinets and equipment shrouds must be kept secured to prevent unauthorized access.

(10) **Fire Safety.** All small wireless facilities shall include (A) a power shut off immediately accessible to fire service personnel, through a Knox box or similar rapid-access system approved by the Fire Safety Authority, upon arrival at the scene of a fire and/or anticipated power surge due to power being turned off or

on for any reason; (B) surge protection devices capable of mitigating a direct or partial direct lightning discharge; (C) surge protection devices capable of mitigating significant electrical disturbances that may enter the small wireless facility via conductive cables; (D) at least one-hour fire resistant interior surfaces to be used in the composition of all structures; and (E) monitored automatic fire notification and suppression systems for all small wireless facilities as approved by the applicable Fire Safety Authority.

(11) **Secondary Power Sources.** The approval authority may approve secondary or backup power sources on a case-by-case basis. No permanent generators or similarly noisy or noxious generators within the public rights-of-way or at any other location or within 250 feet from any residence are permitted; provided, however, the approval authority may approve sockets or other connections used for temporary backup generators.

(12) **Parking.** Small wireless facilities and any associated accessory equipment or other improvements shall not reduce any street parking spaces within the public rights-of-way.

(13) **Compliance with Laws.** All small wireless facilities must be designed and sited in compliance with all applicable federal, state, regional and local laws, regulations, rules, restrictions and conditions, which includes without limitation the California Building Standards Code, Americans with Disabilities Act, the general plan and any applicable specific plan, the Municipal Code and any conditions or restrictions in any permit or other governmental approval issued by any public agency with jurisdiction over the project.

(b) **Antennas.** In addition to all generally applicable design standards in Section 12(a), this Section 12(b) sets out specific preferences and standards for antennas.

(1) **Placement.** Antennas should be placed above the pole, unless the approval authority finds that: (a) such placement above the pole would significantly impair views of importance, including but not limited to historic resources and scenic or historic corridors; or (b) an alternative placement, including but not limited to affixed to the side of the pole, results in an aesthetically superior design based on site-specific circumstances.

(2) **Stealth/Concealment.** All antennas and associated cables, jumpers, wires, mounts, masts, brackets and other connectors and hardware must be installed within a unified shroud or "radome". Antenna shrouds must be visually consistent with the underlying pole's design, color and scale. Antenna shrouds placed above a pole must taper down to the point where the shroud and pole connect to conceal the cables below the antennas and create a smooth transition into the pole. All antenna mounting posts shall be trimmed so that the post does not extend above the antenna. For antennas approved to be affixed to the side of the pole within a shroud, all cables must be concealed within the

shroud and extension arm, if any, to create a smooth transition into the pole, or back into the external conduit on the pole, if attached to a wood pole.

(3) **Volume.** Any individual antenna (including its shroud or other stealth or concealment device) shall not exceed three cubic feet in volume. The cumulative limit for all antennas (including their shrouds or other stealth or concealment devices) on a single small wireless facility shall not exceed: (A) three cubic feet for small wireless facilities within 100 feet from a residential dwelling unit; or (B) six cubic feet for small wireless facilities in all other locations.

(4) **Strand-Mounted Antennas.** No more than one strand-mounted small wireless facility may be installed on any single span between two poles. All equipment and other improvements associated with a strand-mounted small wireless facility must comply with all applicable health and safety regulations. Strand-mounted wireless facilities shall not exceed one cubic foot in total volume. "Snow shoes" and other spooled fiber or cables are prohibited.

(c) **Accessory Equipment.** In addition to all generally applicable design standards in Section 12(a), this Section 12(c) sets out specific preferences and standards for accessory equipment.

(1) **Placement Preferences.** This subsection describes the City's general preferences for accessory equipment placement and configuration on or around the pole. Applicants shall propose small wireless facilities in compliance with these preferences to the maximum extent feasible. The approval authority may approve a lesser-preferred configuration for the accessory equipment when the applicant demonstrates that more-preferred configurations are technically infeasible or the approval authority finds that a lesser-preferred configuration is more consistent with existing poles and the surrounding environment. The City generally prefers accessory equipment to be placed, ordered from most preferred to least preferred, as follows:

(A) within an environmentally controlled underground equipment vault;

(B) within an architecturally integrated enclosure at the base of the pole;

(C) within a shroud mounted above ground level on the pole;

(D) within a separate surface-mounted equipment cabinet.

(2) **Volume.** The cumulative limit for all accessory equipment (including their shrouds, cabinets or other stealth or concealment devices) on a single small wireless facility shall not exceed: (A) nine cubic feet for small wireless facilities within a residential district or within 100 feet from a residential dwelling unit; or

(B) 17 cubic feet for small wireless facilities in all other locations. These limits shall not be applicable to undergrounded accessory equipment.

(3) **Undergrounded Equipment.** Consistent with CPUC and local policies, the City strongly prefers undergrounded accessory equipment whenever possible because it mitigates unnecessary physical obstructions and aesthetic harm caused by unsightly infrastructure in the public rights-of-way. This Section 12(c)(3) sets out specific preferences and standards for undergrounded accessory equipment.

(A) **Where Required.** Accessory equipment (other than any electric meter (where permitted) and an emergency disconnect switch) shall be placed underground when proposed in any (i) underground utility district; (ii) any area where all existing utilities are substantially undergrounded; or (iii) any location where the approval authority finds substantial evidence that the additional above-ground accessory equipment would incommode the public's uses in the public rights-of-way.

(B) **Equipment Vaults.** All undergrounded accessory equipment must be installed in an environmentally controlled vault that is load-rated to meet the City's standards and specifications. Underground vaults located beneath a sidewalk must be constructed with a slip-resistant cover and properly secured to prevent unauthorized access. Vents for airflow shall be flush-to-grade when placed within the sidewalk and may not exceed two feet above grade when placed off the sidewalk. Vault lids may contain manufacturer and site operator information but shall not exhibit commercial advertisements.

(4) **Base-Mounted Accessory Equipment.** This Section 12(c)(4) sets out specific preferences and standards for base-mounted accessory equipment.

(A) **Stealth/Concealment.** Base-mounted accessory equipment enclosures must be stealth to the maximum extent feasible and architecturally integrated with the pole and surrounding environment. For poles that already include a larger or decorative base, the base-mounted accessory equipment enclosure should mimic the existing design and/or decorative features. Base-mounted accessory equipment enclosures should include a tapered or decorative transition between the enclosure and the pole, unless (i) the proposed facility is a pre-approved design that does not include such a transition or (ii) the approval authority finds that such a transition would be less aesthetically desirable considering the pole and surrounding environment.

(B) **Maximum Dimensions.** Any base-mounted accessory equipment enclosure integrated into the pole shall not exceed the following dimensions: (i) 48 inches in height, measured from grade level to the

highest point on the enclosure, but excluding any decorative design elements that transition the wider base into the narrower pole; and (ii) 26 inches in length or width on any rectangular enclosure or 28 inches in diameter for any round, hexagonal, octagonal or similarly shaped enclosure.

(C) **Graffiti.** Base-mounted accessory equipment enclosures must be coated with anti-graffiti finishes. To prevent litter and other objects placed on such equipment, the City may require that base-mounted accessory equipment enclosures not have any flat horizontal surfaces greater than 1.5 square inches.

(5) **Pole-Mounted Accessory Equipment.** This Section 12(c)(5) sets out specific preferences and standards for pole-mounted accessory equipment.

(A) **Stealth/Concealment.** Applicants should propose to place any pole-mounted accessory equipment using stealth to the maximum extent feasible with concealment elements and in the least conspicuous position under the circumstances presented by the proposed pole and location. Pole-mounted accessory equipment may be installed behind street, traffic or other signs to the extent that the installation complies with applicable public health and safety regulations. Unless placed behind a street sign or some other concealment that dictates the equipment orientation on the pole, all pole-mounted accessory equipment should be oriented away from prominent views. In general, the proper orientation will likely be toward the street to reduce the overall profile when viewed from the nearest abutting properties. If orientation toward the street is not feasible, then the proper orientation will most likely be away from oncoming traffic. If more than one orientation would be technically feasible, the Director may select the most appropriate orientation.

(B) **Minimum Ground Clearance.** The lowest point on any pole-mounted accessory equipment shall be at least 15 feet above ground level adjacent to the pole. If applicable laws require any pole-mounted accessory equipment component to be placed less than 15 feet above ground level, the clearance from ground level shall be no less than required for compliance with such laws.

(C) **Horizontal Extensions.** Pole-mounted accessory equipment should be as close to flush with the pole as technically feasible and shall not extend over any roadway for vehicular travel or any abutting private property. If applicable laws preclude flush-mounted accessory equipment, the separation gap between the pole and the accessory equipment shall be no greater than required for compliance with such laws and concealed by opaque material (such as cabinet "flaps" or "wings").

(D) **Strand-Mounted Antenna Accessory Equipment.** Any accessory equipment mounted on the pole associated with a strand-mounted small wireless facility antenna shall comply with the requirements of this Section 12(c)(5). All equipment and other improvements associated with a strand-mounted small wireless facility must comply with all applicable health and safety regulations. The approval authority shall not approve any ground-mounted equipment in connection with any strand-mounted small wireless facility. "Snow shoes" and other spooled fiber or cables are prohibited.

(6) **Surface-Mounted Equipment Cabinets.** This Section 12(c)(6) sets out specific preferences and standards for surface-mounted accessory equipment.

(A) **Stealth/Concealment.** Concealment for surface-mounted equipment cabinets will be assessed on a site-specific basis and consider the location and existing uses and aesthetic elements in the vicinity. In general, the City prefers surface-mounted accessory equipment to be stealth to the maximum extent feasible with concealment elements as follows: (i) within a landscaped parkway, median or similar location, behind or among new/existing landscape or hardscape features, as approved by the approval authority, and painted, powder coated, wrapped or finished in flat natural colors to blend with the landscape features in accordance with City requirements; (ii) if landscaping concealment is not technically feasible, disguised as other street furniture adjacent to the support structure, such as, for example, mailboxes, benches, trash cans and information kiosks; and (iii) if neither landscaping concealment or street furniture is available, accessory equipment should be completely shrouded or placed in a cabinet substantially similar in appearance to existing surface-mounted accessory equipment cabinets in the vicinity.

(B) **Public Safety.** To promote and protect public health and safety and prevent potential hazards hidden behind large equipment cabinets, individual surface-mounted accessory equipment cabinet may not exceed four feet in height or four feet in width. Surface-mounted accessory equipment enclosures must be coated with anti-graffiti finishes. Surface-mounted accessory equipment enclosures should not have any flat horizontal surfaces greater than 1.5 square inches to prevent litter and other objects placed on such equipment.

(d) **Utilities.** The provisions in this Section 12(d) are applicable to all utilities and other related improvements that serve small wireless facilities.

(1) **Overhead Lines.** The approval authority shall not approve any new overhead utility lines in underground utility districts. In areas with existing overhead lines, new communication lines shall be "overlashed" with existing communication lines. but service conduits shall be placed underground. No new overhead

utility service drops shall be permitted to traverse any roadway used for vehicular transit.

(2) **Vertical Cable Risers.** All cables, wires and other connectors must be routed through conduits within the pole or other support structure, and all conduit attachments, cables, wires and other connectors must be concealed from public view. To the extent that cables, wires and other connectors cannot be routed through the pole, such as with wood utility poles, applicants shall route them through external conduits or shrouds that have been finished to match the underlying pole. The applicant shall minimize the number and size of external conduits to the extent technically feasible.

(3) **Spools and Coils.** To reduce clutter and deter vandalism, excess fiber optic or coaxial cables shall not be spooled, coiled or otherwise stored on the pole outside equipment cabinets or shrouds. Horseshoes and loops of excess wires are prohibited.

(4) **Electric Meters.** Small wireless facilities shall use flat-rate electric service or other method that obviates the need for a separate above-grade electric meter. If flat-rate service (or any other method of service that would obviate the need for an electric meter) is not available, applicants may install a shrouded smart meter, or if a shrouded smart meter is not available, a separate meter pedestal per City standards. If the proposed project involves a surface-mounted equipment cabinet, an electric meter may be integrated with the cabinet, but the approval authority shall not approve a separate surface-mounted electric meter pedestal. In no case shall applicant be permitted to use electricity/power provided by a City-owned streetlight or City-owned circuit without separate written authorization from the City.

(5) **Existing Underground Conduits.** To reduce unnecessary wear and tear on the public rights-of-way, applicants are encouraged to use existing conduits whenever available and technically feasible. Access to any conduit owned by the City shall be subject to a separate written agreement and the Director's prior written approval, which the Director may withhold or condition as the Director deems necessary or appropriate to protect the City's infrastructure, prevent interference with the City's municipal functions and public health and safety.

(e) **Historic Resources.** This policy shall not be construed or applied to limit the City's authority to enforce other laws or regulations intended to protect or preserve historic resources. Any small wireless facility that adversely impacts any historic resource shall not be approved without an exception pursuant to Section 15.

Section 13. PREAPPROVED DESIGNS

(a) **Preface.** To expedite the review process for Small Cell Permit applications, promote uniform aesthetics in the public rights-of-way and encourage collaborative designs among applicants and the City that blend with surrounding environment, the City strongly encourages, but does not require preapproved designs. This Section 13 sets out the process to establish or repeal a preapproved design and the review procedures and findings applicable to these applications.

(b) **No Shot Clock Commencement.** This preapproved design process, including any application submittals, conferences, meetings, or hearings, does not, and shall not be deemed to, commence any shot clocks. The procedures and requirements of this Section 13 are not intended for applications for authorization to place, construct or modify any small wireless facility.

(c) **Applications for Preapproved Designs.** This Section 13(b) sets out the process and requirements to establish a new preapproved design for use in future applications for Small Cell Permits.

(1) **Application Form and Content.** The Director shall prepare, publish and maintain an application form for requests to establish a preapproved design. In addition to all other requirements specified by the Director, the application shall include (A) scaled conceptual plans and drawings; (B) photo simulations that depict the proposed preapproved design in typical locations within the City; and (C) an application fee adopted by City Council resolution, or if no preapproved design application fee has been adopted, then the applicant must submit a signed written statement that acknowledges that the applicant will be required to submit a deposit estimated by the Director to reimburse the City for its reasonable costs incurred in connection with the application within 10 business days after the City issues a written demand for reimbursement. Additional deposits shall be required if the deposit is inadequate and must be replenished. If the deposit exceeds the actual costs, the difference will be returned to the applicant.

(2) **Pre-Application Conferences.** The Director shall provide prospective applicants with the opportunity to schedule and attend a pre-application conference with City staff. The pre-application conference is intended to streamline the review process through informal discussion that includes, without limitation, any latent issues in connection with the proposed preapproved design, such as compliance with generally applicable rules for public health and safety; potential stealth or concealment issues or concerns (if applicable); coordination with other City departments and/or divisions responsible for application review; and application completeness issues. To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications or other materials so that City staff may provide informal feedback and guidance about whether such applications or other materials may be incomplete or unacceptable. The Director shall use reasonable efforts to provide the applicant with an

appointment within five working days after receiving a written request and any applicable fee or deposit to reimburse the City for its reasonable costs to provide the services rendered in the pre-application conference.

(3) **Submittal Appointments.** All applications must be submitted to the Director at a pre-scheduled appointment with the Department. The Director shall use reasonable efforts to provide the applicant with an appointment within five working days after the Department receives a written request. Any application received without an appointment, whether delivered in-person, by mail or through any other means, will not be considered duly filed.

(4) **Optional Mockup.** The Director, in the Director's discretion, may require an applicant for a preapproved design to erect a full-scale mockup to aid the City's review. The mockup may use actual or replica equipment to show all visible elements. The mockup shall be placed on City-owned property and maintained throughout the preapproval review process.

(d) **Approvals; Denials; Repeals.**

(1) **Required Findings to Establish a Preapproved Design.** An application for a preapproved design may not be approved unless the proposed preapproved design is found to be (i) in substantial conformance with the applicable design requirements in Section 12 and (ii) architecturally compatible with the areas in which the preapproved design would be available. If the findings may be made for some but not all areas within the City, the recommendation for approval may be limited to specific areas identified by the Director in its written findings.

(2) **Adoption.** The Director may administratively approve, revise or deny the application for a preapproved design. The Director shall provide such notice in writing to the applicant. The Director shall cause a public notice for any approval of a preapproved design to be posted at Pleasanton City Hall. The notice must generally describe the preapproved design, include a photograph or photo simulation, specify whether the preapproved design would be limited or restricted in any districts and contain a reference to the appeal procedure. Unless appealed pursuant to Section 10(e), the preapproved design shall become effective 15 days from the foregoing notice. A decision by the Director not to adopt a proposed preapproved design or the Director's failure to act on a request for a proposed preapproved design is not appealable.

(3) **Repeal.** The Director may repeal any preapproved design by written notice posted at Pleasanton City Hall. The repeal shall be immediately effective. The Director's repeal, refusal to repeal, or failure to act on a request to repeal a preapproved design is not appealable.

(e) **Nondiscrimination.** An established preapproved design may be used by any applicant, whether the applicant originally initiated the preapproval process or not.

The Director's decision to adopt a preapproved design expresses no preference or requirement that applicants use the specific vendor or manufacturer that fabricated the design depicted in the preapproved plans. Any other vendor or manufacturer that fabricates a small wireless facility to the standards and specifications in the preapproved design with like materials, finishes and overall quality shall be acceptable as a preapproved design.

(f) **Modified Findings for Approval.** For any complete Small Cell Permit application using a preapproved design, the approval authority shall presume that the proposed project complies with the findings required under Sections 10(b)(1), (3) and (4). No such presumption shall be applicable to the required findings under Sections 10(b)(2) and (5) through (9).

Section 14. STANDARD CONDITIONS FOR APPROVED PERMITS

(a) **Standard Conditions.** Except as may be authorized in Section 14(b), all Small Cell Permits issued under this policy or deemed granted or deemed approved by the operation of law shall be automatically subject to the conditions in this Section 14(a) and these conditions shall be deemed to be incorporated by reference into such Small Cell Permits. The conditions in this Section 14(a) shall apply individually to each wireless broadband project or small wireless facilities in a batch approved or deemed approved pursuant to California Government Code § 65964.3.

(1) **Permit Term.** This permit will automatically expire 10 years and one day from its issuance unless the City establishes a shorter term for public safety or substantial land use reasons pursuant to California Government Code § 65964(b). Any other permits or approvals issued in connection with any collocation, modification or other change to this small wireless facility, which includes without limitation any permits or other approvals deemed-granted or deemed-approved under federal or state law, will not extend this term limit unless expressly provided otherwise in such permit or approval or required under federal or state law. No change in ownership of the small wireless facility, the site or the subject property shall affect the permit term. This permit may not be transferred to another site or property.

(2) **Permit Renewal.** The permittee may apply for permit renewal not more than one year before this permit expires. The permittee must demonstrate that the subject small wireless facility has complied with all the conditions of approval associated with this permit and will comply with all applicable provisions in this policy and the Municipal Code that exist at the time the decision to renew or not renew is rendered. The Director may modify or amend the conditions on a case-by-case basis as may be necessary or appropriate to ensure compliance with this policy, the Municipal Code or other applicable laws. Upon renewal, this permit will automatically expire 10 years and one day from its issuance.

(3) **City's Standing Reserved.** The City's grant or grant by operation of law of a permit pursuant to this policy does not waive, and shall not be construed to waive, any standing by the City to challenge any (A) provision in federal or state law or any interpretation thereof or (B) permit issued pursuant to this policy.

(4) **Compliance with Approved Plans.** Before the permittee submits any applications to the building official required to commence construction in connection with this permit, the permittee must incorporate this permit, all conditions associated with this permit and any approved photo simulations into the project plans (the "**Approved Plans**"). The permittee must construct, install and operate the small wireless facility in strict compliance, as determined by the approval authority, with the Approved Plans. Any alterations, modifications or other changes to the Approved Plans, whether requested by the permittee or required by other departments or public agencies with jurisdiction over the small wireless facility, must be submitted in a written request subject to the Director's prior review and approval. After the Director receives a written request to approve an alteration, modification or other change to the Approved Plans, the Director may refer the request to the original approval authority if the Director finds that it substantially deviates from the Approved Plans or implicates a significant or substantial land-use concern.

(5) **CPUC GO-159A Certification.** Within 15 business days after the City's grant of this permit or any permit is deemed granted or deemed approved by the operation of law, the permittee shall serve copies of California Public Utility Commission notification letters required by CPUC General Order No. 159A to the City Clerk, Director and City Manager.

(6) **Build-Out Period.** This permit will automatically expire 12 months from the approval date or deemed granted or deemed approved date (the "**Build-Out Period**") unless the permittee obtains all other permits and approvals required to install, construct and/or operate the approved small wireless facility, which includes without limitation any permits or approvals required by any federal, state or local public agencies with jurisdiction over the subject property, support structure or the small wireless facility and/or its use. The permittee may request in writing, and the Director may grant in writing, one 12-month extension to the Build-Out Period if the permittee submits, at least 30 days prior to the automatic expiration date in this condition, substantial and reliable written evidence demonstrating justifiable cause for the 12-month extension submitted. If the Build-Out Period (and any extension) finally expires, this permit shall be automatically void but the permittee may resubmit a complete application, which includes without limitation all application fees, for the same or a substantially similar project.

(7) **Pre-Installation Requirements**. In addition to obtaining all other permits and approvals required to install, construct and/or operate the approved small wireless facility, which includes without limitation any permits or approvals

required by any federal, state or local public agencies with jurisdiction over the subject property, the small wireless facility or its use, the permittee shall, prior to commencement of any installation or construction, attend a pre-grading meeting with the Public Works Department regarding temporary Best Management Practices ("**BMPs**") pertaining to discharges from the construction site. Before the permittee can proceed with installation or construction of the approved small wireless facility, the Public Works Department must inspect and approve the permittee's installation of such temporary BMPs.

(8) **Post-Installation Certification.** Within 60 calendar days after the permittee commences full, unattended operations at the small wireless facility, the permittee shall provide the Director with documentation reasonably acceptable to the Director that the small wireless facility has been installed and/or constructed in strict compliance with the Approved Plans. Such documentation shall include without limitation electronic as-built drawings prepared by a California licensed civil engineer, GIS data and site photographs. In a written notice to the permittee, the Director may (but shall not have the obligation to) either certify that the small wireless facility complies with the Approved Plans or order the permittee to correct any noncompliance.

(9) **Site Maintenance.** The permittee shall keep the site, which includes without limitation any and all improvements, equipment, structures, access routes, fences, hardscape and landscape features, in a neat, clean, safe and code compliant condition in accordance with the Approved Plans and all conditions in this permit. The permittee shall keep the site area free from all litter and debris at all times. The permittee shall regularly inspect the site to determine whether any maintenance is needed. The permittee shall perform any maintenance requested by the City for compliance with this condition within a reasonable time specified by the Director in a written notice to the permittee. Routine maintenance within residential zones shall be restricted to the City's normal construction work hours specified in the Municipal Code. The permittee, at no cost to the City, shall remove and remediate any graffiti or other vandalism at the small wireless facility within 24 hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.

(10) **Landscape Features.** The permittee shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the permittee or at the permittee's direction on or about the site. If any trees are damaged or displaced, the permittee shall hire and pay for a licensed arborist to select plant and maintain replacement landscaping in an appropriate location for the species. Any replacement tree must be substantially the same size as the damaged tree or as otherwise approved by the City. The permittee shall, at all times, be responsible to maintain any replacement landscape features.

(11) **Underground Service Alert.** The permittee shall maintain and keep current its membership in the Underground Service Alert of Southern California ("**DigAlert**") throughout the term of any small cell permit granted under this Policy. Prior to any excavation performed in the streets, the permittee shall observe and perform all notice and other obligations required under applicable laws, which includes, without limitation, California Government Code §§ 4216 *et seq.*, as may be amended or superseded.

(12) **Compliance with Applicable Laws.** The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law ("**Laws**") applicable to the permittee, the subject property, the small wireless facility or any use or activities in connection with the use authorized in this permit, which includes without limitation any Laws applicable to human exposure to RF emissions and any standards, specifications or other requirements identified by the Director (such as, without limitation, those requirements affixed to an encroachment permit). If the Director finds good cause to believe that the small wireless facility is not in compliance with any Laws applicable to human exposure to RF emissions, the Director may (A) require the permittee to submit a written report certified by a qualified radio frequency engineer familiar with the small wireless facility that certifies that the small wireless facility is in compliance with all such Laws; or (B) require that a field test to measure the RF exposure levels be conducted by an independent consultant. Any field measurement tests conducted by the City or its independent consultant shall be at random times without prior notice to the permittee or site operator. The Director shall require an onsite compliance test in situations where applicable Laws would authorize the City to require such testing at the permittee's expense. The Director may order the small wireless facility to be immediately powered down if, based on objective evidence, the Director finds that the small wireless facility is in fact not in compliance with any Laws applicable, including, without limitation, Laws applicable to human exposure to RF emissions, until such time that the permittee demonstrates actual compliance with such Laws. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee's obligations to maintain compliance with all Laws. No failure or omission by the City to timely notice, prompt or promptly enforce compliance with any applicable provision in this policy, the Municipal Code, any permit, any permit condition or any applicable Laws shall be deemed to relieve, waive or lessen the permittee's obligation to comply in all respects with all applicable provisions in this policy, the Municipal Code, any permit, any permit condition or any applicable Laws.

(13) **Adverse Impacts on Other Properties.** The permittee shall use all reasonable efforts to avoid any and all unreasonable, undue or unnecessary adverse impacts on nearby properties that may arise from the permittee's or its authorized personnel's construction, installation, operation, modification,

maintenance, repair, removal and/or other activities on or about the site and/or small wireless facility. The permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines except during the City's normal construction work hours authorized by the Municipal Code or as may be specified in other permits authorizing such work. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the City or other state or federal government agency or official with authority to declare an emergency within the City. The Director may issue a stop work order for any activities that violates this condition in whole or in part. If the Director finds good cause to believe that ambient noise from a small wireless facility or related equipment violates applicable provisions in this policy or the Municipal Code, the Director, in addition to any other actions or remedies authorized by the permit, this policy, the Municipal Code or other applicable Laws, may require the permittee to commission a noise study by a qualified professional to evaluate the small wireless facility's compliance. The permittee shall, at its sole cost and expense, repair and restore any and all damages to public and private properties that result from any activities performed in connection with the installation or maintenance of a small wireless facility. The permittee shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. If the permittee fails to complete such repair within the number of days stated on a written notice by the Director, the City may (but shall not have the obligation to) cause such repair to be completed at permittee's sole cost and expense.

(14) **Annual Affirmation of Radio Frequency Standards Compliance.** On or before January 30th in each calendar year, the permittee acknowledges and agrees that the permittee shall submit: (A) an affirmation, signed by an RF engineer familiar with the then-current equipment deployed and operated at the small wireless facility under penalty of perjury, that the installation is operated in compliance with 47 U.S.C. § 324; (B) an affirmation, signed by an RF engineer familiar with the then-current equipment deployed and operated at the small wireless facility under penalty of perjury, that the installation complies with all applicable FCC rules and regulations for human exposure to RF emissions and will not cause members of the general public to be exposed to RF levels that exceed the maximum permission exposure levels deemed safe by the FCC; and (C) a copy of the fully completed FCC form "A Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance: Appendix A" titled "Optional Checklist for Determination of Whether a Facility is Categorically Excluded" for each frequency band of RF emissions to be transmitted from the small wireless facility. All radio frequency emissions on all frequency bands must be shown on the Appendix A form(s). All radio frequency emissions are to be entered on each Appendix A form only in wattage units of "effective radiated power."

(15) **Interference with City Communications Systems.** The permittee shall not permit the small wireless facility authorized under this permit to interfere with any City communication systems. In the event that the small wireless facility is causing interference with any City communication systems, the Director may order the small wireless facility to be shut down and powered off until such time as the immediate interference has been mitigated at the permittee's sole cost and expense. If, after a good faith effort is made to notify the permittee without success, the City may shut down the facility. Any costs incurred by the City shall be at the permittee's sole cost and expense.

(16) **Inspections; Emergencies.** The City's officers, officials, staff, agents, contractors or other designees may enter onto the site and inspect the small wireless facility and related equipment and/or improvements upon reasonable prior notice to the permittee. Notwithstanding the prior sentence, the City's officers, officials, staff, agents, contractors or other designees may, but will not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The permittee, if present, may observe the City's officers, officials, staff, agents, contractors or other designees while any such inspection or emergency access occurs.

(17) **Safety Hazard Protocol.** If the Fire Safety Authority finds good cause to believe that the small wireless facility presents an immediate fire risk, electrical hazard or other threat to public health and safety in violation of any applicable Laws, the Fire Safety Authority may order the small wireless facility to be shut down and powered off until such time as the immediate threat has been mitigated, after a good faith effort is made to notify the permittee, if feasible. Any mitigations required shall be at the permittee's sole cost and expense.

(18) **Abandonment.** The permittee shall notify the Director when the permittee intends to abandon or decommission the small wireless facility authorized under this permit. In addition, the small wireless facility authorized under this permit shall be deemed abandoned if the small wireless facility has not operated for any continuous six-month period and the permittee fails to resume operations within 90 days from a written notice from the Director. Within 90 days after a small wireless facility is abandoned or deemed abandoned, the permittee, property owner and/or structure owner shall completely remove the wireless facility and all related improvements and shall restore all affected areas to a condition compliant with all applicable Laws, which includes without limitation this policy and the Municipal Code. The permittee, property owner and/or structure owner may request an extension up to 180 days to complete restoration after the small wireless facility is abandoned or deemed abandoned, which the Director may grant if the permittee, property owner or structure owner presents evidence of good cause for the extension. If neither the permittee, the

property owner nor the structure owner complies with the removal and restoration obligations under this condition within the required period, the City shall have the right (but not the obligation) to perform such removal and restoration with or without notice, and the permittee, property owner and structure owner shall be jointly and severally liable for all costs and expenses incurred by the City in connection with such removal and/or restoration activities.

(19) **Permittee's Contact Information.** Prior to final inspection and at all times relevant to this permit, the permittee shall keep on file with the Director basic contact and site information. This information shall include, but is not limited to, the following:

(A) the name, physical address, notice address (if different from physical address), direct telephone number and email address for (i) the permittee and, if different from the permittee, the (ii) property owner, (iii) structure owner, (iv) site operator, (v) equipment owner, (vi) site manager and (vii) agent for service of process;

(B) the regulatory authorizations held by the permittee and, to the extent applicable, property owner, structure owner, site operator, equipment owner and site manager as may be necessary for the small wireless facility's continued operation;

(C) the small wireless facility's site identification number and/or name used by the permittee and, to the extent applicable, property owner, structure owner, site operator, equipment owner and site manager; and

(D) a toll-free telephone number to the small wireless facility's network operations center where a live person with power-down control over the small wireless facility is available 24 hours-per-day, seven days-per-week.

If the entity for the permittee, property owner, structure owner, site operator, equipment owner, site manager, or agent for service of process changes, the permittee shall furnish the City with updated information within 10 business days.

Additionally, the permittee must update the signage at the small wireless facility to accurately identify the equipment owner/operator, the owner/operator's site name or identification number and the 24 hours-per-day, seven day-per-week, toll-free telephone number to the owner/operator's network operations center whenever such information about the same changes

(20) **Indemnification.** The permittee and, if applicable, the owners of the property and the structure upon which the small wireless facility is installed (other than the City), shall defend, indemnify and hold harmless the City, its officers,

officials, employees and volunteers (collectively, the "**City Indemnitees**") from any and all (A) damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs and other actions or proceedings ("**Claims**") brought against the City or any City Indemnitees to challenge, attack, seek to modify, set aside, void or annul this permit, the City's approval of this permit or the grant of this permit by the operation of law, and (B) other Claims of any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the permittee's or its agents', directors', officers', employees', contractors', subcontractors', licensees' or customers' acts or omissions in connection with this permit, the City's approval of this permit, the grant of this permit by the operation of law or the small wireless facility. If the City becomes aware of any Claims, the City will use best efforts to promptly notify the permittee and the owners of the property and the structure (if applicable) and shall reasonably cooperate in the defense. The permittee, property owner and structure owner expressly acknowledge and agree that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the permittee, property owner and/or structure owner shall promptly reimburse the City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. The permittee, property owner and structure owner expressly acknowledge and agree that the permittee's indemnification obligations under this condition are a material consideration that motivates the City to approve this permit, and that such indemnification obligations will survive the expiration, revocation or other termination of this permit.

(21) **Insurance.**

(A) **Policies and Limits.** The permittee shall obtain and maintain insurance policies as follows:

(i) **Commercial General Liability Insurance.** Insurance Services Office Form CG 00 01 covering Commercial General Liability ("CGL") on an "occurrence" basis, with limits not less than $2,000,000 per occurrence or $4,000,000 in the aggregate. If a general aggregate limit applies, the general aggregate limit shall apply separately to this project/location. CGL insurance must include coverage for the following: Bodily Injury and Property Damage; Personal Injury/Advertising Injury; Premises/Operations Liability; Products/Completed Operations Liability; Aggregate Limits that Apply per Project; Explosion, Collapse and Underground ("UCX") exclusion deleted; Contractual Liability with respect to the permit; Broad Form Property Damage; and Independent Consultants Coverage. The policy shall contain no endorsements or provisions limiting coverage for (i) contractual liability; (ii) cross liability exclusion for claims or suits by one insured against another; (iii) products/completed operations liability; or (iv) contain any other exclusion contrary to the conditions in this permit.

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

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

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

(B) **Claims-Made Policies.** If the permittee maintains any required insurance under a claims-made form, the permittee shall maintain such coverage continuously throughout the permit term and, without lapse, for at least three years after the permit term expires so that any claims that arise after the expiration in connection with events that occurred during the permit term are covered by such claims-made policies.

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

(D) **Additional Insured; Separation of Insureds.** The relevant CGL and automotive insurance policies shall name the City, its elected/appointed officials, commission members, officers, representatives, agents, volunteers and employees as additional insureds. The required insurance shall contain standard separation of insureds provisions, and shall contain no special limitations on the scope of its protection to the City, its elected/appointed officials, commission members, officers, representatives, agents, volunteers and employees.

(E) **Primary Insurance; Waiver of Subrogation.** The required insurance shall be primary with respect to any insurance programs covering the City, its elected/appointed officials, commission members, officers, representatives, agents, volunteers and employees. All policies for the required CGL, automotive and workers' compensation insurance shall provide that the insurance company waives all right of recovery by way of subrogation against the City in connection with any damage or harm covered by such policies

(F) **Term; Cancellation Notice.** The permittee shall maintain the required insurance throughout the permit term and shall replace any certificate, policy, or endorsement which will expire prior to that date. The permittee shall use its best efforts to provide 30 calendar days' prior written notice to the City of the cancellation or material modification of any applicable insurance policy; provided, however, that in no event shall the permittee fail to provide written notice to the City within 10 calendar days after the cancellation or material modification of any applicable insurance policy. The permittee shall promptly take action to prevent cancellation or suspension, reinstate cancelled coverage or obtain coverage from a different qualified insurer.

(G) **Certificates.** Before the City issues any permit, the permittee shall deliver to the Director insurance certificates and endorsements, in a form satisfactory to the Director, that evidence all the coverage required above. In addition, the permittee shall promptly deliver complete copies of all insurance policies and endorsements upon a written request by the Director.

(H) **Insurer Rating.** Unless approved in writing by the City, all required insurance shall be placed with insurers authorized to do business in the State of California and with a current A.M. Best rating of at least A-:VIII.

(22) **Removal Bond.** Before the building official or department issues any permits required to commence construction, installation or other work in connection with this permit, the permittee shall post a bond issued by a surety and in a form acceptable to the City Attorney and the Director in an amount reasonably

necessary to cover the cost to remove the improvements and restore all affected areas based on a written estimate from a qualified contractor with experience in wireless facilities or other infrastructure removal. The written estimate must include the cost to remove all equipment and other improvements, which includes without limitation all antennas, radios, batteries, generators, utilities, cabinets, mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles, footings and foundations, whether above ground or below ground, constructed or installed in connection with the small wireless facility, plus the cost to completely restore any areas affected by the removal work to a standard compliant with applicable Laws. The bond shall be valid for at least 10 years or the term of this permit (whichever is greater). In establishing or adjusting the bond amount required under this condition, the Director shall take into consideration any information provided by the permittee regarding the cost to remove the small wireless facility to a standard compliant with applicable Laws. The bond shall expressly survive the duration of the permit term to the extent required to effectuate a complete removal of the subject small wireless facility in accordance with this condition. If at any time after construction the Director finds good cause to believe that the bond required in this condition no longer adequately covers the removal and restoration costs, the Director may require by written notice that the permittee provide an updated estimate and increase the bond amount to cover any increased costs.

(23) **Record Retention.** Throughout the permit term, the permittee must maintain a complete and accurate copy of the written administrative record, which includes without limitation the permit application, permit, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval, any ministerial permits or approvals issued in connection with this approval and any records, memoranda, documents, papers and other correspondence entered into the public record in connection with the permit (collectively, "**Records**"). If the permittee does not maintain such Records as required in this condition, any ambiguities or uncertainties that would be resolved by inspecting the missing Records will be construed against the permittee. The permittee shall protect all Records from damage from fires, floods and other hazards that may cause deterioration. The permittee may keep Records in an electronic format; provided, however, that hard copies or electronic Records kept in the City's regular files will control over any conflicts between such City-controlled copies or Records and the permittee's electronic copies, and complete originals will control over all other copies in any form. The requirements in this condition shall not be construed to create any obligation for the City to create or prepare any Records not otherwise required to be created or prepared by other applicable Laws. Compliance with the requirements in this condition shall not excuse the permittee from any other similar record-retention obligations under applicable Laws.

(24) **Permit Revocation.** Any permit granted under this policy or deemed granted or deemed approved by the operation of law may be revoked in accordance with the provisions and procedures in this condition. In addition to other remedies the City may have, the Director may initiate revocation proceedings when the Director has information that the small wireless facility may not be in compliance with all applicable Laws, which includes without limitation, any permit in connection with the small wireless facility and any associated conditions with such permit(s). A permit granted under this policy or deemed granted or deemed approved by the operation of law may be revoked only by the City Council after a duly notice public hearing and opportunity to cure. Before any public hearing to revoke a permit granted under this policy or deemed granted or deemed approved by the operation of law, the Director must issue a written notice to the permittee that specifies (A) the small wireless facility; (B) the violation(s) to be corrected; (C) the timeframe in which the permittee must correct such violation(s); and (D) that, in addition to all other rights and remedies the City may pursue, the City may initiate revocation proceedings for failure to correct such violation(s). The City Council may revoke a permit when it finds substantial evidence in the written record to show that the small wireless facility is not in compliance with any applicable Laws, which includes without limitation, any permit in connection with the small wireless facility and any associated conditions with such permit(s). Any decision by the City Council to revoke or not revoke a permit shall be final and not subject to any further appeals. Within five business days after the City Council adopts a resolution to revoke a permit, the Director shall provide the permittee with a written notice that specifies the revocation and the reasons for such revocation.

(25) **Cost Reimbursement.** The permittee acknowledges and agrees that (A) the permittee's request for authorization to construct, install and/or operate the small wireless facility will cause the City to incur costs and expenses; (B) the permittee shall be responsible to reimburse the City for all actual and reasonable costs incurred in connection with the permit, which includes without limitation costs related to application review, permit issuance, site inspection and any other costs reasonably related to or caused by the request for authorization to construct, install and/or operate the small wireless facility; (C) any application fees required for the application may not cover all such reimbursable costs and that the permittee shall have the obligation to reimburse the City for all such costs within 10 business days after a written demand for reimbursement and reasonable documentation to support such costs; and (D) the City shall have the right to withhold any permits or other approvals in connection with the small wireless facility until and unless any outstanding costs have been reimbursed to the City by the permittee.

(26) **Future Undergrounding Programs.** Notwithstanding any term remaining on any permit, if other utilities or communications providers in the public rights-of-way underground their facilities in the segment of the public rights-of-way where the permittee's small wireless facility is located, the permittee must also

underground its equipment, except the antennas and any approved electric meter or related electric-service equipment required by the electric service provider to remain above ground, at approximately the same time. Accessory equipment, such as radios and computers that require an environmentally controlled underground vault to function, shall not be exempt from this condition; provided, however, that the Director may approve an alternative stealth/concealment plan for such equipment that complies with the City's then current design regulations. Such undergrounding shall occur at the permittee's sole cost and expense except as may be reimbursed through tariffs approved by the state public utilities commission for undergrounding costs.

(27) **Electric Meter Upgrades.** If the small wireless facility includes a separate or ground-mounted electric meter pedestal and the commercial electric utility provider adopts or changes its rules obviating the need for a separate or ground-mounted electric meter and enclosure, the permittee, on its own initiative and at its sole cost and expense, shall remove the separate or ground-mounted electric meter and enclosure. Prior to removing the electric meter, the permittee shall apply for any encroachment and/or other ministerial permit(s) required to perform the removal. Upon removal, the permittee shall restore the affected area to its original condition that existed prior to installation of the equipment.

(28) **Rearrangement and Relocation.** The permittee acknowledges that the City, in its sole discretion and at any time, may: (A) change any street grade, width or location; (B) add, remove or otherwise change any improvements in, on, under or along any street owned by the City or any other public agency, which includes without limitation any sewers, storm drains, conduits, pipes, vaults, boxes, cabinets, poles and utility systems for gas, water, electric or telecommunications; and/or (C) perform any other work deemed necessary, useful or desirable by the City (collectively, "**City Work**"). The City reserves the rights to do any and all City Work without any admission on its part that the City would not have such rights without the express reservation in this permit. If the Director determines that any City Work will require the permittee's small wireless facility located in the public rights-of-way to be rearranged and/or relocated, the permittee shall, at its sole cost and expense, do or cause to be done all things necessary to accomplish such rearrangement and/or relocation. If the permittee fails or refuses to either permanently or temporarily rearrange and/or relocate the permittee's small wireless facility within a reasonable time after the Director's notice, the City may (but will not be obligated to) cause the rearrangement or relocation to be performed at the permittee's sole cost and expense. The City may exercise its rights to rearrange or relocate the permittee's small wireless facility without prior notice to permittee when the Director determines that City Work is immediately necessary to protect public health or safety. The permittee shall reimburse the City for all costs and expenses in connection with such work within 10 business days after a written

demand for reimbursement and reasonable documentation to support such costs.

(29) **Truthful and Accurate Statements.** The permittee acknowledges that the City's approval relies on the written and/or oral statements by permittee and/or persons authorized to act on permittee's behalf. In any matter before the City in connection with this permit or the small wireless facility, neither the permittee nor any person authorized to act on permittee's behalf shall, in any written or oral statement, intentionally provide material factual information that is incorrect or misleading or intentionally omit any material information necessary to prevent any material factual statement from being incorrect or misleading.

(30) **Successors and Assigns.** The conditions, covenants, promises and terms contained in this permit will bind and inure to the benefit of the City and permittee and their respective successors and assigns.

(31) **Severable Conditions.** If any provision in these conditions or such provision's application to any person, entity or circumstances is or held by any court with competent jurisdiction to be invalid or unenforceable: (A) such provision or its application to such person, entity or circumstance will be deemed severed from this permit; (B) all other provisions in this permit or their application to any person, entity or circumstance will not be affected; and (C) all other provisions in this permit or their application to any person, entity or circumstance will be valid and enforceable to the fullest extent permitted by law.

(b) **Modified Conditions.** The approval authority (or appellate authority) may modify, add or remove conditions to any Small Cell Permit on a case-by-case basis as the approval authority (or appellate authority) deems necessary or appropriate to: (1) protect and/or promote the public health, safety and welfare; (2) tailor the standard conditions in subsection (a) to the particular facts and circumstances associated with the deployment; and/or (3) memorialize any changes to the proposed deployment needed for compliance with this policy, the Municipal Code, generally applicable health and safety requirements and/or any other applicable Laws.

Section 15. Special Exceptions for Federal or State Preemption

(a) **Preface.** The provisions in this Section 15 establish a procedure by which the City may grant an exception to the standards in this policy but only to the extent necessary to avoid conflict with applicable federal or state law. When the applicant requests an exception, the approval authority shall consider the findings in Section 15(b) in addition to the findings required under Section 10(b). Each exception is specific to the facts and circumstances in connection with each application. An exception granted in one instance shall not be deemed to create a presumption or expectation that an exception will be granted in any other instance.

(b) **Required Findings.** The approval authority shall not grant any limited exception pursuant to this Section 15 unless the approval authority finds all the following:

(1) the applicant has provided the approval authority with a reasonable and clearly defined technical service objective to be achieved by the proposed small wireless facility;

(2) the applicant has provided the approval authority with a detailed written statement that explains why: (A) a denial based on the application's noncompliance with a specific provision or requirement would violate federal law, state law or both; or (B) a provision in this policy, as applied to the applicant, would violate any rights or privileges conferred on the applicant by federal or state law;

(3) the applicant has provided the approval authority with a written statement that contains a detailed and fact-specific explanation as to why the proposed small wireless facility cannot be deployed in compliance with the applicable provisions in this policy, the Municipal Code, the general plan and/or any specific plan;

(4) the applicant has provided the approval authority with a meaningful comparative analysis with the factual reasons why all alternative locations and/or designs identified in the administrative record (whether suggested by the applicant, the City, public comments or any other source) are not technically feasible or potentially available to reasonably achieve the applicant's reasonable and clearly defined technical service objective to be achieved by the proposed small wireless facility;

(5) the applicant has demonstrated that the proposed location and design is the least non-compliant configuration that will reasonably achieve the applicant's reasonable and clearly defined technical service objective to be achieved by the proposed small wireless facility, which includes without limitation a meaningful comparative analysis into multiple smaller or less intrusive facilities dispersed throughout the intended service area;

(6) the exception requested by the applicant does not compromise or excuse compliance with any fire safety or other public safety standard; and

(7) the exception is narrowly tailored such that any deviation from this policy is only to extent necessary for compliance with federal or state law.

(c) **Evidentiary Standard.** The applicant shall have the burden to prove to the approval authority that an exception should be granted pursuant to this Section 15. The standard of evidence shall be the same as required by applicable federal or state law for the issue raised in the applicant's request for an exception.

(d) **Expert Review.** Independent expert and/or consultant review, including legal review, will generally be appropriate when considering an exception request, which shall be at the applicant's cost in the same manner as described in Section 8.

Section 16. VIOLATIONS

Any use or condition caused or permitted to exist in violation of any provision of this policy shall be and hereby is declared a public nuisance and may be subject to: (a) injunctive relief as set forth in Municipal Code Chapter 1.16 (Injunctive Relief); (b) administrative citations as set forth in Municipal Code Chapter 1.24 (Administrative Citations); (c) administrative remedies as set forth in Municipal Code Chapter 1.28 (Administrative Remedies); (d) abatement pursuant to Municipal Code Chapter 9.28 (Property Maintenance); and (e) any and all applicable processes and procedures pursuant to the Municipal Code, including but not limited to Chapter 18.140 (Penalties), California Code of Civil Procedure § 731, or any other remedy available to the City.