



[First Last name]
Councilmember District [District No.]

SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 1

Meeting Date: July 16, 2019

Item Number: 9

Item Description: Referral to City Manager to consider amending the language of the City's Wireless Telecommunications Ordinance and Aesthetic Guidelines

Submitted by: Councilmember Wengraf

Adding the following attachments as referenced in the item:

- 1: City of Berkeley's Aesthetic Guidelines for Public Right of Way (PROW) Permits
2. BMC 23C.17 Wireless Telecommunication Facilities Ordinance
3. BMC 16.10.050

**CITY OF BERKELEY
WIRELESS TELECOMMUNICATIONS
PROGRAM GUIDELINES FOR PROJECTS
REQUIRING
TELECOMMUNICATIONS ENCROACHMENT/EXCAVATION PERMITS**

These guidelines have been prepared and adopted to establish a uniform set of criteria to guide implementation of the requirements of BMC Section 16.10.050 regarding installation of any equipment used to provide telecommunications services if any part of the facility will be located in, above, or below the City of Berkeley public right-of-way including, but not limited to, overhead aerial installations, installations in existing conduit, installations in new conduit that requires excavation of public streets, or equipment that is installed on a public sidewalk. Because it is not practical to incorporate detailed design standards in BMC Section 16.10, the Code authorizes the City Manager to adopt additional guidelines, regulations, and standards to address their aesthetic effects as well as other features that could present a physical hazard or otherwise degrade the character of residential and commercial neighborhoods.

To facilitate administration of the permit program, the guidelines incorporate relevant provisions of BMC Section 16.10.050 and relevant provisions of BMC Chapter 23C.17, which establishes zoning regulations applicable to wireless telecommunications facilities on property outside of the public right-of-way. Additional sources for these guidelines are standard conditions imposed on projects subject to regulation under BMC Title 23 (Zoning Ordinance) and other regulations of the Berkeley Department of Public Works.

The objective of the guidelines is ensure that the design, operation, and siting of facilities in the public right-of-way will occur in a manner that protects and promotes public safety, community welfare and the aesthetic quality of the City consistent with the goals, objectives and policies of the Berkeley General Plan and Public Utilities Code Sections 7901 and 7901.1. At the same time, recognizing that the construction of antenna system components on telephone poles may be necessary in areas where installation of base stations on buildings is not feasible, the guidelines provide for managed development of wireless telecommunications infrastructure in accordance with the Telecommunications Act of 1996.

The guidelines are intended to achieve the following specific objectives:

- 1. Foster an aesthetically pleasing urban environment, protect and preserve public safety and general welfare, and protect the character of residential and adjacent neighborhood commercial areas by preventing visual blight and clutter from inappropriately designed and sited wireless communication facilities to the extent allowed by applicable state and federal legislation;*
- 2. Promote location and design of facilities to minimize interference with pedestrian and vehicular traffic, avoid damage to street trees, and protect historic and cultural, and natural resources by preventing degradation of their surrounding setting;*

3. *Minimize noise, traffic disruption, dust, air pollution, and other short-term impacts of construction activities and day-to-day operation;*
4. *Meet the needs of the City's residents, businesses, and visitors for reliable communication services by providing for the installation of appropriately designed antenna system components in the public right-of-way in areas where installation on buildings or other sites is not feasible;*
5. *Ensure that underground installations do not degrade public streets and sidewalks;*
6. *Provide opportunities for citizens to comment on the location and design of overhead facilities, such as pole-mounted antennas, and above-ground structures, such as phone pedestal boxes, to make installations more responsive to neighborhood concerns about their aesthetic and environmental effects;*
7. *Provide greater certainty to both applicants and interested members of the public while ensuring compliance with all applicable public works requirements;*
8. *Provide a mechanism for taking advantage of improvements in wireless technology improvements that would allow further reductions in the aesthetic and environmental impacts of telecommunications facilities as such changes in technology occur.*

A. EXISTING REQUIREMENTS

- A. Existing laws and City ordinances require that, in general, telecommunications facilities located within the public right-of-way in the City of Berkeley conform to the following requirements:
- B. Applicable BMC Regulations. Facilities shall be located, constructed, installed, and maintained in compliance with all applicable requirements of BMC Title 16 (Streets, Sidewalks and Other Public Property);
- C. Applicable Federal and State Requirements. Carriers and their agents shall comply with applicable regulations and standards of any other governmental agency with jurisdiction over the installation or operation of wireless telecommunications facilities including, but not limited to, the Federal Communications Commission, the Federal Aviation Administration, and the California Public Utilities Commission. The City Manager may require the Applicant to provide evidence that the Applicant has obtained all approvals required to construct, install, and maintain the proposed facility and that such approvals have been reviewed in compliance with the requirements of the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.);
- D. Notification Requirements. Under BMC Chapter 16.10, at least 30 days before beginning construction, the Applicant shall provide written notification of any proposed above-ground installation in the public right-of-way to all owners and residents within 500 feet of the proposed location.
 1. The notice shall include a description of the proposed installation, including the proposed dimensions, design, color, type of facility, proposed location and identification of alternative locations (including undergrounding) that would meet project objectives.

2. The Applicant shall maintain a log of all calls and correspondence received in response to the notice including the date received, name, property address, comment, and resolution. A copy of the log shall be provided to the City prior to construction.

E. Construction Period Requirements

- A. Construction shall be coordinated with other utility companies or applicants installing infrastructure in the public right-of-way as provided for in BMC Section 16.10.050.
- B. When projects require excavation, the Applicant shall determine whether surplus conduit is available in the project area and whether joint trenching or boring will be feasible.
- C. Facilities that require excavation shall be installed within existing facilities whenever sufficient excess capacity is available subject to reasonable terms and conditions.
- D. Construction shall be scheduled and conducted so as to minimize interference with public use of the right-of-way including access to the right-of-way from private property.
- E. Noise-producing site preparation and construction activities shall only occur on weekdays between the hours of 8 am to 7 pm in residential areas and between the hours of 7 am to 7 pm in commercial areas, or as designated on permit notes or attachments.
- F. All trucks and equipment shall use the best available noise control techniques and equipment including improved mufflers, intake silencers, ducts, engine enclosures, and noise-reducing shields or shrouds.
- G. Impact tools such as jackhammers, pavement breakers, and noise drills shall be hydraulically or electrically powered wherever feasible to avoid noise associated with compressed air exhaust from pneumatically powered tools.
- H. When the use of pneumatic tools is unavoidable, an exhaust muffler shall be used on the compressed air exhaust to lower noise levels.
- I. External jackets shall be used on tools where feasible to achieve noise reductions. To the extent possible, quieter procedures should be used such as drilling instead of jack hammering.
- J. Stationary noise sources should be located as far as possible from sensitive receptors. If location within 20 feet of homes, schools, neighborhood parks, and retail businesses is necessary, stationary sources should be muffled and enclosed with temporary sheds.
- K. Trucks and other vehicles should not be permitted to idle when waiting at or near the construction site.
- L. Construction sites shall be watered at least twice daily to control dust caused by site preparation and construction activities. Increased watering may be necessary whenever wind speeds exceed 15 miles per hour. Whenever possible, reclaimed water should be used for this purpose.

13. Cover all trucks hauling soil, sand, paving materials, and other loose materials or require all trucks to maintain at least 2 feet of space between the top of the load and the top of the trailer.
14. Sweep streets, if possible with water sweepers using reclaimed water, at the end of each workday if soil, sand, or other material has been carried onto adjacent paved streets or sidewalks.
15. Best Management Practices shall be used to prevent oil, dirt, and other materials from construction equipment or activity from washing into the City storm drainage system.
16. Excavation and trenching activities shall not disturb the root systems of trees measuring 24 inches or more in diameter. Protective fencing should be installed around street trees within or adjacent to the work area to prevent damage to branches, trunks, or root systems.
17. If any cultural resources are discovered during excavation, trenching, or other construction activities, work shall be stopped immediately and the Director of Planning and Development shall be notified.
18. Directional boring should be used instead of trenching whenever possible to minimize interference with vehicular traffic and may be required by the City when working in streets that have been recently resurfaced or resealed.
19. When trenching is necessary, all trenches shall be covered at the end of each workday. The total time that a trench may remain open in any segment of the road system should not exceed one week.

II. SITE SELECTION GUIDELINES

- A. Based on potential aesthetic impact, the order of preference for selecting locations for installations in the public right-of-way is as follows:
 1. Areas that are located in commercial or manufacturing districts and are not within a designated landmark district, or located within 100 feet of a property that is designated as a City Landmark or is an historic resource as defined by the State Public Resources Code.
 2. Any neighborhood commercial district;
 3. Any residential district;
 4. Any location within 100 feet of a City park, property designated as a City Landmark, or property that contains an historic resource as defined by the State Public Resources Code;
- B. Facilities and equipment shall only be installed where equipment will not interfere with existing or future City uses of the right-of-way, the rights of private property owners, other utility fixtures and services, water hydrants or mains, wastewater stations, traffic control systems, or any other service or facility that benefits the City or the health, safety, or welfare of its residents.
- C. If a property or business owner objects to an installation in the right-of-way along his or her property, the City Manager may require the provider to identify at least one

feasible alternate location, if possible, subject to compliance with these guidelines including approval of adjacent owners.

- D. Facilities shall be installed within existing underground ducts or conduits whenever such ducts, conduits, manholes or other facilities have volume or capacity that is available or will be available for third party facilities. Utility boxes, power units, and similar fixtures shall be installed completely underground partially buried unless the City Manager finds that undergrounding would result in maintenance and operation problems that would interfere with service. Overhead facilities may be installed on existing utility poles where deemed appropriate by the City Manager.
- E. Facilities that transmit and/or receive electromagnetic signals including wireless communication services shall not be located closer than 100 feet to any existing legal dwelling unit, residentially zoned parcel, licensed day care facility or other educational facility unless the Applicant submits to the City non-ionizing electromagnetic radiation (NIER) calculations prepared by a qualified electrical engineer licensed by the State of California showing that NIER levels at these locations comply with FCC Maximum Permissible Exposure Limit for human exposure or any more restrictive standard adopted by the State of California or the Federal government. For information elsewhere
- F. Overhead Facilities. Overhead facilities may be installed on existing utility poles when the City Manager finds the proposed installation in accord with these guidelines and necessary to meet the Applicant's service objectives. No support structures other than utility poles are permitted.
 - 1. The City Manager may approve the replacement of an existing pole if the new pole has the same or better appearance than the existing structure.
 - 2. Overhead facilities shall not be installed in the public right-of-way where there are no existing overhead utility facilities or where a project has been implemented to remove existing overhead facilities.
 - 3. No facility shall be installed on a utility pole that is less than 25 feet in height.
 - 4. To the extent permitted by law, new utility poles over 40 feet are prohibited. Regardless of the height of new utility poles, telecommunications facilities shall not be installed on new poles at a height greater than the minimum necessary to comply with General Order 95 and P, G & E safety requirements.
- G. Above-Ground Installations.
 - 1. Pedestals, amplifier units, equipment cabinets, and similar above ground installations shall, where feasible, be located at least 6 inches from any sidewalk and 2 feet from driveway and curb edges. As required by the State Fire Code, pedestals must be at least 3 feet from fire hydrants. Installations must leave a minimum horizontal clear space for the path of travel of at least 6 feet. The City Manager may require more clear space for travel in heavily used commercial areas to provide sufficient room for pedestrian traffic.

2. Above-ground installations shall not be placed in front of the primary entrance to a residence or retail business or at any other location where they would unduly interfere with the operation of a business, including blocking views of the entrance or display windows.
3. Above-ground installations in residential districts should generally be located at least 1,500 feet apart from one another.
4. Above-ground units should not be sited at any location where the removal of vegetation will be necessary unless the City Manager determines that no other location is feasible and replacement landscaping is provided in accord with these guidelines.
5. No unit higher than 3 feet shall be placed in any location that would interfere with vehicular sight lines at street corners, driveways, and other points of ingress or egress or obstruct the view of any traffic devices installed or authorized by the City.
6. Proposed facilities shall not be located where they would reduce the amount of space available for on-street parking spaces or interfere with access of the public or workers to meters, fire hydrants, or other objects of street hardware in the right-of-way.
7. Above ground facilities should not be placed at any location where they will be in a direct line of sight of a significant or sensitive view corridor, would adversely affect a scenic vista, or would materially impair the significance of an historical resource or unique archeological resource. When alternate sites are not available, facilities must be camouflaged, screened, or otherwise designed to minimize their visibility as provided for in these guidelines.

H. Expert Review. In the event an Applicant claims that compliance with the foregoing standards is unreasonable or infeasible for technical reasons, the City Manager shall have the discretion to require peer review by an independent, qualified consultant to evaluate technical and other aspects of an application. The Applicant shall provide the City with written authorization for the City Manager to do so.

1. The Applicant's authorization shall include a written agreement by the Applicant to advance or promptly reimburse the City for all reasonable costs associated with such consultation. In the alternative, the City Manager may require the Applicant to submit a cash deposit for the estimated cost of such consultation, and to replenish said deposit if consumed by reasonable costs associated with such consultation.
2. Such consultation is intended to be a site-specific review of technical aspects of the proposed wireless telecommunications facility and shall address all of the following:
 - a. Compliance with applicable radio frequency emission standards;
 - b. Height analysis;
 - c. Configuration;
 - d. The appropriateness of granting any requested exceptions;

- e. The accuracy and completeness of submissions;
- f. The applicability of analysis techniques and methodologies;
- g. The validity of conclusions reached; and
- h. Any specific technical issues designated by the city.

III. DESIGN AND LANDSCAPING GUIDELINES

- A. Providers shall take all reasonable steps to modify proposed plans to accommodate public concerns and shall describe such changes in the application filed with the City.
- B. The color, design, and landscaping of above-ground installations may be varied from these guidelines in response to the request of property or business owners so long as the City Manager approves such changes.
- C. Providers shall use the smallest and least visible antennas, equipment cabinets, and other facilities to accomplish the operator's coverage and service objectives.
- D. When feasible and consistent with the purposes and requirements of these guidelines and applicable requirements, providers shall make unused space on existing poles available for future co-location of other telecommunication facilities, including space for different operators providing similar, competing services.
- E. Overhead Facilities.
 - 1. Subject to the limitations recognized by paragraph (C), facilities installed on existing utility poles should not be larger, more obtrusive, or more readily visible than the existing facilities and devices affixed to the pole.
 - 2. No more than 1 antenna array may be attached to a utility or street light pole.
 - 3. An antenna enclosure attached to the top of a utility or street light pole shall be cylindrical in shape, shall not exceed 4 feet in height, and shall not have a diameter greater than the diameter of the pole.
 - 4. Equipment Enclosures. A maximum of 2 equipment enclosures and 1 meter box may be attached to a utility or street light pole, as follows:
 - a. A primary equipment enclosure installed on the same utility or street light pole as the antenna enclosure(s), preferably facing the street or perpendicular to the street, shall be no larger than approximately 4 cubic feet in volume, with a width not exceeding approximately 12 inches and a depth not exceeding approximately 10 inches, and shall be as small as reasonably possible with current technology. An electric meter and a cut-off switch may be located outside of the primary equipment enclosure;
 - b. A secondary equipment enclosure installed on a utility or street light pole that is near the utility or street light pole to be used for the antenna enclosure(s) and primary equipment enclosure, preferably facing the street or perpendicular to the street, shall be no larger than approximately 4 cubic feet in volume, with a width not exceeding approximately 12 inches and a depth not exceeding approximately 10 inches, and shall be as small as reasonably possible with current technology.

- c. In lieu of a separate meter box, the City Manager may allow a larger primary equipment enclosure if the Applicant demonstrates that the enclosure will contain an electricity meter and cut-off switch, provided that the width of the enclosure does not exceed approximately 12 inches and the depth does not exceed approximately 10 inches, and is as small as reasonably possible with current technology.
 - d. The bracket supporting an equipment enclosure shall not extend more than the minimum necessary to support the equipment.
- 5. Supporting Elements. If applicable law, or generally applicable written rules of the pole owner, require a supporting element for any antenna enclosure such as a cross-arm or pole top extension, such supporting element shall be no larger, longer, or bulkier than is necessary to comply with applicable law or such generally applicable written rules.
- F. Colors and materials for facilities shall be chosen to minimize visibility. All visible exterior surfaces shall be constructed of non-reflective materials and painted or textured using colors to match or blend with the primary background.
- G. Utility Boxes and Cabinets. Facilities shall be compatible in scale and integrated architecturally with the design of surrounding buildings or the natural setting.
 - 1. Above-ground and partially buried ancillary equipment including support pads, cabinets, shelters, and buildings shall be designed to be architecturally compatible with surrounding structures and/or screened using appropriate techniques to camouflage, disguise, and/or blend into the environment including landscaping, color, and other techniques to minimize their visual impact.
 - 2. Ground-mounted utility boxes, equipment cabinets, power supply units and similar facilities shall be painted dark forest green or another approved color that will camouflage or disguise the facility, and/or blend it into the surrounding environment
 - 3. If the City Manager determines that an equipment cabinet is not or cannot be adequately screened from surrounding properties or from public view or architecturally treated to blend in with the environment, the equipment cabinet shall be placed underground or outside of the right-of-way subject to the requirements of the BMC Chapter 23 (Zoning Ordinance).
 - 4. Above-ground utility boxes in residential districts, and power supply units, shall generally not have dimensions that exceed a United States Postal Service mail box or the following dimensions:
 - Height: 48 inches
 - Width: 48 inches
 - Depth: 24 inches
 - 5. Power supply units must be enclosed by a fence with mesh and slats of dark forest green or other color designated by the City Manager to match the color of the unit.

- H. When facility lighting is needed for security or safety reasons it shall be designed to avoid glare and minimize illumination on adjacent properties.
- I. No advertising shall be placed on any above-ground telecommunications facilities or equipment. Informational signage required by these guidelines may include an identifying logo.
- J. Screening. Above ground facilities shall be screened as required by the City Manager.
 - 1. Screening shall be of a sufficient height and density to screen the facility from the public sidewalk and parkway.
 - 2. The City Manager may require the Applicant to submit a tree protection plan prepared by a certified arborist for the installation of any telecommunications facility located within the canopy of a street tree, or a protected tree on private property, or within a minimum of a 10-foot radius of the base of such a tree. Depending on site-specific criteria (e.g. location of tree, size and type of tree etc.), the City Manager may require a radius greater than 10 feet.
- K. All facilities shall be designed to be resistant to and minimize opportunities for unauthorized access, climbing, vandalism, graffiti, and other conditions that would result in hazardous conditions, visual blight, or attractive nuisances. The City Manager may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when, because of their location and/or accessibility, antenna facilities have the potential to become an attractive nuisance. The design of the fencing and other access control devices shall be subject to design review by the City Manager.
- L. At the time of modification or upgrade of facilities, existing equipment shall, to the extent feasible, be replaced with equipment of equal or greater technical capacity and reduced size so as to reduce visual impacts.
- M. Each owner or operator of a telecommunications facility shall provide signage identifying the name and phone number of a party to contact in event of an emergency. The signage shall be attached to the base of any utility pole or light standard to which equipment is affixed. Dimensions shall not exceed 8 1/2 inches by 11 inches.
- N. The exterior walls and roof covering of all aboveground equipment shelters and cabinets shall be constructed of materials rated as nonflammable in the Uniform Building Code. Openings in all above-ground equipment shelters and cabinets shall be protected against penetration by fire and windblown embers to the extent feasible.

IV. OPERATING AND MAINTENANCE GUIDELINES

- A. Telecommunications facilities and related equipment, including lighting, fences, shields, cabinets, and poles, shall be maintained in good repair, free from trash, debris, litter and graffiti and other forms of vandalism, and any damage from any cause shall be repaired as soon as reasonably possible so as to minimize occurrences of dangerous conditions or visual blight. Graffiti shall be removed from any facility

or equipment as soon as practicable, and in no instance more than 48 hours from the time of notification by the city

- B. Telecommunications facilities shall be operated in a manner that will minimize noise impacts to surrounding residents and persons using nearby parks, trails, and similar recreation areas.
 - I. Except for emergency repairs, testing and maintenance activities that will be audible outside of the right-of-way shall only occur in residential areas between the hours of 8:00 am and 5 pm on Monday through Friday, excluding holidays.
 - 2. The City Engineer shall provide approval in any advance for any non- emergency work that will be performed in residential areas on weekends.
 - 3. All air conditioning units and any other equipment that may emit noise that would be audible from beyond the nearest private property line shall be enclosed or equipped with noise attenuation devices. Backup generators shall only be operated during periods of power outages or for testing.
 - 4. At no time shall equipment noise from any source exceed the standards specified in the Berkeley Community Noise Ordinance (BMC Chapter 13.40).
- C. An owner or operator may replace equipment that is part of a permitted facility if the City Manager determines that the replacement equipment will be of substantially the same size, appearance, and power or superior in design to the previously permitted equipment.
 - I. The owner or operator shall notify the Public Works Director prior to replacing any permitted equipment
 - 2. The owner or operator shall not install the proposed replacement equipment unless and until the Director provides written notification that the City Manager has found that the proposed replacement equipment complies with the requirements of this Section.

Dated: March 16, 2011

Chapter 23C.17

WIRELESS TELECOMMUNICATION FACILITIES

Sections:

- 23C.17.010 Applicability of Regulations**
- 23C.17.020 Purpose**
- 23C.17.030 General Requirements**
- 23C.17.040 Minimum Application Requirements**
- 23C.17.050 Locational Requirements 23C.17.060 Height Requirements**
- 23C.17.070 Design Requirements**
- 23C.17.080 Operation and Maintenance Standards**
- 23C.17.085 Public Information Requirements 23C.17.090 Requirement for Certification of Facilities 23C.17.100 Findings Required for Approval 23C.17.110 Cessation of Operations**

Section 23C.17.010 Applicability of Regulations

The regulations contained in this chapter shall apply to all wireless telecommunications facilities for personal wireless services on property other than the public right-of-way in the City of Berkeley. (Ord. 7073-NS § 1, 2009)

Section 23C.17.020 Purpose

3. The purpose of this chapter is to provide a uniform and comprehensive set of standards for the development, siting, installation, and operation of wireless telecommunications antennas and related facilities ("wireless telecommunications facilities") for personal wireless services. These regulations are designed to protect and promote public safety, community welfare and the aesthetic quality of the city consistent with the goals, objectives and policies of the Berkeley Master Plan, while at the same time providing for managed development of wireless telecommunications infrastructure in accordance with the Telecommunications Act of 1996.
4. The objectives of this chapter include but are not limited to the following:
 - Foster an aesthetically pleasing urban environment, prevent visual blight, protect and preserve public safety and general welfare, and maintain the character of residential areas, including those adjacent to commercial areas and neighborhood commercial areas, consistent with the adopted General Plan and Area Plans and in compliance with applicable state and federal legislation;
 - Because wireless telecommunications antennas and related facilities for cellular and mobile phones and personal communications systems are a commercial use that is usually separate from and is rarely accessory to the primary use of a parcel, to prevent the location of such facilities in residentially zoned districts unless (a) the City is required to permit them in such locations in order to avoid violating the Telecommunications Act of 1996, and (b) the wireless telecommunications facilities are designed to interfere as little as possible with the character of the neighborhood;
 - Establish and maintain telecommunications facilities that are components of a wireless telecommunications infrastructure designed to enhance the city's emergency response network and do not interfere with such emergency systems in violation of applicable federal or state regulations;
 - Establish a process for obtaining necessary permits for wireless telecommunication facilities that provides greater certainty to both applicants and interested members of the public while ensuring compliance with all applicable zoning requirements;

9. Provide opportunities for further reduction in potential aesthetic or land use impacts of wireless telecommunications facilities as changes in technology occur; and
10. Support the use of personal wireless services to enhance personal and public health and safety as well as the public welfare of the City of Berkeley. (Ord. 7073-NS § 1, 2009)

Section 23C.17.030 General Requirements

In addition to any other requirements imposed by this chapter, all wireless telecommunications facilities on property other than the public right-of-way in the City of Berkeley shall be consistent with:

- B.** The Berkeley General Plan, adopted Area Plans, and all other applicable provisions of the Zoning Ordinance.
- C.** Applicable regulations and standards of any other governmental agency with jurisdiction over the installation or operation of wireless telecommunications facilities including, but not limited to, the Federal Communications Commission, the Federal Aviation Administration, and the California Public Utilities Commission.
- D.** Any applicable discretionary permits affecting the subject property, except to the extent the Zoning Officer or the Zoning Adjustments Board may modify such requirements.
- E.** For purposes of this Chapter, "microcell" means a set of antenna nodes networked with each other and connected to a wireless service source, such that a one or more high-power antennas that serve a given area are replaced by a group of lower-power antennas to serve the same geographic area. (Ord. 7073-NS § 1, 2009)

Section 23C.17.040 Minimum Application Requirements

- F.** Purpose. This Section establishes limited additional application submittal requirements for wireless telecommunications facilities. The purpose of these additional application requirements is to ensure that the purposes of this Chapter are implemented to the extent permitted by the Telecommunications Act of 1996.
- G.** In addition to meeting the standard application submittal requirements for permits specified in Chapter 23B.24, applications for wireless telecommunication facilities pursuant to this chapter, shall include the information set forth in this Section.
- H.** Coverage map and general information.
 - A.** A narrative description and map showing the coverage area of the provider's existing facilities that serve customers in Berkeley and the specific site that is the subject of the application.
 - B.** A statement of the telecommunications objectives sought for the proposed location, whether the proposed facility is necessary to prevent or fill a significant gap or capacity shortfall in the applicant's service area, whether it is the least intrusive means of doing so, and whether there are any alternative sites that would have fewer aesthetic impacts while providing comparable service. Applications for Administrative Use Permits need not include information as to whether the proposed facility is necessary to prevent or fill a significant gap or capacity shortfall in the applicant's service area.
- I.** Technical information.
 - A.** Copies of, or a sworn statement by an authorized representative that applicant holds, all applicable licenses or other approvals required by the Federal Communications Commission (FCC), the California

Public Utilities Commission (PUC), and any other agency of the Federal or State government with authority to regulate telecommunications facilities that are required in order for the applicant to construct the proposed facility.

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2. Documentation of, or a sworn statement by an authorized representative that applicant is in, compliance with all conditions imposed in conjunction with such licenses or approvals, a description of the number, type, power rating, frequency range, and dimensions of antennas, equipment cabinets, and related wireless telecommunications facilities proposed to be installed, and engineering calculations demonstrating that the proposed facility will comply with all applicable FCC requirements and standards.
20. Visibility.
- A site plan, plans, and elevations drawn to scale. Plans shall include microcell, facade- or roof-mounted antennas and all related equipment. Elevations shall include all structures on which facilities are proposed to be located.
 - A description of the proposed approach for screening or camouflaging all facilities from public view including plans for installation and maintenance of landscaping, sample exterior materials and colors, and an explanation of the measures by which the proposed facility will be camouflaged or rendered not readily visible. Where any part of the proposed facility would be readily visible, the application shall include an explanation as to why it cannot be rendered not readily visible.
 - A visual impact analysis including scaled elevation diagrams within the context of the building, before and after photo simulations, and a map depicting where the photos were taken. The Zoning Officer may require the submission of photo overlays, scaled models, renderings, or mockups to document the effectiveness of techniques proposed to minimize visibility.
 - If a ground-mounted or freestanding tower is proposed, the application must include an explanation as to why other facility types are not feasible.
21. Peer review.
- The application shall include sufficient information for an approved radio frequency engineer or licensed electrical engineer specializing in EMF or RFR studies (hereinafter, "an approved engineer") retained by the City to peer review the information provided in response to subdivisions C and D of this Section.
 - The application shall also include an agreement to pay the reasonable actual cost and a reasonable administrative fee for hiring an approved engineer to provide peer review.
 - Any proprietary information disclosed to the city or its engineer in confidence shall not be a public record and shall remain confidential and not be disclosed to any third party without the express consent of the applicant. The City and/or its engineer shall return all proprietary information to the applicant and not retain any copies of such information once its decision is final.
22. Monitoring. An agreement to pay a reasonable one-time or annual fee for independent monitoring as required by this Chapter.

23. A statement that prior to obtaining a building permit to erect or install the proposed facility, the applicant shall either secure a bond or provide financial assurances, in a form acceptable to the City Manager, for the removal of the facility in the event that its use is abandoned or the approval is otherwise terminated.
24. The Zoning Officer may require information concerning noise that might be generated by equipment associated with a wireless telecommunication facility, such as air conditioning equipment, if the physical circumstances of the proposed facility suggest that such noise may be detrimental. (Ord. 7073-NS § 1, 2009)

Section 23C.17.050 Locational Requirements

- A. Reserved.

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- III. No wireless communications facilities shall be sited on or above a ridgeline or at any other location readily visible from a public park, unless the Zoning Adjustments Board makes the applicable findings required in Section 23C.17.100.
- IV. No new freestanding facility, including towers, lattice towers and monopoles, shall be located within 1,000 feet of another freestanding facility, unless appropriate stealth techniques have been used to minimize the visual impact of the facility to the extent feasible, and mounting on a building or co-location on an existing pole or tower is not feasible.
- V. The Zoning Officer may approve minor modifications and aesthetic upgrades that do not increase the size or visibility of any legally established wireless telecommunication facilities without notice or hearing, subject to compliance with all existing conditions of approval. (Ord. 7073-NS § 1, 2009)

Section 23C.17.060 Height Requirements

- H. The height of a telecommunications tower shall be measured from existing grade below the center of the base of the tower to the top of the tower itself or, if higher, to the tip of the highest antenna or piece of equipment attached thereto. The height of building-mounted antennas shall include the height of that portion of the building on which the antenna is mounted. In the case of "crank-up" or similar towers whose height is adjustable, the height of the tower shall be the maximum height to which it is capable of being raised.
- I. No antenna telecommunications tower or facade-mounted antenna shall exceed or project above the height limits specified for the district in which the antenna is located.
- J. Roof-mounted antennas affixed to an existing or proposed tower or pole shall not extend or project more than 15 feet above the height limit of the district.
- K. Roof-mounted or facade-mounted antennas proposed on an existing building, tower, or pole that is legal non-conforming in terms of height shall not extend or project more than 15 feet above the existing height of the building or structure. (Ord. 7073-NS § 1, 2009)

Section 23C.17.070 Design Requirements

In addition to all other requirements set forth in this chapter, all wireless telecommunication facilities shall meet the following design requirements:

8. Based on potential aesthetic impact, the order of preference for facility type is: microcell, facade-mounted, roof-mounted, ground-mounted, and freestanding tower.
9. All facilities shall be designed and located to minimize their visibility to the greatest extent feasible, considering technological requirements, by means of placement, screening, and camouflage. The applicant shall use the smallest and least visible antennas feasible to accomplish the owner/operator's coverage or capacity objectives. All wireless telecommunications facilities proposed for locations where they would be readily visible from the public right-of-way or from the habitable living areas of residential units within 100 feet shall incorporate appropriate techniques to camouflage or disguise the facility, and/or blend it into the surrounding environment, to the greatest extent feasible. Facilities shall be compatible in scale and integrated architecturally with the design of surrounding buildings or the natural setting.
10. No readily visible antenna shall be placed at a location where it would impair a significant or sensitive view corridor except as provided in subsection 1, below.
 - Roof-mounted antennas shall be located in an area of the roof where the visual impact is minimized. Roof-mounted and ground-mounted antennas shall not be placed in direct line of sight of significant or sensitive view corridors or where they adversely affect scenic vistas unless the Zoning Officer or the Zoning Adjustments Board finds that the facility incorporates appropriate, creative stealth techniques to

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camouflage, disguise, and/or blend into the surrounding environment to the extent possible. Roof mounted antennas shall be designed and sited to minimize their visibility and shall be no taller than necessary to meet the operator's service requirements. Where roof-mounted antennas are readily visible, confirmation of necessary height for service requirements, at the Zoning Officer's discretion, shall be based on independent analysis by an approved engineer retained by the City.

- I. Satellite dish or parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their function. When screened from pedestrian-level view from the public right-of-way and not readily visible from any property that contains a legally established residential use, such antennas may be located in any required yard subject to the approval of a Use Permit under Section 23D.08.060.B. No such antenna may exceed 39 inches in diameter unless the Zoning Officer or the Zoning Adjustments Board finds that a smaller antenna cannot feasibly accomplish the provider's technical objectives. The Zoning Officer may require that this determination be based on independent technical analysis by an approved engineer.
- J. All monopoles and lattice towers shall be designed to be the minimum functional height and width required to support the proposed antenna installation unless a higher monopole or lattice tower will facilitate co-location or other objectives of this Chapter.
 - i. Colors and materials for facilities shall be chosen to minimize visibility. All visible exterior surfaces shall be constructed of non-reflective materials. Facilities shall be painted or textured using colors to match or blend with the primary background.
 - j. Facility lighting shall be designed to meet but not exceed minimum requirements for security, safety or FAA regulations, and in all instances shall be designed to avoid glare and minimize illumination on adjacent properties. Lightning arresters and beacon lights shall not be included in the design of facilities unless required by the FAA. Lightning arresters and beacons shall be included when calculating the height of facilities such as towers, lattice towers and monopoles.

- k. No advertising shall be placed on telecommunications antennas or other equipment.
- l. All facilities shall be designed to be resistant to and minimize opportunities for unauthorized access, climbing, vandalism, graffiti, and other conditions that would result in hazardous conditions, visual blight, or attractive nuisances. The Zoning Officer or Zoning Adjustments Board may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when, because of their location and/or accessibility, antenna facilities have the potential to become an attractive nuisance. The design of the fencing and other access control devices shall be subject to design review.
- m. Where appropriate and directly related to the applicant's placement, construction, or modification of wireless telecommunications facilities, the applicant shall maintain and enhance existing landscaping on the site, including trees, foliage and shrubs, when used for screening unless the Design Review Planner or Design Review Committee approves appropriate replacement landscaping. Additional landscaping shall be planted as needed to minimize the visual impact of the facility and, when feasible, to block the line of sight between facilities and adjacent residential uses and residentially zoned properties. The Design Review Planner or Design Review Committee shall determine the appropriate minimum size of new trees and shrubs.
- n. Facade-mounted equipment, not including any required screening, shall not project more than 18 inches from the face of the building or other support structure unless specifically authorized by the Zoning Officer or the Zoning Adjustments Board.
- o. In order of preference, ancillary support equipment for facilities shall be located either within a building or structure, on a screened roof top area or structure, or in a rear yard if not readily visible from surrounding properties and the public right-of-way, unless the Zoning Officer or Zoning Adjustments Board finds that another location is preferable under the circumstances of the application.

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- IV.** Above ground and partially buried ancillary equipment, including support pads, cabinets, shelters, and buildings, shall be located where they will be the least visible from surrounding properties and the public right-of-way and shall be designed to be architecturally compatible with surrounding structures and/or screened using appropriate techniques to camouflage, disguise, and/or blend into the environment including landscaping, color, and other techniques to minimize their visual impact. If the Zoning Officer determines that an equipment cabinet is not or cannot be adequately screened from surrounding properties or from public view or architecturally treated to blend in with the environment, the equipment cabinet shall be placed underground or inside the existing building where the antenna is located unless the Zoning Officer or Zoning Adjustments Board finds that such placement is not feasible or consistent with the objectives of this Chapter and other applicable requirements.
- V.** No telecommunications antenna or ancillary support equipment shall be located within any setback or between the face of a building and a public right-of-way without approval of a Use Permit except for facilities that are completely subterranean or Microcell facilities, the latter of which may be approved with an Administrative Use Permit.
- VI.** When antennas are co-located, the City may limit the number of antennas with related equipment and providers to be located at any site and adjacent sites in order to prevent negative visual impacts associated with multiple facilities. Architectural and other camouflaging treatment shall be coordinated between all users on each site.

VII. At the time of modification or upgrade of facilities, existing equipment shall, to the extent feasible, be replaced with equipment that reduces visual and noise impacts as feasible.

VIII. Proposed facilities shall not reduce the number of available parking spaces below the amount required pursuant to the Zoning Ordinance. (Ord. 7073-NS § 1, 2009)

Section 23C.17.080 Operation and Maintenance Standards

All wireless telecommunication facilities shall at all times comply with the following operation and maintenance standards. Failure to comply shall be considered a violation of conditions of approval subject to enforcement pursuant to provisions of this Chapter.

- e. Each owner or operator of a wireless telecommunications facility shall provide signage identifying the name and phone number of a party to contact in event of an emergency. The design, materials, colors, and location of signs shall be subject to design review. Contact information shall be kept current.
- f. Wireless telecommunications facilities and related equipment, including lighting, fences, shields, cabinets, and poles, shall be maintained in good repair, free from trash, debris, litter and graffiti and other forms of vandalism, and any damage from any cause shall be repaired as soon as reasonably possible so as to minimize occurrences of dangerous conditions or visual blight. Graffiti shall be removed from any facility or equipment as soon as practicable, and in no instance more than forty-eight (48) hours from the time of notification by the city.
- g. The owner or operator of a wireless telecommunications facility shall be responsible for maintaining landscaping in accordance with the approved landscape plan and for replacing any damaged or dead trees, foliage, or other landscaping elements shown on the approved plan. Amendments or modifications to the landscape plan shall be submitted to the Zoning Officer for approval.
- h. Each wireless telecommunications facility shall be operated in a manner that will minimize noise impacts to surrounding residents and persons using nearby parks, trails, and similar recreation areas. Except for emergency repairs, testing and maintenance activities that will be audible beyond the property line shall only occur between the hours of 8:00 a.m. and 7:00 p.m. on Monday through Friday, excluding holidays. All air conditioning units and any other equipment that may emit noise that would be audible from beyond the property line shall be enclosed or equipped with noise attenuation devices to the extent necessary to ensure compliance with applicable noise limitations under Chapter 13.40. Backup generators shall only be operated

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during periods of power outages or for testing. At no time shall equipment noise from any source exceed the standards specified the Berkeley Community Noise Ordinance (BMC Chapter 13.40).

- H. All wireless telecommunications facilities providing service to the government or the general public shall be designed to meet the following requirements:
 - 1. The exterior walls and roof covering of all above ground equipment shelters and cabinets shall be constructed of materials rated as nonflammable in the Berkeley Building Code.
 - 2. Openings in all above ground equipment shelters and cabinets shall be protected against penetration by fire and windblown embers to the greatest extent feasible.

3. Material used as supports for antennas shall be fire resistant, termite proof, and subject to all applicable requirements of the Uniform Building Code.
 4. Telecommunications antenna towers shall be designed to withstand forces expected during earthquakes to the extent feasible. Building-mounted facilities shall be anchored so that a quake does not dislodge them or tip them over. All equipment mounting racks and attached equipment shall be anchored so that a quake would not tip them over, throw equipment off their shelves, or otherwise damage equipment.
 5. All connections between various components of the wireless telecommunications facility and necessary power and telephone lines shall, to the greatest extent feasible, be protected against damage by fire, flooding, and earthquake. Reasonable measures shall be taken to keep wireless telecommunication facilities in operation in the event of a natural disaster.
- I. Vehicle and personnel access to sites for maintenance and repairs shall not be from residential streets or adjacent residential properties to the maximum extent possible. (Ord. 7073-NS § 1, 2009)

Section 23C.17.085 Public Information Requirements

- O. The Planning and Development Department shall maintain a map and inventory of all existing and proposed wireless telecommunication sites, which shall be available to members of the public and other interested parties for inspection.
- P. The inventory shall, at a minimum, include the following information:
1. Address of site;
 2. Number, type, power rating, and frequency range of all antennas at the site;
 3. Name of telecommunications carrier owning, operating, or leasing each antenna at the site;
 4. Date of most recent certification. (Ord. 7073-NS § 1, 2009)

Section 23C.17.090 Requirement for Certification of Facilities

- A. No wireless telecommunications facility or combination of facilities shall at any time produce power densities that exceed the FCC's limits for electric and magnetic field strength and power density for transmitters. In order to ensure continuing compliance with all applicable emission standards, all wireless telecommunications facilities shall submit reports as required by this section. The City may require, at the operator's expense, independent verification of the results of any analysis. If an operator of a telecommunications facility fails to supply the required reports or fails to correct a violation of the Federal Communications Commission standard following notification, the Use Permit is subject to modification or revocation by the Zoning Adjustments Board following a public hearing.

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- V. Within forty five (45) days of initial operation or modification of a telecommunications facility, the operator of each telecommunications antenna shall submit to the Zoning Officer written certification by a licensed professional engineer that the facility's radio frequency emissions are in compliance with the approved application and any required conditions. The engineer shall measure the radio frequency radiation of the

approved facility, including the cumulative impact from other nearby facilities, and determine if it meets the FCC requirements. A report of these measurements and the engineer's findings with respect to compliance with the FCC's Maximum Permissible Exposure (MPE) limits shall be submitted to the Zoning Officer. If the report shows that the facility does not comply with applicable FCC requirements, the owner or operator shall cease operation of the facility until the facility complies with, or has been modified to comply with, this standard. Proof of compliance shall be a certification provided by the engineer who prepared the original report. The City may require, at the applicant's expense, independent verification of the results of the analysis.

VI. Prior to January 31 of every year, an authorized representative for each wireless carrier providing service in the City of Berkeley shall provide written certification to the City that each facility is being operated in accordance with the approved local and federal permits and shall provide the current contact information.

VII. Once every two years, at the operator's expense, the City may conduct, or retain an approved engineer to conduct, an unannounced spot check of the facility's compliance with applicable FCC radio frequency standards.

VIII. In the event of a change in the FCC's Maximum Permissible Exposure (MPE) limits for electric and magnetic field strength and power density for transmitters, the operator of each wireless telecommunications facility shall be required to submit to the Zoning Officer written certification by a licensed professional engineer of compliance with applicable FCC radio frequency standards within 90 days of any change in applicable FCC radio frequency standards or of any modification of the facility requiring a new submission to the FCC to determine compliance with emission standards. If calculated levels exceed 50% of the FCC's MPE limits, the operator of the facility shall hire an approved engineer to measure the actual exposure levels. If calculated levels are not in compliance with the FCC's MPE limit, the operator shall cease operation of the facility until the facility is brought into compliance with the FCC's standards and all other applicable requirements. A report of these calculations, required measurements, if any, and the engineer's findings with respect to compliance with the current MPE limits shall be submitted to the Zoning Officer.

IX. If the Zoning Officer at any time finds that there is good cause to believe that a telecommunications antenna is not in compliance with applicable FCC radio frequency standards, he/she may require the operator to submit written certification that the facility is in compliance with such FCC standards.

C. The owner or operator of any wireless telecommunications facility that was approved by the City before January 17, 2002, shall submit to the Zoning Officer, within six (6) months from the date of notification, written certification by an engineer that the facility's radio frequency emissions are in compliance with the approved application and any required conditions. The engineer shall measure the radio frequency radiation of the approved facility, including cumulative impact from other nearby facilities, and determine if it meets the FCC requirements. If the report shows that the facility does not comply with applicable FCC requirements, the owner or operator shall cease operation of the facility until the facility is brought into compliance. In order to assure the objectivity of the analysis, the City may require, at the applicant's expense, independent verification of the results of the analysis.

D. Any facility that was approved by the City prior to January 17, 2002, and which does not comply with this chapter on the date of its adoption shall be considered a lawful non-conforming use; provided, that the owner or operator submits the information required in subsection B of this section. A lawful non-conforming personal wireless service facility shall be subject to the requirements of Chapter 23C.04 except to the extent that they are modified herein.

- D. Failure to submit the information required in this section will be considered a violation of the Zoning Ordinance. Any facility found in violation may be ordered to terminate operations by the Zoning Adjustments Board following a duly noticed public hearing. (Ord. 7073-NS § 1, 2009)

Section 23C.17.100 Findings Required for Approval

5. No wireless telecommunications facilities shall be located in any zoning district unless the Zoning Adjustments Board or the Zoning Officer approves a Use Permit or Administrative Use Permit pursuant to the findings set forth in this Section and in Sections 23B.28.050.A and 23B.32.040.A, as applicable. However, a finding under Sections 23B.28.050.A and 23B.32.040.A shall not be based on aesthetic impacts if the proposed facility would not be readily visible, or on any other matter that the City is prohibited from considering by the Telecommunications Act of 1996.
- The Zoning Officer may approve an Administrative Use Permit for:
 - Microcell facilities in any zoning district,
 - Modifications to existing sites in non-residential zoning districts, and
 - Additions to existing sites in non-residential zoning districts when the site is not adjacent to a residential district.
 - All other new or modified wireless telecommunications facilities shall require the approval of a Use Permit by the Zoning Adjustments Board except as provided in Sections 23B.56.020 and 23C.17.050D.
6. In order to approve any Use Permit or Administrative Use Permit under this chapter, the Zoning Adjustments Board or the Zoning Officer must make the following findings:
- that the proposed project is consistent with the general requirements of this chapter and any specific requirements applicable to the proposed facility;
 - that the proposed antenna or related facility, operating alone and in conjunction with other telecommunications facilities, will comply with all applicable state and federal standards and requirements; and either:
 - will not be readily visible; or
 - will be readily visible, but it is not feasible to incorporate additional measures that would make the facility not readily visible;
 - that the facility is necessary to prevent or fill a significant gap in coverage or capacity shortfall in the applicant's service area, and is the least intrusive means of doing so. The findings in this subsection are not required for microcell facilities; and
 - that the wireless carrier is in compliance with Section 23C.17.090 A1 and 2 of this ordinance. If a wireless carrier has not provided the information and certifications required by Section 23C.17.090A1 and 2, the wireless carrier may cure noncompliance by providing current contact information and certification statements for any sites which have been deemed to be not current.
7. The Zoning Adjustments Board or the Zoning Officer may approve establishment of a satellite dish or parabolic antenna exceeding 39 inches in diameter, only after finding that a smaller or different antenna cannot feasibly accomplish the provider's technical objectives and that the facility will not be readily visible.

8. All findings must be based on substantial information in the record such as, where required, technical analysis by an approved radio frequency engineer, calculations by a State-licensed structural engineer, or other evidence. (Ord. 7073-NS § 1, 2009)

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Section 23C.17.110 Cessation of Operations

- D. Within thirty (30) days of cessation of operations of any wireless telecommunications facility approved pursuant to this chapter, the operator shall notify the Zoning Officer in writing. The permit for said wireless telecommunications facility shall be deemed lapsed and of no further effect six (6) months thereafter unless:
 - I. The Zoning Officer has determined that the same operator resumed operation within six (6) months of the notice; or
 - II. The City has received an application to transfer the permit to another operator.
- E. No later than thirty (30) days after a permit has lapsed under the preceding subsection, the operator shall remove all wireless telecommunication facilities from the site. If the operator fails to do so, the property owner shall be responsible for removal, and may use any bond or other assurances provided by the operator pursuant to the requirements of Section 23C.17.050 to do so. If such facilities are not removed, the site shall be deemed to be a nuisance pursuant to Section 23B.64 and the City may call the bond to pay for removal.
- F. Failure to inform the Zoning Officer of cessation of operations of any existing facility shall constitute a violation of the Zoning Ordinance and be grounds for:
 - I. Prosecution;
 - II. Revocation or modification of the permit;
 - III. Calling of any bond or other assurance secured by the operator pursuant to the requirements of Section 23C.17.050; and/or
 - IV. Removal of the facilities.
- G. Any FCC-licensed telecommunications carrier that is buying, leasing, or considering a transfer of ownership of an already approved facility, shall provide written notification to the Zoning Officer and request transfer of the existing Use Permit. The Zoning Officer may require submission of any supporting materials or documentation necessary to determine that the proposed use is in compliance with the existing Use Permit and all of its conditions including, but not limited to, statements, photographs, plans, drawings, models, and analysis by a State-licensed radio frequency engineer demonstrating compliance with all applicable regulations and standards of the Federal Communications Commission and the California Public Utilities Commission. If the Zoning Officer determines that the proposed operation is not consistent with the existing Use Permit, he/she shall notify the applicant who may revise the application or apply for modification to the Use Permit pursuant to the requirements of Section 23B.56. (Ord. 7073-NS § 1, 2009)

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BMC 16.10.050

16.10.050 Design, installation, and construction of video and telecommunications systems.

A. All Facilities shall be so located, constructed, installed and maintained so as not to incommode the public use of the road or highway or interrupt navigation of the waters, including access to and from the PROW from private property.

B. In the event a Company creates a hazardous or unsafe condition on either public or private property, or unreasonably interferes with access between the PROW and private property, the Company shall remove or modify that part of the Facility to eliminate such condition.

C. No Facility may be located or installed in such a manner that it will unreasonably interfere with existing or adopted City plans to use the PROW, with the access rights of private property owners, with existing gas, electric, sewer or telephone fixtures, with existing water hydrants and mains, with existing sewers, storm drains or v-ditches, or any existing wastewater stations, or with any existing traffic control System.

D. Construction, installation, maintenance and repair of Facilities shall not substantially affect the integrity of any affected structures, and shall, to the extent reasonably feasible, be installed either perpendicular or parallel to property lines or the sides of structures.

E. All underground taps shall, to the extent reasonably possible, follow property lines and cross property at right angles unless otherwise required due to the physical characteristics of the subsurface or required under applicable law.

F. All construction of new and replacement Facilities shall be accomplished between the hours reasonably specified by the City in the approved permit or ordinances. Construction shall seek to minimize any adverse impact on services of the City or third parties.

G. Whenever existing Facilities or electric utility facilities are located underground along a particular street or public way, new Facilities shall be installed underground along that street or public way to the extent Feasible.

H. Whenever any new or existing Facilities or electric utility lines are relocated underground along a particular street or public way, a Company shall relocate its Facilities underground to the extent Feasible concurrently with the other lines at its sole expense, in accordance with existing legal and regulatory requirements.

I. Companies shall advise and coordinate major construction efforts with other utility companies through city-sponsored utility coordination meetings, and, to the extent reasonably possible, coordinate their construction work

with other utilities installing infrastructure in the PROW. In new developments, a Company shall contact the developer to determine whether any surplus conduit is available in the areas that the Company plans to install facilities, and whether any joint trenching or boring projects are feasible.

J. Overhead facilities may be installed only if sufficient space is available on existing utility poles consistent with applicable regulations, as determined by the Director.

K. If proposed new Facilities would require excavation, or involve excavation for installation of new facilities, those Facilities shall be installed within existing Facilities whenever sufficient Excess Capacity is available on commercially reasonable terms and conditions.

L. All proposed AGFs shall be installed underground or in flush mounted vaults or low profile waterproof pedestals, unless the Director determines that it would be infeasible to do so or the proposed AGF would not result in significant detriment to the PROW or the environment surrounding it. In making these determinations, the Director shall consider information provided by the Company.

M. Companies shall coordinate with affected property owners to locate AGFs so as to reasonably minimize inconvenience and disruption to residents, consistent with installation of permitted Facilities.

N. The City Manager or his/her designee may adopt regulations, guidelines and standards to implement this Section. (Ord. 7159-NS § 2, 2010; Ord. 7083-NS § 4 (part), 2009)