

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ARROYO GRANDE RECOMMENDING THE CITY COUNCIL ADOPT AN ORDINANCE APPROVING DEVELOPMENT CODE AMENDMENT NO. 24-002 REGARDING WIRELESS TELECOMMUNICATIONS FACILITIES

WHEREAS, on November 27, 2001, the City Council adopted Resolution No. 3569 approving the Telecommunication Facilities Siting and Permit Submittal Requirements; and

WHEREAS, on April 25, 2017, the City Council adopted Resolution No. 4791 and amended the Telecommunication Facilities Siting and Permit Submittal Requirements; and

WHEREAS, wireless telecommunication technology has changed rapidly since the adoption of Resolution No. 4791, including the introduction of 5G technology; and

WHEREAS, the review of applications for wireless telecommunications facilities is subject to multiple federal and state laws and regulations, including, but not limited to, 47 U.S.C. § 332(c)(7); 47 U.S.C. § 253(c); 47 U.S.C. § 1455(a); 47 C.F.R. § 1.6100; California Government Code §§ 65850.6, 65964, and 65964.1; California Public Utilities Code §§ 7901 and 7901.1; California Public Resources Code § 20000, et seq., 14 California Code of Regulations § 15000, et seq., and numerous orders and actions by the Federal Communications Commission, and

WHEREAS, in order to stay abreast of recent changes to a number of these federal and state laws, it is necessary to adopt amendments to the Arroyo Grande Municipal Code; and

WHEREAS, on September 17, 2024, the Planning Commission conducted a duly noticed public hearing to consider the staff report, recommendations by staff, and public testimony concerning the ordinance. Following the public hearing, the Planning Commission voted to continue the public hearing to a date uncertain, and

WHEREAS, on October 15, 2024, the Planning Commission resumed the consideration of the ordinance at a duly noticed public hearing. Following the public hearing, the Planning Commission voted to forward the ordinance to the City Council with a recommendation in favor of its adoption; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Arroyo Grande hereby recommends the City Council adopt Ordinance No. ___ approving Development Code Amendment 24-002 amending Title 16 of the Arroyo Grande Municipal Code as attached hereto as Exhibit "A-1" and incorporated herein by this reference and rescind City Council Resolution No. 4791.

ATTACHMENT 1

On motion by Commissioner _____, seconded by Commissioner _____, and by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

the foregoing Resolution was adopted this 15th day of October, 2024.

**JAMIE MARAVIGLIA
CHAIR**

ATTEST:

**PATRICK HOLUB
SECRETARY TO THE COMMISSION**

AS TO CONTENT:

**BRIAN PEDROTTI
COMMUNITY DEVELOPMENT DIRECTOR**

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE AMENDING VARIOUS PROVISIONS OF AND ADDING CHAPTER 16.70 TO THE ARROYO GRANDE MUNICIPAL CODE RELATING TO WIRELESS TELECOMMUNICATIONS FACILITIES AND FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, on November 27, 2001 the City Council adopted Resolution No. 3569 approving the Telecommunication Facilities Siting and Permit Submittal Requirements; and

WHEREAS, on April 25, 2017, the City Council adopted Resolution No. 4791 and amended the Telecommunication Facilities Siting and Permit Submittal Requirements; and

WHEREAS, wireless telecommunication technology has changed rapidly since the adoption of Resolution No. 4791, including the introduction of 5G technology; and

WHEREAS, the review of applications for wireless telecommunications facilities is subject to multiple federal and state laws and regulations, including, but not limited to, 47 U.S.C. § 332(c)(7); 47 U.S.C. § 253(c); 47 U.S.C. § 1455(a); 47 C.F.R. § 1.6100; California Government Code §§ 65850.6, 65964, and 65964.1; California Public Utilities Code §§ 7901 and 7901.1; California Public Resources Code § 20000, et seq., 14 California Code of Regulations § 15000, et seq., and numerous orders and actions by the Federal Communications Commission, and

WHEREAS, in order to stay abreast of recent changes to a number of these federal and state laws, it is necessary to adopt amendments to the Arroyo Grande Municipal Code; and

WHEREAS, on September 17, 2024, the Planning Commission conducted a duly noticed public hearing to consider the staff report, recommendations by staff, and public testimony concerning the ordinance. Following the public hearing, the Planning Commission voted to continue the public hearing to a date uncertain, and

WHEREAS, on October 15, 2024, the Planning Commission resumed the consideration of the ordinance at a duly noticed public hearing. Following the public hearing, the Planning Commission voted to forward the ordinance to the City Council with a recommendation in favor of its adoption; and

WHEREAS, on _____, 2024, the City Council conducted a duly noticed public hearing to consider the ordinance, including: (1) the public testimony and agenda reports

prepared in connection with the ordinance; (2) the policy considerations discussed therein; and (3) the consideration and recommendation of the Planning Commission; and

WHEREAS, the City Council of the City of Arroyo Grande, at its regularly scheduled public meeting on _____, 2024 introduced this Ordinance to add Section 16.70 to, and amend various provisions of, Title 16 of the Arroyo Grande Municipal Code relating to wireless telecommunication facilities; and

WHEREAS, all legal prerequisites to the adoption of the ordinance have occurred.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE DOES ORDAIN AS FOLLOWS:

SECTION 1. Incorporation. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. Environmental. The City Council finds that this Ordinance is not a “project” subject to the California Environmental Quality Act (“CEQA”), because it has no potential to result in a direct or indirect physical change in the environment. The Ordinance does not authorize any specific development or installation on any specific piece of property within the City’s boundaries. Moreover, when and if an application for installation is submitted, the City will at that time conduct preliminary review of the application in accordance with CEQA. Alternatively, even if the Ordinance is a “project” within the meaning of State CEQA Guidelines Section 15378, the Ordinance is exempt from CEQA on multiple grounds. First, the Ordinance is exempt from CEQA because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment. (State CEQA Guidelines, § 15061(b)(3)). This is because approval of the Ordinance will not result in the actual installation of any facilities in the City. In order to install a facility in accordance with this Ordinance, the wireless provider would have to submit an application for installation of the wireless facility, and the City would conduct preliminary review under CEQA at that time. Alternatively, the Ordinance is categorically exempt from CEQA under State CEQA Guidelines sections 15301 (existing facilities), 15302 (replacement or reconstruction), 15303 (new construction or conversion of small structures), and/or 15304 (minor alterations to land). Notably, the wireless facilities regulated by the Ordinance typically have small footprints, and there are no unusual circumstances that apply to the Ordinance or the wireless facilities that it regulates. Moreover, the eligible facilities requests (“EFRs”) regulated by the Ordinance are not subject to CEQA because the City does not have discretion to deny EFRs under federal law. For all of the foregoing reasons, the Ordinance is not subject to CEQA.

SECTION 3. Required Findings. In accordance with section 16.16.040(E) of the Arroyo Grande Municipal Code, the City Council hereby makes the following findings:

1. *General Plan.* The ordinance’s amendments to the AGMC are consistent with the General Plan and it is necessary and desirable to implement the provisions

thereof. Specifically, policies in the Land Use Element encourage the maintenance and expansion of utilities, including wireless telecommunication facilities to support community needs. The Land Use Element also includes policies to maintain town character through community design guidelines which encourage design standards to screen and obscure mechanical facilities, structures, and features. The General Plan's Housing Element discusses, in section 4.4, the need to improve and augment infrastructure resources like telecommunication facilities that allow ease of communication among the City's residents. For these reasons, the ordinance's amendments to the AGMC are consistent with the General Plan and it is necessary and desirable to implement the provisions thereof.

2. *Health, Safety, and Welfare; Illogical Land Use Pattern.* Adoption of the ordinance will not adversely affect the public health, safety, and welfare as it establishes standards for the siting, design, and regulation of wireless telecommunication facilities in the least intrusive means possible while remaining within the confines of state and federal law. These changes implement state and federal requirements relating to wireless telecommunication facilities and measures have been taken to establish preferred locations for wireless telecommunications facilities and imposes reasonable and objective aesthetic regulations. With respect to public safety, facilities must meet FCC radio frequency emission standards in order to be approved.

3. *Consistency with Title 16.* This ordinance is consistent with the purpose and intent of AGMC Title 16 because it implements the goals, objectives, policies, and programs of the general plan as discussed above, is intended to result in the orderly development of wireless telecommunication facilities, uses federally approved safety standards, achieves significant social and economic advantages by providing a means to allow approval of telecommunication facilities, which is necessary to public safety to facilitate communication among residents and visitors to the City, and it does not alter or revise the type or intensity of allowed uses, ensuring that the provisions thereof are consistent with the City's General Plan.

4. *Environmental.* The potential environmental impacts of the proposed changes to this title are insignificant. See Section 2 above, which findings are adopted into this section by reference. Additionally, it is an overriding consideration that these changes are required by federal law, which outweighs any potential environmental impacts.

SECTION 4. Code Amendment. Section 16.52.040 "Antennas and satellite dishes" of Chapter 16.52 "Specific Use Development Standards" of Title 16 "Development Code" is hereby deleted in its entirety.

SECTION 5. Code Amendment. Subsection 16.48.030(B)(5) of Section 16.48.030 "Accessory structures" of Chapter 16.48 "General Development Standards" of Title 16 "Development Code" is hereby amended to read as follows:

“5. All Nonresidential Uses Except Public Buildings, Schools, Churches and Hospitals. Flues, chimneys, elevators and other mechanical equipment, spires, bell towers, or similar architectural, utility, or mechanical features may exceed the height limit by not more than fifteen (15) feet, provided such feature shall not be used for habitable space and appropriate screening is provided, if necessary.”

SECTION 6. Code Amendment. Subsection 16.48.030(B)(6) of Section 16.48.030 “Accessory structures” of Chapter 16.48 “General Development Standards” of Title 16 “Development Code” is hereby amended to read as follows:

“6. Public Buildings, Schools, Churches and Hospitals. Flues, chimneys, elevators and other mechanical equipment, spires, bell towers, or similar architectural, utility, or mechanical features may not exceed a height of fifty (50) feet measured from the grade average finished ground level to the highest point of such a structure.”

SECTION 7. Code Amendment. The definitions for “Antenna”, “Satellite dish antenna”, “Small cell telecommunication facility”, “Telecommunications facility”, and “Wireless telecommunication facility” of Section 16.04.070 “Definitions” of Chapter 16.04 “Introductory Provisions and Definitions” of Title 16 “Development Code” are hereby deleted in their entirety and Section 16.04.070 shall be automatically adjusted alphabetically.

SECTION 8. Code Amendment. Table 16.36.030(A) of Section 16.36.030 “Commercial and mixed use regulations” of Chapter 16.36 “Commercial and Mixed Use Districts” of Title 16 “Development Code” is hereby amended to remove the rows for “Small Cell Tele-communication facilities (commercial)” and “Tele-communication facilities (commercial)” as shown in the attached Exhibit “A-2,” and incorporated by reference, and footnotes 4 and 5 shall be deleted in their entirety.

SECTION 9. Code Amendment. Table 16.44.040-A of Section 16.44.040 “Public/quasi-public (PF) district” of Chapter 16.44 “Special Districts” of Title 16 “Development Code” is hereby amended to remove the rows for “Small cell telecommunication facilities (commercial)” and “Telecommunication facilities (commercial)” as shown in the attached Exhibit “A-3,” and incorporated by reference.

SECTION 10. Code Amendment. Chapter 16.70 “Wireless Telecommunications Facilities” is hereby added to Title 16 “Development Code” as shown in the attached Exhibit “A-4,” and incorporated by reference.

SECTION 11. Revocation of City Council Resolution No. 4791. City Council Resolution No. 4791 is hereby revoked and is of no further force and effect as of the effective date of this ordinance.

SECTION 12. Publication. A summary of this ordinance shall be published in a newspaper published and circulated in the City of Arroyo Grande at least five days prior to the City Council meeting at which the proposed ordinance is to be adopted. A

certified copy of the full text of the proposed ordinance shall be posted in the office of the City Clerk. Within 15 days after adoption of the ordinance, the summary with the names of those City Council members voting for and against the ordinance shall be published again, and the City Clerk shall post a certified copy of the full text of such adopted ordinance.

SECTION 13. **Effective Date.** This ordinance shall become effective 30 days after adoption.

SECTION 14. **Severability.** Should any provision of this ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this ordinance or the application of this ordinance to any other person or circumstance, and, to that end, the provisions hereof are severable. The City Council declares that it would have adopted all the provisions of this ordinance that remain valid if any provisions of this ordinance are declared invalid.

SECTION 15. **Records.** The documents and materials associated with this ordinance that constitute the record of proceedings on which the City Council's findings and determinations are based are located at 300 E. Branch Street, Arroyo Grande, CA 93420. The City Clerk is the custodian of the record of proceedings.

On motion by Council Member _____, seconded by Council Member _____, and by the following roll call vote to wit:

AYES:

NOES:

ABSENT:

the foregoing Ordinance was adopted this ____ day of _____, 2024.

CAREN RAY RUSSOM, MAYOR

ATTEST:

JESSICA MATSON, CITY CLERK

APPROVED AS TO CONTENT:

MATTHEW DOWNING, CITY MANAGER

APPROVED AS TO FORM:

ISAAC ROSEN, CITY ATTORNEY

ATTACHMENT 1

EXHIBIT A-2

Allowed Land Uses and Permit Requirements —LAND USE	IMU	TMU D-2.11	VCD HCO D-2.4	VMU D-2.11 HCO D-2.4	GMU	FOMU	HMU	OMU ¹ D-2.20	RC ²	Specific Use Standards and other references
...										
Small Cell Telecommunication Facility	MUP	MUP	MUP/ CUP	MUP/ CUP	MUP	MUP	MUP	MUP	MUP	Subject to the Telecommunication Facilities Siting and Permit Submittal Requirements as adopted by City Council Resolution
Telecommunication facilities	CUP	MUP	NP	CUP	CUP	CUP	MUP	CUP	CUP	Subject to the Telecommunication Facilities Siting and Permit Submittal Requirements as adopted by City Council Resolution
...										

4. Telecommunication facilities that are publicly visible are subject to a CUP.

5. The planning commission shall review applications for small cell telecommunication facilities that are proposed in the Village Core Downtown district and are publicly visible.

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EXHIBIT A-3

Use	PF
...	
15. Small cell telecommunication facilities (commercial)	MUP (subject to the telecommunication facilities siting and permit submittal requirements as adopted by city council resolution)
16. Telecommunication facilities (commercial)	CUP (subject to the telecommunication facilities siting and permit submittal requirements as adopted by city council resolution)
...	

Chapter 16.70
WIRELESS TELECOMMUNICATIONS FACILITIES

Sections:

- 16.70.010 Purpose.
- 16.70.020 Definitions.
- 16.70.030 Exemptions.
- 16.70.040 Permits required.
- 16.70.050 Application submittal requirements.
- 16.70.060 Findings.
- 16.70.070 Design, development, and location standards.
- 16.70.080 Limited Exceptions to Design, Development and Location Standards.
- 16.70.090 Standard conditions of approval.
- ~~16.70.100 Required findings.~~
- 16.70.100 Peer review.
- 16.70.110 Denial without prejudice due to failure to respond to notice(s) of incompleteness.
- 16.70.120 Nonconforming facilities.
- 16.70.130 Revocation.

16.70.010 Purpose.

The purpose of this chapter is to establish comprehensive requirements and development standards for antennas and wireless telecommunications facilities, including on public and private property and in public rights-of way. These regulations are intended to provide for the managed development of antennas and wireless telecommunications facilities in a manner that recognizes and enhances the community benefits of wireless telecommunications technology and reasonably accommodates the needs of citizens and wireless telecommunications service providers in accordance with federal and state rules and regulations. At the same time, these regulations are intended to protect neighbors from potential adverse impacts of such facilities, including but not limited to noise, traffic, aesthetic and other impacts over which the city has purview, and to preserve the visual character of the established community through appropriate design, siting, screening, maintenance, and location standards.

16.70.020 Definitions.

For the purpose of this chapter only, certain words and terms are hereby defined. Words used in the singular shall be deemed to include the plural and the plural the singular; and the word "shall" is mandatory and not discretionary. Reference to "facility" is interchangeable with "wireless telecommunications facility," unless otherwise noted.

ATTACHMENT 1

“Amateur radio antenna” means a ground, building, or tower-mounted antenna, or similar antenna structure, operated by a federally licensed amateur radio operator as part of the Amateur Radio Service, and as designated by the Federal Communications Commission (FCC).

“Antenna” means any system of wires, poles, rods, reflecting discs, or similar devices used in wireless communications for the transmission or reception of electromagnetic waves when such system is operated or operating from a fixed location.

“Base station” has the same meaning as provided in 47 C.F.R. § 1.6100(b)(1), as may be amended, which defines that term as follows:

A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless telecommunications between user equipment and a communications network. The term does not encompass a tower as defined in 47 C.F.R. § 1.6100(b) or any equipment associated with a tower.

1. The term includes, but is not limited to, equipment associated with wireless telecommunications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

2. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks).

3. The term includes any structure other than a tower that, at the time the relevant application is filed with the state or local government under this section, supports or houses equipment described in subsections 1 and 2 of this definition that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

4. The term does not include any structure that, at the time the relevant application is filed with the state or local government under this section, does not support or house equipment described in subsections 1 and 2 of this definition.

“Collocation” has the same meaning as defined by the FCC in 47 C.F.R. § 1.6002(g), as may be amended, which defines that term as: (1) mounting or installing an antenna facility on a preexisting structure; and/or (2) modifying a structure for the purpose of mounting or installing an antenna facility on that structure. Notwithstanding

the foregoing, for eligible facilities requests only, “collocation” has the same meaning as provided in 47 C.F.R. § 1.6100(b)(2), as may be amended, which defines that term as “[t]he mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.”

“Community Development Director” means the Arroyo Grande Community Development Director, or designee.

“Eligible facilities requests ” has the same meaning as that term is defined in 47 C.F.R. § 1.6100(b)(3), as may be amended, which defines that term as “[a]ny request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) [c]ollocation of new transmission equipment; (ii) [r]emoval of transmission equipment; or (iii) [r]eplacement of transmission equipment.”

“Eligible support structure” has the same meaning as provided in 47 C.F.R. § 1.6100(b)(4), as may be amended, which defines that term as “[a]ny tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the state or local government under this section.”

“Equipment cabinet” means an enclosure used to house multiple items of equipment associated with a wireless telecommunications facility.

“Existing” has the same meaning as provided in 47 C.F.R. § 1.6100(b)(5), as may be amended, which provides that “[a] constructed tower or base station is existing for purposes of [the FCC’s eligible facilities request regulations] if it has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.”

“Federal Communications Commission” or “FCC” mean the Federal Communications Commission or its lawful successor.

“Height” of a wireless telecommunications facility means the vertical distance measured from the natural undisturbed ground surface below the center of the base of said facility to the top of the facility itself or, if higher, to the tip of the highest antenna or appurtenance attached thereto. In the case of building-mounted facilities the height of the facility includes the height of the portion of the building on which it is mounted. In the case of crank-up or other similar towers whose height can be adjusted, the height of the facility shall be the maximum height to which it is capable of being raised.

“Monopole” means a single freestanding pole, post, or similar nonlattice structure used to support antennas and equipment associated with a wireless telecommunications facility.

“Personal wireless services” has the same meaning as provided in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended, which defines the term as “commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.”

“Public property” is commonly used as a designation of those things which are considered owned by “the public,” the state or community, and not restricted to dominion of a private person. It may also apply to any property owned by a state, nation, or municipality. It does not include public right-of-way.

“Public right-of-way” means and includes all land or interest in land which by deed, conveyance, agreement, easement, dedication, usage, or process of law is reserved for or dedicated to the use of the general public for street or highway purposes.

“Public safety facilities” means facilities used only for public safety functions and owned or operated by governmental entities such as police, fire and emergency operators.

“Equipment” means any and all equipment ancillary to the antenna used for transmission and reception of radio frequency, electromagnetic, or other wireless signals. Such equipment may include, but is not limited to, RRUs, cable, conduit, connectors, batteries, and generators.

“Roof-mounted” or “building-mounted” antenna means an antenna directly attached or affixed to the roof of, on the facade, or elsewhere on a preexisting building, tank or similar structure other than a Tower.

“Site” has the same meaning as provided in 47 C.F.R. § 1.6100(b)(6), as may be amended, which provides that “[f]or towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground. The current boundaries of a site are the boundaries that existed as of the date that the original support structure or a modification to that structure was last reviewed and approved by a state or local government, if the approval of the modification occurred prior to the Spectrum Act or otherwise outside of the eligible facilities request process.”

“Small wireless facility” has the same meaning as provided in 47 C.F.R. § 1.6002(l), as may be amended, which defines that term as facilities that meet each of the following conditions:

1. The facility:
 - a. Is mounted on structures 50 feet or less in height including their antennas as defined in 47 C.F.R. § 1.1320(d); or
 - b. Is mounted on structures no more than 10% taller than other adjacent structures; or
 - c. Does not extend existing structures on which they are located to a height of more than 50 feet or by more than 10%, whichever is greater;
2. Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in 47 C.F.R. § 1.1320(d)), is no more than three cubic feet in volume;
3. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any preexisting associated equipment on the structure, is no more than 28 cubic feet in volume;
4. The facility does not require antenna structure registration under part 17 of this chapter;
5. The facility is not located on tribal lands, as defined under 36 C.F.R. § 800.16(x); and
6. The facility does not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified in 47 CFR § 1.1307(b).

“Stealth facility” means any wireless telecommunications facility which is designed to blend into the surrounding environment by means of screening, concealment, or camouflage intended to make the facility look like something other than a wireless tower or base station. The antenna and related equipment are either not readily visible beyond the property on which they are located, or, if visible, appear to be part of the existing natural or built environment rather than as a wireless telecommunications facility.

“Substantial change” has the same meaning as provided in 47 C.F.R. § 1.6100(b)(7), as may be amended, which defines that term as a substantial modification changing the physical dimensions of an eligible support structure that meets any of the following criteria:

(i) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;

(A) Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act.

(ii) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

(iii) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;

(iv) It entails any excavation or deployment outside of the current site, except that, for towers other than towers in the public rights-of-way, it entails any excavation or deployment of transmission equipment outside of the current site by more than 30 feet in any direction. The site boundary from which the 30 feet is measured excludes any access or utility easements currently related to the site;

(v) It would defeat the concealment elements of the eligible support structure; or

(vi) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in § 1.6100(b)(7)(i) through (iv).

“Tower” has the same meaning as provided in 47 C.F.R. § 1.6100(b)(9), as may be amended, which defines that term as “[a]ny structure built for the sole or primary purpose of supporting any [FCC]-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless telecommunications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.” Examples include, but are not limited to, monopoles, mono-trees and lattice towers. This definition does not include utility poles.

“Transmission equipment” has the same meaning as provided in 47 C.F.R. § 1.6100(b)(8), as may be amended, which defines that term as “[e]quipment that facilitates transmission for any [FCC]-licensed or authorized wireless communications service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless telecommunications services including, but not limited to, private, broadcast, public safety services, as well as fixed wireless services, such as microwave backhaul.”

“Utility pole” means any structure designed to support electric, telephone, and similar utility lines, but does not include an electric pole used solely for the transmission of electricity at 50 kilovolts or higher. A tower is not a utility pole.

“Wireless telecommunications facility” or “facility” means an unstaffed facility at a fixed location, generally consisting of antennas, an equipment cabinet or enclosure, building, shed, or shelter, and related equipment, which receives and/or transmits radio frequency, electromagnetic, or other wireless signals for the purpose of transmitting voice or data.

16.70.030 Exemptions.

The requirements of this chapter do not apply to antennas or antenna structures set forth in this section, unless noted otherwise below. Each exempt facility shall fully comply with other applicable requirements of the Arroyo Grande Municipal Code to the extent not specially exempted in this section, including but not limited to the adopted uniform codes, including: Building Code, Electrical Code, Plumbing Code, Mechanical Code, and Fire Code.

A. Over-the-air-reception-devices (OTARD) antennas.

1. Satellite dishes 39.37 inches (one meter) or less. Direct broadcast satellite (DBS) antennas and multipoint distribution services (MDS) antennas measuring one meter or less in diameter (or diagonal measurement) and either: (a) intended for the sole use of a person occupying the same parcel to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite or (b) a hub or relay antenna used to receive or transmit fixed wireless services that are not classified as telecommunications services; and
2. Non-satellite dishes 39.37 inches (one meter) or less. A dish antenna 39.37 inches or less in diameter or diagonal measurement and (a) intended for the sole use of a person occupying the same parcel to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, or to receive or transmit fixed wireless signals other than via satellite or (b) a hub or relay antenna used to receive or transmit fixed wireless services that are not classified as telecommunications services.
3. Television broadcast system (TVBS) antennas, provided: (a) the antenna is located entirely on and/or above the subject property, and (b) no portion of any ground-mounted antenna is within a required front yard setback for the main building, in front of the main building, within a required side yard setback of a corner lot or adjacent to a street.

B. Satellite earth station (SES) antennas. Satellite earth station (SES) antennas measuring two meters or less in diameter (or diagonal measurement) located on a property within any commercial or industrial zoning district, provided: (1) the antenna is located entirely on and/or above the subject property; and (2) no portion of any ground-mounted antenna is within a required front yard setback for the main building, in front of the main building, within a required side yard setback of a corner lot or adjacent to a street. All SES antennas require a building permit and minor use permit for review of placement to ensure that maximum safety is maintained.

C. Amateur radio antennas. Antennas and antenna structures constructed by or for FCC-licensed amateur radio operators that comply with the following provisions. Such an antenna or antenna structure requires a building permit and minor use permit for review of placement to ensure that maximum safety is maintained:

1. The antenna structure, when fully extended, measures 35 feet or less in height, and measures 24 inches or less in diameter or width;

2. The antenna boom measures 20 feet or less in length and is three inches or less in diameter;
3. No antenna element exceeds 32 feet in length or two inches in diameter or width, with the exception of mid-element tuning devices which shall not exceed six inches in diameter or width;
4. The turning radius of any antenna does not exceed 26 feet; and
5. All antennas and antenna structures shall comply with Section 16.70.070, and other applicable provisions of the Arroyo Grande Municipal Code.

D. Public safety facilities. Facilities used only for public safety or other noncommercial governmental functions, including personal wireless services, used and maintained by the city, or any fire district, school district, hospital, ambulance service, governmental agency, or similar public or semipublic use.

E. Temporary mobile facilities. Mobile facilities placed on a site for less than seven consecutive days, provided any other necessary permits are obtained.

F. Collocation facilities. A proposed collocation facility that meets all of the requirements of California Government Code section 65850.6.

G. Emergency facilities. Wireless telecommunications facilities erected and operated for emergency situations, as designated by the police chief or City Manager, so long as the facility is removed at the conclusion of the emergency.

16.70.040 Permits required.

A person who proposes to install or operate a wireless telecommunications facility shall first obtain approval, as set forth in subsection A of this section (if the facility would be located in public right-of-way) or as set forth in subsection B of this section (if the facility would be located on private or public property), unless the facility is exempt under Section 16.70.030.

A. Public right-of-way.

1. Minor Use Permit-Plot Plan Review. Only small wireless facilities and qualifying eligible facilities requests are permitted within the public right of way. A minor use permit-plot plan review approval shall be required to construct, install, or modify a wireless telecommunications facility in the public right of way. Applications for minor use permits-plot plan review for facilities within the public right-of-way are subject to review and approval by the Community Development Director. Following receipt of an application for minor use permit-plot plan subject to this chapter, the Community Development Director shall provide written notice of the pending application to all

parcel owners within 500 feet of the proposed facility. No public hearing shall be required. The decision of the Community Development Director shall be final and not subject to appeal.

2. Other Permits Required by Code. In addition, applicants for a minor use permit-plot plan review to construct, install, or modify a wireless telecommunications facility in the public right of way must also obtain all other permits and approvals required by the Arroyo Grande Municipal Code, including but not limited to encroachment permits for accessing, working, or staging within the public right-of-way or on city-owned public property or building permits.

B. Private property and public property

1. Minor Use Permit-Architectural Review. A minor use permit-architectural review approval shall be required for any wireless telecommunications facility or modification thereof on private property or public property that is: (i) an eligible facilities request; (ii) a small wireless facility; or (iii) a collocation of a personal wireless services facility on an existing structure and does not qualify as (i) or (ii) . Applications for minor use permits-architectural review for wireless facilities on private or public property are subject to review and approval by the Community Development Director. The Community Development Director may refer an application to the Architectural Review Committee for review when an application does not clearly demonstrate compliance with the applicable design, development or location standards set forth in Section 16.70.070 and no limited exception has been requested in accordance with Section 16.70.080. Following receipt of an application for minor use permit-architectural review subject to this chapter, the Community Development Director shall provide written notice of the pending application to all parcel owners within 500 feet of the proposed facility. No public hearing shall be required.

a. The decision of the Community Development Director on any application for an eligible facilities request or small wireless facility collocation on an existing structure shall be final and not subject to appeal.

b. The decision of the Community Development Director on any application for a small wireless facility on a new or replacement structure or a collocation that does not qualify as an eligible facilities request or a small wireless facility shall be final unless appealed by any affected party directly to city council, whose decision shall be final. Once an appeal is filed, the city council's authority to review the decision being appealed is not limited to the original reason stated for the appeal. The city council may review and take action on all determinations, interpretations, decisions, judgments, or similar actions taken on

the application, and are not limited to the reason stated for the appeal. Appeals shall be in writing on a form obtained from the city clerk. The appellant shall state the specific reasons for the basis of the appeal. Appeal applications shall include the required fee and mailing labels for property owners within five hundred (500) feet of the project being appealed. An appeal as authorized by this section shall be filed with the office of the city clerk within ten (10) calendar days following the date of action for which an appeal is made or the date the action is reported to the planning commission on the consent agenda. Once an appeal is filed, it shall not be withdrawn except with the consent of the city council. The appeal shall be heard in accordance with the procedures outlined by subsection 16.12.150(C) and 16.12.150(D).

2. Conditional use permit. A conditional use permit issued in accordance with the procedures set forth in Section 16.16.050 is required for the installation of any wireless telecommunications facility that is not subject to a minor use permit-plot plan review set forth in subsection (A), a minor use permit-architectural review set forth in subsection (B)(1) above or a minor use permit-temporary uses set forth in (C) below. Following receipt of an application for a conditional use permit subject to this chapter, the Community Development Director shall provide written notice of the pending application to all parcel owners within 500 feet of the proposed facility.

3. Other Permits Required by Code. In addition, applicants for a minor use permit-architectural review or conditional use permit to construct, install, or modify a wireless telecommunications facility on public or private property must also obtain all other permits and approvals required by the Arroyo Grande Municipal Code, including but not limited to encroachment permits for accessing, working, or staging within the public right-of-way or on city-owned public property or building permits.

C. Temporary Facilities - Minor Use Permit-Temporary Uses. A minor use permit-temporary uses issued in accordance with the procedures set forth in Section 16.16.090 is required for the installation of any wireless telecommunications facility intended or used to provide personal wireless services on a temporary or emergency basis, such as a large-scale special event in which more users than usual gather in a single location or following a duly proclaimed local or state emergency as defined in Government Code section 8558 requiring additional service capabilities for a period not to exceed 90 consecutive days.

D. License Agreement. A license agreement entered into with the city shall be required for use of or attachment to any city-owned streetlights, vertical infrastructure or other City-owned property within the public right-of-way or on City-owned public property.

16.70.050 Application submittal requirements.

An applicant seeking an approval subject to this chapter shall complete and submit an application to the Community Development Department for review and processing, upon the form published by the Community Development Director, which may be updated from time to time.

16.70.060 Findings.

The hearing body or individual considering an application for a minor use permit-architectural review permit, minor use permit-plot plan review, or a conditional use permit subject to this chapter may approve the application only upon making the following findings, or to the extent the proposed wireless telecommunications facility does not comply with all applicable requirements, the applicant has requested a limited exception pursuant to Section 16.70.080 and the findings for granting a limited exception can be made.

- A. Minor Use Permit – Plot Plan Review (Non Eligible Facilities Requests): The Community Development Director may approve a minor use permit—plot plan review application subject to this chapter in whole or in part, with or without conditions, only if, on the basis of the application and other materials or evidence provided in review thereof, all of the following findings of fact can be made in an affirmative manner:
 - 1. All findings for approval required for minor use permit—plot plan review as specified in Section 16.16.080; and
 - 2. The facility complies with all applicable requirements of this chapter, including all requirements for the requested permit; all application requirements; and all applicable design, location, and development standards, or has met the requirements for a limited exception as outlined in 16.70.080; and
 - 3. The proposed facility will comply with all generally applicable laws.

- B. Minor Use Permit – Architectural Review (Non Eligible Facilities Requests): The Community Development Director may approve a minor use permit-architectural review application subject to this chapter in whole or in part, with or without conditions, only if, on the basis of the application and other materials or evidence provided in review thereof, all of the following findings of fact can be made in an affirmative manner:
 - 1. All findings for approval required for minor use permit—architectural review as specified in Section 16.16.130; and
 - 2. The facility complies with all applicable requirements of this chapter, including all requirements for the requested permit; all application requirements; and all applicable design, location, and development

standards, or has met the requirements for a limited exception as outlined in 16.70.080; and

3. The proposed facility will comply with all generally applicable laws.

C. Conditional Use Permit: The planning commission may approve a conditional use permit application subject to this chapter in whole or in part, with or without conditions, only if, on the basis of the application and other materials or evidence provided in review thereof, all of the following findings of fact can be made in an affirmative manner:

1. All findings for approval required for conditional use permit as specified in Section 16.16.050; and
2. The facility complies with all applicable requirements of this chapter, including all requirements for the requested permit; all application requirements; and all applicable design, location, and development standards, or has met the requirements for a limited exception as outlined in 16.70.080; and
3. The proposed facility will comply with all generally applicable laws.

D. Eligible Facilities Requests: No minor use permit-plot plan review or minor use permit-architectural review shall be approved for an eligible facilities request unless, on the basis of the application and other materials or evidence provided in review thereof, the following findings are made:

1. The proposed collocation or modification meets each and every one of the applicable criteria for an eligible facilities request stated in 47 C.F.R. sections 1.6100(b)(3)—(9), or any successor provisions, after application of the definitions in 47 C.F.R. section 1.6100(b). The Community Development Director shall make an express finding for each criterion; and
2. The proposed facility complies with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, except to the extent preempted by 47 C.F.R. sections 1.6100(b)(7)(i)—(iv), or any successor provisions; and
3. The proposed facility will comply with all generally applicable laws.

16.70.070 Design, Development, and Location Standards.

Each wireless telecommunications facility subject to this chapter (except eligible facilities requests) shall be designed, installed and operated in compliance with these location, design and development standards, unless specifically stated otherwise in this section.

A. Location Standards. When considering compatibility of a location and structure for wireless telecommunications facilities, applicants shall propose those that will be the least intrusive to community character and values. Subsection (B) of this section provides a ranking that describes zoning districts where facilities are least compatible to most compatible with other uses. Subsection (C) of this section provides the City's preference for placement on particular structures. Subsection (D) provides additional special considerations for site selection on public rights-of-way. Subsection (E) of this section provides general design standards.

B. Ranked Locations. Applicants must propose placement of new Towers or new structures for wireless telecommunications facilities in locations with the least intrusive land use designation (i.e., zoning) that are technically feasible and potentially available. Applications proposing placement in Tier I or II must include a written justification as part of the application submittal, supported by factual and verifiable evidence, that shows the Tier III (and if applicable Tier II) land use tier is not technically feasible and available. The following land use tiers are ranked from least compatible to most compatible:

Tier I (Not compatible):

Residential Zoning Designations: Residential Estate (RE), Residential Hillside (RH), Rural Residential (RR), Residential Suburban (RS), Single-Family Residential (SF), Village Residential (VR), Condominium/Townhouse (MF), Multifamily Apartment (MFA), Multifamily Very High Density (MFVH), Mobilehome Park (MHP), Village Mixed Use (VMU)

Tier II (Less compatible):

Mixed Use Zoning Designations: Fair Oaks Mixed Use (FOMU), Highway Mixed Use (HMU), Gateway Mixed Use (GMU), Office Mixed Use (OMU), Village Core Downtown (VCD)

Tier III (Most compatible):

Industrial Mixed Use (IMU), Traffic Way Mixed Use (TMU), Regional Commercial (RC), Public Facility (PF), Agricultural (AG)

1. Wireless telecommunications facilities shall not be placed directly in front of the primary entrance of any primary residential building or multifamily building located in the following zones: Residential Estate (RE), Residential Hillside (RH), Rural Residential (RR), Residential Suburban (RS), Single-Family Residential (SF), Village Residential (VR), Condominium/Townhouse (MF), Multifamily Apartment (MFA), Multifamily Very High Density (MFVH), Mobilehome Park (MHP), Village Mixed Use (VMU).

C. Structure Selection. Applicants shall propose placement on the most compatible structure that is technically feasible and available. Any application to place a wireless telecommunications facility on a structure other than the most compatible structure must include a written justification, based on factual and verifiable evidence, that shows no more compatible structure is technically feasible and available.

1. Structure Selection on Private and Public Property . The following structures are ranked from least compatible to most compatible on parcels:

- a. New (nonreplacement) structures (New Towers, monopoles, and other standalone facilities).
- b. Historic structures and buildings that are listed or qualify for listing on the California Office of Historic Preservation Resources registry or the national register of historic places.
- c. Existing (or replacement) nonbuilding structures, such as water towers, water tanks/ reservoirs, grain bins or silos, without existing wireless facilities.
- d. Existing nonbuilding structures, such as monopines, faux water towers, water tanks/ reservoirs, grain bins or silos with existing wireless facilities.
- e. Existing buildings, such as rooftop or façade mounted, within steeples, faux copulas and other buildings with sufficient capacity to support a facility

2. Structure Selection on Public Rights-of-Way. New (nonreplacement) structures of any type (utility pole or nonpole) are the least compatible structures to use on public rights-of-way. Deployment on existing (or replacement) utility poles and streetlights are the most compatible and preferred structures. Wireless telecommunications facilities are not permitted to be deployed on decorative streetlights. Selection of structures/locations in the public right-of-way is also subject to the limitations in subsection (D) of this section.

D. Public Right of Way Location Selection Standards. Wireless telecommunications facilities are not permitted in the following locations in the public right of way unless the application includes a written justification, based on factual and verifiable evidence, that shows no structure/location is technically feasible and available outside these locations:

- a. Directly in front of the areas which are five feet in either direction from the centerline of each entry door or window in the front facade of any occupied residential building.
- b. Within a 300-foot radius from another wireless telecommunications facility within the public rights-of-way.

c. Any location that would adversely affect the normal drainage of surface water, unless an acceptable mitigation is included that will be advantageous to the general public.

d. Any location that would adversely affect vehicular and/or pedestrian traffic or the parking of vehicles including placements in any visibility triangle that obstructs or restricts the view necessary for the safe operation of motor vehicles as determined by the Director of Public Works.

e. Any location that would adversely affect the root structure of any existing trees, or significantly reduce greenbelt area that may be used for tree planting.

f. Any location within 10 feet of any driveways for police stations, fire stations, or other emergency responder facilities.

g. Any location that would physically interfere with or impede access to any: (i) aboveground or underground infrastructure for traffic control, or public transportation, including, without limitation, any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, barricade reflectors; (ii) public transportation vehicles, shelters, street furniture, or other improvements at any public transportation stop; (iii) aboveground or underground infrastructure owned or operated by any public or private utility agency; (iv) fire hydrant or water valve; (v) doors, gates, sidewalk doors, passage doors, stoops, or other ingress and egress points to any building appurtenant to the right-of-way; or (vi) fire escape.

E. Design Standards.

1. General Requirements. This subsection (E) establishes generally applicable design standards for all facilities, except that eligible facilities requests are subject only to subsections 16.70.070(E)(1)(e) through 16.70.070(E)(1)(l).

a. Stealth/Concealment. All wireless telecommunications facilities must be stealth to the maximum extent feasible. Stealth concealment techniques include, without limitation: (a) transmission equipment placed completely within existing or replacement architectural features such that the installation causes no visible change in the underlying structure; (b) new architectural features that mimic or blend with the underlying or surrounding structures in style, proportion and construction quality such that they appear part of the original structure's design; and (c) concealment elements, measures and techniques that mimic or blend with the underlying structure, surrounding environment or adjacent uses.. Colors and materials for wireless facilities shall be muted, subdued, nonreflective and chosen to minimize visibility to the greatest extent feasible.

b. Overall Height. On public and private parcels, facilities may not exceed more than 25 feet above the maximum height allowed by this Arroyo Grande Municipal Code for the underlying zoning district where the facility is proposed. In the public right-of-way, wireless facilities on an existing pole may not have an overall height that exceeds the height of the existing pole by more than 10 feet and wireless facilities that involve a replacement pole or a new pole may not have an overall height that is more than 10 feet above the height of the replaced pole or existing poles in the vicinity unless additional height is necessary to comply with CPUC safety standards such as General Order 95.

c. Finishes. All exterior surfaces shall be painted, colored, and/or wrapped in flat, muted, subdued, nonreflective hues that match the underlying structure or blend with the surrounding environment. All exterior surfaces on wireless facilities shall be constructed from, or coated with, graffiti-resistant materials. All finishes shall be subject to the reviewing authority's prior approval.

d. Trees and Landscaping. Wireless facilities shall not be installed (in whole or in part) on new poles within any tree drip line. All wireless facilities proposed to be placed in a landscaped area must include landscape and/or hardscape features (which may include, without limitation, trees, shrubs and ground cover) and a landscape maintenance plan. The existing native vegetation shall be maintained to the maximum extent feasible. The reviewing authority may require additional landscape features to screen the wireless telecommunications facility from public view, avoid or mitigate potential adverse impacts on adjacent properties or otherwise enhance the stealth techniques required under this chapter. All plants proposed or required must be reviewed as part of a formal landscaping plan and approved by the City.

e. Noise. All wireless facilities must be compliant with all applicable noise regulations, which includes, without limitation, any noise regulations in this Arroyo Grande Municipal Code. The reviewing authority may require the applicant to incorporate appropriate noise-baffling materials and/or noise-mitigating strategies to avoid any ambient noise from equipment reasonably likely to exceed the applicable noise regulations.

f. Lights. Wireless facilities may not include exterior lights other than as may be required under the Federal Aviation Administration, FCC, or other applicable Federal or State governmental regulations. All exterior lights permitted or required to be installed must be installed in locations and within enclosures that mitigate illumination impacts on other properties to the maximum extent feasible. Any lights associated with the electronic equipment shall be appropriately shielded from public view. Any light beacons or lightning arresters shall be included in the overall height calculation.

g. Signage, Advertisements. All wireless facilities must include signage that accurately identifies the equipment owner/operator, the owner/operator's site

name or identification number and a toll-free number to the owner/operator's network operations center. Wireless facilities may not bear any other signage or advertisements unless expressly approved by the reviewing authority, required by law or recommended under FCC or other Federal governmental agencies for compliance with RF emissions regulations.

h. Security Measures. To prevent unauthorized access, theft, vandalism, attractive nuisance or other hazards, reasonable and appropriate security measures, such as fences, walls 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, and the reviewing 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. Alarm systems shall not include any visible alarms or audible sirens or other sounds.

i. Fire Safety. All wireless facilities shall be designed by qualified, licensed persons to provide the maximum protection that is technically feasible to prevent electrical and fire hazards. All wireless facilities shall be proactively monitored and maintained to continue and, if possible, improve the safety design.

j. Compliance With Laws. All 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, general plan and any applicable specific plan, the Arroyo Grande Municipal Code and any conditions or restrictions in any permit or other governmental approval issued by any public agency with jurisdiction over the project.

k. Public health. No wireless telecommunications facility shall be sited or operated in such a manner that it poses, either by itself or in combination with other such facilities, a potential threat to the public health. To that end, no facility or combination of facilities shall produce at any time power densities in any inhabited area that exceed the FCC's maximum permissible exposure (MPE) limits for electric and magnetic field strength and power density for transmitters or any more restrictive standard subsequently adopted or promulgated by the City, county, state or federal government. Absolute compliance with FCC Office of Engineering Technology (OET) Bulletin 65, as amended, is mandatory, and any violation of this section shall be grounds for the City to immediately terminate any permit granted hereunder, or to order the immediate service termination of any nonpermitted, noncomplying facility constructed within the City.

I. Electric Service. The City strongly encourages site operators to use flat-rate electric service when it would eliminate the need for a meter. Where meters are required, use the narrowest electric meter and disconnect available.

16.70.080 Limited Exceptions to Design, Development and Location Standards.

A. The Community Development Director and/or the hearing body considering the application may grant exceptions to the design, development and location standards for wireless telecommunications facilities subject to this chapter, if it is determined that denial of an application or strict adherence to the design, development and location standards would:

1. Prohibit or effectively prohibit the provision of personal wireless services, within the meaning of federal law; or
2. Otherwise violate applicable laws or regulations; or
3. Require a technically infeasible location, design or installation of a wireless telecommunications facility;
4. Involve only minor noncompliance with a requirement, provided such noncompliance either results in no increase in visual harms to the community or provides other benefits.

B. To be considered, the applicant must request an exception at the time of application submittal, and the applicant has the burden of proof.

C. If the Community Development Director and/or the hearing body considering the application finds that an exception is warranted, said requirements may be waived, but only to the minimum extent required to avoid the prohibition, violation, or technically infeasible location, design or installation or minor noncompliance.

16.70.090 Standard conditions of approval.

All permits issued in accordance with this chapter, except for minor use permit-temporary uses, whether approved by the Community Development Director and/or the hearing body considering the application or deemed approved by the operation of law, shall be automatically subject to the conditions in this section. The Community Development Director and/or the hearing body considering the application shall have discretion to modify, supplement, waive or amend these conditions on a case-by-case basis as may be necessary or appropriate under the circumstances to protect public health and safety or allow for the proper operation of the approved facility consistent with the goals of this chapter.

A. Permit term. The permit for a wireless telecommunications facility (except for an eligible facilities request) will automatically expire at 12:01 a.m. local time exactly 10

years and one day from the issuance date. Any other permits or approvals issued in connection with an application subject to this Article, 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

B. Compliance with Laws. The permittee shall at all times maintain compliance with all applicable federal, state and local laws, regulations and other rules.

C. Inspections – Emergencies. The city or its designee may enter onto the facility area to inspect the facility upon reasonable notice to the permittee. The permittee shall cooperate with all inspections. The city reserves the right to enter or direct its designee to enter the facility and support, repair, disable or remove any elements of the facility in when the facility threatens imminent harm to persons or property.

D. Contact information for responsible parties. The permittee shall at all times maintain accurate contact information for all parties responsible for the facility, which shall include a phone number, street mailing address and email address for at least one natural person. All such contact information for responsible parties shall be provided to the Community Development Director upon permittee's receipt of the Community Development Director's written request, except in an emergency determined by the city when all such contact information for responsible parties shall be immediately provided to the Community Development Director upon that person's verbal request.

E. Indemnities. The permittee and, if applicable, the owner of the private property upon which the facility is installed shall defend, indemnify and hold harmless the city of Arroyo Grande, its agents, officers, officials and employees (1) from any and all damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs of mandamus and other actions or proceedings brought against the city or its agents, officers, officials or employees to challenge, attack, seek to modify, set aside, void or annul the city's approval of the permit, and (2) from any and all damages, liabilities, injuries, losses, costs and expenses and any and all claims, demands, law suits or causes of action and other actions or proceedings of any kind or form, whether for personal injury, death or property damage, arising out of or in connection with the activities or performance of the permittee or, if applicable, the private property owner or any of each one's agents, employees, licensees, contractors, subcontractors or independent contractors. In the event the city becomes aware of any such actions or claims the city shall promptly notify the permittee and the private property owner, if applicable, and shall reasonably cooperate in the defense. It is expressly agreed that the city shall have the right to approve, which approval shall not

be unreasonably withheld, the legal counsel providing the city's defense, and the property owner and/or permittee (as applicable) shall reimburse city for any costs and expenses directly and necessarily incurred by the city in the course of the defense.

F. Adverse impacts on adjacent properties. Permittee shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification and removal of the facility. Any natural screening afforded by site conditions, including, but not limited to, the presence of trees, landscaping, topographical features, or structures on the site that shield the facility from view, shall be considered stealthing elements.

G. General maintenance. The site and the facility, including but not limited to all landscaping, fencing and related transmission equipment, must be maintained in a neat and clean manner and in accordance with all approved plans and conditions of approval.

H. Graffiti removal. All graffiti on facilities must be removed at the sole expense of the permittee within 48 hours after notification from the city.

I. RF emissions exposure compliance. All facilities must comply with all standards and regulations of the FCC and any other state or federal government agency with the authority to regulate RF exposure standards. After transmitter and antenna system optimization, but prior to unattended operations of the wireless telecommunications facility, permittee or its representative must provide the city documentation demonstrating compliance with all applicable RF emissions exposure standards as certified by a licensed engineer.

J. Build-out period. This permit shall lapse one year after its date of approval unless one of the following has occurred:

1. The facility is constructed or modified as approved and in operation; or
2. The build-out period is extended by the city authority which originally approved the permit; or
3. A building permit has been issued, substantial money has been expended, and construction diligently pursued. Permittees seeking an extension of the one-year build-out period under this subsection (J)(3) shall provide adequate supporting documentation to the Community Development Director demonstrating of its efforts to date, which may include but is not limited to plans submitted for plan review, executed contracts with contractors or subcontractors for the installation or modification of the facility or other documentation.

K. Lapse. The permit shall automatically lapse if, after the commencement of operation of the facility, there is a discontinuance of the exercise of the entitlement granted by the permit for six consecutive months or more.

L. Testing. Testing of back-up generators and other noise producing equipment shall take place on weekdays only, and only between the hours of 8:30 a.m. and 4:30 p.m., except that testing is prohibited on holidays that fall on a weekday. In addition, testing is prohibited on weekend days.

M. Utilities undergrounded. Unless the facility is on a utility pole, extensions of electrical and telecommunications land lines to serve the wireless telecommunications facility shall be underground.

N. Encroachment. Permittee must obtain an encroachment permit for any work, staging, operations, or construction access in the public right-of-way or on city-owned public property.

O. Other approvals. The permittee shall obtain all other applicable permits, approvals, and agreements necessary to install and operate the facility in conformance with federal, state, and local laws, rules, and regulations.

P. Modifications. No changes shall be made to the approved plans, except for like-for-like modifications, replacements, alterations, and/or additions consist of upgrades or exchanges of equipment that are substantially similar in appearance and the same or less in size, dimensions, weight, and RF emissions to the then-existing and approved equipment, without review and approval in accordance with this chapter.

Q. Performance and maintenance. All wireless telecommunications facilities, including but not limited to fences, cabinets, poles and landscaping, shall be maintained in good working condition over the life of the permit. This shall include keeping the structures maintained to the visual standards established at the time of approval. The facility shall remain free from trash, debris, litter, graffiti and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than 10 calendar days from the time of notification by the city or after discovery by the permittee.

R. Performance bond. Prior to issuance of a building or electrical permit, the permittee shall file with the city, and shall maintain in good standing throughout the term of the approval, a performance bond or other surety or another form of security for the removal of the facility in the event that the use is abandoned or the permit expires, or is

revoked, or is otherwise terminated. The security shall be in the amount equal to 100% of the cost of physically removing the wireless telecommunications facility and all related facilities and equipment on the site, based on the higher of two contractors' quotes for removal that are provided by the permittee. The permittee shall reimburse the city for staff time associated with the processing and tracking of the bond, based on the hourly rate adopted by the City Council. Reimbursement shall be paid when the security is posted and during each administrative review.

S. Conflicts with improvements. For all wireless telecommunications facilities located within the public right-of-way, the permittee shall remove or relocate, at its expense and without expense to the city, any or all of its wireless telecommunications facilities when such removal or relocation is deemed necessary by the city by reason of any change of grade, alignment or width of any public right-of-way, for installation of services, water pipes, drains, storm drains, power or signal lines, traffic control devices, public right-of-way improvements, or for any other construction, repair or improvement to the public right-of-way.

T. City access. The city reserves the right of its employee, agents, and designated representatives to inspect permitted facilities and property upon reasonable notice to the permittee. In case of an emergency or risk of imminent harm to persons or property within the vicinity of permitted facilities, the city reserves the right to enter upon the site of such facilities and to support, disable, or remove those elements of the facilities posing an immediate threat to public health and safety. The city shall make an effort to contact the permittee, prior to disabling or removing wireless telecommunications facility elements.

U. Encourage collocation. Where the wireless telecommunications facility site can accommodate a collocation upon the same site, the owner and operator of the facility shall allow another carrier to collocate its facilities and equipment thereon, provided the parties can mutually agree upon reasonable terms and conditions.

V. Interference. To the extent allowed under applicable federal rules and regulations, the operator of a wireless telecommunications facility shall correct interference problems experienced by any person or entity with respect to equipment such as television, radio, computer, and telephone reception or transmission that are caused by the facility. If a federal agency with jurisdiction over such matters finds that a facility is operating in violation of federal standards, the permittee shall promptly provide the Community Development Director with a copy of any notice of such violation issued by any federal agency and shall notify the Community Development Director as applicable once the facility comes back into compliance with applicable standards.

W. Discontinuance of use. The facility shall be removed by permittee within 90 calendar days of the discontinuation of the use or of permit expiration, whichever is earlier, and the site shall be restored to its previous condition. For facilities located on city property, this requirement shall be included in the terms of the lease. For facilities located on other sites, the property owner is responsible for removal of the facility within 90 calendar days of the discontinuation of the use or of permit expiration, whichever is earlier. The permittee shall provide the Community Development Department with a notice of intent to vacate the site a minimum of 30 calendar days before vacation.

X. Conditions of Approval for Eligible Facilities Requests. In addition to the foregoing Standard Conditions of Approval, any eligible facilities request approved pursuant to this chapter shall be subject to the following standard conditions unless modified by the Community Development Director:

1. No permit term extension. The city's grant or grant by operation of law of a permit for an eligible facilities request constitutes a federally mandated modification to the underlying permit or approval for the subject tower or base station. The city's grant or grant by operation of law of a permit for an eligible facilities request will not extend the permit term for any permit or other underlying regulatory approval and its term shall be coterminous with the underlying permit or other regulatory approval for the subject tower or base station.

2. No waiver of standing. The city's grant or grant by operation of law of an eligible facilities request does not waive, and shall not be construed to waive, any standing by the City to challenge any federal statute or regulation concerning eligible facilities request or any eligible facilities request .

3. Permit subject to conditions of underlying permit. Permits for eligible facilities requests shall be subject to the terms and conditions of the underlying permit for the existing tower or base station.

16.70.100 Peer review.

The Community Development Director and/or the hearing body considering the relevant permit application pursuant to this chapter may require the application, proposed findings, and conditions to be reviewed by an independent third-party peer review consultant of the City's choosing. The cost of the third-party peer review shall be the responsibility of the applicant.

16.70.110 Denial without prejudice due to failure to respond to notice(s) of incompleteness.

To promote efficient review and timely decisions, any application governed under this chapter regardless of type may be denied without prejudice by the Community Development Director when the applicant fails to tender a substantive response to the

city within 120 calendar days after the Community Development Director deems the application incomplete in a written notice to the applicant. The Community Development Director, in his or her discretion, may grant a written extension for up to an additional 30 calendar days when the applicant submits a written request prior to the one hundred twentieth 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.

16.70.120 Nonconforming facilities.

Nothing in this chapter shall validate any illegal or unpermitted wireless facilities installed prior to the effective date of this chapter. Any wireless telecommunications facility existing before the effective date of this chapter which is nonconforming to the provisions of this chapter may continue to be used. Such a facility may be operated, repaired and maintained but shall not be enlarged, expanded, relocated or modified to increase the discrepancy between the existing conditions and the requirements of this chapter, unless otherwise permitted by federal law.

16.70.130 Revocation.

A. Permittees shall fully comply with all conditions related to any permit or approval granted under this chapter or any predecessors to this chapter. Failure to comply with any condition of approval or maintenance of the facility in a matter that creates a public nuisance or otherwise causes jeopardy to the public health, welfare or safety shall constitute grounds for revocation. If such a violation is not remedied within a reasonable period, as determined by the City in its sole discretion, following written notice and an opportunity to cure, the City may schedule a public hearing before the Planning Commission to consider revocation of the permit. The Planning Commission revocation action may be appealed to the City Council pursuant Section 16.12.150.

1. If the permit is revoked pursuant to this section, the permittee shall remove its facility at its own expense and shall repair and restore the site to the condition that existed prior to the facility's installation or as required by the City within 90 days of revocation in accordance with applicable health and safety requirements. The permittee shall be responsible for obtaining all necessary permits for the facility's removal and site restoration.

2. At any time after 90 days following permit revocation, the City may require the facility to be removed and restoration of the premises as the City deems appropriate. The City may, but shall not be required to, store the removed facility (or any part thereof). The facility permittee shall be liable for the entire cost of such removal, repair, restoration, and storage. The City may, in lieu of storing the removed facility, convert it to the City's use, sell it, or dispose of it in any manner deemed appropriate by the City.

