



Supplemental Council Agenda Report

To: Mayor Uhring and the Honorable Members of the City Council

Prepared by: Richard Mollica, Planning Director

Approved by: Steve McClary, City Manager

Date prepared: January 18, 2024 Meeting date: January 22, 2024

Subject: Wireless Local Coastal Program Amendment Coastal Commission Staff Comments

RECOMMENDED ACTION: 1) Receive and file staff's report; 2) Review and direct staff to submit a letter of objection regarding the suggested modifications for the California Coastal Commission (CCC) to consider at the February 7-9, 2024 CCC hearing; or 3) Direct staff to withdraw the application for the proposed Local Coastal Program Amendment (LCPA) and initiate a new LCPA to address comments from the CCC and hold public hearings on the new LCPA.

STRATEGIC PRIORITY: This item is part of the day-to-day operations identified in the Adopted FY 2023-24 Strategic Priority Project List.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

DISCUSSION: The purpose of this report is to inform the City Council and the public of the CCC's suggested modifications to the City's wireless LCPA and to receive Council direction on how to proceed.

Background

On December 18, 2023, CCC staff provided the City with proposed suggested modifications to the City's wireless LCPA in advance of finalizing their agenda report for the February 7-9 CCC hearing. City staff had previously reached out to CCC staff about the City's wireless LCPA; however, no information was provided to the City until December 18, 2023. The LCPA must be scheduled for a CCC hearing in February because it marks the end of the one-year extension previously granted by the CCC to itself. The only way

to postpone the hearing is for the City to withdraw the application and resubmit. A resubmittal would restart the clock for CCC review. Should the City reapply, CCC staff is amenable to scheduling the item for a hearing within the next couple of months. However, the CCC would be able to grant itself an additional one-year extension after the initial 45 days expires. After the CCC renders a decision on the item, the City will have six months to accept the suggested modifications, reject the changes (and the LCP amendment), request an additional six-month extension, or resubmit a new amendment.

On January 3, 2024, after reviewing the suggested modifications, City staff and the City Attorney's Office met with CCC staff to discuss the proposed suggested modifications. CCC staff considered City staff's comments and on January 12, 2024, provided their final version of the suggested modifications, which included many of the City staff's suggested revisions. The final version of the CCC staff suggested modifications is attached hereto.

CCC staff were not comfortable recommending to the CCC that eligible facilities requests (EFRs) be exempt from a coastal development permit as they believe this would conflict with the Coastal Act. The suggested modifications instead propose that EFRs (that are not exempt from the requirement to obtain a coastal development permit) be subject to a Planning Director approval without a public hearing. This would potentially permit EFRs to be approved in a timely manner, but only if no appeal is filed. Besides the potential conflict with the shot clock mandated by federal law (that will result when any appeal is filed), this process also would require the City to make general CDP findings for EFRs—when federal law does not allow an EFR to be denied when such findings cannot be made. Failing to comply with federal shot clock regulations could result in a "Deemed Granted" remedy, in which the City may lose its ability to exercise design review for compliance with City codes.

Options

Staff is seeking direction from the Council on whether it wants to take action before the CCC issues its decision on the LCPA. Due to time constraints, the City would need to act prior to the February 7-9, 2024 CCC if it wants to issue a formal comment letter or withdraw the request and resubmit a new LCPA after the City and the public take more time to review the proposed suggested modifications. The City is not required to file a comment letter, and can always submit a new LCPA if the proposed modifications required by the CCC (in its formal decision after the hearing) are unacceptable to the City or do not go far enough.

ATTACHMENT: CCC's Suggested Modifications

California Coastal Commission February 7 -9, 2024 agenda is available online at <https://www.coastal.ca.gov/meetings/agenda/#/2024/2>.

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

City of Malibu Local Coastal Program Amendment No. LCP-4-MAL-21-0048-1-Part A
City Proposed Changes in ~~strikethrough~~/underline
CCC Draft Suggested Modifications in ~~double-strikethrough~~ and double-underline

AMEND LIP SECTION 2.2:

2.2. WIRELESS TELECOMMUNICATIONS DEFINITIONS

~~ANSI/IEEE STANDARDS—American National Standards Institute. A private organization that develops widely accepted standards for many pieces of modern day equipment.~~

ANTENNA - A typically metallic device used for radiating or receiving radio waves.

ANTENNA, BUILDING MOUNTED SITES - Antennas which are located and/or mounted on an existing building's exterior walls.

~~ANTENNA EQUIPMENT—A cabinet, room, or similar structure which houses the electronic facilities used to operate an antenna.~~

~~ANTENNA, GROUND MOUNTED SITES—Antennae which are located and/or mounted on a pole, attached to the ground level and are, otherwise, freestanding. These antennae do not use a building or ancillary structures for mounting purposes.~~

~~ANTENNA HEIGHT—The vertical distance from the existing or proposed grade, whichever is lower, to the top of the antenna or its support structure.~~

ANTENNA, ROOF-MOUNTED - An antenna, and its associated support structure, that is attached to a roof of a building or similar structure.

CO-LOCATION - is (1) mounting or installing an antenna facility on a pre-existing structure; and/or (2) modifying a structure for the purpose of mounting or installing an antenna facility on that structure. However, as used for Eligible Facilities Requests, “collocation” is limited to the 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 ~~the location of two or more wireless communication facilities on a single support structure or otherwise sharing a common location. Co-location shall also include the location of wireless communication facilities with other types of facilities including, but not limited to, water tanks, light standards, out buildings and other utility facilities and structures.~~

EQUIPMENT CABINET - is a ~~cabinet, structure or building used to support equipment associated with~~ physical container used to house smaller, distinct pieces of equipment or devices that are components of a wireless communication facility.

~~APPLICATION—A formal request, including all required and requested documentation and information, submitted by an applicant to the City for a wireless permit.~~

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

~~APPLICANT - A person filing an application for placement or modification of a wireless communications facility in the City of Malibu.~~

~~ELIGIBLE FACILITIES REQUEST or EFR - shall have the meaning as set forth in 47 C.F.R. Section 1.6100(b)(3), or any successor provision. Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, as defined by FCC regulations (47 C.F.R. Section 1.6100), involving:~~

- ~~(i) Collocation of new transmission equipment;~~
- ~~(ii) Removal of transmission equipment; or~~
- ~~(iii) Replacement of transmission equipment.~~

~~A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria pursuant to 47 C.F.R. Section 1.6100(b)(7):~~

~~(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 (i) through (iv).~~

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

FCC - is the Federal Communications Commission or its lawful successor.

~~FEDERAL COMMUNICATION COMMISSION (FCC) — is a United States government agency responsible for the regulation of interstate and international communications by radio, television, wire, satellite and cable.~~

MUNICIPAL INFRASTRUCTURE - City-owned or controlled property structures, objects, and equipment in the ROW, including, but not limited to, street lights, traffic control structures, banners, street furniture, bus stops, billboards, or other poles, lighting fixtures, or electroliers located within the ROW.

~~PERMITTEE — Any person or entity granted a wireless ROW permit pursuant to this Chapter.~~

~~PERSONAL COMMUNICATION SERVICES (PCS) — Federal Communication Commission (FCC) terminology describing intelligent, digital wireless, personal two-way communication systems. A broad range of telecommunications services that enable people and devices to communicate independent of location. PCS networks and devices operate over a wide range of frequencies assigned and authorized by the FCC.~~

PERSONAL WIRELESS SERVICES - shall have the same meaning as set forth in 47 U.S.C. Section 332(c)(7)(C)(i).

PERSONAL WIRELESS SERVICES FACILITY - A wireless communications facility used for the provision of personal wireless services.

PROFESSIONAL ENGINEER or PE - is as defined by Business and Professions Code Section 6701, and shall be interpreted to refer to the specific appropriate engineering branch in issue as defined in Sections 6702 through 6703 and “supervision of the construction of engineering structures” as defined in Section 6703.1.

PUBLIC RIGHT-OF-WAY, OR ROW - Any public street, public way or public place within the City limits, either owned by the City or dedicated to the public for the purpose of travel and which the City has the responsibility to maintain or manage. The term includes all or any part of the entire width of right-of-way, and above and below the same, whether or not such entire area is actually used for travel purposes.

SMALL CELL FACILITY - shall have the same meaning as “small wireless facility” in 47 C.F.R. 1.6002(l), or any successor provision, (which is a personal wireless services facility that meets the following conditions ~~that, solely for convenience, have been set forth below~~):

(1) The facility—

(i) is mounted on a structure 50 feet or less in height, including antennas, as defined in 47 C.F.R. Section 1.1320(d), or

(ii) is mounted on a structure no more than 10 percent taller than other adjacent structures, or

(iii) does not extend an existing structure on which ~~it is~~ ~~are~~ located to a height of more than 50 feet or by more than 10 percent, whichever is greater;

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

- (2) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in 47 C.F.R. Section 1.1320(d)), is no more than three cubic feet in volume;
- (3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
- (4) The facility does not require antenna structure registration under 47 C.F.R. Part 17;
- (5) The facility is not located on Tribal lands, as defined under 36 C.F.R. Section 800.16(x); and
- (6) The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 C.F.R. Section 1.1307(b).

SUPPORT STRUCTURE - Any structure capable of supporting a base station and/or antenna.

STEALTH FACILITY - A wireless communications facility designed to look like something other than a wireless tower or base station.

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

UTILITY POLE - A structure in the ROW designed to support electric, telephone and similar utility lines. For the avoidance of doubt, any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities is not a utility pole.

~~WIRELESS ROW PERMIT OR WRP - A permit issued pursuant to this Chapter authorizing the placement or modification of a wireless facility of a design specified in the permit at a particular location within the ROW; and the modification of any existing support structure to which the wireless facility is proposed to be attached.~~

~~WIRELESS TELECOMMUNICATIONS FACILITIES - An installation that sends and/or receives radio frequency signals, including, but not limited to, directional, omni-directional and parabolic antennas, structures or towers to support receiving and/or transmitting devices, cabinets, equipment rooms, accessory equipment and other structures, and the land or structure on which they are all situated. The term does not include mobile transmitting devices, such as vehicle or hand held radios/telephones and their associated transmitting antennas.~~

WIRELESS COMMUNICATIONS FACILITIES - The wiring, cables, electronic equipment, transmitters, antenna structures and other types of installations used for the provision of wireless services at a fixed location, including, without limitation, any associated tower(s), support structure(s), and base station(s).

AMEND LIP SECTION 3.16:

3.16. WIRELESS TELECOMMUNICATIONS ANTENNA AND FACILITIES

3.16.1 Purpose and Objectives

A. Purpose. The purpose and intent of this Section is to provide a uniform and comprehensive set of standards for the development, siting and installation of wireless communication facilities and antennas, ~~other than those exempt under Section 3.16.2(C).~~ The regulations contained herein are designed to protect and promote the public health, safety and community welfare and the aesthetic quality and value of the City as set forth within the goals, objectives and policies of the ~~General Plan and Local Coastal Program~~ general plan, while at the same time providing for managed development of wireless communications infrastructure ~~in accordance with the guidelines and intent of the Telecommunications Act of 1996.~~

B. Objectives. Recognizing the City's roles as regulator, service provider, facilitator and user, it is intended that the City shall apply these regulations in furtherance of the following goals and policy objectives, including but not limited to:

1. To retain control of private and public property within the confines of state and federal legislation to regulate wireless telecommunications services.
2. To facilitate the creation of an advanced wireless telecommunications infrastructure for citizens, businesses, industries and schools.
3. To protect the City from potential adverse effects of wireless telecommunications facility development.
4. ~~To Ensure~~ ensure that the wireless telecommunications infrastructure is designed to enhance and not interfere with the City's emergency response network.

3.16.2 ~~Site Plan Review~~ Wireless Permit Requirements

~~A site plan review permit, pursuant to Section 13.27 of the LCP, shall be obtained prior to erecting a wire less telecommunications antenna and/or facility in any non-residential zoning district (except for the public open space and recreational vehicle park zoning districts) or in any public right-of-way regardless of zoning district, if such wireless telecommunications antenna and/or facility complies with the General Requirements set forth in Section 3.16.5 and the Most Restrictive Design Standards set forth in Section 3.16.6. In addition to the site plan review permit, an encroachment permit shall be obtained for all wireless telecommunication antennas and facilities to be located in any public right-of-way.~~

~~A. Unless exempted, Every person who desires to place a wireless communications facility in the public rights-of-way or modify an existing wireless facility in the public rights-of-way must obtain a Wireless ROW Permit (WRP) Coastal Development Permit, pursuant to Chapter 12.02 of the Malibu Municipal Code authorizing the placement or modification, unless the requirement for a Coastal Development Permit is exempt or waived pursuant to Section 13.4. Additionally, a Wireless ROW Permit (WRP) is required pursuant to the Malibu Municipal Code where shown in LIP Table B (Permitted Uses). Except for small cell facilities, eligible facilities requests, or any other type of wireless facility expressly allowed in the public right-of-way by state or federal law.~~

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

~~1. Exemptions. Installation of the following antennas and/or appurtenant equipment which comply with all applicable requirements and standards pertaining to radio frequency (RF) emissions are not required to obtain a WRP:~~

- ~~a. The placement or modification of facilities by the City or by any other agency of the state solely for public safety purposes.~~
- ~~b. Installation of a "cell on wheels," "cell on truck" or a similar structure for a temporary period in connection with an emergency or event, but no longer than required for the emergency or event, provided that installation does not involve excavation, movement, or removal of existing functional facilities.~~

B. ~~Unless exempted, e~~Every person who desires to place or modify a wireless communications facility ~~that is not located in the public rights-of-way~~ must obtain a ~~Wireless Permit (WP) Coastal Development Permit~~, authorizing the placement or modification, ~~unless the requirement for a Coastal Development Permit is exempt or waived pursuant to Section 13.4 and subsection B.3 below. Additionally, a Wireless Permit (WP) is required pursuant to the Malibu Municipal Code where shown in LIP Table B (Permitted Uses).~~ The ~~WP CDP~~ shall be obtained in one of the following ways, based on facility type:

1. Type 1: The installation or modification of a facility that qualifies as a small cell facility, or eligible facilities request, or collocation of a non-small cell facility; or

2. Type 2: (a) the installation or modification of all wireless facilities that do not qualify as Type 1; and (b) any ~~WP~~ application that includes a waiver ~~of development standard~~ request.

3. Exemptions. Installation of the following antennas and/or appurtenant equipment which comply with all applicable requirements and standards pertaining to radio frequency (RF) emissions are not required to obtain a ~~WP-Coastal Development Permit~~:

- a. ~~Antennas designed to receive video programming signals from direct broadcast satellite (DBS) services, residential fixed wireless communications, multi-channel multi-point distribution providers (MMD) or television broadcast stations in all zoning districts are exempted,~~ provided that all of the following conditions are met:
 - i. The antenna will be accessory to an existing use and measures thirty-nine (39) inches (one meter) or less in diameter.
 - ii. The antenna will be installed in a location where it is not readily visible from the public right-of-way.
 - iii. The antenna will not be located within a required setback area, driveway or parking space.
- b. Amateur radio antenna (including ham and short wave) provided the antenna ~~is the minimum height necessary to be effective and~~ does not exceed the maximum base building height for the zoning district in which it is located by more than fifteen (15) feet.
- c. Communications facilities exempt from the provisions of this Section by operation of state or federal law.
- ~~d. The placement or modification of facilities by the City or by any other agency of the state solely for public safety purposes.~~
- ~~e. Installation of a "cell on wheels," "cell on truck" or a similar structure for a temporary period in connection with an emergency or event, but no longer than required for the emergency or event, provided that installation~~

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

~~does not involve excavation, movement, or removal of existing functional facilities.~~

C. The determination of whether or not a proposed facility meets the requirements of subsection B.3 above~~for an exemption~~ shall be made by the Planning Director.

D. Other applicable requirements. In addition to the ~~WP or WRP CDP~~ required herein, the persons who will own or control the facility(ies) must comply with applicable laws, including, but not limited to, applicable laws governing RF emissions, the Americans with Disabilities Act (ADA) and electrical and fire codes.

E. Public Use. Except as otherwise provided by California law, any use of the public right-of-way authorized pursuant to this chapter will be subordinate to the City's use and use by the public.

F. Coastal Development Permit for a Wireless Telecommunication Facility Eligible Facilities Requests.

1. Unless exempt from the requirement to obtain a CDP pursuant to LIP Section 13.4 and subsection B.3 above, eligible facilities requests are subject to the granting of a CDP. An application for an eligible facilities request that complies with the standards of this section 3.16.2 shall be approved by the Planning Director and shall not be subject to a public hearing. If the City receives an application for a CDP for an eligible facilities request and finds that the proposed project does not qualify as an eligible facilities request, the application shall be processed as a regular coastal development permit application.

2. The Planning Director may approve an application for an eligible facilities request if: (a) the proposed development meets each and every one of the applicable criteria in the definition of eligible facilities request (the Planning Director shall make an express finding for each criterion); and (b) that the proposed facility will comply with all generally applicable laws, including generally applicable building, structural, electrical and safety codes, noise control ordinances, and other laws codifying objective standards reasonably related to health and safety. Public notice of the Planning Director decision shall be provided consistent with the timeframes of LIP Section 13.12.

~~3.16.3 Conditional Use Permit~~

~~A conditional use permit, pursuant to Chapter 17.66 of the Municipal Code, shall be obtained prior to erecting wireless telecommunication antennas and/or facilities within any rural residential, public open space, or recreational vehicle park zoning districts (unless the antenna and/or facility is to be erected in a public right of way and it complies with the General Requirements set forth in Section 3.16.5 and the Most Restrictive Design Standards set forth in Section 3.16.6), or within any other non-residential zoning district if the proposed wireless telecommunications antenna and/or facility does not comply with the Most Restrictive Design Standards set forth in Section 3.16.6. Any wireless telecommunication antennas and/or facilities conditionally approved pursuant to this Section shall comply with the General Requirements set forth in Section 3.16.5. The conditional use permit shall be reviewed by the City based solely~~

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

~~upon the location, design and other criteria of this Chapter, as well as for consistency with the General Plan and the health, safety and welfare of the public.~~

~~3.16.4~~ **3.16.3 Health and safety & Safety Standards/Radio Frequency Emission Exposure**

A. ~~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 public health, safety, or welfare. 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. All wireless communications 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 should be proactively monitored and maintained to continue and, if possible, improve the safety design.~~

B. ~~Failure to remain in continued compliance with the MPE limits shall be grounds for revocation of the discretionary permit. No facility or combination of facilities shall produce at any time power densities or exposure levels in any general population area that exceed the applicable FCC standards for radiofrequency (RF) emissions.~~

~~3.16.5~~ **General Requirements**

~~The following general requirements apply at all times to all wireless telecommunications facilities located in all zoning districts:~~

A. ~~Each facility must comply with any and all applicable provisions of the Malibu LCP and Municipal Code, including but not limited to provisions of the Uniform Building Code, National Electric Code, Uniform Plumbing Code, Uniform Mechanical Code, and Uniform Fire Code, and any conditions of approval imposed as part of the approval process.~~

B. ~~Each facility must comply with any and all applicable regulations and standards promulgated or imposed by any state or federal agency, including, but not limited to, the Federal Communications Commission and the Federal Aviation Administration.~~

C. ~~The facility must at all times comply with all applicable health requirements and standards pertaining to Radio Frequency emissions.~~

D. ~~Interference with City communications systems is prohibited. All proposed facility applications shall include reports, as required by the Los Angeles County Fire Department, to evaluate potential interference. The applicant shall be responsible for any costs incurred by the City, including the costs of retaining consultants, to review and analyze the reports.~~

E. ~~Freestanding wireless telecommunication facilities, including towers, lattice towers, and monopoles, shall not exceed 28 feet in height and shall not extend higher than the top of the ridgeline nearest the antenna. The height of a freestanding facility shall be measured from the natural undisturbed ground surface below the center of the base of the tower itself to the tip of the highest antenna or piece of equipment attached thereto.~~

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

~~F. Building-mounted wireless telecommunication facilities shall not exceed 28 feet in height. However, antenna elements, mounted flush on the facade of an existing structure that exceeds 28 feet, may have a height equal to the height of the building. Roof-mounted antennas may extend no more than 3 feet above the roof from which they are attached. Associated roof-mounted equipment cabinets shall not extend more than 5 feet above the roof from which it is attached and shall be setback a minimum of 10 feet from the edge of the roof. All roof-mounted equipment cabinets shall be located behind a mechanical screen wall. In the event that a roof parapet wall screens the equipment cabinets, a mechanical screen wall will not be required.~~

~~G. Not more than one (1) ground-mounted antenna site, excluding licensed amateur radio station antennas, shall be permitted on each site.~~

~~H. Wireless telecommunication facilities and antennas shall be co-located on existing poles or other facilities when possible. No permittee shall restrict access to an existing antenna location if required to co-locate by the City, and if possible to do so.~~

~~I. All electrical support equipment located within cabinets, shelters, or similar structures shall be screened from public view. Roof-mounted electrical support equipment shall be discouraged. Ground-mounted electrical support equipment shall be encouraged. In addition, under grounding of support equipment is required wherever practicable.~~

~~J. When possible, wireless telecommunication facilities will be located on existing utility poles provided the antennas do not exceed the height of the utility poles and provided a less-intrusive alternative is not available.~~

~~K. All antennas shall meet the minimum siting distances to habitable structures required for compliance with Federal Communications Commission (FCC) regulations and standards governing the environmental effects of radio frequency emissions.~~

~~L. All antennas shall be located such that any person walking adjacent to the transmitting surface of the antenna will be walking on a grade that is a minimum of eight and one-half feet below the transmitting surface.~~

~~M. Lighting of antenna structures and their electrical support equipment is prohibited, except as required by any order or regulation of the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA) and except for manually operated emergency lights for use when official operating personnel are on site.~~

~~N. No wireless telecommunication facility shall be located within five hundred (500) feet of any school ground, playground or park unless a finding is made, based on technical evidence acceptable to the Planning Manager, as appropriate, showing a clear need for the facility and that no technically feasible alternative site exists.~~

~~O. Except for facilities co-located on the same pole or tower, wireless telecommunication facilities located within any residential zone district, except for those facilities placed on utility poles located along Pacific Coast Highway, shall not be located within six hundred (600) feet of any other wireless telecommunication facility, unless a finding is made, based on technical evidence acceptable to the Planning Manager, as appropriate, showing a clear need for the~~

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

facility and that no technically feasible alternative site exists. This provision shall not apply to wireless telecommunication facilities located within any commercial zone district.

3.16.4 General Standards for Wireless Communications Facilities

~~A. Generally. Wireless communications facilities, except qualifying eligible facilities requests, shall meet the minimum requirements set forth in this Section and all applicable provisions of the LCP, in addition to the requirements of any other applicable law, unless (1) a waiver is required. Compliance with one or more of the development standards of this Section may be waived on a case-by-case basis pursuant to subsection 3.16.4(C) below. Waivers shall only be granted on a case-by-case basis and shall be narrowly tailored so that the requirements are waived only to the minimum extent required to address the request.~~

~~B. Wireless communications facilities shall be installed and modified in a manner that does not interfere with the use of public or private property or the use of the public right of way, in that it minimizes risks to public safety, avoids aboveground facilities in underground areas, avoids installation of new support structures or equipment cabinets in the public rights of way, makes facilities stealth by using concealment elements, and otherwise maintains the integrity and character of the neighborhoods in which the facilities are located and does not impede views; ensures that installations are subject to periodic review to minimize the intrusion on public rights of way and public and private property; and ensures that the City bears no risk or liability as a result of the installations, and that such use does not inconvenience the public or cause personal or economic harm, interfere with the primary uses of public or private property or the rights of way, or hinder the ability of the City or other government agencies to improve, modify, relocate, abandon, or vacate facilities or public property.~~

~~CB. Engineering, Design, and Location Standards. All applications shall comply with the following engineering, design and location standards for wireless communications facilities set forth in this Chapter and the Design and Location Standards and Conditions of Approval for Wireless Communications Facilities in the Public Right of Way and Engineering, Design and Location Standards, Conditions of Approval and Basic Application Requirements for Wireless Communications Facilities on Land Other than Public Right of Way adopted by separate resolutions and as amended.~~

1. All Wireless Communications Facilities.

~~A. All wireless facilities shall be engineered and designed to minimize the visual impact by means of placement, screening, camouflaging, painting and texturing and to be compatible with existing architectural elements, building materials and other site characteristics. The applicant shall use the smallest and least visible antenna possible to accomplish the facility's objectives. All antennas and support structures shall be painted and/or textured to achieve architectural compatibility with the structures for which they are attached and/or located.~~

~~The proposed wireless facility and its supporting structure (if needed) shall also be limited to the minimum size necessary to serve the defined service objectives of the wireless service provider or providers that will be using the facility, except where a larger facility has superior concealment elements. Support equipment~~

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

pads, cabinets, shelters and buildings require architectural, landscape, color, fencing, or other camouflage treatment to minimize visual impacts.

B. The materials used shall be non-reflective and non-flammable. Cabinet doors must be designed to stay securely closed, and openings in all facilities shall be shielded or made the smallest size feasible to protect against fire and wind-blown embers.

C. The pole, or other support structure, and all equipment shall be designed to withstand forces from seismic events.

D. All connections between various components of the facility, power lines, and conduit shall be designed in a manner to protect against damage by a natural disaster, a vehicular accident, an act of vandalism or similar external forces.

E. Stealth. Wireless facilities shall be stealth. Stealth elements and techniques should be used to blend the facility with surrounding materials and colors of the support structure and make the facility appear to be something other than a wireless facility. Stealth elements include, but are not limited to, the following:

1. Radio frequency (RF) transparent screening or shrouds;
2. Matching the color of the existing support structure by painting, coating, or otherwise coloring the wireless facility, equipment, mounting brackets, and cabling;
3. Placing cables and wires inside the pole or beneath conduit of the smallest size possible;
4. Minimizing the size of the site;
5. Installing new infrastructure that matches existing infrastructure in the area surrounding the proposed site; and
6. Using paint of durable quality.

F. Co-location. The use of existing infrastructure is preferred. Wireless facilities shall be collocated on existing poles or other facilities when possible. No permittee shall restrict access to an existing antenna location if required to co-locate by the City and if possible to do so.

G. Minimum Height. All antennas shall be located such that: (1) any person walking adjacent to the transmitting surface of the antenna will be walking on a grade that is a minimum of eight and one-half feet below the transmitting surface; and (2) no person at ground level will be exposed to an exposure level that is higher than allowed by the FCC's general population exposure rules.

H. Fire Safety Standards and Process.

1. All wireless facilities designs shall include:
 - a. a power shut off, such as by means of rapid entry Knox or similar type systems shall be installed;
 - b. surge protection devices capable of mitigating a direct or partial direct lightning discharge; and

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

- c. surge protection devices capable of mitigating significant electrical disturbances that may enter the facility via conductive cables.
2. After submittal by the applicant, the applicable application materials shall be transmitted to the Fire Department for its review and any recommended conditions.

2. Wireless Communications Facilities within the public right-of-way.

A. Strand-mounted Facilities. Strand-mounted facilities are encouraged. The facilities must be stealth and of the smallest size that is technically feasible to reduce aesthetic impacts.

B. Pole-Mounted Facilities.

1. Facilities on Streetlight Poles

- a. Stealth. The facility shall be engineered, designed, painted, coated, and otherwise made to maintain the look of a streetlight pole rather than a wireless facility, tower, or base station.
- b. Antennas and RRUs. Antennas shall be top-mounted in a shroud, and RRUs and other equipment shall be placed underground. If RRUs and equipment cannot be underground, then they shall be placed within the shroud with the antenna. RRUs attached to the side of the pole or ground-mounted are discouraged, but if they are required due to technical reasons, they should use the smallest RRU volume possible and be stacked vertically and close together with minimal distance from the pole.
- c. Dimensions. Antennas shall be of the smallest possible size, but in no case more than three cubic feet in volume. Pole-top wireless facilities, including shroud, shall be no more than 60 inches in height and 14.5 inches in diameter.
- d. Cables and Wiring. All cables and wiring must be within the pole.

2. Facilities on Wood Utility Poles.

- a. Stealth. The facility shall be engineered, designed, painted, coated, and otherwise made to maintain the look of a utility pole rather than a wireless facility, tower, or base station.
- b. Antennas. The preferred mounting type for wireless facilities on wood utility poles is side-mounting.
 - i. Side-mounted Facilities. Antennas and RRUs shall be midpole mounted (i.e., mid-pole mounted) in a shroud. If RRUs are attached to the side of the pole, the facility should use the smallest RRU volume possible, and the RRUs should be stacked vertically and close together with minimal distance from the pole.
 - (1) Antennas shall be of the smallest possible size, but in no case more than three cubic feet in volume.
 - (2) Side-mounted wireless facilities shall be of the smallest size technically feasible and shall not project from the pole more than

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

- 30 inches. The diameter of the shroud shall be no greater than the diameter of the pole or 14.5 inches, whichever is less. Side-mounted facilities shall only extend out on one side of the pole.
- ii. Top-mounted Facilities. Antennas and RRUs shall be top-mounted in a shroud. Antennas shall be of the smallest possible size, but in no case more than three cubic feet in volume. Pole-top wireless facilities, including shroud, shall be no more than 72 inches in height and 14.5 inches in diameter.
3. Cables and Wiring. All cables and wiring must be within the conduit on the exterior of the pole. The conduit must be a color that matches the pole and of the smallest size technically feasible.
- C. Replacement Poles. If an applicant proposes or is required to install a replacement pole to accommodate the proposed facility:
1. Placement. A replacement pole must be in the same location as the pole that it is replacing or as close to the original location as possible, taking into account pole owner safety-related requirements and all applicable location and placement standards herein.
 2. Design. Replacement poles should match the design (e.g., color, dimensions, height, style, and materials) of the existing pole that is being replaced.
 3. Cables and Wiring. All cables and wiring on non-wood poles must be within the structure. All cables and wiring on wood poles must be within conduit on the exterior of the pole. The conduit must be a color that matches the pole and of the smallest size technically feasible.
 4. Stealth. The facility should be stealth.
- D. New (Non-Replacement) Poles.
1. Waiver of Development Standard Required. New poles are prohibited, unless a waiver of development standard is approved by the City pursuant to Section 3.16.4(C) below to prevent a prohibition of service.
 2. Design. New poles (including antenna) shall have a maximum height of 28 feet and a maximum diameter of 14 inches, and any base enclosure shall not exceed 24 inches in width or height. If existing poles are present in the surrounding area, then the new pole shall be designed to resemble the existing poles in appearance, color, materials, and distribution pattern/spacing.
 3. New wooden poles are prohibited, unless required to match existing poles in the area surrounding the proposed installation site.

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

4. Cables and Wiring. All cables and wiring on non-wood poles must be within the pole. All cables and wiring on wood poles must be within the conduit on the exterior of the pole. The conduit must be a color that matches the pole and of the smallest size technically feasible.
5. Antennas and RRUs. Antennas and RRUs shall be contained within the pole and its base or underground.
6. Stealth. The facility must be stealth.

3. Wireless Communications Facilities on land other than the public right-of-way.

A. Facade-Mounted Equipment. Facade-mounted antennas and equipment shall be architecturally integrated into the building, or other support structure, design and otherwise made as unobtrusive as possible so that the facility does not appear to be a wireless facility. Antennas and equipment should be located entirely within an existing or newly created architectural feature so as to be completely screened from view. Facade-mounted facilities shall generally not extend more than eighteen (18) inches out from and may not project above the building face. Facade-mounted wireless telecommunication facilities shall not exceed twenty-eight (28) feet in height above the ground. However, antenna elements, mounted flush on the facade of an existing structure that exceeds twenty-eight (28) feet, may have a height equal to the height of the building.

B. Ground-Mounted Equipment. Outdoor ground-mounted equipment associated with base stations shall be avoided whenever feasible. In locations visible or accessible to the public, applicants shall conceal outdoor ground-mounted equipment, including ancillary power generation equipment, with opaque fences or landscape features that mimic the adjacent structure(s) (including, but not limited to, dumpster corrals and other accessory structures) and by painting, texturing, or otherwise concealing the facility as much as possible. Ground-mounted wireless communications facilities shall be located near existing structures or trees at similar heights for screening purposes where feasible. Not more than one ground-mounted antenna, provided that licensed amateur radio station antennas shall also be permitted on each site.

C. Roof-Mounted Facilities. Roof-mounted antennas and necessary equipment shall be screened from above if visible from higher elevations. Rooftop-mounted wireless telecommunication facilities shall not exceed twenty-eight (28) feet in height or three (3) feet above the roof parapet from which they are attached, whichever is less restrictive. Associated roof-mounted equipment cabinets shall not extend more than three (3) feet above the roof from which it is attached and shall be set back a minimum of ten (10) feet from the edge of the roof. All roof-mounted equipment cabinets shall be located behind a mechanical screen wall. In the event that a roof parapet wall screens the equipment cabinets, a mechanical screen wall will not be required.

D. Freestanding Facilities. Freestanding facilities requiring a new monopole or other new support structure shall be stealth facilities. Further, they shall be located as close

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

as possible to existing above-ground utilities, such as electrical towers or utility poles (which are not scheduled for removal or under grounding for at least 18 months after the date of application), light poles, trees of comparable heights, and in areas where they will not detract from the visual appearance of the area.

1. Freestanding wireless telecommunication facilities, including monopoles, shall not exceed twenty-eight (28) feet in height and shall not extend higher than the top of the ridgeline nearest the antenna. The height of a freestanding facility shall be measured from the natural undisturbed ground surface below the center of the base of the tower itself to the tip of the highest antenna or piece of equipment attached thereto.
2. Aside from the antenna itself, no additional equipment may be visible. All cables, including, but not limited to, electrical and utility cables, shall be run within the interior of the freestanding facility and shall be camouflaged or hidden to the fullest extent feasible without jeopardizing the physical integrity of the facility.
3. Monopole installations shall be situated so as to utilize existing natural or man-made features including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening.
4. All antenna components and accessory wireless equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background or existing architectural elements so as to visually blend in with the surrounding development. Subdued colors and non-reflective materials that blend with surrounding materials and colors shall be used.
5. Monopoles shall be no greater in diameter or other cross-sectional dimensions than is necessary for the proper functioning of the facility.

~~DC.~~ Waiver of Development Standards. Requests for waivers from any ~~requirement development standard~~ of this Section 13.6.4 ~~or the standards and wireless regulations set forth in the City Council resolution~~ shall be made in writing to the Director as part of the CDP application.

1. A waiver may be requested: ~~(1)~~ (a) to avoid a denial of an application that would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations; or (b) if compliance with a development standard would be technically infeasible; or (c) if the particular engineering, design, or location proposed involves only minor non-compliance with a development standard; ~~or (2) for the technical or design reasons specified in the Resolution described in Section 17.46.060(C), as amended. A request for waiver may be granted only if it is demonstrated through clear and convincing evidence that the standard for the waiver has been met.~~ Waivers shall comply with requirements for processing of coastal development permits and appeals consistent with the LCP.
2. All waivers approved pursuant to this subsection shall only be granted on a case-by-case basis based on substantial evidence if the decision-maker affirmatively finds (as applicable): (a) for a waiver requested under 1(a), that denial based on strict adherence to the standard would, within the meaning of federal law, prohibit or effectively prohibit the

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

provision of personal wireless services, or otherwise violate applicable laws or regulations, and the standard is waived only to the minimum extent required to avoid the prohibition or violation; (b) for a waiver requested under 1(b), that compliance with a standard of this Section 13.6.4 would be technically infeasible and the proposed wireless facility complies with the requirements of this Section to the greatest extent technically feasible; (c) for a waiver requested under 1(c), that such non-compliance is minor but either results in no increase in visual harms to the community or provides other benefits, and failure to adhere to the standard in the specific instance will not increase the visibility of the facility and will not decrease public safety, and will not result in greater impact to coastal resources including sensitive habitat, coastal waters, and public access. ~~(1) granted only on a case-by-case basis, and (2) narrowly tailored so that the requirements of this Section or the standards in the City Council resolution are waived only to the minimum extent required to address the request.~~

~~3.16.6 Most Restrictive Design Criteria~~

~~In addition to all other requirements set forth in this Chapter, all wireless telecommunications facilities shall meet the following design requirements:~~

~~A. Façade-mounted antennas and equipment shall be architecturally integrated into the building design and otherwise made as unobtrusive as possible. If possible, antennas should be located entirely within an existing or newly created architectural feature so as to be completely screened from view. Façade-mounted facilities shall generally not extend more than 18 inches out from the building face.~~

~~B. Ground-mounted wireless telecommunication facilities shall be located near existing structures or trees at similar heights for screening purposes where feasible.~~

~~C. All wireless telecommunication facilities shall be designed to minimize the visual impact to the greatest extent feasible by means of placement, screening, camouflaging, painting and texturing and to be compatible with existing architectural elements, building materials and other site characteristics. The applicant shall use the smallest and least visible antennas possible to accomplish the coverage objectives.~~

~~D. All antennas and support structures shall be painted and/or textured to achieve architectural compatibility with the structures for which they are attached and/or located. If ground-mounted, the antennas and support structure shall be painted, textured, landscaped or otherwise camouflaged as much as possible to integrate the structure into the environment. Colors and materials for facilities shall be non-reflective and chosen to minimize visibility to the greatest extent feasible.~~

~~E. All wireless telecommunication facilities shall be designed to prevent unauthorized climbing.~~

~~F. Roof-mounted antennas and necessary equipment shall be screened from above if visible from higher elevations.~~

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

G. ~~Satellite dish or parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their function.~~

H. ~~Where appropriate, facilities shall be installed so as to maintain and enhance existing landscaping on the site, including trees, foliage and shrubs, whether or not utilized for screening.~~

I. ~~All monopoles and lattice towers shall be designed to be the minimum functional height and width required to support the proposed antenna installation. Freestanding monopoles in highly visible locations shall incorporate stealth techniques to minimize their prominence.~~

J. ~~Support equipment pads, cabinets, shelters and buildings require architectural, landscape, color, fencing, or other camouflage treatment to minimize visual impacts to the extent deemed necessary by the Planning Manager. Landscaping screening should also be provided if irrigation water is available.~~

K. ~~No freestanding facility such as a monopole, lattice tower, or similar structure including ancillary support equipment may be located between the face of a building and a public street, bikeway or park.~~

L. ~~No wireless telecommunications facility shall emit a noise greater than fifty (50) decibels (dB) as measured from the base of the facility.~~

~~3.16.75 Standard Conditions of Approval~~

~~Each WRP and WF approved pursuant to this Section shall be subject, respectively, to the conditions of approval in the Design and Location Standards and Conditions of Approval for Wireless Communications Facilities in the Public Right of Way and Engineering, Design and Location Standards, Conditions of Approval and Basic Application Requirements for Wireless Communications Facilities on Land Other than Public Right of Way adopted by separate resolutions and as amended. If no conditions are imposed in the WRP or WP, or if the application is deemed approved by operation of law, then the standard permit conditions of approval in the respective Resolution shall apply to that permit. Each wireless telecommunications antenna and/or facility which is approved through either the site plan review process or a conditional use permit shall be subject to the following standard conditions of approval, in addition to any other condition deemed appropriate by the reviewing authority:~~

~~A. The wireless telecommunications antenna and/or facility shall be erected, operated, and maintained in compliance with the General Requirements of Section 3.16.5 and, if applicable, with the Most Restrictive Design Standards set forth in Section 3.16.6.~~

~~B. Within thirty (30) calendar days following the installation of any wireless telecommunications antenna and/or facility, the applicant shall provide FCC documentation to the Planning Manager that the unit has been inspected and tested in compliance with FCC standards. Such documentation shall include the make and model (or other identifying information) of the unit tested, the date and time of the inspection, and a certification that the unit is properly installed and working within applicable FCC standards.~~

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

C.——The installation of any wireless telecommunications antenna and/or facility shall be in compliance with all applicable state and local building, electrical, and mechanical codes.

D.——Any substantial change in the type of antenna and/or facility installed in a particular location shall require the prior approval of the Planning Manager.

E.——The applicant shall pay to the City a Permit Compliance Fee in an amount to be established by resolution of the City Council.

F.——Co-location of wireless telecommunications antennas and facilities pursuant to Section 3.16.8 shall be required whenever it is feasible to do so.

3.16.8 Locating Antennas at Existing Sites

An effort should be made to locate new wireless telecommunications antennas and facilities on existing grandfathered or conforming facilities when feasible.

3.16.9 Minimum Application Requirements

3.16.6 Minimum application requirements

In addition to meeting standard application submittal requirements for discretionary permits, detailed in other sections in this Chapter, all wireless telecommunication

~~A.——Applicants shall submit applications on the forms and in the manner approved by the Planning Director. In addition to providing all required fees, all wireless communications facility carriers or providers shall provide the information listed below. As used herein, “Wireless telecommunication facility,” “wireless facility,” “telecommunication facility,” or simply “facility,” means an installation that sends and/or receives radio frequency signals, including but not limited to directional, omni-directional and parabolic antennas, structures or towers to support receiving and/or transmitting devices, cabinets, equipment rooms, accessory equipment and other structures, and the land or structure on which they are all situated. The term does not include mobile transmitting devices, such as vehicle or hand held radios/telephones and their associated transmitting antennas. The Planning Manager required by a separate application form published, and updated from time to time, by the City. If no such form is available, then the applicant must submit all documents, information, and any other materials necessary to allow the City to make required findings and ensure that the proposed facility will comply with applicable laws and not endanger the public health, safety, or welfare. The Director may waive certain submittal requirements if prohibited by applicable law or require additional information based on the characteristics of specific projects project factors.~~

~~B.——Public Notice. In addition to any other noticing requirements:~~

~~1.——Within seven (7) calendar days after an application is submitted to the City, the applicant shall: (1) post notice at the proposed project site in a location near to and visible to the public and (2) provide the City with evidence that such notice has been posted. The applicant shall maintain and replace the posted notice as necessary during the entire application review process until the Director or Planning Commission, as applicable, acts on the application and all appeals have been exhausted. The posted notice shall be composed from durable quality and weather-resistant materials that will not deteriorate under normal circumstances for at least 180~~

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

~~calendar days. The posted notice shall be at minimum 17 inches wide by 11 inches tall. The posted notice shall not be placed in any location where it would obstruct travel or visibility for vehicles, bicycles, or pedestrians. The City encourages applicants to consult with the Planning Department on placement locations to avoid any potential hazards.~~

~~2. Within five (5) business days from the date on which an application is determined to be complete, the Director shall notify in writing of the filing of the application property owners and residents of all property within a one thousand (1,000) foot radius of the proposed project, but in no event fewer than the owners and occupants of ten (10) developed properties. The purpose of the notice is to inform the surrounding property owners and residents of the filing of the application and provide an opportunity for comment on the application prior to the approving authority's decision. The notice shall describe the request, provide a map showing the specific location of the proposed project, describe the review process and timeframes, indicate how to contact the applicant and case planner assigned to the application, and the City assigned application identifier.~~

~~C. Fire Department Review. After submittal by the applicant, the applicable application materials shall be transmitted to the Fire Department for its review and any recommended conditions.~~

~~A. Visual impact demonstration. A visual impact analysis shall be provided showing the maximum silhouette and proposed or required screening. The visual impact analysis shall include photo simulations and any required photo overlays, scaled models or architectural renderings necessary to determine visual impact. A map depicting where the photos were taken shall be included.~~

~~B. Narrative. The applicant shall submit a narrative that addresses each of the following paragraphs and subparagraphs. The narrative shall be organized according to subject headings that match those in the paragraphs and subparagraphs listed below.~~

~~1. Antennas/Equipment. List the number of proposed antennas and base transceiver stations and/or equipment cabinets and any existing facilities on the site. As used herein, "Antenna" means a device used to transmit and/or receive radio or electromagnetic waves between terrestrial and/or orbital based systems.~~

~~2. Location. Describe the location and type of antenna installations (stand alone rooftop, rooftop attached to a mechanical penthouse, building facade, or existing utility towers and poles) and location of the base transceiver station(s), equipment cabinets and/or buildings.~~

~~3. Height. List the height of the antenna installation. Carriers must provide documentation that establishes that the proposed facilities have been designed to the minimum height required from a technological standpoint for the proposed site.~~

~~4. Radio frequency. List the radio frequency range in megahertz and list the wattage output of the equipment.~~

~~5. Radio frequency emissions. Provide a report listing the effective radiated power generated by the proposed facility. The report shall identify exposure levels for both controlled and uncontrolled areas where the levels are projected to be highest.~~

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

- ~~6. — FCC compliance. Provide documentation certifying all applicable licenses or other approvals required by the Federal Communications Commission to provide the services proposed have been obtained.~~
- ~~7. — Maintenance. Describe the anticipated maintenance and monitoring program for the facility.~~
- ~~8. — Noise/acoustical information. Provide noise and acoustical information for equipment such as air conditioning units and back-up generators.~~
- ~~9. — Site selection process. Provide a map and narrative description explaining the site selection process including information about other sites considered and reason for their rejection. This information is necessary to determine whether there will be a significant gap in coverage if the project is not approved or whether alternatives exist for providing coverage.~~
- ~~10. — Geographic service area. Identify the geographic service area for the subject installation, including a map showing the site and the associated “next” cell sites within the network. Describe the distance between cell sites. Describe how this service area fits into and is necessary for the company’s service network. Illustrate the geographic area in which the facility could be located showing all other sites that could be used for antenna location. This information is necessary to determine whether there will be a significant gap in coverage if the project is not approved or whether alternatives exist for providing coverage.~~
- ~~11. — Preferred location sites. Each application shall identify the location preference, listed in Section 3.16.10 that the proposed facility is meeting. If the proposed location is not a preferred location, the applicant shall provide a list (by address and Assessor’s Parcel Number) and a map at 1:200 scale of all preferred location sites within the service area; what good faith efforts and measures were taken to secure each other of these preferred location sites; describe why each such site was not technologically, legally or economically feasible and why such efforts were unsuccessful; how and why the proposed site is essential to meet service demands for the geographic service area and the Citywide network. This information is necessary to determine whether there will be a significant gap in coverage if the project is not approved or whether alternatives exist for providing coverage.~~
- ~~12. — Preferred mounting technique. Each applicant shall identify the antenna mounting preference, listed in Section 3.16.10 the proposed facility is meeting. If the proposed mounting technique is not a preferred technique, the applicant shall provide a list (by address and Assessor’s Parcel Number) and a map at 1:200 scale of all such buildings/sites within the service area; what good faith efforts and measures were taken to secure each of these preferred mounting location/sites; describe why each such site was not technologically or legally feasible and why such efforts were unsuccessful; and how and why the proposed site is essential to meet service demands for the geographic service area and the Citywide network.~~
- ~~13. — Cumulative effects. Identify the location of all the applicant’s antennas and backup facilities and location of other wireless telecommunications facilities on and near the property; include the following:~~

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

- a. ~~Height. The height of all existing and proposed wireless telecommunications facilities on the property, shown in relation to the height limit for the zoning district;~~
- b. ~~Antennas. The dimension of each existing and proposed antenna, base transceiver station, equipment cabinet and associated building and backup equipment on the property;~~
- c. ~~Power rating. The power rating for all existing and proposed backup equipment;~~
- d. ~~Total watts. The total number of watts per installation and the total number of watts for all installations on the building (roof or side);~~
- e. ~~Facilities within five hundred (500) feet. The number and types of wireless telecommunication facilities within five hundred (500) feet of the proposed site and provide estimates of the cumulative electromagnetic radiation emissions at the proposed site.~~
- C. ~~Co-Location Agreement. All wireless telecommunications carriers shall provide a letter stating their willingness to allow other carriers to co-locate on their facilities wherever technically feasible. When determined to be technically feasible and appropriate, the Planning Manager may require unutilized space to be made available for co-location of other wireless telecommunications facilities, including space for entities providing similar, competing services. Co-location is not required in cases where the addition of the new service or facilities would cause quality of service impairment to the existing facility or if it becomes necessary for the host to go off line for a significant period of time. As used herein, "Co-location" means an arrangement whereby multiple wireless communication devices share the same structure or site.~~
- D. ~~Planned Facilities. The applicant shall provide a list of planned or anticipated facilities within the City, and their anticipated construction schedules. The Planning Manager may require concurrent processing of planned facilities.~~
- E. ~~Independent Consultant. At the discretion of the Planning Manager and as reasonably required, the applicant may be required to provide an authorization waiver to a permit the City to hire an independent, qualified consultant to evaluate any technical aspect of the proposed telecommunications facility, including, but not limited to, compliance with applicable federal emission standards, potential for interference with existing or planned public safety emergency response telecommunications facilities, or analysis of feasibility of alternate sites, screening methods or devices. Any authorization for this purpose shall include an agreement by the applicant to reimburse the City for all reasonable costs associated with the consultation. Any proprietary information disclosed to the City or the consultant is hereby deemed not be a public record, shall remain confidential, and not be disclosed to any third party without the express consent of the applicant.~~
- F. ~~Other information. Any other relevant information as required by the Planning Manager.~~

3.16.10 Preferred Antenna Siting and Mounting Techniques

The following antenna and equipment siting and mounting techniques are preferred:

- A. ~~Facade mounted antennas that meet the visual requirements specified in this Chapter.~~
- B. ~~Roof mounted antennas that are not visible to the public.~~

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

- ~~C. Existing monopoles or freestanding towers, utilizing stealthing techniques.~~
- ~~D. Existing utility poles located within the public right of way.~~
- ~~E. Monopoles or freestanding towers that utilize stealthing techniques.~~

~~3.16.11 Location~~

~~Location preference for wireless communications facilities should be given to:~~

- ~~A. Co-Location Sites. Co-located and multiple-user wireless telecommunications facilities will be required when, in the determination of the Planning Manager, it is technically feasible and appropriate and will minimize overall visual impact to the community.~~
- ~~B. Property designated non-residential (except for public open space and recreational vehicle park zoning districts), unless otherwise prohibited pursuant to this Chapter.~~
- ~~C. Facilities Attached or Sited Adjacent to Existing Structures. Whenever possible, facilities shall be located on and/or inside existing structures. Appropriate types of existing structures may include, but are not limited to: buildings, water tanks, telephone poles and utility towers and poles, sign standards, traffic signals, light standards and roadway overpasses.~~
- ~~D. Sites that are not highly visible from adjacent roadways.~~
- ~~E. Sites With Minimum Separation. When co-location is determined to be infeasible by the Planning Manager, sites that are more than five hundred (500) feet from school grounds, playgrounds or parks and which are more than four hundred fifty (450) feet from any other existing wireless facility within any residential zone district, except for those facilities placed on utility poles located along Pacific Coast Highway.~~
- ~~F. Unless otherwise indicated in this Chapter, no telecommunication facility shall be installed on an exposed ridgeline unless the facility blends with the surrounding existing natural and man-made environment and a finding is made that no other location is technically feasible.~~

~~3.16.12 Indemnity and Liability for Damages~~

- ~~A. The wireless telecommunications facility provider shall defend, indemnify, and hold harmless the City or any of its boards, commissions, agents, officers, and employees from any claim, action or proceeding against the City, its boards, commission, agents, officers, or employees to attack, set aside, void, or annul, the approval of the project when such claim or action is brought within the time period provided for in applicable state and/or local statutes. The City shall promptly notify the provider(s) of any such claim, action or proceeding if the City bears its own attorney's fees and costs, and the City defends the action in good faith.~~
- ~~B. Wireless telecommunications facility operators shall be strictly liable for interference caused by their facilities with City communications systems. The operator shall be responsible for costs for determining the source of the interference, all costs associated with eliminating the interference (including but not limited to filtering, installing cavities, installing directional antennas, powering down systems, and engineering analysis), and all costs arising from third party claims against the City attributable to the interference.~~

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

~~3.16.13~~ — ~~Cessation of Use or Abandonment~~

~~All improvements, including foundations and appurtenant ground wires, shall be removed from the property and the site restored to its original pre-installation condition within ninety (90) days of cessation of operation or abandonment of the facility.~~

~~3.16.147~~ ~~Permit, Review, Renewal and Revocation Procedure~~

A. The City finds that the technology associated with ~~telecommunications~~ communications equipment is subject to rapid changes and upgrades as a result of industry competition and customer demands, and ~~anticipate~~ anticipates that ~~telecommunications~~ communications antennas and related equipment with reduced visual impacts will be available from time to time with comparable or improved coverage and capacity capabilities. There may also be advancements and enhancements with regard to design, practice, operations and structural safety. The ~~City~~ city further finds that it is in the interest of the public health, safety, and welfare that ~~telecommunications~~ communications providers be required to replace older facilities with newer equipment of equal or greater capabilities and, reduced visual impacts safety enhancements as technological improvements become available. Therefore, any modifications, other than eligible facilities requests, requested to an existing facility for which a permit that has been issued pursuant to this Chapter authorizing establishment of a wireless telecommunications facility a WRP or WP permit shall permit the Planning ~~Manager~~ Director to review the carrier's existing facility to determine whether requiring newer equipment or applying new updates to concealment elements and screening techniques that reduce visual impacts is appropriate if technically feasible, and the Planning Director may require such updates as a condition of approval of such modification.

B. — At any time, the Planning Manager may initiate proceedings to revoke a permit issued pursuant to this Chapter. ~~Grounds for revocation shall be limited to a finding that the owner or operator has abandoned the facility, the facility is no longer in compliance with either the general requirements or design standards of this Chapter, the conditions of approval and the owner or operator has failed to bring the facility into compliance within ninety (90) days after a notice has been sent by the Planning Manager requiring the facility to be brought into compliance, the facility is no longer in compliance with applicable FCC or FAA regulations, the facility has not been upgraded to reduce or minimize its impact to the extent reasonably permitted by the technology available at the time of any requested modifications, or if the Planning Manager determines that revocation would be in the best interest of the public health, safety, or welfare.~~

~~3.16.8 Findings~~

~~A. — A Wireless ROW Permit, other than eligible facilities requests, shall be approved on the basis of the application and other materials or evidence presented, provided the approving authority makes the following findings:~~

~~1. — The facility is not detrimental to the public health, safety, and welfare;~~

~~2. — The facility complies with Malibu Municipal Code Chapter 12.02 and all applicable design and development standards; and~~

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

~~3. The facility meets applicable requirements and standards of state and federal law.~~

~~B. A Wireless Permits, other than eligible facility requests, shall be approved on the basis of the application and other materials or evidence provided in review thereof provided the approving authority makes the following findings:~~

~~1. The facility is not detrimental to the public health, safety, and welfare and will not pose an undue fire risk;~~

~~2. The facility complies with Chapter 17.46 of the Malibu Municipal Code and all applicable design and development standards; and~~

~~3. The facility complies with state and federal law.~~

~~For all Type 2 applications pursuant to Section 3.16.2(B)(2), other than eligible facilities requests, that are proposed to be located in residential, planned development or mobilehome zoning district, the approving authority shall also make the following finding:~~

~~4. The facility could not feasibly be located within any other zoning district in the City.~~

~~C. All Wireless ROW Permits and Wireless Permits that qualify as eligible facilities requests shall be approved on the basis of the application and other materials or evidence provided in review thereof provided the approving authority makes the following findings:~~

~~1. The proposed colocation or modification meets each and every one of the applicable criteria for an eligible facilities request stated in 47 C.F.R. 1.6100(b)(3)-(9), after application of the definitions in 47 C.F.R. 1.6100(b). The approving authority shall make an express finding for each criterion;~~

~~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, provided this limitation only applies to any modification that would not exceed the thresholds identified in 47 C.F.R. 1.6100(b)(7)(i) through (iv), or any successor provisions; and~~

~~3. That the proposed facility will comply with all generally applicable laws, including generally applicable building, structural, electrical and safety codes, noise control ordinances, and other laws codifying objective standards reasonably related to health and safety.~~

3.16.15 Exempt Telecommunications Facilities

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

~~A. Installation of the following antennas and/or appurtenant equipment which complies with all applicable health requirements and standards pertaining to RF emissions is exempt from the provisions of this Chapter subject to any conditions included below:~~

~~1. Antennas designed to receive video programming signals from direct broadcast satellite (DBS) services, residential fixed wireless communications, multi-channel multi-point distribution providers (MMD) or television broadcast stations in all zoning districts are exempted, provided that all of the following conditions are met:~~

~~a. The antenna is accessory to an existing use and measures 39 inches (one meter) or less in diameter.~~

~~b. The antenna is installed in a location where it is not readily visible from the public right-of-way.~~

~~c. The antenna shall not be located within a required setback area, driveway or parking space.~~

~~2. Amateur radio antenna (including ham and short wave) provided the antenna does not exceed the maximum building height for the zoning district in which it is located by more than 15 feet.~~

~~3. Telecommunications facilities exempt from the provisions of this Chapter by operation of state or federal law.~~

~~B. The determination of whether or not a proposed facility meets the requirements for an exemption is at the discretion of the Planning Manager. The Planning Manager may require that the application be processed as a Site Development Permit or Conditional Use Permit if the requirements of this section cannot be met.~~

AMEND LIP SECTION 13.4:

Replace LIP Section 13.4.11 to read as follows:

~~13.4.11 Wireless Communications Facilities and Utility Pole Exemptions:~~

~~1. Pursuant to Section 6409 of the federal Spectrum Act (47 U.S.C Section 1455) and its implementing regulations (47 C.F.R. Section 1.6100), as amended, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station shall be allowed. The terms used in this subsection shall have the meaning ascribed to them in 47 C.F.R. Section 1.6100(b) or any successor provisions.~~

~~2. The replacement, minor relocation and modifications (including minor increase in height) of existing utility poles to comply with California Public Utility Code requirements. The exemption does not apply when the project has a risk of substantial adverse impact on public access, environmentally sensitive habitat area, wetlands or public views to the ocean. This exemption does not apply when the height of a replacement utility pole would allow a new facility to be added to the pole, such as the installation of a new wireless communications facility.~~

Add section 13.4.12 to read as follows (moving the content previously in Section 13.4.11 to this new section, with the addition of the underlined text below):

13.4.1~~1~~2 General Requirements for De Minimis Waiver

A. General Requirements for De Minimis Waiver.

The requirement for a coastal development permit may be waived through a De Minimis Coastal Development Permit Waiver issued by the planning director for the items listed below where the improvements are not otherwise exempt pursuant to Section 13.4, provided all the requirements of subsections B and C are met. The planning director's decision on whether to issue a de minimis waiver is not locally appealable.

1. Improvements to an onsite wastewater treatment system (OWTS) serving a structure that was damaged or destroyed as a result of a natural disaster, where the improvements involve installing a new system or upgrading an existing system to an advanced system on the same lot.

2. Minor improvements to existing driveways or access roads that are required by the fire department after a natural disaster, such as minor changes to the width or grade of driveways or access roads. Access improvements that do not meet the findings for a waiver may be processed as an administrative coastal development permit (ACDP) under Section 13.13.1(A) or as a regular coastal development permit.

3. New wireless communications facilities that qualify as small cell facilities ~~that comply with the design standards set forth in the Design and Location Standards for Wireless Communications Facilities in the Public Right of Way and Engineering, Design~~

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

~~and Location Standards, Conditions of Approval and Basic Application Requirements for Wireless Communications Facilities on Land Other than Public Right-of-Way adopted by separate resolutions and as amended.~~

4. The replacement, minor relocation and modifications (including minor increase in height) of existing utility poles to comply with California Public Utility Code requirements when the height of a replacement utility pole would not allow a new facility to be added to the pole, such as the installation of a new wireless communications facility.

5. Temporary wireless communications facilities on wheels to temporarily replace a wireless communications facility that was damaged or destroyed as a result of a natural disaster provided the antennas and poles do not exceed the height of the approved facility and is removed immediately after the damaged or destroyed facility is constructed or in no case more than six months.

B. Findings for and Reporting of De Minimis Waivers.

All decisions on de minimis waivers shall be accompanied by written findings:

1. That the ~~OWTS or driveway/road improvements have~~ development has no potential for adverse effects, either individually or cumulatively, on coastal resources.
2. That the ~~OWTS or driveway/road improvements are~~ development is consistent with the certified Malibu Local Coastal Program, including the resource protection policies, as applicable.
3. If an OWTS is to be relocated on the lot, that the director, in consultation with the environmental health administrator, has determined the relocation is necessary to better protect coastal resources.
4. If driveway/road improvements are proposed, that: (a) they are in the same general alignment as the existing road; (b) they are not located in environmentally sensitive habitat area (ESHA); (c) they do not remove or encroach within the protected zone of native trees; and (d) they do not adversely impact visual resources.
5. That the development is not in a location where an action on the development would be appealable to the coastal commission (See Chapter 2 – Definitions).

C. Reporting De Minimis Waiver.

1. At the time the application is submitted for filing, the applicant must post, at a conspicuous place as close to the site as possible that is easily accessible by the public and approved by the city, notice, on a form approved by the city, that an application for a de minimis waiver has been submitted to the city. Such notice shall contain a general description of the nature of the proposed development.

UPDATED DRAFT CCC SUGGESTED MODIFICATIONS 1/12/24

2. The planning director shall issue a notice of determination on the application which shall be reported to the planning commission. The notice of determination shall be provided to all known interested parties, including the executive director of the coastal commission, at least ten (10) days prior to the waiver determination being reported to the planning commission.
3. If, after consideration of the waiver and any public objections to it, the planning commission requests that the waiver not be effective, then the applicant shall be advised that a coastal development permit is required for the ~~OWTS or road improvements~~ development. Otherwise, the waiver is effective immediately after the planning commission meeting where the matter is heard.

D. Waiver Expiration.

A de minimis waiver shall expire and be of no further force and effect if the authorized ~~OWTS or driveway or access road improvements~~ development ~~has are~~ not commenced pursuant to a valid grading and/or building permit, as applicable, within five years of the effective date of the waiver. If expired, a coastal development permit or another waiver shall be required.

Amend LIP Section 13.13.1(A) to add a new subsection (7) as follows:

7. Wireless communication facilities ~~other than eligible facility requests or small cell facilities~~ that do not meet the criteria for an exemption or a de minimis waiver.

Amend LIP Section 13.4.9 to read and to add a new subsection (F) as follows:

13.4.9 ~~Exemption for~~ Temporary Event ~~and Structure~~

~~F. Temporary wireless communications facilities on wheels to temporarily replace a wireless communications facility that may have been damaged or destroyed as a result of a natural disaster provided the antennas and poles do not exceed the height of the approved facility and is removed immediately after the damaged or destroyed facility is constructed or in no case more than six months.~~

AMEND APPENDIX 1 TABLE B PERMITTED USES:

Replace all references to “WTF” with “WP” and “Wireless Telecommunication Facility” with “Wireless Permit”.