



Commission Agenda Report

Planning
Commission Meeting
03-01-21

Item 4.B.

To: Chair Jennings and Honorable Planning Commissioners

Prepared by: Adrian Fernandez, Principal Planner

Approved by: Richard Mollica, Planning Director

Date prepared: February 18, 2021 Meeting date: March 1, 2021

Subject: Zoning Text Amendment No. 16-005 and Local Coastal Program Amendment No. 16-007 – Amendments to Title 17 (Zoning) of the Malibu Municipal Code, Chapter 17.46 (Wireless Telecommunications Antennas and Facilities), and Sections 2.2 and 3.16, Chapter 13 and Appendix 1 (Table B Permitted Uses) of the Local Coastal Program Local Implementation Plan to modify regulations, procedures, and application requirements for the installation of wireless communications facilities (Continued from February 16, 2021)

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 21-21 (Attachment 1) determining the amendment to be exempt from the California Environmental Quality Act (CEQA) and recommending that the City Council approves Zoning Text Amendment (ZTA) No. 16-005 and Local Coastal Program Amendment (LCPA) No. 16-007 to amend Malibu Municipal Code (MMC) Chapter 17.46 (Wireless Telecommunications Antennas and Facilities) and to make conforming amendments to other Chapters, and Sections 2.2 and 3.16, Chapter 13 and Appendix 1 (table B Permitted Uses) modifying standards and procedures for wireless communications facilities.

BACKGROUND: In 2016, the City Council directed staff to update the Wireless Telecommunication Facility Ordinance which was codified in Malibu Municipal Code (MMC) Chapter 17.46 and Local Coastal Program (LCP) Local Implementation Plan (LIP) Section 3.16. This Ordinance update attempts to address issues that residents, City staff, and others have identified related to the process of proposing and siting new facilities, and upgrading existing facilities in the City. The code update is also necessary to address changes in federal and state law that have occurred since the adoption of the original ordinance in 2003.

On December 9, 2020, the City Council adopted an urgency ordinance (No. 477U) regulating placement of wireless facilities in the public right-of-way and a resolution (No.

20-65) establishing design and development standards and standard permit conditions for wireless facilities in the public right-of-way. The ordinance was codified into MMC Title 12 (Street, Sidewalks and Public Places). The second phase of the process is to update MMC Chapter 17.46, LIP Section 3.16 and Chapter 13, which are the regulations and permitting process related to WCFs on non-public right-of-way.

On December 16, 2020, City staff and the City Attorney's Office held a Wireless Update Workshop to discuss and receive comments regarding the City's existing Ordinance (MMC Chapter 17.46), relevant regulatory documents, and federal and State law. After the public workshop, a draft of the ordinance was developed. Prior to the publication of the draft ordinance, staff and the City Attorney's Office consulted with Mr. Scott McCullough, an attorney representing a group of Malibu citizens, as well as the Center for Municipal Solutions (CMS), the City's new wireless consultant.

This item is another component of a comprehensive approach to addressing the wireless facilities in the City. Previously, the City Council adopted an advocacy plan to commit resources toward the goal of decreasing federal and State interference with local control over matters of direct impact on the health, safety, and welfare of the residents of Malibu.

The wireless industry has changed in significant ways and the laws governing how the City may regulate the placement of their facilities have been in flux, rendering the current ordinance outdated and justifying immediate action. MMC Chapter 17.46 has not been updated since 2003. It does not take into account the numerous changes in federal and state laws and regulations that have come into force since that time (and the outcome of the litigation over some of those rules), and which place restrictions on local permitting authority. Major elements of these restrictions are summarized below:

A. Ban on Moratoria (City must process applications to install wireless telecom facilities)

On August 2, 2018, the Federal Communications Commission (FCC) adopted a Third Report & Order and Declaratory Ruling in the rulemaking proceeding titled Accelerating Wireline and Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, 33 FCC Rcd. 7705 (rel. Aug. 3, 2018) (the "August Order"), that, among other things, contained a declaratory ruling prohibiting express and *de facto* moratoria for all personal wireless services, telecommunications services and their related facilities under 47 U.S.C. § 253(a). A "de facto" moratoria is any set of regulations that have the practical effect of prohibiting the provision of wireless services, even if the regulations do not explicitly say that the facilities are not allowed. The FCC directed the Wireless Telecommunications Bureau and Wireline Competition Bureau to hear and resolve all complaints on an expedited basis. The declaratory ruling in the August Order was made effective upon release of the August Order which occurred on August 3, 2018.

This means that there can be no pause in accepting or processing applications to allow the city to study and address potential issues.

B. Failure to act on an application before the FCC Shot Clock expires can result in the applicant having deemed approved or other enhanced remedies under federal law

Between 2009 and now, the FCC has adopted a total of five shot clocks or timelines within which cities must act on applications for wireless facilities. The most recent shot clocks have focused on small wireless facilities and modifications to existing wireless facilities.

2009 Shot Clocks: In 2009, the FCC adopted a Declaratory Ruling, 24 FCC Rcd. 18994, to clarify existing federal law requiring local governments to act on wireless applications within a reasonable period of time. In that Declaratory Ruling, the FCC established two shot clocks for local action on wireless facilities applications, a 60-day shot clock for collocations, and a 150-day shot clock for all other types of wireless applications. California later adopted AB 57, a state law that took effect on January 1, 2016, and created a “deemed granted” remedy for applicants if the local government fails to act on an application during the time period allowed by these FCC shot clocks. This remedy is available for any applications other than those proposed for placement on fire department facilities.

Eligible Facilities Requests: In 2012, Congress adopted a law requiring that certain applications to modify or add to existing wireless facilities must be approved at the local level. In 2014, the FCC adopted implementing regulations, including height and size criteria and a 60-day shot clock to process these “eligible facilities requests”. More recently, the FCC adopted clarifications and changes to its rules to further facilitate these types of deployments. A failure to act within this FCC shot clock period can result in the application being deemed approved under federal law.

Small Wireless Facilities Shot Clocks: On September 26, 2018, the FCC adopted a Declaratory Ruling and Third Report and Order, 33 FCC Rcd. 9088 (rel. Sep. 27, 2018) (the “September Order”), which, among other things:

- created new shorter (60 and 90 day) “shot clocks” for small wireless facilities (as defined in the September Order); interpreted existing “shot clock” regulations to require local public agencies to issue all relevant permits and authorizations within this period; placed limits on the regulation of the aesthetics of the small wireless facilities. The FCC declared that aesthetic requirements will not be preempted if they are reasonable, no more burdensome than those applied to other types of infrastructure deployments, and objective and published in advance. However, in the August 12, 2020, Ninth Circuit Court of Appeals decision discussed below, the Court invalidated certain portions of the FCC’s rules and now, a city’s aesthetic regulations for small wireless facilities will not be preempted if they are (1) reasonable (technically feasible); and (2) published in advance; and

- established a national standard for an effective prohibition related to small wireless facilities that replaced the existing “significant gap” test adopted by the United States Court of Appeals for the Ninth Circuit; and provided that a failure to act within the applicable timeframe presumptively constitutes an effective prohibition (in other words, the failure to act on the application before the shot clock expires is treated like the City illegally prevented the company from providing wireless services).

The September Order went into effect in part on January 14, 2019, and in part on April 15, 2019. On August 12, 2020, a three-judge panel of the Ninth Circuit Court of Appeals upheld the August Order and significant portions of the September Order, including the shorter shot clocks and remedies for failing to meet a shot clock. On October 22, 2020, the Ninth Circuit Court of Appeals denied a petition for *en banc* review of the above-referenced panel’s decision.

C. Expansion of Rules Preempting Local Authority to Regulate Placement of Over the Air Reception Devices (OTARD Rules)

Longstanding federal law has preempted the ability of local authorities (including homeowner associations and condominium boards) to regulate the placement on residential properties of small antennas and dishes used primarily for reception of satellite TV, over-the-air TV and radio signals, and wireless internet services. On January 7, 2021, the FCC released a Report and Order (FCC 21-10) amending these OTARD Rules to now allow fixed wireless providers to install hub or relay antennas on one property that can provide service to nearby properties so long as the antenna serves a customer on whose premises it is located. The FCC has also invalidated local ordinances attempting to minimally regulate the aesthetics of OTARDs, including in a Declaratory Ruling (DA 21-38) released by the Chief of the Media Bureau on January 11, 2021, invalidating requirements imposed by the City of Chicago.

D. Adoption of AB 2421 Temporarily Preempting Local Authority over Placement of Certain Backup Generators on Macro Cell Sites

On January 1, 2021, California’s AB 2421 took effect and will remain in effect until Jan. 1, 2024. The law requires that applications for qualifying backup generators on macro cell sites be approved within a 60-day deadline. An application is deemed approved if the local agency has not acted on the application within the time period. The law does not apply to rooftop, small cell, or outdoor and indoor distributed antenna system sites.

ANALYSIS:

1. Ordinance Features

Requiring a Wireless Permit (WP) and stricter design standards. The ordinance would amend MMC Chapter 17.46 (Wireless Telecommunications Antennas and Facilities), and establish the requirement to obtain a WP for all wireless communications facility installations on non-public right-of-way. It also provides, among other regulations, permit and review procedures as well as operation and maintenance standards. WPs are split into two categories (i.e., Type 1 and Type 2). A Type 1 WP is required for facilities that are subject to a more compressed review timeline and less discretion while Type 2 is required for all other facilities. These proposals would provide a more robust review than the current zoning ordinance and are designed to meet the shot clock requirements.

Ability to amend more efficiently. To maintain flexibility in this constantly evolving area and ensure that the City is obtaining the most useful information available, the ordinances authorize the City to publish application requirements on a separate form that can be amended administratively, as needed. The information collected can include demonstrating compliance with FCC standards and fire safety standards.

Transparency and notice. The ordinances also contain public notice requirements to maintain transparency and provide residents and property owners with an opportunity to submit comments. An applicant must post a public notice at the proposed installation site within 7 days of submitting the application and provide evidence to the City that such a notice has been posted. Further, within 10 days after determining that an application is complete, the City will provide written notice of the application to property owners and residents of all property within a 1,000-foot radius of the proposed project. That notice will include, among other information, a description of the request and an explanation of how to contact the applicant and case planner assigned to the application.

Compliance with shot clocks. Due to timing concerns from the FCC shot clocks, the ordinances establish both an administrative process for taking action on Level 1 applications and a public hearing process for taking action on Type 2 applications. Generally, the findings address compliance with the City's wireless facility regulations and design standards, compliance with applicable State and federal laws, and protecting the public health, safety, and welfare.

For appeals, any person adversely affected by the Director's decision may submit a request, within a certain time period, for an administrative appeal hearing (Type 1) or a City Council appeal on a Planning Commission's decision (Type 2). The appeal hearing will provide the appellant and applicant with an opportunity to present evidence. The Hearing Officer's written decision will be the final decision of the City for a Type 1 application and may be subject to further appeal to a court of competent jurisdiction. Having a Hearing Officer hear appeals for Type 1 applications allows for an expedited process to handle appeals within the applicable FCC shot clock periods which, as noted above, are quite short. The alternative to having appeals go to a Hearing Officer would be to have all appeals be heard by the City Council. This may require the City Council to be available on short notice for special meetings in order to meet FCC shot clock deadlines.

Staff recommends that the Council start with Type 1 appeals to a Hearing Officer. In a few months, it will be clearer whether there will be significant demand for appeals and the potential impact on the Council's agenda. At that time the Council can reevaluate this and any other part of the ordinance.

2. Engineering, Design and Location Standards, and Standard Permit Conditions Resolution

The ordinance provides that engineering, design and location standards, and standard permit conditions will be established by resolution of the City Council. The Engineering, Design and Location Standards, and Standard Permit Conditions Resolution provides these standards. These materials are provided in draft form to aid the Commission's evaluation of the proposed ZTA and LCPA. These items are still being evaluated and additional adjustments based on Planning Commission feedback and coordination with the public are likely.

Given the frequent and important changes to the law and technology associated with wireless installations, adopting design standards by resolution affords the City flexibility to readily adapt and tailor its regulations to these changes and the aesthetic and other concerns of the City. With regard to design standards, the Resolution builds off of the City's existing design and location standards.

These aesthetic regulations place an emphasis on stealth facilities, other techniques to minimize visual impacts, and structural safety and security. The Resolution addresses safety by ensuring that wireless facilities comply with fire access requirements, Americans with Disabilities Act (ADA) requirements and the California Public Utilities Commission (CPUC) General Orders. The Resolution incorporates the City's existing setback and spacing standards with some modification. These include:

- (i) a preference against installation sites that are less than 500 feet¹ from schools, playgrounds or parks and that are less than 500 feet from any other existing wireless facility adjacent to any residential zone district, except for those facilities placed on utility poles located along Pacific Coast Highway; and
- (ii) a preference for all freestanding wireless communications facilities and monopoles to be a minimum distance of at least 100 percent of the height of the facility from any property line abutting residential zone districts.

¹ Mr. McCollough requested a separation of 1,500 feet to residential zone districts and an increase to all other separation requirements to 1,500 feet. However, even when reducing the separation from residential zone districts to 500 feet, it would render practically the entire City ineligible. Given City's height requirements and topography, cell phone signal from wireless antennas extend a few hundred feet and therefore, gap in coverage would not be accomplished with 1,500-foot separation distances. Many, if not all, wireless facilities would then be subject to a waiver process.

With regard to the standard permit conditions, the Resolution contains most of the City's standard conditions. Permit conditions place an emphasis on compliance with applicable laws and regulations, including FCC standards for radio frequency emissions and Los Angeles County Fire Department requirements. The standard permit conditions also address, among other items, minimum permit duration, adherence to the approved plans, abandonment, and noise. According to the ordinances, the approving authority for a permit may modify or add to the conditions list in the Resolution. Finally, the Resolution's standard conditions are also meant to apply to any applications that are deemed granted or otherwise approved by operation of law, providing an important safety net for the City.

Local Coastal Program Amendment

The proposed amendments to the LCP would be identical to the proposed changes to the MMC. However, the LCPA also includes changes to LIP Chapter 13 that would be consistent with new federal and State law for compliance with the shot-clock requirements such as a coastal development permit exemption for eligible facilities requests, de minimis waiver for small cell facilities and administrative coastal development permit for all other wireless communications facilities. Other amendments include coastal development permit exemptions for the replacement of utility poles when required for public safety and temporary wireless facilities for facilities that are damaged or destroyed as a result of a natural disaster. The exemption for the replacement of public utility poles would permit the replacement of existing poles that are deteriorated and/or overburdened and need to be replaced.

ENVIRONMENTAL REVIEW: Pursuant to Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This application is for an amendment to the LCP, which must be certified by the California Coastal Commission (CCC) before it takes effect. LIP Section 1 .3.1 states that the provisions of the LCP take precedence over any conflict between the LCP and the City's Zoning Ordinance. In order to prevent an inconsistency between the LCP and the City's Zoning Ordinance, if the LCP amendment is approved, the City must also approve the corollary amendment to the Zoning Ordinance. This amendment is necessary for the preparation and adoption of the LCPA and because they are entirely dependent on, related to, and duplicative of, the exempt activity, they are subject to the same CEQA exemption.

The Ordinance and Resolution are not a project within the meaning of CEQA Guidelines Section 15378, because they have no potential for resulting in physical change in the environment, directly or indirectly. The Ordinance and Resolution do 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 and Resolution were a "project" within the meaning of State CEQA Guidelines section 15378, the Ordinance and Resolution are exempt

from CEQA on multiple grounds. First, the Ordinance and Resolution are exempt from CEQA because the City Council's adoption of the Ordinances and Resolution are covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. (State CEQA Guidelines, § 15061(b)(3)). That is, approval of the Ordinance and Resolution will not result in the actual installation of any facilities in the City. In order to install a facility in accordance with the Ordinance and Resolution, the wireless provider would have to submit an application for installation of the wireless facility. At that time, the City will have specific and definite information regarding the facility to review in accordance with CEQA. In fact, the City will conduct preliminary review under CEQA at that time. Moreover, in the event that the Ordinance and Resolution are interpreted so as to permit installation of wireless facilities on a particular site, the installation would be exempt from CEQA review in accordance with either State CEQA Guidelines section 15302 (replacement or reconstruction), State CEQA Guidelines section 15303 (new construction or conversion of small structures), and/or State CEQA Guidelines section 15304 (minor alterations to land).

PUBLIC NOTICE: On January 19, 2021, a Notice of Public Hearing and Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu and mailed to all interested parties (Attachment 4).

ATTACHMENTS:

1. Planning Commission Resolution No. 21-21
 - a. Exhibit A – Proposed Conforming Amendments to Other MMC Chapters
 - b. Exhibit B – Proposed Amendments to MMC Chapter 17.46
 - c. Exhibit C – Proposed Amendments to LIP Chapter 13 and Appendix 1
2. Draft City Council Resolution
3. Public Comments
4. Public Hearing Notice

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 21-21

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU DETERMINING THE AMENDMENT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND RECOMMENDING THAT THE CITY COUNCIL APPROVES ZONING TEXT AMENDMENT NO. 16-005 AND LOCAL COASTAL PROGRAM AMENDMENT NO. 16-007 TO AMEND MALIBU MUNICIPAL CODE CHAPTER 17.46 (WIRELESS TELECOMMUNICATIONS ANTENNAS AND FACILITIES) AND TO MAKE CONFORMING AMENDMENTS TO OTHER CHAPTERS AND LOCAL COASTAL PROGRAM LOCAL IMPLEMENTATION PLAN SECTIONS 2.2 AND 3.16, CHAPTER 13 AND APPENDIX 1 (TABLE B PERMITTED USES)

The Planning Commission of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. Recitals.

A. On November 28, 2016, the City Council adopted Resolution No. 16-48 initiating Zoning Text Amendment (ZTA) No. 16-005 and Local Coastal Program Amendment (LCPA) No 16-007 directing staff to update the Wireless Telecommunication Facility Ordinance.

B. Cities retain the authority over decisions regarding the placement, construction, and modification of personal wireless service facilities, subject to those matters where that authority has been limited or removed by state or federal law.

C. The unrestricted installation of personal wireless service facilities is contrary to the City's efforts to stabilize economic and social aspects of neighborhood environments, to satisfy health, safety and aesthetic objectives, to maintain property values by not degrading the visual and economic value of adjoining properties, especially in residential areas, and to promote family environments and a rural residential community character within the City to the maximum extent allowed by law. The City should exercise its powers to protect its citizens and its right to exercise all available power and right over its own property and regulate the use and occupation of that property, while nonetheless respecting and adhering to the law as it may be and may change as the result of judicial review, potential state or federal statutory changes or valid rule amendments by the Federal Communications Commission (FCC);

D. To protect the public safety and welfare, it is necessary and appropriate to provide for certain procedures, standards and regulations relating to the location, placement, engineering, design, construction and maintenance of wireless communications facilities within the City, and providing for the enforcement of these standards and regulations, consistent with federal and state law limitations on that authority;

E. Since the City Council last amended the portions of its zoning code related to wireless communications facilities, significant changes in federal laws that affect local authority over wireless communication facilities deployments have occurred, including, but not limited to, the following recent developments:

- On August 2, 2018, the FCC adopted a Third Report & Order and Declaratory Ruling in the rulemaking proceeding titled Accelerating Wireline and Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, 33 FCC Rcd. 7705 (rel. Aug. 3, 2018) (the "August Order"), that, among other things, contained a declaratory ruling prohibiting express

and de facto moratoria for all personal wireless services, telecommunications services and their related facilities under 47 U.S.C. § 253(a) and directed the Wireless Telecommunications Bureau and Wireline Competition Bureau to hear and resolve all complaints on an expedited basis. The declaratory ruling in the August Order was made effective upon release of the August Order which occurred on August 3, 2018;

- On September 26, 2018, the FCC adopted a Declaratory Ruling and Third Report and Order in the same rulemaking proceeding, 33 FCC Rcd. 9088 (rel. Sep. 27, 2018) (the “September Order”), which, among many other things, created new shorter “shot clocks” for small wireless facilities (as defined in the September Order), shortened existing “shot clock” regulations to require local public agencies to do more in less time, established a national standard for an effective prohibition related to small wireless facilities and provided that a failure to act within the applicable timeframe presumptively constitutes an effective prohibition. The September Order went into effect in part on January 14, 2019, and in part on April 15, 2019;
- On August 12, 2020, a three-judge panel of the Ninth Circuit Court of Appeals upheld the August Order and significant portions of the September Order, including the shorter shot clocks and remedies for failing to meet a shot clock;
- On October 22, 2020, the Ninth Circuit Court of Appeals denied a petition for *en banc* review of the above-referenced panel’s decision; and
- On June 9 and October 27, 2020, the FCC adopted Declaratory Orders and Reports and Orders providing clarifications and/or rule changes relating to the short shot clock, deemed granted remedy and qualifying criteria for “eligible facilities requests” which are applications for modifications to existing wireless communications facilities which must be approved by local authorities according to federal law;
- In April, 2018 and January, 2021 the FCC adopted Declaratory Rulings preempting municipal ordinances in Philadelphia and Chicago that regulated satellite dishes by prohibiting placement of satellite dishes in locations visible to adjacent streets, imposing installer certification and imposing removal requirements, under the over-the-air reception devices (“OTARD”) rule.
- On January 7, 2021 the FCC adopted a Report and Order amending the OTARD rule to now allow fixed wireless providers to install hub or relay antennas on one property that can provide service to nearby properties so long as the antenna serves a customer on whose premises it is located.

F. In light of the FCC Orders and related court decisions, the City deems it to be necessary and appropriate to enact additional standards and regulations, consistent with federal and state law limitations on that authority;

G. Considering that the FCC Orders are already in effect or will go into effect in early 2021, if the City does not amend the Malibu Municipal Code (MMC), there is a risk that the City may not be able to enforce provisions of its MMC or comply with the new federal regulations;

H. If not adequately regulated, the installation of wireless communications facilities within the City can pose a threat to the public health, safety, and welfare; traffic and pedestrian safety hazards due to the unsafe location and placement of wireless communications facilities; impacts to trees where proximity conflicts may require unnecessary trimming of branches or require removal of roots due to related undergrounding of equipment or connection lines; creation of visual and aesthetic blights and potential safety concerns arising from improper design or excessive size, heights, noise, or lack of camouflaging of wireless communications facilities, including the associated pedestals, meters, equipment and power generators; reduce property values and/or frustrate Malibu's longstanding efforts to have a rustic, residential and welcoming look and feel and a comfortable, safe community, all of which may negatively impact the City and its citizens;

I. On December 9, 2020, the City Council held a duly noticed public hearing on an urgency ordinance, a regular ordinance, and a design standards and standard permit conditions resolution for wireless communications facilities in the public right-of-way. The City Council reviewed and considered the staff report, written reports, public testimony, and other information in the record and: (1) adopted the urgency ordinance and resolution; and (2) approved the regular ordinance and directed staff to schedule second reading and adoption for January 11, 2021;

J. On December 16, 2020, the City Council held a duly noticed community wireless workshop on wireless communications facility design, federal and state limitations on local authority, and permitting of wireless communications facilities in the City;

K. On January 19, 2021, a Notice of Public Hearing and Notice of Availability of Local Coastal Permit (LCP) Documents was published in a newspaper of general circulation within the City of Malibu and mailed to all interested parties; and

L. On March 1, 2021, the Planning Commission held a duly noticed public hearing on LCPA No. 16-007 and ZTA No. 16-005 regarding the regulation and permitting of wireless communications facilities on private land in the City, reviewed the materials in the record, the agenda report, public testimony and other information in the record.

SECTION 2. Environmental Review.

Pursuant to Public Resources Code Section 21080.9, the California Environmental Quality Act (CEQA) does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This application is for an amendment to the LCP, which must be certified by the California Coastal Commission (CCC) before it takes effect. LCP Local Implementation Plan (LIP) Section 1 .3.1 states that the provisions of the LCP take precedence over any conflict between the LCP and the City's Zoning Ordinance. In order to prevent an inconsistency between the LCP and the City's Zoning Ordinance, if the LCP amendment is approved, the City must also approve the corollary amendment to the Zoning Ordinance. This amendment is necessary for the preparation and adoption of the LCPA and because they are entirely dependent on, related to, and duplicative of, the exempt activity, they are subject to the same CEQA exemption.

This Ordinance is not a project within the meaning of CEQA Guidelines Section 15378, because it has no potential for resulting in physical change in the environment, directly or indirectly. 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 was 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 because the City Council's adoption of the Ordinance would be covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. (State CEQA Guidelines, § 15061(b)(3)). That is, approval of the Ordinance would 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 communications facility. At that time, the City will have specific and definite information regarding the facility to review in accordance with CEQA. And, in fact, the City will conduct a preliminary review under CEQA at that time. Moreover, in the event that the Ordinance is interpreted so as to permit installation of wireless communications facilities on a particular site, the installation would be exempt from CEQA review in accordance with State CEQA Guidelines section 15302 (replacement or reconstruction), State CEQA Guidelines section 15303 (new construction or conversion of small structures), and/or State CEQA Guidelines section 15304 (minor alterations to land). The Planning Commission, therefore, determines that the proposed ordinance is exempt from CEQA.

SECTION 3. Zone Text Amendment. The Planning Commission hereby recommends that the City Council amend the MMC as detailed in Exhibits A and B.

SECTION 4. Zoning Text Amendment Findings.

A. The subject ZTA is consistent with the objectives, policies, general land uses and programs specified in the General Plan. The proposed amendment serves to enhance the Malibu General Plan Mission Statement, protect public safety and preserve Malibu's natural and cultural resources.

B. The Planning Commission held a public hearing, reviewed the subject ZTA application for compliance with the City of Malibu General Plan, MMC and LCP, and finds that the proposed ZTA is consistent and recommends approval.

SECTION 5. Local Coastal Program Amendment. The Planning Commission hereby recommends that the City Council amend the LCP as detailed in Exhibit C.

SECTION 6. Local Coastal Program Findings. Based on evidence in the whole record, the Planning Commission hereby finds that the proposed LCPA (Exhibit C) meets the requirements of and is in compliance with the policies and requirements of Chapter 3 of the California Coastal Act.

A. The amendments to the LCP meet the requirements of, and are in conformance with the goals, objectives and purposes of the LCP. Updated standards and regulations specific to wireless communications facilities ensure compliance with federal and State law while maintaining design and safety standards in the City's jurisdiction of the Coastal Zone which advance the overarching goals of protecting coastal resources.

B. As a part of the LCP, the updated wireless communications facility standards and process ensures that wireless communications facilities within the City conform to applicable LCP policies, goals, and provisions, while taking into consideration the protection and enhancement of visual resources, public access, and recreation opportunities.

SECTION 7. The Planning Commission shall certify the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 1st day of March 2021.

JEFFREY JENNINGS, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 21-21 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting held on the 1st day of March 2021 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

KATHLEEN STECKO, Recording Secretary

Exhibit A

Strike the following MMC Sections: 17.62.040(A)(6), 17.08.040(D), 17.18.030(E), 17.22.040(M), 17.30.030(D), 17.32.030(A), 17.36.030(B), 17.38.030(B), 17.38.030(C), 17.18.020(E), 17.22.020(D), 17.24.020(A), 17.26.020(A), 17.28.020(A), 17.30.020(A), 17.34.020(B), 17.36.020(C).

Exhibit B

MMC Chapter 17.46 is amended as follows:

**CHAPTER 17.46
WIRELESS COMMUNICATIONS FACILITIES**

17.46.010 Purpose and objectives.

A. Purpose. The purpose and intent of this Chapter 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 17.46.020(B). 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, while at the same time providing for managed development of wireless communications infrastructure.

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 communications services.
2. To facilitate the creation of an advanced wireless communications infrastructure for citizens, businesses, industries and schools.
3. To protect the City from potential adverse effects of wireless communications facility development.
4. To ensure that the wireless communications infrastructure is designed to enhance and not interfere with the city's emergency response network.

17.46.020 Scope.

A. There shall be a type of permit entitled a "Wireless Permit (WP)," which shall be subject to all of the requirements of this Chapter. Unless exempted, every person who desires to place or modify a wireless communications facility must obtain a WP authorizing the placement or modification in accordance with this Chapter. The WP 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 wireless facility, or eligible facilities request, or collocation of a non-small wireless facility;
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 request pursuant to MMC Section 17.46.060(E).

B. 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 Wireless Permit:

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 will be accessory to an existing use and measures thirty-nine (39) inches (one meter) or less in diameter.

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

c. The antenna will 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 base building height for the zoning district in which it is located by more than fifteen (15) feet.

3. Communications facilities exempt from the provisions of this chapter by operation of state or federal law.

4. Wireless communication facilities in the public right-of-way and subject to the requirements of Chapter 12.02.

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

D. Other applicable requirements. In addition to the WP 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.

17.46.030 Administration.

A. Reviewing Authority. For Type 1 applications, the Planning Director or their designee (“Director”) is the reviewing authority responsible for taking action on the application. For Type 2 applications, the Planning Commission is the reviewing authority and will hold a public hearing to take action on the application.

B. Heightened Review. Type 1 applications other than eligible facilities requests proposing installations in the following areas shall automatically be processed as Type 2 applications and subject to heightened review: all Residential, Planned Development, and Mobilehome Zoning Districts.

C. Applications subject to heightened review must meet the findings required in MMC Section 17.46.110(A) and (B). Applications qualifying as eligible facilities requests must meet the findings in MMC 17.46.110(C). All other Applications must meet the findings required in Section 17.46.110(A).

D. As part of the administration of this Chapter and in addition to authority granted pursuant to other provisions of this Title 17, the Director may:

1. Extend or shorten deadlines where necessary to be consistent with state and federal laws and regulations;
2. Issue any notices of incompleteness, requests for information, or conduct or commission such studies as may be required to determine whether a permit should be issued; and
3. Take such other steps as may be required to timely act upon applications for placement of wireless communications facilities, including entering into agreements to mutually extend the time for action on an application.

E. Appeals.

1. Type 1 Applications.

a. Any person adversely affected by a decision of the Director pursuant to this Chapter may request an administrative hearing to appeal the Director's decision. In order to request a hearing, the person shall submit to the City Clerk in the manner directed in the Director's decision notice a fully completed request for administrative hearing form along with a full amount of the appeal fee set by the City Council (by way of check or money order). The request for administrative hearing shall be incomplete if it does not include the appeal fee in the full amount.

b. Appeals must be filed within ten (10) calendar days of the mailing of decision notice of the Director, unless a different time period is specified by the Director in such notice. The Director may extend the time period for filing an appeal for due cause but an extension may not be granted where such extension would result in approval of the application by operation of law. If a timely and complete request for hearing is not submitted, the Director's decision shall be deemed final.

c. If a timely and complete request for hearing is submitted, the City Manager shall appoint an administrative hearing officer ("Hearing Officer") to conduct the administrative hearing. The Hearing Officer shall decide the issues de novo. Administrative hearings are informal, and formal rules of evidence and discovery do not apply. The appellant and the applicant shall have the opportunity to present evidence in support of their case.

d. Any administrative hearing shall be conducted so that a timely written decision may be issued in accordance with applicable law.

e. The hearing officer's decision shall be in writing, shall explain the basis for the decision, and shall be served upon the applicant, and upon the appellant (if different) by first class mail, to the address stated on the request for hearing form. and the written decision of the Hearing Officer will be the final decision of the City effective on the date of mailing.

2. Type 2 Applications.

a. Any person adversely affected by a decision of the Planning Commission pursuant to this Chapter may request a public hearing to appeal the Planning Commission's decision to the City Council. In order to request a hearing, the person shall submit to the City Clerk in the manner directed in the Planning Commission's decision notice a fully completed request for a public hearing form along with the full amount of the appeal fee set by the City Council (by way of check or money order). The request for

a public hearing shall be incomplete if it does not include the deposit in the full amount of the appeal fee. The deposit will be retained in a noninterest bearing account until the matter is resolved. The appeal fee shall be refunded to the appellant if their appeal is granted.

b. Appeals must be filed within ten (10) calendar days of the mailing of decision notice of the Planning Commission, unless a different time period is specified by the City in such notice. The City may extend the time period for filing an appeal for due cause but an extension may not be granted where such extension would result in approval of the application by operation of law.

c. If a timely and complete request for hearing is not submitted, the Planning Commission's decision shall be deemed final.

d. Any public hearing shall be conducted so that a timely written decision may be issued in accordance with applicable law. The City Council's review shall be de novo; it may receive new evidence and is not bound by the previous record.

e. The City Council's decision shall be in writing, shall explain the basis for the decision, and shall be served upon the applicant, and upon the appellant (if different) by first class mail, to the address stated on the request for hearing form. The written decision of the City Council will be the final decision of the City effective on the date of mailing.

E. Fire Department Review. After submittal by the applicant, the applicable application materials shall be transmitted to the Fire Department for its review and they shall provide to the Director in writing its conclusions and any recommended conditions.

17.46.040 Definitions.

“Antenna” means a typically metallic device used for radiating or receiving radio waves.

“Antenna, building mounted sites” means antennas which are located and/or mounted on an existing building's exterior walls.

“Antenna, Roof-Mounted” means an antenna, and its associated support structure, that is attached to a roof of a building or similar structure.

“Application” A formal request, including all required and requested documentation and information, submitted by an applicant to the City for a wireless permit.

“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.

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

“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” means a wireless communications facility used for the provision of personal wireless services.

“Public Right-of-Way, or ROW” means 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 are located to a height of more than 50 feet or by more than 10 percent, 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. 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” (or “stealth facilities”) means a wireless communications facility designed to look like something other than a wireless tower or base station.

“Wireless communications facilities” means 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).

17.46.050 Health and safety.

A. No wireless communications 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. 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. 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.

17.46.060 General Standards for Wireless Facilities.

A. Generally. Wireless communications facilities shall meet the minimum requirements set forth in this Chapter, in addition to the requirements of any other applicable law, unless a waiver is granted pursuant to Section 17.46.060(D).

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, 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 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 public property.

C. Engineering, Design, and Location Standards. The City Council may adopt by resolution the Engineering, Design and Location Standards, and Conditions of Approval for Wireless Communications Facilities on Non-Public Right-of-Way. All applicants shall engineer, design and locate the wireless communications facilities in accordance with the standards and wireless regulations set forth in this Ordinance and such Resolution, as amended.

D. Waivers. Requests for waivers from any requirement of this Chapter or the standards and wireless regulations set forth in the City Council resolution shall be made in writing to the Director. A waiver may be requested: (1) 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 (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. All waivers approved pursuant to this subsection shall be (1) granted only on a case-by-case basis, and (2) narrowly-tailored so that the requirements of this Chapter or the standards in the City Council resolution are waived only to the minimum extent required to address the request.

17.46.070 Standard conditions of approval.

Each wireless permit approved pursuant to this Chapter shall be subject to the conditions of approval accompanying the WP. If no conditions are imposed in the WP or if the application is deemed approved by operation of law, then the standard permit conditions of approval adopted by resolution of the City Council shall apply to that permit.

17.46.080 Minimum application requirements.

A. Applicants shall submit applications on the forms and in the manner approved by the Planning Director.

B. Pre-application meeting. Prior to filing an application to install or modify a wireless communications facility subject to this Chapter, the applicant is encouraged to schedule a voluntary pre-application meeting with the Planning Department to discuss the proposed facility, the requirements of this Chapter, and any potential impacts of the proposed facility. Conducting a voluntary pre-application meeting shall not initiate any applicable “shot clock.”

C. Public Notice.

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 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.

D. Content. In addition to providing all required fees, all wireless communications facility carriers or providers shall provide the information 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 or require additional information based on the characteristics of specific projects.

17.46.110 Findings for Approval.

A. For all wireless communications facilities subject to Chapter 17.46, other than eligible facilities requests, the Reviewing Authority must find:

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 and all applicable design and development standards; and
 3. The facility complies with state and federal law.
- B. In addition to the requirements of Section 17.46.110(A), for all applications subject to heightened review pursuant to MMC Section 17.46.030(B), the Reviewing Authority must also find that:
1. The facility could not feasibly be located within any other district in the City of Malibu.
- C. For all eligible facilities requests subject to Chapter 17.46:
1. That the application qualifies as an eligible facilities request in that:
 - a. 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), or any successor provisions, after application of the definitions in 47 C.F.R. 1.6100(b). The reviewing authority shall make an express finding for each criterion;
 - b. The existing 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. 1.6100(b)(7)(i) through (iv), or any successor provisions; and
 2. The proposed facility will comply with all generally-applicable laws related to public health and safety, including generally applicable building, structural, electrical and safety codes, noise control ordinances, and other laws codifying objective standards reasonably related to health and safety.

17.46.120 Permit review, renewal and revocation procedure.

- A. The City finds that the technology associated with communications equipment is subject to rapid changes and upgrades as a result of industry competition and customer demands, and anticipates that 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 further finds that it is in the interest of the public health, safety, and welfare that communications providers be required to replace older facilities with newer equipment of equal or greater capabilities, 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 issued pursuant to this Chapter authorizing establishment of a wireless communications facility shall permit the Planning Director to review the carrier's existing facility to determine whether requiring 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 Director may initiate proceedings to hold a public hearing before Planning Commission to revoke a Wireless Permit issued pursuant to this Chapter. Notice of such a hearing shall be the same as that required for a new WP. Grounds for revocation shall

be limited to a finding that (1) the owner or operator has abandoned the facility, (2) the facility is no longer in compliance with either the general requirements or design standards of this title in effect at the time of approval, (3) the facility no longer complies with the conditions of approval and the owner or operator has failed to bring the facility into compliance within ninety (90) days after the Director sends a notice requiring the facility to be brought into compliance, (4) the facility does not comply with applicable FCC or FAA regulations, including those related to RF emissions, (5) the WP was obtained in a fraudulent manner, or (6) if the Director determines that the facility poses a threat to the public health, safety, or welfare or is creating a nuisance.

Exhibit C

Local Coastal Program Local Implementation Plan Chapter 13 and Appendix 1 is amended as follows:

- A. Amend LIP Section 2.2 to delete all Wireless Telecommunications Definitions and replace them with the new Wireless Communications Definitions in MMC Section 17.46.040 (Exhibit B).
- B. Amend LIP Section 3.16 to delete and replace with standards in MMC Sections 17.46.010, 17.46.020, 17.46.050, 17.46.060, 17.46.070, 17.46.080, 17.46.110 and 17.46.120 (Exhibit B) and this will be distributed under separate cover among other changes to these sections.
- C. 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.
- D. 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):

13.4.11 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 as that term is defined in 47 C.F.R. Section 1.6002(1), as amended, that comply with the design standards set forth in the Engineering, Design and Location Standards, and Conditions of Approval for Wireless Communications Facilities Resolutions.

E. 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.

F. 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 temporary 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.

G. Amend Appendix 1 TABLE B PERMITTED USES to replace all references to “WTF” with “WP” and “Wireless Telecommunication Facility” with “Wireless Permit”

RESOLUTION NO. __ - __

A RESOLUTION OF THE CITY OF MALIBU ADOPTING ENGINEERING, DESIGN AND LOCATION STANDARDS AND CONDITIONS OF APPROVAL FOR WIRELESS COMMUNICATIONS FACILITIES ON NON-PUBLIC RIGHT-OF-WAY; AND FINDING THE SAME EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Malibu does hereby find, resolve and order as follows:

SECTION 1. Recitals

A. Malibu Municipal Code (MMC) Chapter 17.46 governs the permitting, installation, and regulation of wireless communications facilities in the City, other than those in the public right-of-way, which are subject to MMC Chapter 12.02;

B. Section 17.46.060(D) provides that “[a]ll applicants shall engineer, design and locate the wireless communications facilities in accordance with the standards and wireless regulations set forth separately though the resolution adopted by the City Council;”

C. Being authorized to do so, the City wishes to establish engineering, design and development standards applicable to wireless installations;

D. The City also wishes to set standard conditions of approval and basic application requirements applicable to wireless permits; and

E. On _____, 2021 the City Council conducted a duly noticed public hearing and received testimony from City staff and all interested parties regarding the engineering, design and development standards.

SECTION 2. Purpose. The purpose of this document is to (1) establish design and location standards (Standards) for wireless communications facilities on non-public right-of-way; (2) set standard conditions of approval for Wireless Permits (WPs); and (3) set basic application requirements for WPs.

SECTION 3. Definitions. For the purposes of these Standards, the definitions set forth in Malibu Municipal Code (MMC) Section 17.46.040 are incorporated by reference into this Resolution and in addition the following definitions apply:

A. “Park” A parcel, parcels of land or a portion of a parcel intended for active public recreation uses. Parks may include sports fields, playgrounds community buildings and unique or specialized activity areas. Land dedicated for open space and trails are not considered parks for the purposes of this Chapter.

B. “Playground” A portion of land used for and equipped with public facilities for recreation specially by children. A playground includes the sand or rubberized floor around the apparatus.

- C. “Pole-mounted facility” means a wireless communications facility that is, or is proposed to be, attached to or contained in a pole.
- D. “School” any building, campus or sports field which is designed, constructed or used for education, instruction or school sports, whether public or private, in any branch of knowledge.
- E. “Stealth facility” (or “stealth facilities”) means a wireless communications facility designed to look like something other than a wireless tower or base station.

SECTION 4. General Standards for all Facilities The following general requirements apply at all times to all wireless communications facilities located in all zoning districts:

- A. All wireless communications 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.
- B. Each facility must comply with any and all applicable provisions of the Malibu Municipal Code, including but not limited to provisions of the California Building Code, California Electric Code, California Plumbing Code, California Mechanical Code, and California Fire Code, and any conditions of approval imposed as part of the approval process.
- C. 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 (FCC) and the Federal Aviation Administration (FAA). Further, all wireless communications facilities, associated equipment and services shall comply with Americans with Disabilities Act (ADA) requirements.
- D. Fire and Electrical Safety Standards. All wireless communications facilities shall contain:
 - 1. A power shut off readily accessible to fire service personnel for emergencies;
 - 2. Surge protection for lightning discharge or other significant electrical disturbances;

3. Signage as required by the permit conditions, the National Electric Code or the Los Angeles County Fire Department Chief or their designee; and
 4. Instructions for first responders to de-energize the equipment.
- E. The facility must at all times comply with all applicable health requirements and standards pertaining to radio frequency emissions.
 - F. All antennas shall meet the minimum siting distances to habitable structures required for compliance with FCC regulations and standards governing the environmental effects of radio frequency emissions.
 - G. Interference with city communications systems and other governmental emergency systems is prohibited. Further, no permits issued pursuant to this chapter of the City Code establish any guarantee or warranty that Licensee's facility will be free from interference from city or third-party communication systems.
 - H. Noise. Wireless communications facilities and equipment must comply with the City's noise ordinance in MMC Chapter 8.24, or any successor provisions, and be designed to prevent noise and sound from being plainly audible at a distance of fifty (50) feet from the facility or within ten (10) feet of any residence.
 - I. Signs. No facility may display any signage or advertisement unless it is expressly allowed by this paragraph, necessary for stealth concealment purposes, or required by law or a permit condition. Every facility shall at all times display signage that accurately identifies the facility owner and provides the owner's unique site number and a local or toll-free telephone number to contact the facility owner's operations center.
 - J. Landscaping. 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. In addition to any landscaping used for concealment or screening purposes, the applicant shall replace any existing landscaping displaced during construction or installation of the applicant's facility. The applicant's landscaping plan shall be subject to the City's review and approval but shall, at a minimum, match the existing landscaping and foliage surrounding the installation site consistent with MMC Section 17.53.090. The permittee shall ensure that any vegetation allowed to remain in place under the Fire Code, including vegetation provided for screening, is properly maintained and watered.
 - K. 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.

- 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 FCC or the FAA and except for manually operated emergency lights for use when official operating personnel are on site.

SECTION 5. Location Standards for All Facilities The location standards for all wireless communications facilities, other than those that qualify as eligible facilities requests, are as follows:

- A. No wireless telecommunication facility shall be located within five hundred (500) feet of any school, playground, or park unless a finding is made, based on technical evidence acceptable to the reviewing authority showing a clear need for the facility and that no technically feasible alternative site exists. Except for facilities installed on the same pole or tower as an existing wireless telecommunication facility, wireless telecommunication facilities located within any residential zone district shall not be located within five hundred (500) feet of any other wireless communications facility, except for those facilities placed on utility poles along Pacific Coast Highway, unless a waiver is granted.
- B. All new freestanding wireless communications facilities and monopoles shall be set back a minimum distance of at least one hundred (100) percent of the height of the facility or monopole from any property line abutting a residential zone district. This minimum setback is not subject to the waivers allowed under Section 7 of this Resolution.
- C. Location preference for wireless communications facilities should be given to the following:
 - 1. Property designated non-residential (except for public open space and recreational vehicle park zoning districts), unless otherwise prohibited pursuant to this title.
 - 2. 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, light standards and roadway overpasses.

3. Sites with minimum separation. Sites that are more than five hundred (500) feet from school, playgrounds, and parks.
4. Sites that are not highly visible from adjacent roadways.
5. Unless otherwise indicated in MMC Chapter 17.46 or these Standards, no wireless 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.

SECTION 6. Engineering and Design Standards for all Facilities The general design standards for wireless communications facilities subject to MMC Chapter 17.46 are as follows:

- A. Basic Requirements. The proposed wireless facility and its supporting structure (if needed) shall 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.
- B. Materials. The materials used shall be non-reflective and non-flammable.
- C. Cabinet doors and other openings 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.
- D. The tower, or other support structure, and all equipment shall be designed to withstand forces from seismic events. To that end, all wireless facility sites must be built to the applicable standards of Hardening Requirements including but not limited to APCO ANS 2.106.1–2019, or their replacements. The telecommunications tower, pole or structure when fully loaded with antennas, transmitters, and other equipment and camouflaging shall be designed as determined by the Building Official. All equipment mounting racks and equipment used shall be anchored in such a manner that such a quake will not tip them over, throw the equipment off its shelves, or otherwise act to damage it.
- E. 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.

- F. **Stealth.** The wireless facility 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.
 7. Built with weather-resistant materials while permitting weathered treatment for aesthetic reasons and to avoid reflective material.
- 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. **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. Façade-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.

- I. **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 consistent with MMC 17.46.020(B)(2), shall also be permitted on each site.
- J. **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.
- K. **Freestanding Facilities.** Freestanding facilities requiring a new monopole or other new support structure shall be stealth facilities. Further, they shall be located as close 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 appearance of the City.
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.
- L. All wireless telecommunication facilities shall be designed to prevent unauthorized climbing and graffiti.
- M. Fire Safety Standards. All wireless facilities designs shall include:
1. a power shut off, such as by means of rapid entry Knox or similar type systems installed
 2. surge protection devices capable of mitigating a direct or partial direct lightning discharge; and
 3. surge protection devices capable of mitigating significant electrical disturbances that may enter the facility via conductive cables.
- N. Satellite dish or parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their function.
- O. 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 Director. Landscaping screening should also be provided if irrigation water is available.
- P. No freestanding facility or ancillary support equipment may be located between the face of a building and a public street, bikeway, park or residence.

SECTION 7. Waivers of These Standards.

- A. A waiver of one or more of these Standards may be granted in the following circumstances:
1. Pursuant to MMC Section 17.46.060(E), if an applicant demonstrates to the Planning Commission through clear and convincing evidence that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations;
 2. If an applicant demonstrates to the Planning Commission through clear and convincing evidence set forth in a feasibility study that compliance with a requirement of these Standards would be technically infeasible and the proposed wireless facility complies with the requirements of these Standards to the greatest extent technically feasible. For example, an exception to a requirement to conceal antennas in a shroud may be granted if shrouding is shown to be technically infeasible and an alternative concealment such as a colored film wrap is proposed; or
 3. If an applicant demonstrates to the Planning Commission with clear and convincing evidence that the particular engineering, design or location proposed involves an alternative that better meets the purposes of Chapter 17.46 and only minor non-compliance with a requirement of these design Standards and results in no increase in public visual impact to the community or provides other benefits. For example, an exception to the wireless facility location limitations may be granted when the applicant can demonstrate that the placement is less visible from viewsheds of residences or shielded by vegetation or existing infrastructure (such as barriers), or is less physically intrusive (for example, less impactful to tree roots or reduces noise). Among other factors, in deciding whether or not to grant an exception, the Planning Commission may consider the impact of expansions to the facility that the applicant would be entitled to make as of right if granted.
- B. Exceptions may only be requested at the time an application is initially submitted for a discretionary permit. The request must include both the specific provision(s) from which exception is sought and the basis of the request, including all supporting evidence on which the applicant relies. Any request for exception after the City has deemed an application complete constitutes a material change to the proposed wireless facility and shall be considered a new application. A request for exception from one or more

requirements does not relieve the applicant from compliance with all other applicable provisions of law or of MMC Section 17.46.060.

SECTION 8. Standard Conditions of Approval for Permits Under MMC Chapter 17.46.

- A. **Generally.** In addition to any supplemental conditions imposed by the Planning Director or Planning Commission, as the case may be, all development permits or conditional use permits granted for wireless communications facilities subject to this Chapter 17.46 shall be subject to the following conditions, unless modified by the approving authority:
1. The permittee 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, or to hold the City liable in whole or in part as a result of the engineering, design, construction or operation of the facility. 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.
 2. The permittee shall be strictly liable for interference caused by its facilities with city communications systems. The permittee 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.
 3. Subsequent submittals for this project shall be in substantial compliance with the plans date-stamped received by the Planning Department on _____. The project shall comply with all conditions of approval stipulated in the referral sheets attached to the agenda report for this project. In the event the project plans conflict with any condition of approval, the condition shall take precedence and revised plans shall be submitted and approved by the Planning Director prior to the Environmental Sustainability Department for plan check.
 4. The permit and rights conferred in this approval shall not be effective until the permittee signs, notarizes and returns the Acceptance of Conditions Affidavit accepting the conditions set forth herein. The applicant shall file this form with the Planning Department within 30 days of this decision or prior to issuance of

any development, conditional use, building, electrical or encroachment permit.

5. The applicant shall digitally submit a complete set of plans, including the items required in Condition No. 6 to the Planning Department for consistency review and approval prior to plan check and again prior to the issuance of any building or development permits.
6. The Notice of Decision (including the signed and notarized Acceptance of Conditions Affidavit) shall be copied in its entirety and placed directly onto a separate plan sheet(s) to be included in the development plans prior to submitting any development permits from the City of Malibu Environmental Sustainability Department and encroachment permit.
7. A development permit or conditional use permit, as applicable, shall be valid for a period of ten (10) years from issuance, unless pursuant to another provision of the Code or these conditions, it expires sooner or is terminated. At the end of ten (10) years from the date of issuance, such development or conditional use permit shall automatically expire, unless an extension or renewal has been granted. A person holding a development permit or conditional use permit must either (1) remove the facility within thirty (30) days following the permit's expiration (provided that removal of support structure owned by City, a utility, or another entity authorized to maintain a support structure need not be removed, but must be restored to its prior condition, except as specifically permitted by the City); or (2) prior to expiration, submit an application to renew the permit, which application must, among all other requirements, demonstrate that the impact of the wireless facility cannot be reduced. The wireless facility must remain in place until it is acted upon by the City and all appeals from the City's decision exhausted.
8. The installation and construction authorized by a permit shall be completed within three (3) years after its approval, or it will expire without further action by the City unless prior to the three (3) years the applicant submit an extension request and the City, in its sole discretion, grants a time extension for due cause. The installation and construction authorized by a permit shall conclude, including any necessary post-installation repairs and/or restoration to the property, within thirty (30) days following the day construction commenced. The permittee must provide written notice to City within ten (10) days after completing construction, and may not begin operations until all City and Fire Department (if applicable) inspections have been completed and the project is found to be

consistent with the permit. The expiration date shall be suspended until an appeal and/or litigation regarding the subject permit is resolved.

9. The Planning Director may grant up to four one-year extensions of the timeline, in Condition 7 above, for completing the installation and construction authorized by a development or condition use permit, if the Planning Director finds that the conditions, including but not limited to changes in the wireless ordinance under which the permit approval was issued, have not significantly changed.
10. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Director upon written request of such interpretation.
11. All structures shall conform to the requirements of the Environmental Sustainability Department, City Public Works Department, FCC and Los Angeles County Fire Department requirements, as applicable. Notwithstanding this review, all required permits, including but not limited to an encroachment permit from the City, shall be secured.
12. Minor changes to the approved plans or the conditions of approval may be approved by the Planning Director, provided such changes achieve substantially the same results and the project is still in compliance with the MMC. An application with all required materials and fees shall be required.

Cultural Resources

13. In the event that potentially important cultural resources are found in the course of geologic testing, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Where, as a result of this evaluation, the Planning Director determines that the project may have an adverse impact on cultural resources, a Phase II Evaluation of cultural resources shall be required pursuant to MMC Section 17.54.040(D)(4)(b).
14. If human bone is discovered, the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. These procedures require notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native

American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

Wireless Facility Conditions

15. All antennas shall meet the minimum siting distances to public/uncontrolled areas required for compliance with the FCC regulations and standards governing the environmental effects of radio frequency emissions. Permittee shall keep up-to-date on current information from the FCC in regards to maximum permissible radio frequency exposure levels. In the event that the FCC changes its guidelines for human exposure to radio frequency, permittee shall, within 30 days after any such change, submit to the Planning Director a report prepared by a qualified engineer that demonstrates actual compliance with such changed guidelines. The Director may, at permittee's sole cost, retain an independent consultant to evaluate the compliance report and any potential modifications to the permit necessary to conform to the FCC's guidelines. Failure to submit the compliance report required under this condition, or failure to maintain compliance with the FCC's guidelines for human exposure to radio frequency at all times shall constitute grounds for permit revocation.
16. All antennas shall be located so that any person walking adjacent to the transmitting surface of the antenna will be walking on a grade, which is a minimum of eight and one-half feet below the transmitting surface.
17. All antennas, equipment, and support structures shall be engineered and designed to prevent unauthorized climbing.
18. The wireless facility shall be erected, operated, and maintained in compliance with the general requirements set forth in the Standards and any specific requirements in the permit.
19. The antenna and electrical support equipment shall, at all times, be operated in a manner that conforms to the applicable health and safety standards, including those imposed by MMC Chapter 17.46 and this Resolution.
20. Wireless communications facilities and equipment must comply with the City's noise ordinance in MMC 8.24, or any successor provisions, and prevent noise and sound from being plainly audible at a distance of fifty (50) feet from the facility or within ten (10) feet of any residence.

21. The Planning Director's approval is required if a generator is to be placed onsite for temporary or permanent use.
22. All non-ground-mounted equipment associated with the application shall be located no lower than eight feet above grade or ground level on the monopole or support structure.
23. The City or its designee may enter onto the facility area to inspect the facility upon 48 hours prior notice to the permittee. The permittee shall cooperate with all inspections and may be present for any inspection of its facility by the City. 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 emergencies or when the facility threatens imminent harm to persons or property. The City shall make an effort to contact the permittee prior to disabling or removing any facility elements, but in any case, shall notify permittee within 24 hours of doing so.
24. Testing of any 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.
25. Permittee shall obtain and maintain throughout the term of the permit commercial general liability insurance with a limit of five million dollars (\$5,000,000) per occurrence for bodily injury and property damage and six million dollars (\$6,000,000) general aggregate including premises operations, contractual liability, personal injury, and products completed operations. The relevant policy(ies) shall name the City, its elected/appointed officials, commission members, officers, representatives, agents, and employees as additional insureds. A true and correct copy of the policy of insurance shall constitute proof of insurance required by this Subsection. Permittee shall use its best efforts to provide thirty (30) days' prior notice to the City of to the cancellation or material modification of any applicable insurance policy. Failure to maintain insurance consistent with this Condition shall automatically void the permit, and the permittee shall immediately deenergize and remove the facility from operation.
26. Prior to issuance of a City permit or encroachment 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 the cost of physically removing the facility and all related facilities and equipment on the site, based on the higher of two contractor's 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.

27. Permittee shall not move, alter, temporarily relocate, change, or interfere with any existing structure, improvement, or property without the prior consent of the owner of that structure, improvement, or property. No structure, improvement, or property owned by the City shall be moved to accommodate a permitted activity or encroachment, unless the City determines that such movement will not adversely affect the City or any surrounding businesses or residents, and the Permittee pays all costs and expenses related to the relocation of the City's structure, improvement, or property. Prior to commencement of any work pursuant to any permit, the permittee shall provide the City with documentation establishing to the city's satisfaction that the permittee has the legal right to use or interfere with any other structure, improvement, or property to be affected by permittee's facilities.
28. The permission granted by a Wireless Permit shall not in any event constitute an easement on or an encumbrance against the public right-of-way (ROW). No right, title, or interest (including franchise interest) in the ROW, or any part thereof, shall vest or accrue in permittee by reason of a development or conditional use permit or the issuance of any other permit or exercise of any privilege given thereby.
29. No possessory interest is created by a Wireless Permit. However, to the extent that a possessory interest is deemed created by a governmental entity with taxation authority, permittee acknowledges that City has given to permittee notice pursuant to California Revenue and Taxation Code Section 107.6 that the use or occupancy of any public property pursuant to a development or conditional use permit may create a possessory interest which may be subject to the payment of property taxes levied upon such interest. Permittee shall be solely liable for, and shall pay and discharge prior to delinquency, any and all possessory interact taxes or other taxes, fees, and assessments levied against permittee's right to possession, occupancy, or use of any public property pursuant to

any right of possession, occupancy, or use created by this development or conditional use permit.

30. If not already completed, permittee shall enter into the appropriate agreement with the City, as determined by the City, prior to constructing, attaching, or operating a facility on municipal infrastructure. This permit is not a substitute for such agreement.
31. If a facility is not operated for a continuous period of three (3) months, the Wireless Permit and any other permit or approval therefor shall be deemed abandoned and terminated automatically, unless before the end of the three (3) month period (i) the Director has determined that the facility has resumed operations, or (ii) the City has received an application to transfer the permit to another service provider. No later than ninety (90) days from the date the facility is determined to have ceased operation, or the permittee has notified the Director of its intent to vacate the site, the permittee shall remove all equipment and improvements associated with the use and shall restore the site to its original condition to the satisfaction of the Director. The permittee shall provide written verification of the removal of the facilities within thirty (30) days of the date the removal is completed. If the facility is not removed within thirty (30) days after the permit has been discontinued pursuant to this subsection, the site shall be deemed to be a nuisance, and the City may cause the facility to be removed at permittee's expense or by calling any bond or other financial assurance to pay for removal. If there are two (2) or more users of a single facility or support structure, then this provision shall apply to the specific elements or parts thereof that were abandoned but will not be effective for the entirety thereof until all users cease use thereof.
32. In the event the City determines that it is necessary to take legal action to enforce any of these conditions, or to revoke a permit, and such legal action is taken, the permittee shall be required to pay any and all costs of such legal action, including reasonable attorney's fees, incurred by the City, even if the matter is not prosecuted to a final judgment or is amicably resolved, unless the City otherwise agrees, in its complete discretion, to waive said fees or any part thereof.

Construction

33. Installation hours shall be limited to Monday through Friday from 7:00 a.m. to 7:00 p.m. and Saturdays from 8:00 a.m. to 5:00 p.m. No installation activities shall be permitted on Sundays and City-designated holidays. The restricted work hours described in this condition do not apply to emergency maintenance necessary to protect health or property. The City of Malibu may issue a Stop Work Order if permittee violates this condition. Construction activities shall be conducted in compliance with, and abide by, all applicable safety codes and permit conditions.

Site Specific Conditions

34. In the event that the electric service provider does not currently offer an alternative metering option, the permittee shall remove the above-grade electric meter when such option becomes available. Prior to removing the above-grade electric meter, the permittee shall apply for any encroachment and/or other ministerial permit(s) required to perform the removal. Upon removal, the permittee shall restore the affected area to its original condition that existed prior to installation of the equipment.
35. The permittee acknowledges that the City specifically includes conditions of approval related to (a) painting, coloring or finishing the equipment to match the monopole or support structure; (b) undergrounding all equipment to the extent possible; (c) installing equipment within shrouds, conduits and risers as concealment elements engineered and designed to integrate the wireless facility with the surrounding built and natural environment; and (d) specific structural, seismic, electrical, fire and operating/maintenance requirements. Any future modifications to the permittee's wireless facility must maintain or improve all concealment elements and safety precautions.
36. Before the permittee submits any applications for construction, encroachment, excavation or other required permits in connection with this permit, the permittee must incorporate a true and correct copy of this permit, all conditions associated with this permit and any approved photo simulations into the project plans (collectively, the "Approved Plans"). The permittee must construct, install and operate the wireless facility in substantial compliance with the Approved Plans as determined by the Director or the Director's designee. Any substantial or material alterations, modifications or other changes to the Approved Plans, whether requested by the permittee or required by other departments or public agencies with

jurisdiction over the wireless facility, must be submitted in a written request subject to the Director's prior review and approval, who may refer the request to the original approval authority if the Director finds that the requested alteration, modification or other change substantially deviates from the Approved Plans or implicates a significant or substantial land-use concern.

37. The permittee shall install and at all times maintain in good condition a "Network Operations Center Information" and "RF Caution" sign on the utility pole no less than three (3) feet below the antenna (measured from the top of the sign) and no less than nine (9) feet above the ground line (measured from the bottom of the sign). Signs required under this condition shall be installed so that a person can clearly see the sign as he or she approaches within three (3) feet of the antenna structure. If any person on or within the property is or may be exposed to emissions that exceed applicable FCC uncontrolled/general population limits at any time the sign shall expressly so state, and provide instructions on how persons can avoid any such exposure. The sign shall also include the name(s) of the facility owner(s), equipment owner(s) and operator(s)/carrier(s) of the antenna(s), property owner name, as well as emergency phone number(s) for all such parties. The sign shall not be lighted, unless applicable law, rule or regulation requires lighting. No signs or advertising devices other than required certification, warning, required seals or signage, other signage required by law, this Chapter, any City or applicable state code or the Los Angeles County Fire Department Chief or his or her designee shall be permitted. The sign shall be no larger than two (2) square feet.
38. The permittee shall ensure that all signage complies with FCC Office of Engineering and Technology Bulletin 65, CPUC General Order 95 or American National Standards Institute C95.2 for color, symbol, and content conventions. All such signage shall at all times provide a working local or toll-free telephone number to its network operations center, and such telephone number shall be able to reach a live person who can exert transmitter power-down control over this site as required by the FCC.
39. In the event that the FCC changes any of radio frequency signage requirements that are applicable to the project site approved herein or ANSI Z535.1, ANSI Z535.2, and ANSI C95.2 standards that are applicable to the project site approved herein are changed, the permittee, within 30 days of each such change, at its own cost and expense, shall replace the signage at the project site to comply with the current standards.

40. The permittee shall maintain the paint, color and finish of the facility in good condition at all times.
41. All improvements, including foundations, and appurtenant ground wires, shall be removed from the property and the site restored to its original pre-installation conditions within 90 days of cessation of operation or abandonment of the facility.
42. Build-Out Conditions.
 - a. Permittee shall not commence any excavation, construction, installation or other work on the project site until and unless it demonstrates to the City Public Works Department that the project complies with these Conditions along with all applicable laws, regulations, codes and other rules related to public health and safety, including without limitation all applicable provisions in California Public Utilities Commission General Order 95 and MMC Chapters 8.12, 8.24 and 15.08.
 - b. To the extent that a pole owner or any provision in the MMC or this resolution require greater or more restrictive standards than California Public Utilities Commission General Order 95, if applicable, those standards shall control.
43. Permittee shall at all times maintain compliance with all applicable federal, State and local laws, regulations, ordinances and other rules, including Americans with Disabilities Act (ADA) requirements.
44. The permittee shall cooperate with all inspections. The City and its designees reserve the right to support, repair, disable or remove any elements of the facility in emergencies or when the facility threatens imminent harm to persons or property.
45. 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 Planning Department at the time of permit issuance and within one business day of permittee's receipt of City staff's written request.
46. 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.

47. The site and the facility must be maintained in a neat and clean manner and in accordance with all approved plans and conditions of approval.
48. Permittee shall promptly remove any graffiti on the wireless facility at permittee's sole expense within 48 hours after notice.

Prior to Operation

49. The applicant shall request a final Planning Department inspection and final building inspection by the City of Malibu Environmental Sustainability Department immediately after the wireless facility has been installed and prior to the commencement of services.
50. Within thirty (30) calendar days following the installation of any wireless communications facilities, the applicant shall provide to the Planning Department with a field report prepared by a qualified engineer verifying that the unit has been inspected, tested, and is operating in compliance with FCC standards. Specifically, the on-site post-installation radiofrequency (RF) emissions testing must demonstrate actual compliance with the FCC OET Bulletin 65 RF emissions safety guidelines for general population/uncontrolled RF exposure in all sectors. For this testing, the transmitter shall be operating at maximum operating power, and the testing shall occur outwards to a distance where the RF emissions no longer exceed the uncontrolled/general population limit. Such report and documentation shall include the make and model (or other identifying information) of the unit tested, the date and time of the inspection, a certification that the unit is properly installed and working within applicable FCC limits, and a specific notation of the distance from the transmitter at which the emissions are equal to or less than the uncontrolled/general population limit.
51. The operation of the approved facility shall commence no later than one (1) month after the City completes its post-installation inspections of the facility, any issues with the facility are resolved, and the City receives the RF testing report required in the condition of approval above, or the development or conditional use permit will expire without further action by the City.

Fixed Conditions

52. Violation of any of the conditions of this approval shall be cause for revocation and termination of all rights thereunder.

Eligible Facilities Requests

In addition to all of the other conditions of approval placed on a Wireless Permit, all permits for an eligible facilities request under MMC Chapter 17.46 shall be subject to the following additional conditions, unless modified by the approving authority:

53. Any permit granted in response to an application qualifying as an eligible facilities request shall be subject to the terms and conditions of the underlying permit.
54. The City's grant or grant by operation of law of an eligible facilities request permit constitutes a federally-mandated modification to the underlying permit or approval for the subject tower or base station. Notwithstanding any permit duration established in another permit condition, the City's grant or grant by operation of law of a eligible facilities request permit will not extend the permit term for the underlying permit or any 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.
55. 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 Section 6409(a) of the Spectrum Act, any FCC rules that interpret Section 6409(a) of the Spectrum Act, or any modification to Section 6409(a) of the Spectrum Act.

Small Cell Facilities

In addition to the other conditions of approval placed on a Wireless Permit, all permits for a small cell facility under MMC Chapter 17.46 shall be subject to the following additional condition, unless modified by the approving authority:

56. The City's grant of a permit for a small cell facility request does not waive, and shall not be construed to waive, any standing by the city to challenge any FCC orders or rules related to small cell facilities, or any modification to those FCC orders or rules.

SECTION 10. Environmental Review

This Resolution is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act (CEQA) Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The Resolution 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 Resolution is a "project" within the meaning of State CEQA Guidelines section 15378, the Resolution is exempt from CEQA on multiple grounds. First, the Resolution is exempt CEQA because the City Council's adoption of the Resolution is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. (State CEQA Guidelines, § 15061(b)(3)). That is, approval of the Resolution will not result in the actual installation of any facilities in the City. In order to install a facility in accordance with this Resolution, the wireless provider would have to submit an application for installation of the wireless facility. At that time, the City will have specific and definite information regarding the facility to review in accordance with CEQA. And, in fact, the City will conduct preliminary review under CEQA at that time. Moreover, in the event that the Resolution is interpreted so as to permit installation of wireless communications facilities on a particular site, the installation would be exempt from CEQA review in accordance with either State CEQA Guidelines section 15302 (replacement or reconstruction), State CEQA Guidelines section 15303 (new construction or conversion of small structures), and/or State CEQA Guidelines section 15304 (minor alterations to land).

SECTION 12. This Resolution will become effective immediately upon adoption.

SECTION 13. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, and ADOPTED this ___ day of _____ 2021.

Kelsey Pettijohn

Subject: Letter to Planning Department Answering WCF Workshop Questions- Please Read



From: Cindy Crawford [REDACTED]
Sent: Wednesday, December 16, 2020 10:12 AM
To: Nichole McGinley [REDACTED]
Cc: Adrian Fernandez <afernandez@malibucity.org>; Richard Mollica <rmollica@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Steve Uhring <suhring@malibucity.org>; MalibuForSafeTech [REDACTED] Heather Glaser <hglaser@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Tyler Eaton <teaton@malibucity.org>
Subject: Re: Letter to Planning Department Answering WCF Workshop Questions- Please Read

Agree! Thanks! Cindy Crawford

Sent from my iPhone

On Dec 15, 2020, at 5:45 PM, Nichole McGinley [REDACTED] wrote:

Hello Mayor Pierson, Council, Richard, Adrian and Staff,

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BCC: Interested Malibu Residents. Please join or watch the workshop tomorrow evening. Also: **simply reply to all, "agree"** to show your **support** of or modify these answers to the City's questions for consideration to give your personal input.

*

<WCF Ordinance Workshop.png>

Kelsey Pettijohn

Subject: Letter to Planning Department Answering WCF Workshop Questions- Please Read



From: Darlene Addison [REDACTED]
Sent: Wednesday, December 16, 2020 9:44 AM
To: Nichole McGinley [REDACTED]
Cc: Adrian Fernandez <afernandez@malibucity.org>; Richard Mollica <rmollica@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Steve Uhring <suhring@malibucity.org>; MalibuForSafeTech [REDACTED]; Heather Glaser <hglaser@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Tyler Eaton <teaton@malibucity.org>
Subject: Re: Letter to Planning Department Answering WCF Workshop Questions- Please Read

Agree

Darlene Addison

On Dec 15, 2020, at 5:45 PM, Nichole McGinley [REDACTED] wrote:

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<WCF Ordinance Workshop.png>

Kelsey Pettijohn

Subject: Letter to Planning Department Answering WCF Workshop Questions- Please Read



From: David Anawalt [REDACTED]
Sent: Wednesday, December 16, 2020 11:37 AM
To: Nichole McGinley [REDACTED]
Cc: Adrian Fernandez <afernandez@malibucity.org>; Richard Mollica <rmollica@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Steve Uhring <suhring@malibucity.org>; MalibuForSafeTech [REDACTED] Heather Glaser <hglaser@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Tyler Eaton <teaton@malibucity.org>

Subject: Re: Letter to Planning Department Answering WCF Workshop Questions- Please Read

David Anawalt and Anawalt family agree wholeheartedly

Sent from my iPhone

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*

<WCF Ordinance Workshop.png>

Re: Give Your Input on Wireless Communication Facility Ordinance Updates During the Virtual Public Workshop, Wednesday, December 16, 6:00 PM

David Kelmenson [Redacted]

Tue 12/15/2020 9:08 PM

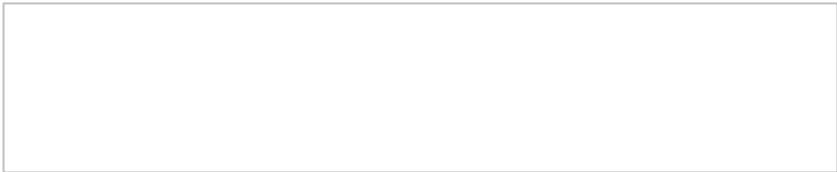
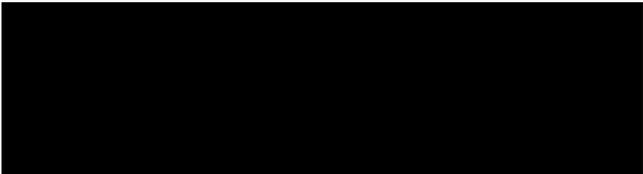
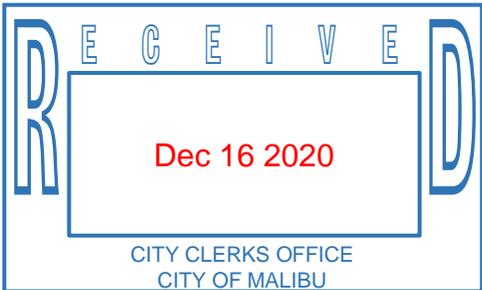
To: Kathleen Stecko <kstecko@malibucity.org>; City Council <citycouncil@malibucity.org>; Adrian Fernandez <afernandez@malibucity.org>

Hi there,

As long term Malibu residents and homeowners, we are highly in favor of improving cell service in Malibu especially my neighborhood of Big Rock. We are living in a 100% digital age and it's totally antiquated to not have cell service. At our home on Roca Chica Dr., if our internet goes down, we have absolutely zero access to anything, internet, phones, etc... It can be quite alarming when there is an emergency. As an example a few years ago, our Frontier service was down for 3 weeks as it was post Woosley fire and there were few technicians available to fix my line as they were working on rebuilding their burned down infrastructure. When a tech finally came out, it was a simple fix as some contractor had accidentally disconnected our Fios line at the hub box on Big Rock Dr. If we had cell phone service, we could have been ok while waiting for our Fios service to be fixed. So we are 110% in favor of doing whatever it takes to improve cell service...

Please share this with the group, thank you!

David Kelmenson
Executive Director, Luxury Estates Division
DRE#01435306



On Tue, Dec 15, 2020 at 8:26 PM Jo Drummond [Redacted] wrote:
FYI! Thx, Jo

Begin forwarded message:

From: Kathleen Stecko <kstecko@malibucity.org>
Date: December 15, 2020 at 7:08:47 PM PST
Subject: Give Your Input on Wireless Communication Facility Ordinance Updates During the

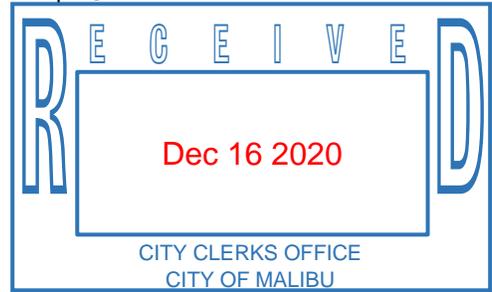
CC: Council; CM; CA ; PL _____; Ref. Binder; Original to 12/16/20 _____ Agenda File

Virtual Public Workshop, Wednesday, December 16, 6:00 PM

Wireless Communication Facility Ordinance Updates Virtual Public Workshop, Wednesday, December 16, 6:00 PM The City of Malibu wants to hear from you. The City is currently working on updating its Wireless Communication Facility Ordinances (WCF) and is seeking input from the community. What are your priorities regarding WCF locations, aesthetic, health concerns, noise, better coverage, transparency in the permitting process? Do you want the City to develop a list of preferred cell sites? Would you prefer larger cells sites with taller antenna installations over the more frequent installation of small telephone-pole mounted sites? Should the City encourage the use of existing electrical and telephone poles as cell sites? Please join the City to discuss these questions and give your input during the virtual public workshop on Wednesday, December 16 at 6:00 PM. To sign up to speak, visit malibucity.org/virtualmeeting or submit comments in advance by email to citycouncil@malibucity.org. For details regarding the workshop format, see the [workshop agenda](#). For general information regarding this project, visit malibucity.org/wcf.

Kelsey Pettijohn

Subject: Letter to Planning Department Answering WCF Workshop Questions- Please Read



From: Darin Olien [REDACTED]
Sent: Wednesday, December 16, 2020 11:31 AM
To: Nichole McGinley [REDACTED]
Cc: Adrian Fernandez <afernandez@malibucity.org>; Richard Mollica <rmollica@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Steve Uhring <suhring@malibucity.org>; MalibuForSafeTech [REDACTED] Heather Glaser <hglaser@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Tyler Eaton <teaton@malibucity.org>

Subject: Re: Letter to Planning Department Answering WCF Workshop Questions- Please Read

I AGREE

Best,
Darin Olien

On Tue, Dec 15, 2020 at 5:45 PM Nichole McGinley [REDACTED] wrote:

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*

Virtual Public Workshop

The Wireless Communication Facility Ordinance Update

Wednesday, December 16 | 6 PM



8 likes

cityofmalibu Wireless Communication Facility Ordinance Virtual Public Workshop
December 16

#Malibu, we want to hear from you! The City is currently working on updating its Wireless Communication Facility Ordinances. We would like to know your priorities and comments when it comes to wireless facilities. Location? Aesthetics? Health concerns? Noise? Better coverage? Transparency in the permitting process?

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Kelsey Pettijohn

Subject: Letter to Planning Department Answering WCF Workshop Questions- Please Read



From: Gloriane Giovannelli [REDACTED]
Sent: Wednesday, December 16, 2020 3:00 AM
To: MalibuForSafeTech.org [REDACTED]
Cc: Nichole McGinley [REDACTED]; Adrian Fernandez <afernandez@malibucity.org>; Richard Mollica <rmollica@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Steve Uhring <suhring@malibucity.org>; Heather Glaser <hglaser@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Tyler Eaton <teaton@malibucity.org>
Subject: Re: Letter to Planning Department Answering WCF Workshop Questions- Please Read

AGREE

Sent from my iPhone

On 16 Dec 2020, at 00:08, MalibuForSafeTech.org [REDACTED] wrote:

Malibu For Safe Tech agrees with the input below on the WCF Ordinance.

Hello Mayor Pierson, Council, Richard, Adrian and Staff,

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<WCF Ordinance Workshop.png>

Kelsey Pettijohn

Subject: Wireless Communication Facility Ordinance Updates



From: Greg Goode [REDACTED]
Sent: Monday, December 14, 2020 7:30 PM
To: City Council <citycouncil@malibucity.org>
Subject: Wireless Communication Facility Ordinance Updates

Hello City Council,

In regards to wireless coverage in Malibu, I believe that good wireless coverage and strong signals should be our highest priority.

We should make the cell towers look as nice as possible, but not at the expense of a strong signal.

More towers, big ones, small ones, all different kinds sound good to me.

Where I live in eastern Malibu, there is poor coverage. I live in La Costa only one block from PCH and I should be able to get a strong signal, but alas, no. There is a tower at the bottom of Rambla Vista (near Carbon) but I think it was disabled after the 2018 fires since the coverage used to be good before then and now it is bad.

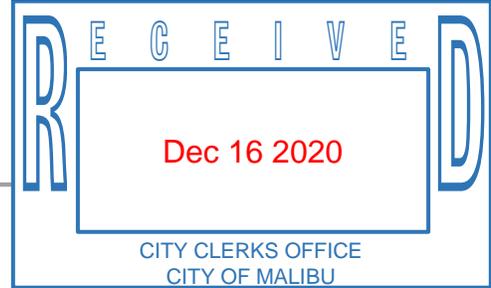
Furthermore, when traffic is heavy, the towers get overloaded and even if there is a strong signal, no data flows through.

I have worked in the technology sector for over 20 years and know the value of a good data connection.

Thanks, Greg Goode
[REDACTED]

Kelsey Pettijohn

Subject: FW: Letter to Planning Department Answering WCF Workshop Questions- Please Read



From: Isabelle Daikeler [REDACTED]

Sent: Tuesday, December 15, 2020 6:25:54 PM

To: Nichole McGinley [REDACTED]

Cc: Adrian Fernandez <afernandez@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Heather Glaser <hglaser@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; MalibuForSafeTech [REDACTED] Mikke Pierson <mpierson@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Richard Mollica <rmollica@malibucity.org>; Steve Uhring <suhring@malibucity.org>; Tyler Eaton <teaton@malibucity.org>

Subject: Re: Letter to Planning Department Answering WCF Workshop Questions- Please Read

AGREE!!!

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Nichole McGinley

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Virtual Public Workshop

The Wireless Communication Facility Ordinance Update

Wednesday, December 16 | 6 PM



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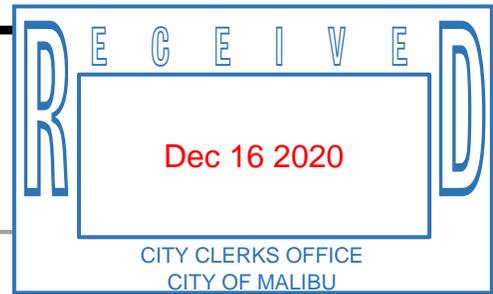
cityofmalibu Wireless Communication Facility Ordinance Virtual Public Workshop
December 16

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Kelsey Pettijohn

Subject: Malibu Process Comments From Wireless Vendor



From: Justin David [REDACTED]
Sent: Wednesday, December 16, 2020 3:58 PM
To: City Council <citycouncil@malibucity.org>
Subject: Malibu Process Comments From Wireless Vendor

Hello,

Thank you for your time! I appreciate you doing this. Please see my questions/concerns below

1. Collocation onto an existing ROW poles is the City's preference, per their municipal code. This is not always feasible as it is not always possible in the area the wireless carrier needs coverage. The City has the carriers sign collocation agreements for NSB's but that wireless carrier does not always abide by this agreement (not allowing or does not have a process for collocation). The City also has a height restriction of 28 ft for wireless carriers on a utility pole. If the wireless carrier proposal exceeds this height, then they need a variance.
2. City comments, especially regarding RF reports, are not always handled efficiently. The City uses a consultant-Jonathan Kramer's office. An RF report is required for every wireless application submittal. If the comments are addressed, then new comments will come from the consultant. All comments should be provided with the initial review. If the consultant wants a cumulative report including all carriers near the wireless facility, then they should provide the RF reports from the other carriers to better address the comments with actual RF emissions instead of having to assume the worst case scenario.
3. The Planning Department limits submittal times and requires an appointment in the afternoon, prior to COVID City closure to the public. This makes it difficult to get Public Works sign-off as Public Works only has office hours on Tuesday and Thursday mornings. During COVID City closure to the public, the City only accepts wireless application submittal on Mondays and Tuesdays by 3pm. If submitted after 3pm on Tuesday, the submittal is not accepted until the following week.
4. Certain modifications trigger a more extensive review than others despite being 6409 compliant. For sites that are subjected to a hearing or longer review, it would be nice to have an expedited process even if it increases the plan check application fees. It is difficult to forecast given the drawn out review process. If it is possible to expedite, I am sure carriers would pay the additional fees given the race to 5G.
5. There is a new law taking effect on January 1st, 2021 to expedite generator applications. How is the City of Malibu handling this? It seems like the current process for submitting generator applications where the generator falls outside of the existing compound is very extensive and not attainable under the 60-day timeframe. For a project that is vital given the history of fires in Malibu, it seems like establishing a direct and simple framework would be beneficial for carriers, constituents, and the city.

I also see there are proposed questions from the City:

Would you prefer larger cells sites with taller antenna installations over the more frequent installation of small telephone-pole mounted sites?

Answer: The public ROW sites provide less coverage compared to larger macro sites, so more public ROW sites are needed.

Should the City encourage the use of existing electrical and telephone poles as cell sites?

Answer: This can be difficult as collocation is not always feasible. If you drive up and down Malibu Canyon Rd, there are multiple wireless facilities on ROW utility poles. See above #1. One macro site compared to multiple ROW sites is the difference.

Best,
Justin



Advantage Engineers | www.advantageengineers.com

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Kelsey Pettijohn

Subject: Letter to Planning Department Answering WCF Workshop Questions- Please Read



From: JoAnna Elliott [REDACTED]
Sent: Wednesday, December 16, 2020 3:22 PM
To: Nichole McGinley [REDACTED]; MalibuForSafeTech.org [REDACTED]
Cc: Adrian Fernandez <afernandez@malibucity.org>; Richard Mollica <rmollica@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Steve Uhring <suhring@malibucity.org>; Heather Glaser <hglaser@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Tyler Eaton <teaton@malibucity.org>
Subject: Re: Letter to Planning Department Answering WCF Workshop Questions- Please Read

Agreed. Thank you for prioritizing this ordinance update.

From: MalibuForSafeTech.org [REDACTED]
Sent: Tuesday, December 15, 2020 9:08 PM
To: Nichole McGinley [REDACTED]
Cc: Adrian Fernandez <AFernandez@malibucity.org>; Richard Mollica <RMollica@malibucity.org>; Mikke Pierson <MPierson@malibucity.org>; Karen Farrer <KFarrer@malibucity.org>; PGrisanti@malibucity.org <PGrisanti@malibucity.org>; Bruce Silverstein <BSilverstein@malibucity.org>; SUhring@malibucity.org <SUhring@malibucity.org>; Heather Glaser <hglaser@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; teaton@malibucity.org <teaton@malibucity.org>
Subject: Letter to Planning Department Answering WCF Workshop Questions- Please Read

Malibu For Safe Tech agrees with the input below on the WCF Ordinance.

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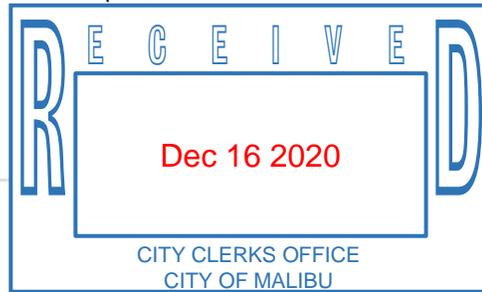
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Kelsey Pettijohn

Subject: Letter to Planning Department Answering WCF Workshop Questions- Please Read



From: Janet Friesen [REDACTED]

Sent: Tuesday, December 15, 2020 8:25 PM

To: Nichole McGinley [REDACTED]

Cc: Adrian Fernandez <afernandez@malibucity.org>; Richard Mollica <rmollica@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Steve Uhring <suhring@malibucity.org>; MalibuForSafeTech [REDACTED]; Heather Glaser <hglaser@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Tyler Eaton <teaton@malibucity.org>

Subject: Re: Letter to Planning Department Answering WCF Workshop Questions- Please Read

Agree!

Sent from my iPhone

On Dec 15, 2020, at 5:45 PM, Nichole McGinley [REDACTED] wrote:

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*

<WCF Ordinance Workshop.png>

Kelsey Pettijohn

Subject: Letter to Planning Department Answering WCF Workshop Questions- Please Read



From: jessica isles [REDACTED]

Sent: Tuesday, December 15, 2020 8:34 PM

To: Adrian Fernandez <afernandez@malibucity.org>; Richard Mollica <rmollica@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Steve Uhring <suhring@malibucity.org>; Nichole McGinley [REDACTED]

Cc: MalibuForSafeTech [REDACTED] Heather Glaser <hglaser@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Tyler Eaton <teaton@malibucity.org>

Subject: Re: Letter to Planning Department Answering WCF Workshop Questions- Please Read

I agree with all points.

Thank you
Jessica Isles

On Tuesday, 15 December 2020, 17:45:01 GMT-8, Nichole McGinley [REDACTED] wrote:

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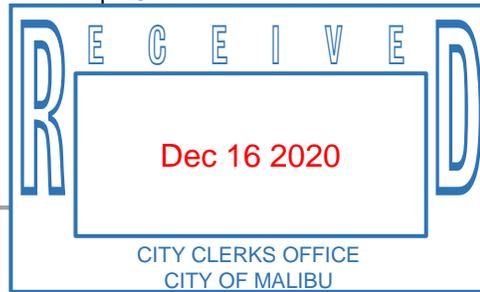
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Subject: Letter to Planning Department Answering WCF Workshop Questions- Please Read

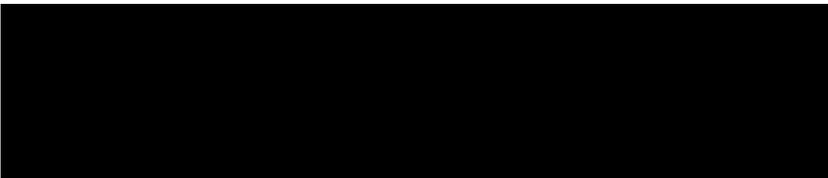


From: Louks, Jeffrey [REDACTED]
Sent: Tuesday, December 15, 2020 6:00:08 PM
To: Nichole McGinley [REDACTED]; Adrian Fernandez <afernandez@malibucity.org>; Richard Mollica <rmollica@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Steve Uhring <suhring@malibucity.org>
Cc: MalibuForSafeTech [REDACTED]; Heather Glaser <hglaser@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Tyler Eaton <teaton@malibucity.org>
Subject: Re: Letter to Planning Department Answering WCF Workshop Questions- Please Read

Thank you Nichole, I Agree with all of this. I look forward to the workshop. This is very important for our City. I appreciate all the great work, you and the City is doing to make this happen. Best Jeff

Jeff Louks

*Executive Managing Director Investments
Senior Director, National Multi Housing Group*



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From: Nichole McGinley [REDACTED]

Kelsey Pettijohn

Subject: Wireless communications



From: Jim Ramo [REDACTED]
Sent: Monday, December 14, 2020 5:04 PM
To: City Council <citycouncil@malibucity.org>
Subject: Wireless communications

Use City owned property:

In town from Dukes to Pepperdine - use small cell sites for 5G high bandwidth speed. Same for Heathercliff, Trancus market.

For the remainder of the City, use frequent existing poles for mid band 5G.

Insure complete connectivity from Sunset Blvd County Line along PCH , and from 101 to PCH on both Malibu Canyon and Kanen.

Use Telco Property (towers) elsewhere.

From Jim Ramo
[REDACTED]

Kelsey Pettijohn

Subject: Letter to Planning Department Answering WCF Workshop Questions- Please Read



From: Jenny Rusinko [REDACTED]
Sent: Tuesday, December 15, 2020 9:47 PM
To: Nichole McGinley [REDACTED]
Cc: Adrian Fernandez <afernandez@malibucity.org>; Richard Mollica <rmollica@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Steve Uhring <suhring@malibucity.org>; MalibuForSafeTech [REDACTED]; Heather Glaser <hglaser@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Tyler Eaton <teaton@malibucity.org>
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Dear Mayor Pierson, Council, Richard, Adrian and Staff,

I agree with all of Nichole McGinley's responses in the email below to the questions posed by the City's social media announcement for the WCF Ordinance Update workshop tomorrow evening.

I am also personally concerned about PCH and wireless facilities installations along its corridor. I live adjacent to PCH, as do many Malibu residents on our 21-mile stretch of the highway. My front windows look out to numerous utility poles. I'm grateful that those utility poles do not currently house small cell antennas. I fear the day that they might and would like to do everything that I can to prevent such installations from occurring. It is extremely important to me that our ordinance include protection for all residences, including those along major public right-of-ways such as PCH.

For the public record, I do NOT want small cells in Malibu at all. I completely oppose this technology and don't feel it aligns with the desires of Malibu's citizens or with Malibu's mission statement.

Thank you for holding this virtual public workshop. I will definitely be in attendance.

Sincerely,
Jenny Rusinko, MA

On Dec 15, 2020, at 5:44 PM, Nichole McGinley [REDACTED] wrote:

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I am looking forward to tomorrow's virtual workshop!

Thank you,

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BCC: Interested Malibu Residents. Please join or watch the workshop tomorrow evening. Also: **simply reply to all, "agree"** to show your **support** of or modify these answers to the City's questions for consideration to give your personal input.

*

<WCF Ordinance Workshop.png>

Kelsey Pettijohn

Subject: Cell service



From: J T [REDACTED]
Sent: Wednesday, December 16, 2020 3:03 PM
To: City Council <citycouncil@malibucity.org>
Subject: Cell service

Dear city council members

I am not overly concerned about fewer larger cell towers or more numerous small towers as long as the service providers do their best to minimize view impacts. What is of utmost importance to me is cell towers continuing to work during disasters. You are all aware of the inability to communicate during the woolsey fire after the city lost power and all cell service failed.

If it is easier to build fewer large towers with backup power, then the city should support larger towers. If the service providers can just as easily install smaller towers with backup power, then I'm ok with that.

Council should make sure whatever they choose, that operational effectiveness during disasters is given more weight than aesthetic issues. Please don't let the Kens and Karens of malibu that might see a cell tower near their home affect your decision just because they are screaming the loudest.

Regards

Jeff Thompson

Sent from my iPhone

Kelsey Pettijohn

Subject: Wireless Communication

From: [REDACTED]
Sent: Tuesday, December 15, 2020 8:46 AM
To: City Council <citycouncil@malibucity.org>
Subject: Wireless Communication



City Council of Malibu,

Our Wireless connection in Malibu is horrible. Over the years, I have complained to Verizon, my carrier, about how horrible our connection in Malibu is and how to improve it to no avail. Malibu just isn't a large enough market for Verizon to pay attention to. I spoke to Susan Duenos, who works for the city and was negotiating with Verizon at the time to be the Malibu City carrier, but she dropped the ball. She referred me to a Verizon rep who the referred to me to someone that gave me a generic response of how to fix my phone. Its not the phone, its the service that needs fixing. We need more cell towers, satellites, adaptors, etc. in order to improve the service. After all, this is the 21st century, we should have good cell service. The environmentalists are going to complain that cell service and towers are going to emit waves that will lead to brain damage. This is just not true. Look we are living longer than ever before, damaging waves or not. They just don't know what they are talking about. We need better communication for public safety period, especially since Malibu is susceptible to fires, earthquakes, landslides, etc.

Thank you for listening

Keith Canter
Long time resident of Malibu

Kelsey Pettijohn

Subject: Coments re WCF Ordinance



From: K Hill [REDACTED]
Sent: Tuesday, December 15, 2020 11:03 PM
To: Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Steve Uhring <suhring@malibucity.org>; Heather Glaser <hglaser@malibucity.org>; Richard Mollica <rmollica@malibucity.org>
Cc: Nichole McGinley [REDACTED]; Lonnie Gordon [REDACTED]; R Y A N [REDACTED]; Scott Dittrich [REDACTED]; John Mazza [REDACTED]
Patt Healy: [REDACTED] MalibuForSafeTech.org [REDACTED]; [REDACTED]; Beatrix Z [REDACTED]; Andy Lyon [REDACTED]
Subject: Coments re WCF Ordinance

Dear Council,

First off, the comments submitted by Malibu For Safe Tech appear to be sensible, as well as mindful of the ways in which the City can and can't operate within the jurisdictional field. Please weigh them accordingly.

Here are some new comments of my own.

LIP 6.5 Development Standards can provide guidance that may not yet have been specifically referenced (except in my oral comments at the last meeting). The section states (inter alia), "New development shall be sited and designed to minimize adverse impacts on scenic areas from scenic roads or public viewing areas to the maximum feasible extent."

The installations in question constitute "new development." So they "**shall be** sited and designed to minimize" the specified visual impacts, to the "maximum feasible extent." This can mean several things in implementation.

First, all pieces of equipment that can be feasibly hidden must be hidden. That means requiring that all but the antenna itself (and wiring to it) be undergrounded. "Maximum feasible extent" doesn't allow for balancing costs – it doesn't matter what it costs.

Second, it means that only the very fewest installations necessary to provide basic service need be allowed. The fewer the antennas, the more minimized are the adverse impacts on views, as is required. That provides you subject matter jurisdiction to make a direct evaluation of how many antennae are required to achieve the basic purpose. You have heard prior testimony (more supported in evidence than I can provide off the cuff) that Malibu already has enough, or nearly enough, towers to provide adequate coverage for communications; and that therefore the FCC requirements (and CPUC requirements?) are (mostly) already fulfilled. And that there is no requirement of greater density of antennae in order to provide, for example, streaming video or additional bandwidth to accommodate "the internet of things."

In that context, also recall the section of the **Vision Statement**:

"Malibu is a unique land and marine environment and residential community whose citizens have historically evidenced a **commitment to sacrifice urban and suburban conveniences** in order to protect that environment and lifestyle, and to preserve unaltered natural resources and rural characteristics."

There appears to be some consensus that anything beyond basic voice and text comms is a “suburban convenience” which you, as representatives of the Citizens, have an affirmative commitment to sacrifice on our behalf.

So, on a purely aesthetic basis, you have jurisdiction to say that Malibu needs (virtually) no more antennae.

Alternatively, if you believe the pro-industry voices suggesting that you must still allow many more towers, then you can do a few more things about the siting of them.

Based on those same LIP 6.5 Development Standards, you could require that they be **sited away from “scenic roads”** to minimize visual impact. That might be 1,000 feet or 1,500 feet away from PCH, wherever they'd visible.

In any case, if you would allow them to be closer than that to PCH, then they must be fully underground, per LIP6.5(H)(1)(C): "Any telecommunications facilities approved along Pacific Coast Highway **shall place support facilities underground, where feasible.**"

Then there's LIP 6.5.E, which **prohibits blocking views of blue water from any public streets.** That would limit many potential locations on the ocean side of roads.

As for **disguising them as landscaping**, LIP 6.5.3 disallows that: "Landscape screening, as mitigation of visual impacts, shall not substitute for project alternatives including resiting, or reducing the height or bulk of structures." To make this case, you'd have to find that the way they're typically disguised as landscaping is functionally synonymous with “landscape screening as mitigation of visual impact.”

Meanwhile, under LIP 13.27.1.A.1, The planning manager may consider for **site plan review** height increases over the base district maximum of 18 feet up to a maximum of 28 feet in height. Since the PM already “may” consider such over-height structures, it would be within your discretion to **require** SPR's of all such telecom projects. Requiring a full SPR might make telecom providers think twice about justifying the less essential elements of their preferred build-out plan.

In any case, LIP 13.27.1.A.7 provides that the planning manager may consider for a Site Plan Review "Wireless telecommunications antennae and facilities (pursuant to the provisions of Section 3.14.1 (B) of the Malibu LIP) that comply with the Most Restrictive Design Standards set forth in Section 3.16.1 (F) of the Malibu LIP. Again, just make that a requirement, not merely a “may consider.”

Of course, if you would tighten the regime to require SPR's, then you'd always have the Finding to be made (in LIP 13.27.5) that "the project does not adversely affect **neighborhood character.**" Given the well-known breadth of that required Finding, this could in effect allow neighborhoods to decide for themselves what, and how much, is in keeping with their own aesthetic character.

Finally, in the last meeting, I suggested that **the public might appreciate knowing a few things for context** – to which none of the (past) Council responded. I think **the public would like to hear Mr. McCullough's perspective on the following:** How does this effort compare to those of other municipalities? I recall hearing that other cities already have more rigorous, aggressive regulation (maybe Santa Cruz, Del Mar, I forget). Anyway, there's some sense that we're behind the ball. Could the city go even further than contemplated at the moment? Or, have others already gone further? How close are we to becoming the nail that gets hammered down first?

Also it could be helpful to know about how much and what sort of legal pushback has occurred at the Federal level – for example, on the unreasonably shot clocks, or the “effective prohibition” standard. And how any of this might or might not change under the Biden administration. And at the CPUC level, on any of the safety provisions. I suspect that Mr. McCullough could help provide more of this sort of context, which would help you to have a better sense of how far you might be sticking out the City's neck by whatever you might enact. In an ordinance situation like this one, the better we all understand the lay of the land, the better.

Best,
Kraig

Kelsey Pettijohn

Subject: Letter to Planning Department Answering WCF Workshop Questions- Please Read



From: Linda gibbs [REDACTED]
Sent: Wednesday, December 16, 2020 5:58 PM
To: Nichole McGinley [REDACTED]
Cc: Adrian Fernandez <afernandez@malibucity.org>; Richard Mollica <rmollica@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Steve Uhring <suhring@malibucity.org>; MalibuForSafeTech [REDACTED]; Heather Glaser <hglaser@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Tyler Eaton <teaton@malibucity.org>
Subject: Re: Letter to Planning Department Answering WCF Workshop Questions- Please Read

A G R E E D !!!

Thank you

Linda Gibbs

"Let the beauty we love be what we do. There are hundreds of ways to kneel and kiss the ground." Rumi

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l i n d a g i b b s
"Earth Care, People Care, Fair Share"

On Dec 15, 2020, at 5:44 PM, Nichole McGinley [REDACTED] wrote:

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I am looking forward to tomorrow's virtual workshop!

Thank you,

Nichole McGinley

BCC: Interested Malibu Residents. Please join or watch the workshop tomorrow evening. Also: **simply reply to all, "agree"** to show your **support** of or modify these answers to the City's questions for consideration to give your personal input.

*

<WCF Ordinance Workshop.png>

Kelsey Pettijohn



Subject: Workshop

From: Lonnie Gordon [REDACTED]
Sent: Tuesday, December 15, 2020 10:49 PM
To: Patricia Salazar <psalazar@malibucity.org>; 'Nichole McGinley' [REDACTED]; Richard Mollica <rmollica@malibucity.org>; Adrian Fernandez <afernandez@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Bruce Silverstein [REDACTED]; Steve Uhring [REDACTED] Heather Glaser <hglaser@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Steve Uhring <suhring@malibucity.org>
Cc: Skylar Peak <speak@malibucity.org>; jwagner@malibucity.org; rmullen@malibucity.org; Trevor Rusin <trevor.rusin@bbklaw.com>; Reva Feldman <rfeldman@malibucity.org>
Subject: Re: Workshop

Dear Patricia,

To say this is an insult to us is mild. The city, influenced by telecom or lack of information, gets 45 minutes to present its side and we get 15? And then community input from people, who have may have been set up by telecom, to say they want faster downloads for whatever reason get 45 minutes and we get 15? I don't know if that is a true statement, but having been involved in politics for a long time that is my intuition from your email below.

This was supposed to be, and noticed as, a Public Workshop. Everyone has so much to learn about this issue, on a basic level, and the city is not providing input from both sides equally. It's late and I am frustrated by this notice. And the fact that we had to fight to get even this much is ludicrous? I see the city does not really care to hear the truth. There is so much misinformation out there by the telecom industry who make us out as conspiracy theorists. But they have not proven we are wrong. And they have not proven they are right because they have done no research since 1996.

To me personally, this is throwing another bone to to community to make the city look like it is responding. I, personally, have always been about transparency, and trying to help the "people", not "the system". I have worked within the system to offer help, in the highest possible way to those we represent. This does not feel good to me. I hope you will all learn a little more tomorrow, that will help you understand the facts about this issue. And I hope you never have a small cell site in front of your homes or on top of your offices. The effects are not pleasant.

How do we remove the sites already installed in front of the schools? Are you ready to deal with cancer clusters and law suits? I am baffled by the cognitive dissonance regarding this problem. So many cities, counties, and countries see the dangers we face. But telecom has the money and influence. Not an easy battle.

May we all survive this onslaught. I was hoping by all the information we had already supplied at the council meetings, and by our experts communications with staff, that we might have moved in a positive direction but it does not feel that way. This is from me personally not the group I represent. I go to bed tonight frustrated by this inequity, but hoping this workshop will yield some positive results tomorrow evening.

Sincerely,

Lonnie (Gordon)

On 12/15/2020 6:38 PM, Patricia Salazar wrote:

Good evening,

I have modified the agenda. The total public comment portion of the meeting is one hour and your team has been provided 15 minutes.

Again, we want to ensure that all members of the public have adequate time to speak and contribute to the conversation.

Regards,

Patricia Salazar
Planning Department

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"The world is not dangerous because of those who do harm,
but because of those who look at it without doing anything".

Albert Einstein

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Kelsey Pettijohn

Subject: WCF Workshop comments

From: Lonnie Gordon [REDACTED]
Sent: Wednesday, December 16, 2020 3:13 PM
To: City Council <citycouncil@malibucity.org>
Subject: WCF Workshop comments



Dear City Council and Staff,

I am hopeful that the workshop this evening will be an open discussion between the city and our experts. The community has agreed, in most part on our side, to give our minutes to our experts Scott McCullough, Susan Foster and Tony Simmons. While we appreciate this opportunity to have the issue presented, we would like this platform to be fair to all.

That means an open exchange of information, with equal time for both sides, a discussion of the issues, as well as the basic laws we must deal with, and creative and lawful options for a new ordinance. I look forward to this exchange of information this evening and any community comments and questions. Malibu For Safe tech will be ceding its minutes to the above named experts.

Lonnie Gordon

https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fMalibuForSafeTech.org&c=E,1,KslElxPoDdeQcwnlm1QKkgJk4X6xlhb-rcstv0DyzQK3UjMSi8UJgybl_ufSzNMS1j7ncJPsaNtuYf9TE5bkDmuXPrS1PpyQzn-XiycYVKX7u29DVnsycQ,,&typo=1

(For the Public Record)

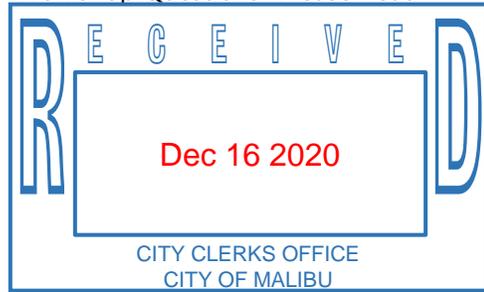
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but because of those who look at it without doing anything".

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Kelsey Pettijohn

Subject: Letter to Planning Department Answering WCF Workshop Questions- Please Read



From: Lacey Lehman [REDACTED]

Sent: Wednesday, December 16, 2020 11:43 AM

To: Nichole McGinley [REDACTED]

Cc: Adrian Fernandez <afernandez@malibucity.org>; Richard Mollica <rmollica@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Steve Uhring <suhring@malibucity.org>; MalibuForSafeTech [REDACTED] Heather Glaser <hglaser@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Tyler Eaton <teaton@malibucity.org>

Subject: Re: Letter to Planning Department Answering WCF Workshop Questions- Please Read

Agree

On Tue, Dec 15, 2020 at 5:45 PM Nichole McGinley <[REDACTED]> wrote:

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*

Virtual Public Workshop

The Wireless Communication Facility Ordinance Update

Wednesday, December 16 | 6 PM



8 likes

cityofmalibu Wireless Communication Facility Ordinance Virtual Public Workshop
December 16

#Malibu, we want to hear from you! The City is currently working on updating its Wireless Communication Facility Ordinances. We would like to know your priorities and comments when it comes to wireless facilities. Location? Aesthetics? Health concerns? Noise? Better coverage? Transparency in the permitting process?

Do you want the City to develop a list of preferred cell sites? Would you prefer larger cells sites with taller antenna installations over the more frequent installation of small telephone-pole mounted sites? Should the City encourage the use of existing electrical and telephone poles as cell sites? Join us on Wednesday, December 16, 6:00 PM for a virtual public workshop. To sign up to speak, visit malibucity.org/virtualmeeting or submit comments in advance by email to citycouncil@malibucity.org. For general information, including a timeline, visit malibucity.org/wcf.

Kelsey Pettijohn

Subject: Letter to Planning Department Answering WCF Workshop Questions- Please Read



From: MalibuForSafeTech.org [REDACTED]
Sent: Tuesday, December 15, 2020 9:08 PM
To: Nichole McGinley [REDACTED]
Cc: Adrian Fernandez <afernandez@malibucity.org>; Richard Mollica <rmollica@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Steve Uhring <suhring@malibucity.org>; Heather Glaser <hglaser@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Tyler Eaton <teaton@malibucity.org>
Subject: Letter to Planning Department Answering WCF Workshop Questions- Please Read

Malibu For Safe Tech agrees with the input below on the WCF Ordinance.

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*

Virtual Public Workshop

The Wireless Communication Facility Ordinance Update

Wednesday, December 16 | 6 PM



8 likes

cityofmalibu Wireless Communication Facility Ordinance Virtual Public Workshop
December 16

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Kelsey Pettijohn

Subject: Letter to Planning Department Answering WCF Workshop Questions- Please Read



From: Michaeline DeJoria Heydar [REDACTED]
Sent: Wednesday, December 16, 2020 12:27 PM
To: Nichole McGinley [REDACTED]
Cc: Adrian Fernandez <afernandez@malibucity.org>; Richard Mollica <rmollica@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Steve Uhring <suhring@malibucity.org>; MalibuForSafeTech [REDACTED] Heather Glaser <hglaser@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Tyler Eaton <teaton@malibucity.org>
Subject: Re: Letter to Planning Department Answering WCF Workshop Questions- Please Read

I absolutely agree with all points. Thank you for being such a strong voice on our behalf. We are here to support all the way through to the end.

Warmly,
Michaeline and family

■
MICHAELINE DEJORIA HEYDARI
VICE CHAIRMAN
JOHN PAUL MITCHELL SYSTEMS

[REDACTED]
PAULMITCHELL.COM

On Dec 15, 2020, at 5:45 PM, Nichole McGinley [REDACTED] wrote:

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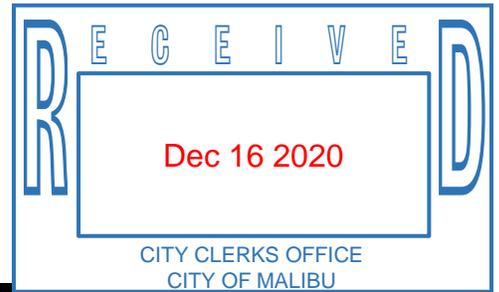
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<WCF Ordinance Workshop.png>

Kelsey Pettijohn

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Kelsey Pettijohn

Subject: Letter to Planning Department Answering WCF Workshop Questions- Please Read



From: Paula Murphy [REDACTED]

Sent: Wednesday, December 16, 2020 11:56 AM

To: Nichole McGinley [REDACTED]

Cc: Adrian Fernandez <afernandez@malibucity.org>; Richard Mollica <rmollica@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Steve Uhring <suhring@malibucity.org>; MalibuForSafeTech [REDACTED] Heather Glaser <hglaser@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Tyler Eaton <teaton@malibucity.org>

Subject: Re: Letter to Planning Department Answering WCF Workshop Questions- Please Read

Agree

Paula Murphy
[REDACTED]

Sent from my iPhone

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<WCF Ordinance Workshop.png>

Kelsey Pettijohn

Subject: Letter to Planning Department Answering WCF Workshop Questions- Please Read



From: rory kennedy [REDACTED]
Sent: Wednesday, December 16, 2020 11:34 AM
To: Nichole M. & John C. McGinley [REDACTED]
Cc: Adrian Fernandez <afernandez@malibucity.org>; Richard Mollica <rmollica@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Steve Uhring <suhring@malibucity.org>; MalibuForSafeTech [REDACTED] Heather Glaser <hglaser@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Tyler Eaton <teaton@malibucity.org>
Subject: Re: Letter to Planning Department Answering WCF Workshop Questions- Please Read

Thank you for clearly laying out the concerns and solutions regarding the WCF ordinance. I agree with your assessment and hope that Malibu City Council will do what it can to support this effort.

Best,

Rory Kennedy

--

Rory Kennedy

Moxie Films | Climate Emergency Fund | The Malibu Foundation
[REDACTED]

On Dec 15, 2020, at 5:44 PM, Nichole McGinley [REDACTED] wrote:

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Sent: Wednesday, December 16, 2020 10:20 AM
To: Nichole McGinley [REDACTED]
Cc: Adrian Fernandez <afernandez@malibucity.org>; Richard Mollica <rmollica@malibucity.org>; Mikke Pierson <mperson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Steve Uhring <suhring@malibucity.org>; MalibuForSafeTech [REDACTED]; Heather Glaser <hglaser@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Tyler Eaton <teaton@malibucity.org>
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Subject: Dropped Calls

From: Rebecca Spiegel [REDACTED]
Sent: Wednesday, December 16, 2020 12:29 PM
To: City Council <citycouncil@malibucity.org>
Subject: Dropped Calls



To whom it may concern

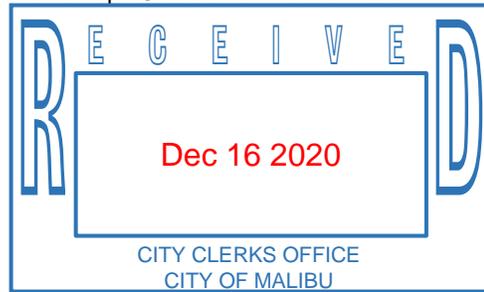
There are several areas in Malibu where calls are dropped. The areas where this occurs for me (Verizon) is PCH near Dukes, going over Kanan, going up Busch Dr. It would be great to have better coverage throughout all of Malibu.

Thank you
Rebecca Spiegel
[REDACTED]

Sent from my iPhone

Kelsey Pettijohn

Subject: Letter to Planning Department Answering WCF Workshop Questions- Please Read



From: Rossie Titcher [REDACTED]

Sent: Wednesday, December 16, 2020 4:43 PM

To: Nichole McGinley [REDACTED]

Cc: Adrian Fernandez <afernandez@malibucity.org>; Richard Mollica <rmollica@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Steve Uhring <suhring@malibucity.org>; MalibuForSafeTech [REDACTED] Heather Glaser <hglaser@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Tyler Eaton <teaton@malibucity.org>

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Thank you,

Nichole McGinley

BCC: Interested Malibu Residents. Please join or watch the workshop tomorrow evening. Also: **simply reply to all, "agree"** to show your **support** of or modify these answers to the City's questions for consideration to give your personal input.

*

Virtual Public Workshop

The Wireless Communication Facility Ordinance Update

Wednesday, December 16 | 6 PM



8 likes

cityofmalibu Wireless Communication Facility Ordinance Virtual Public Workshop
December 16

#Malibu, we want to hear from you! The City is currently working on updating its Wireless Communication Facility Ordinances. We would like to know your priorities and comments when it comes to wireless facilities. Location? Aesthetics? Health concerns? Noise? Better coverage? Transparency in the permitting process?

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Kelsey Pettijohn

Subject: Letter to Planning Department Answering WCF Workshop Questions- Please Read



From: Stephanie Sunwoo [REDACTED]

Sent: Tuesday, December 15, 2020 5:57:47 PM

To: Nichole McGinley [REDACTED]

Cc: Adrian Fernandez <afernandez@malibucity.org>; Richard Mollica <rmollica@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Steve Uhring <suhring@malibucity.org>; MalibuForSafeTech [REDACTED] Heather Glaser <hglaser@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Tyler Eaton <teaton@malibucity.org>

Subject: Re: Letter to Planning Department Answering WCF Workshop Questions- Please Read

Dear Mayor Pierson, Council, Richard, Adrian and Staff,

I am writing in support and agreement of the below message. Thank you all for your efforts in this matter. I truly appreciate your openness to community input.

Thank you,
Stephanie Sunwoo

On Tue, Dec 15, 2020 at 5:45 PM Nichole McGinley [REDACTED] wrote:

Hello Mayor Pierson, Council, Richard, Adrian and Staff,

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I am looking forward to tomorrow's virtual workshop!

Thank you,

Nichole McGinley

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*

Virtual Public Workshop

The Wireless Communication Facility Ordinance Update

Wednesday, December 16 | 6 PM



8 likes

cityofmalibu Wireless Communication Facility Ordinance Virtual Public Workshop
December 16

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Kelsey Pettijohn

Subject: Letter to Planning Department Answering WCF Workshop Questions- Please Read



From: Soonchun Sunwoo [REDACTED]

Sent: Tuesday, December 15, 2020 8:50 PM

To: Adrian Fernandez <afernandez@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Richard Mollica <rmollica@malibucity.org>; Steve Uhring <suhring@malibucity.org>; Heather Glaser <hglaser@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Tyler Eaton <teaton@malibucity.org>

Subject: Re: Letter to Planning Department Answering WCF Workshop Questions- Please Read

Dear Mayor Pierson, Council, Richard, Adrian and Staff,

I am writing to wholeheartedly support the content of Nichole McGinley's email message below.

Thank you,

Susie Sunwoo

Hello Mayor Pierson, Council, Richard, Adrian and Staff,

Thank you for integrating public input into the WCF Ordinance Update workshop being held Dec 16, 2020. I saw the City's recent social media announcement* **seeking public input** for the meeting by listing a series of questions pertaining to issues to be discussed at the workshop. I thought answering those specific questions posted would be a good way for me to provide input on the WCF Ordinance.

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Wednesday, December 16 | 6 PM



8 likes

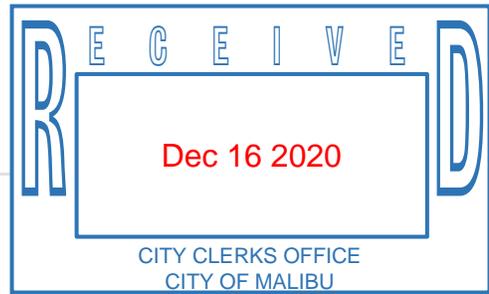
cityofmalibu Wireless Communication Facility Ordinance Virtual Public Workshop
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Kelsey Pettijohn

Subject: Letter to Planning Department Answering WCF Workshop Questions- Please Read



From: Shamra Tankersley [REDACTED]
Sent: Wednesday, December 16, 2020 9:56 AM
To: Nichole McGinley [REDACTED]
Cc: Adrian Fernandez <afernandez@malibucity.org>; Richard Mollica <rmollica@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Steve Uhring <suhring@malibucity.org>; MalibuForSafeTech [REDACTED]; Heather Glaser <hglaser@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Tyler Eaton <teaton@malibucity.org>
Subject: Re: Letter to Planning Department Answering WCF Workshop Questions- Please Read

Thank you Nicole for this list. I agree completely.
Best,
Shamra Tankersley-Strange

On Dec 15, 2020, at 5:45 PM, Nichole McGinley [REDACTED] wrote:

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*

<WCF Ordinance Workshop.png>

Kelsey Pettijohn

Subject: Letter to Planning Department Answering WCF Workshop Questions- Please Read



From: Steve Wright [REDACTED]
Sent: Wednesday, December 16, 2020 11:32 AM
To: Nichole McGinley [REDACTED]
Cc: Adrian Fernandez <afernandez@malibucity.org>; Richard Mollica <rmollica@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>; Steve Uhring <suhring@malibucity.org>; MalibuForSafeTech [REDACTED]; Heather Glaser <hglaser@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Tyler Eaton <teaton@malibucity.org>
Subject: Re: Letter to Planning Department Answering WCF Workshop Questions- Please Read

I agree to all of these requests

Steve Wright

On Dec 15, 2020, at 5:45 PM, Nichole McGinley [REDACTED] wrote:

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Kelsey Pettijohn

Subject: Members of the Community Public Workshop Presentation
Attachments: Malibu Virtual Public Workshop Community Experts Presentation,.pptx; Malibu Virtual Public Workshop Community Experts Presentation,.pdf; Non SCE Antennas Manual.pdf; Guide to Engineering and Land Surveying for City_County Officials.pdf



From: W. Scott McCollough [REDACTED]

Sent: Wednesday, December 16, 2020 4:23 PM

To: Richard Mollica <rmollica@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Mikke Pierson <mperson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Steve Uhring <suhring@malibucity.org>; Paul Grisanti <pgrisanti@malibucity.org>; Bruce Silverstein <bsilverstein@malibucity.org>

Cc: Adrian Fernandez <afernandez@malibucity.org>; Heather Glaser <hglaser@malibucity.org>; Kathleen Stecko <kstecko@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Trevor Rusin <trevor.rusin@bbklaw.com>; Tyler Eaton <teaton@malibucity.org>; City Council <citycouncil@malibucity.org>; Alexander Montano <amontano@malibucity.org>

Subject: Members of the Community Public Workshop Presentation

Mayor Pierson, Council members and all Malibu city representatives:

We are attaching our presentation for tonight's public workshop that begins at 6 pm. I am including a PowerPoint version and a pdf version. We ask that it be displayed during the portion allocated to our group's expert panel that is scheduled to begin some time after 7 pm, although we will be ready if sooner.

Our presentation will be through three people: myself, Engineer Tony Simmons and Susan Foster. I will do an introduction and hand off to Mr. Simmons. Simmons will speak to fire/safety. Foster will also touch on fire/safety and then address setback/separation and strand mounting. When she is finished I will return and address our remaining topics. This will allow for a more concise, coherent and comprehensive presentation. The attached slide deck incorporates all the material for each of us, in proper order, so for AV purposes you can leave the display up during the entire time and change slides as we progress.

We also ask that these materials be included in the "public comment" record, along with the two attached supporting/underlying documents ("Guide to Engineering & Land Surveying for City and County Officials"; "Southern California Edison (SCE) Non-SCE Antennas Placed on SCE Poles External Manual"). These two supporting documents are for background inclusion in the record only and do not need to be prepared for display this evening.

Thank you for the opportunity to make this presentation. We hope it will be helpful to the process.



Malibu Virtual Public Workshop

December 16, 2020

Presentation By Community Expert Panel
Tony P. Simmons, P.E.
Susan Foster, Honorary Firefighter, SDFD
W. Scott McCollough

- ❖ Addressing projects in rights-of-way and other properties
 - Right-of-way Projects now handled in Chapter 12.02 under Urgency Ordinance 477-U and Resolution 20-65
 - ❑ Mostly involves small cells and eligible facilities
 - ❑ Changes possible with final adoption
 - Projects on other properties still subject to Chapter 17.46
 - ❑ Macro-cells, small cells, eligible facilities
 - ❑ Applications relating to amateur and satellite antennas
- ❖ Many common issues but also some unique to 12.02 or 17.46

❖ Community requests based on City's still-retained authority

- **Not** asking City to
 - ❑ regulate on the basis of the environmental effects of compliant radio frequency emissions
 - ❑ effectively prohibit personal wireless services provision
 - ❑ unreasonably discriminate among providers of functionally equivalent service
- All requests based on
 - ❑ local values and priorities (rural, residential, family friendly)
 - ❑ safety requirements, especially given Malibu-specific conditions (fire-prone, seismically active, coastal conditions, high winds) and past experiences
 - ❑ preservation of property values
 - ❑ aesthetic concerns and preferences

❖ Major Issues

- Project design, application content, post construction inspections (12.02 and 17.46)
 - ❑ Current ordinance and forms do not ensure professional design rigor, require enough application content information or sufficiently contemplate ongoing post-construction inspections
 - ❑ Projects receive inadequate review. Present safety evaluation and protection considerations are entirely inadequate

Existing Application Weaknesses

Wireless equipment is electrical equipment

Wireless fires are electrical fires

- ❖ The Planning Department website <https://www.malibucity.org/369/Applications-Forms-Fees> lists a Uniform Application and the three checklists for WCF (Wireless Communication Facilities), WCF Checklist for non-PROW, WCK Checklist of PROW, and WCF upgrade Checklist. Each checklist specifies certain required documents
- ❖ **They do not require signed and sealed electrical drawings and reports or signed and sealed architectural, structural and other engineering drawing and reports**

Duty to ensure safety

Wireless fires are electrical fires

- ❖ California Public Utility Commission General Order GO-159 Section II defers to local governments on numerous issues. Safety is specifically mentioned as a local government concern.
- ❖ The answer to Question 12 on page number 9 of the Guide to Engineering & Land Surveying for City and County Officials states: *“A local agency may adopt ordinances or regulations to require that all engineering documents submitted for review be signed and sealed. However, the interim documents, even if signed and sealed, must still contain the interim notation as required by state laws”*
- ❖ Section 2.1.5 of the January 2019 edition of the Southern California Edison (SCE) Non-SCE Antennas Placed on SCE Poles External Manual on page 1 requires “An engineered site plan and construction drawings, approved by appropriate permitting agency”.
- ❖ SCE Manual Section 2.1.6 requires “Pole loading calculations including all SCE attachments.”

Engineering Rigor

Wireless fires are electrical fires

- ❖ Engineering rigor is the attention to detail required for a Subject Matter Expert to certify that life, health, and property are safeguarded

History demonstrates need for engineering rigor in all installations and modifications

- ❖ 2007 Malibu Canyon Fire. 3,836 acres, 36 vehicles and 14 structures burned due to fire caused by the failure of an SCE pole carrying three wireless facilities. SCE admitted the pole was overloaded
- ❖ 2015 January 22. Ontario (Province of Canada) Electrical Safety Authority ordered all electric utilities in the province to remove Sensus Gen 3 meters with remote disconnect as a safety precaution. The order noted that multiple utilities had already removed 785,000 smart meters as a safety precaution
- ❖ 2015 March Stockton Meter Explosion. Several thousand PG&E meters exploded due to overvoltage caused by a car accident. Customer owned electrical equipment also failed
- ❖ 2018 November 18 Camp Fire. PG&E CEO pled guilty to 84 counts of manslaughter on behalf of PG&E. The fire burned 153,336 acres and 18,804 structures
- ❖ 2018 November 18. Woolsey Fire. Killed 3 people and burned 1,643 homes and 96,949 acres
- ❖ **The commonality is lack of engineering rigor**

Mitigating Safety Hazards in All Four Phases (Design, Application, Review and Post-construction inspection)

- ❖ Electric fire safety begins with the engineering (design) stage: A Subject Matter Expert identifies and mitigates hazards and designs to comply with all other requirements
- ❖ The application will be the proof of appropriate design rigor, and can be independently assessed by the case manager/consultants
- ❖ The City can then review and enter appropriate findings of demonstrated plan compliance
- ❖ Post-construction inspection will verify the approved plan was properly implemented

Subject Matter Expert

Wireless fires are electrical fires

Safeguarding life health and property is part of a Regulated Affirmative Certification Process

- ❖ To protect the public from electrical and other hazards that require Subject Matters Expertise (SME) with advanced training in sciences and math, the California Legislature enacted the Professional Engineering Act to **regulate** SMEs
- ❖ The Act recognizes that professional engineering is a **process** that includes “*consultation, investigation, evaluation, planning or design*”
- ❖ The Act requires the all tasks be performed under the responsible charge of the professional engineer (P.E.)
- ❖ The act requires the PE sign and seal the final documents. This is the de facto **affirmative certification** that final engineering documents protect public safety

Signed and Sealed Engineering Documents

Wireless fires are electrical fires.

- ❖ Once the professional engineer is satisfied the engineering documents safeguard life, health, and property, he or she signs the document and affixes his or her seal
- ❖ No one is authorized to modify signed and sealed documents except another professional engineer who accept full responsibly for the impact of changes and then signs and seals the modified portion of the document
- ❖ Unknown field conditions may arise or be found that require the signed and sealed document to revised. The Engineer of Record, the professional engineer who signed and sealed the document, must be notified. The professional engineer may authorize modifications that will be signed and sealed later
- ❖ The Engineer of Record may delegate field workers to authorize modifications but retains responsible charge of the signed and sealed document

Evaluating Signed and Sealed Engineering Documents

Wireless fires are electrical fires

- ❖ Signed and sealed engineering documents are prepared under the responsible charge of and then signed and sealed by a California-credentialed Subject Matter Expert, a P.E., and warrant review by a similarly California-credentialed Subject Matter Expert, another P.E.

Wireless Communication Facility sealed engineering design documents that should be reviewed, approved and enforced during the application, approval and post-construction inspection phases

1. Title Page
2. Electrical Site Plan
3. One-Line Diagram
4. Equipment List
5. Three-Line Diagram
6. Ground Plan
7. Panel Directory
8. Load Calculation
9. Wiring Diagram
10. Voltage Drop and Load Flow Study
11. Elevations and Plans of Electrical Equipment
12. Elevations and Plans of Service Disconnecting Means
13. Electrical Details and Signage
14. Coordination and Short Circuit Study
15. Site Specific Instructions
16. Notes
17. Test Specifications

We don't want this



❖ Major Issues (cont'd)

○ Setback/Spacing (12.02 and 17.46)

□ Other California Cities

➤ Calabasas:

- ✓ In ROW, 1,000 foot setback from property line of schools, dwelling units and parks
- ✓ Not in ROW: no placement in residential areas, open space, parks or playgrounds
- ✓ 500 foot separation from another facility in ROW

➤ Fairfax

- ✓ Small cell prohibited in residential areas; eligible facilities and Gov. Code 65850.6 collocations allowed
- ✓ Pole mounted minimum 1,500 foot separation

➤ Mill Valley

- ✓ In ROW, 1,500 foot separation from nearest facility
- ✓ No installations in residential areas other than exempt facilities and additional collocation under Gov. Code 65850.6(b).

➤ Petaluma

- ✓ 500 foot setback from residence
- ✓ 1,500 separation from nearest facility

➤ Santa Cruz County prohibits placement in residential areas

➤ City of Santa Cruz prohibits placement in residential areas, natural areas and strong preference that not be “highly visible from adjacent roadways, public areas, parks, schools, greenbelts or other visually sensitive areas

❖ Major Issues (cont'd)

○ Setback/Spacing (12.02 and 17.46) (cont'd)

□ Other California Cities (cont'd)

□ Sonoma

- ✓ No installations in residential areas other than small wireless facilities s.
- ✓ In ROW 1,500 foot separation from other wireless facilities

□ Suisun City

- ✓ 500 foot setback from residence
- ✓ 1,500 from other wireless facilities

□ Walnut City

- ✓ towers and antennas shall not be located within 1,500 feet of any school (nursery, elementary, junior high, and high school), trail, park or outdoor recreation area, sporting venues, and residential zones.
- ✓ 1,500 separation from other antennas; Monopoles and alternative antenna support structures shall be located a minimum of one-half mile from any other monopole or alternative support structure.

□ Largely matter of judgment and local preferences

- ✓ There is no magic number; need to balance desire for larger number against how many applications would have to seek waiver based on the distance chosen
- ✓ Need to have articulated valid purpose and show reason for numbers chosen
- ✓ Cannot unreasonably discriminate among providers of functionally equivalent services; and cannot have effective prohibition

❖ Major Issues (cont'd)

- Strand Mounting (12.02)
 - Other California Cities - Prohibited
 - ✓ Berkeley
 - ✓ Grand Terrace
 - ✓ Fairfax
 - ✓ Lake Forest
 - ✓ Montclair
 - ✓ Morro Bay
 - ✓ Stanton

❖ Major Issues (cont'd)

- Insurance (12.02 and 17.46)
 - ❑ Every commercial insurance policy has a standard provision excluding coverage for any liability flowing from exposure to even compliant RF emissions. The insurance industry fears huge losses like those from asbestos, so it treats RF like a form of “pollution” that requires a special policy.
 - ✓ Insurance Re candidly explained why: “If a direct link between EMF and human health problems were established” “large losses” could follow.
 - ✓ In February 2013, AM Best classified RF radiation from wireless antennas as an “Emerging Technology-Based Risk.”
 - ✓ Verizon Wireless’ latest SEC 10-K filing for 2019, p. 17 says “...our wireless business also faces personal injury and wrongful death lawsuits relating to alleged health effects of wireless phones or radio frequency transmitters. We may incur significant expenses in defending these lawsuits. In addition, we may be required to pay significant awards or settlements.”)
 - ❑ Other California cities
 - ❑ Encinitas requires pollution coverage
 - ❑ Santa Cruz imposes strict liability in its Municipal Code (24.12.155(B), (C)):
 - ✓ 24.12.1455 INDEMNITY AND LIABILITY.
 - ✓ B. Wireless telecommunications providers shall be strictly liable for any and all sudden and accidental pollution and gradual pollution from the usage of their wireless telecommunications facilities within the city. This liability shall include responsibility for clean-up, injuries or damages to persons or property. Additionally, wireless telecommunications providers shall be responsible for any sanctions, fines or other monetary costs imposed as a result of the release of pollutants from their operations.
 - ✓ C. Wireless telecommunications providers shall be strictly liable for any and all damages resulting from electromagnetic waves or radio frequency emissions in excess of the current Federal Communication Commission’s standards.
 - ❑ Many Wisconsin cities and counties, (ex., Brookfield, Fox Point, Muskego, Oconomowoc and Waukesa County) require pollution coverage
 - ❑ Policy limits
 - ✓ \$5,000,000 per occurrence/\$6,000,000 aggregate is sufficient for commercial general liability, but higher policy limits are needed for pollution coverage. Damages from one case could exceed the per occurrence limit and if there is more than one case the aggregate will be quickly exhausted.

❖ Major Issues (cont'd)

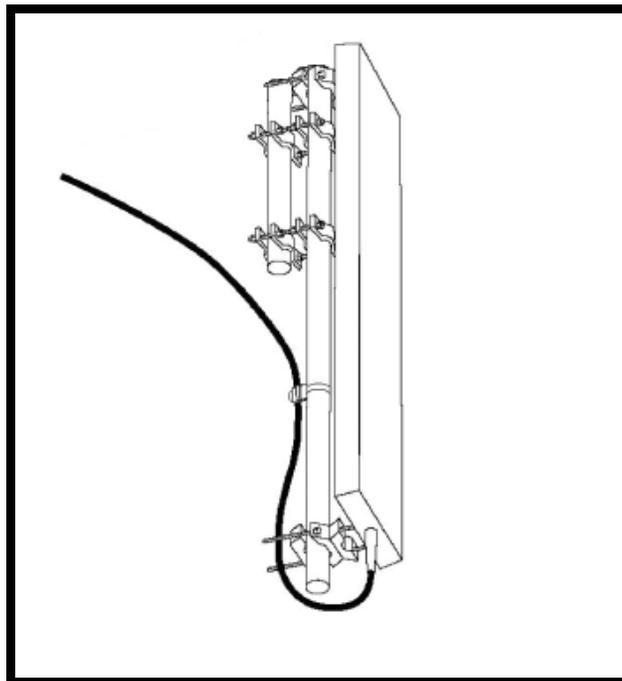
- E. Notice, participation and appeal issues (12.02 and 17.46)
 - Actual notice to everyone within 1500 feet of a proposed project
 - ✓ instructions on how to obtain more information
 - ✓ all applications and related materials should be placed online as soon as possible
 - ✓ notice should occur in time for people to participate in the decision on completeness
 - Malibu residents should retain the right to obtain a final decision from the City Council rather than the Director or a hearing officer.

❖ Other Issues

- Amateur and Satellite (17.46 only)
 - ❑ Current city code addresses only height and sometimes antenna diameter (17.39.040, 17.40.040, 17.40.080, 17.40.110, 17.42.020, 17.62.040)
 - ❑ The code does not adequately distinguish between different satellite antenna types based on service or exercise all the powers not preempted by statute or FCC rule.
 - ✓ satellite earth stations/terminals other than those covered by FCC rule 47 C.F.R. 1.4000
 - ✓ antennas for direct broadcast satellite services, receive/transmit fixed satellite antennas/terminals, fixed wireless services and multichannel multipoint distribution services on residential or commercial property covered by FCC rule 47 C.F.R. 1.4000
 - ✓ FCC rules allow more regulation for stations/terminals not covered by rule 1.400
 - ✓ The City can, and should, impose a prohibition on cross-property line service sharing and protect neighbors from cross-property line emission intrusions
 - ❑ The City only regulates amateur/ham radio antenna as to number of ground mounted amateur radio antennas (17.46.060(G)) and height (17.46.160(A)(2)). It does not have a property line setback requirement or front-yard restriction.

SOUTHERN CALIFORNIA EDISON (SCE)
Non-SCE Antennas Placed on SCE Poles

External Manual



January 2019

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7.0 Contact Information

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1.0 Introduction

The following is a guide to be used by any entity seeking to purchase or lease space from SCE for the purpose of installing an antenna(s) on distribution poles supporting energized conductors (up to 33 kV). New or additional attachments to SCE poles (either solely or jointly owned) by a Foreign Utility such as an Owner/Member of the Southern California Joint Pole Committee (SCJPC), the Tenant of a Foreign Utility, an SCE Tenant, or any other entity, shall not be made except when permission is granted by an authorized SCE representative.

- 1.1 The terms “antenna(s)” and “antenna site” mean one device, or a combination of devices, including ancillary equipment, that does not emit and/or receive Radio Frequency (RF) energy in excess of the Federal Communications Commission (FCC) General Population/Uncontrolled Exposure limits, as set forth in 47 Code of the Federal Regulation (C.F.R.) and described in Office of Engineering and Technology (OET) Bulletin 65.
- 1.2 The term “attachment(s)” is to be used for all antenna(s) that will be located within the climbing space and working space as defined in California’s General Order 95, Rule 94. Should an SCE standard and a G.O. 95 rule conflict, the more stringent of the two requirements shall be applied.

Note(s): Microwave antenna(s) are prohibited on all distribution and sub-transmission poles.

2.0 Application Process

Southern California Edison’s Joint Pole Organization (JPO) assists with the execution of Pole License Agreements for Commercial Mobile Radio Service (PLA-CMRS) and Pole License Agreements for Competitive Local Exchange Carriers (PLA-CLEC) as well as processes all Joint Pole Authorizations (JPA), Requests for Access (RFA), Requests for Access-Commercial Mobile Radio Service (RFA-CMRS) and Request for Access-Competitive Local Exchange Carrier (RFA-CLEC) applications.

Contact: Southern California Joint Pole Organization

14005 Benson Ave.

Chino, California 91710-7026

JPAs: ForeignJPAreviewforms@sce.com

RFAs: JPORFAinbox@sce.com

- 2.1 Members of the SCJPC wishing to install antenna(s) **below** SCE facilities (*for example, lines, equipment, guys*) will abide by the requirements established in the SCJPC Agreement and Routine Handbook and will submit the following to ForeignJPA Review Forms@sce.com:
 1. A completed JPA, J.P. Form 2-1, one pole per JPA.
 2. A completed Installation Management Services (IMS) Customer Information Sheet.
 3. A power service option letter signed by appropriate permitting agency.
 4. An engineered site plan and construction drawings, approved by appropriate permitting agency.
 5. Pole loading calculations, including all SCE attachments.
 6. A completed Antenna Information Form (AIF).

- 2.2 CMRS or CLEC providers wishing to install antenna(s) located ***above or between*** SCE equipment (e.g. *lines or guys*) in space owned by SCE must have an executed licence agreement. CLEC providers that are not members of the SCJPC who wish to install antenna(s) located below SCE equipment (e.g. lines or guys) in space owned by SCE must also have an executed agreement. Prior to obtaining a copy of the license agreement, the provider must:
- A. Submit antenna equipment to IMS for pre-vetting and catalog inventory process.
 - B. Provide a completed Declaration Letter, signed and dated by a company representative, demonstrating they are a recognized by the CPUC per D16.01-046 or D.18-04-007. The Declaration Letter should also include:
 - Wireless Identification Registration (WIR) and/or
 - Certificate of Public Convenience and Necessity (CPCN)
- 2.3 The completed declaration letter and attached forms may be emailed to JPORFAInbox@sce.com with the subject line: PLA-CMRS or CLEC REQUEST-your company name.
- 2.4 Documents are reviewed by an SCE representative who will contact the requestor and provide a non-executable copy of the Pole License Agreement for either CMRS or CLEC providers. Also included will be detailed instructions and requirements in order to execute the Pole License Agreement.
- 2.5 Once the Pole License Agreement is fully executed, the SCE representative will provide the requestor with the Request For Access Forms.
- 2.6 CMRS or CLEC Licensees must abide by the requirements established in the fully executed Pole License Agreement as well as the Request for Access Guidelines and Procedures.
- 2.7 CMRS or CLEC Licensees wishing to make application will follow the directions set in the Request for Access Guidelines and Procedures. The below outlines what is require
- A. A completed the RFA-CMRS or RFA-CLEC application, one pole per RFA application
 - B. A completed IMA Customer Information Form
 - C. A signed power service option letter from permitting agency
 - D. An engineered site plan and construction drawings, approved by appropriate permitting agency
 - E. Pole loading calculations, including all SCE attachments.

- 2.8 IMS manages all non-SCE antenna attachments on distribution poles and sub-transmission poles.
- A. IMS receives application from JPO (either JPA or RFA), and confirms application with Applicant.
 - B. IMS prepares the Preliminary Design Work Order Package (Submittal Package).
 - C. IMS creates and sends Engineering Advance invoice (if applicable) to Applicant.
 - D. IMS forwards completed Submittal Package to Design Resource (DR).
 1. DR confirms Submittal Package with Applicant.
 2. DR arranges for a pre-design field meet with IMS and Applicant to determine method of service and if attachment location is accessible without entering or working in the Electrical Zone.
 3. DR, IMS, and Applicant meet in field to determine if preliminary design is constructible.

Note:

- The Electrical Zone, on poles supporting energized conductors 120 V to 33,000 V, is defined as the pole space, measured vertically, starting 3 feet below the lowest conductor level up to 3 feet above the uppermost conductor level.
- The licensee (or their contractor) is prohibited from accessing the electrical zone.
- Only SCE, or authorized contractors working for SCE, and only when contracted directly by SCE will have access to the electrical zone.
- Only SCE or its authorized contractors will perform all installation work for equipment attached to the pole in and above the electrical zone.
- Licensee has the option of using SCE authorized contractor (under separate contract) or their own for installing antennas outside the electrical zone.
- Licensee is granted access only to the leased space, provided it can be accessed without encroachment into the electrical zone and they maintain all G.O. 95 minimum clearances or clearances as required by SCE.

- 2.9 IMS receives approved Submittal Package and submits invoice to Licensee.

2.10 Location Selection

- A. Choose the shortest pole possible that will allow operation of the antenna while minimizing visual impact.
- B. When possible, select a pole supporting only secondary voltage and communications conductors.
- C. When a pole that supports primary voltage (2.4 kV to 33 kV) will be selected, consider poles carrying small diameter wires built on a single cross-arm in tangent configuration (that is, no dead-ends, guy wires, or corner poles).
- D. For antennas to be placed above or between SCE lines, the pole should not support other SCE equipment, such as fused cutouts, switches, capacitors, transformers, and so forth.
- E. Ease of access to the proposed antenna location is highly desirable to allow for the maintenance and repair of equipment. Locations along streets or alleys are best. Back yards should be avoided when possible, as well as locations adjacent to fences, landscaping, or other obstructions.

3.0 Antenna Installation

3.1 IMS to coordinate installation of attachment and schedule the work.

3.2 IMS notifies Licensee of scheduled installation date.

- A. If Licensee is performing antenna installation outside the Electrical Zone, then Licensee shall give SCE 30-days written notice and a call 48 hours after approval before antenna is installed.
- B. SCE's crews or approved contract crew to work with Licensee's contractors for Passive Intermodulation Testing (PIM) for antennas or equivalent.

4.0 Inspection — Maintenance

Joint Owners and Licensees are responsible for inspecting and maintaining their antennas and associated facilities.

- 4.1 SCE reserves the right to inspect non-SCE antenna installations and notify the Owner/Licensee at any time of unsafe work conditions and/or construction that is not compliant with SCE standards or G.O. 95 Requirements.
- 4.2 Entities failing to correct unsafe conditions in a timely manner may be reported to the California Public Utilities Commission Safety and Enforcement Division, and/or billed for the necessary action undertaken by SCE.
- 4.3 Owners/Licensees shall perform all routine maintenance outside of the Electrical Zone and shall not cause any interruption of SCE's utility or other services. SCE's crews or SCE's approved Contract crew will perform all maintenance where access is not assessable without going in or through the Electrical Zone. Written notification by Licensee will be given no less than 30 days of when SCE is requested to perform maintenance.

5.0 Design Specifications — Exhibit “A”

5.1 General Information

- A. This standard applies to non-SCE antennas affixed to poles supporting SCE lines, streetlights, secondary risers, and guys.
- B. This is a design standard and is not intended to endorse or assure the installation of antennas on SCE poles.
- C. This standard, including the Attachments and Notes, supplement the minimum requirements established in G.O. 95, including Rule 94 and all other applicable rules. Should this manual and a G.O. 95 rule conflict, the more stringent of the two requirements shall be applied.

5.2 Support Elements

- A. Cables, messengers, ground bond wires, and incidental wiring associated with antennas shall meet the requirements for Class C circuits as specified in G.O. 95, except as modified by this standard.
- B. Incidental wiring and miscellaneous equipment associated with antennas shall be installed in a workman-like fashion so as to not interfere with workers ascending or descending the pole, or nearby communication and/or SCE facilities.
- C. Hardware (for example, brackets, cross-arms, braces) associated with Antennas affixed above SCE facilities shall (at a minimum) meet the material strength requirements and safety factors for Grade “A” construction as specified in Section IV of G.O. 95.



NOTE HARDWARE ASSOCIATED WITH POLE-MOUNTED ANTENNAS SHALL BE REVIEWED AND APPROVED BY SCE PRIOR TO CONSTRUCTION.

- 1. Cross-arms supporting antennas above 2.4–33 kV lines are prohibited.
- 2. Cross-arms supporting antennas above 120–480 V lines and guys shall extend no more than 5 feet horizontally from the centerline of the support pole.
 - The maximum allowable cross-arm length is 10 feet.
- D. Hardware associated with antenna affixed below distribution facilities shall (at a minimum) meet the material strength requirements and safety factors for Grade “C” construction as specified in Section IV of G.O. 95.
- E. Pole-top extensions meeting the requirements of the [Distribution Overhead Construction Standards](#), DOH PO 150 may be utilized to support antennas above 120–480 V lines and atop Distribution guy poles.
 - 1. Where a pole-top extension is intended for use, a soil strength calculation for the support pole must be submitted with other required pole load calculations.

- F. Pull boxes, hand-holes, and other subsurface enclosures shall be situated so as to not interfere with down guys, guy anchors, vehicle and pedestrian traffic.
- G. Pedestals and above ground equipment shall be situated so as to not interfere with down guys, guy anchors, vehicle and pedestrian traffic.

5.3 Clearances

- A. Attachments 1, 2, 3, 4, and 5 specify the required minimum vertical, horizontal, and/or radial clearances.
- B. Antennas attach either above or below lines or guys shall maintain clearances from unattached electrical and communication lines in accordance with G.O. 95, Rule 38, Table 2, Case 3, and Columns A–K.
 - 1. Pole-top antennas placed on distribution poles up to 33 kV lines are addressed by this standard.
 - 2. Pole-top antennas above 33 kV transmission lines are prohibited.
- C. Antennas affixed below the lines shall not be installed directly below pole mounted streetlight fixtures nor interfere with the intended illumination pattern.
- D. Approved antenna equipment (for example, light wave converters, amplifiers, grounding devices, batteries) affixed to the support pole shall meet the following requirements:
 - 1. Vertical clearances above the ground line (lowest part) shall be no less than 8 feet.
 - 2. Vertical clearances above the ground line (upper most part) shall be no more than 16 feet.
 - 3. Dimensions of equipment (separate or combined) shall be no more than 96" (L) × 30" (W) × 18" (H).
 - 4. Weight of equipment: No maximum is prescribed, however, vertical loading factors must be calculated and the support pole appropriately sized.
 - 5. Equipment measuring 24" (L) × 24" (W) × 12" (H) or larger, (separately or combined) shall be installed with at least 6 inches of horizontal separation, measured from the surface of the pole to the nearest part.

5.4 Marking

- A. Antenna owner/operators shall provide, and update as necessary, information regarding compliance with the Federal Communication Commission's Maximum Permissible Exposure (MPE) limits as set forth in Title 47 of the Code of Federal Regulations (CFR) for each antenna site.
- B. Antenna owner/operators shall install signs or decals made of weather, corrosion, and Ultraviolet (UV) resistant materials. At a minimum, each sign or decal shall indicate the antenna owner/operator's name, emergency 24-hour contact number, unique identifier for that antenna site, and SCE equipment catalog number (for pole top installations)

- C. Affix required signs/decals at two locations on the support structure so they are clearly visible:
 - 1. Install 3–4 feet below the antenna (measured from the top of the sign).
 - 2. Install 8–10 feet above the ground (measured from the bottom of the sign).
- D. When modifying an existing antenna site that requires the replacement or modification of existing markings the antenna owner/operator shall:
 - 1. Notify SCE and all other pole occupants in writing and place new signs/decals that include the information listed above in 5.4 (B) and as listed below:
 - i. The applicable FCC exposure category
(General Population/Uncontrolled or Occupation)
 - ii. FCC's recommended minimum approach distance

5.5 Climbing Space

- A. Where antennas are installed above lines or guys, climbing space shall be established and maintained in accordance with G.O. 95, Rule 54.7-A from the ground line to the bottom of the hardware.
- B. Where antennas are installed below distribution lines or guys, climbing space shall be established and maintained in accordance with G.O. 95, Rule 84.7-A from the ground line to within 6 feet of the nearest line or guy.
- C. Directional antennas shall be installed and oriented in a manner that limits RF energy within the climbing space.

5.6 Cable Risers and Grounds

- A. Where antennas are installed above lines and guys atop wood or other nonmetallic poles, associated cable risers and vertical grounds shall be:
 - 1. Adequately supported
 - 2. Encased in Schedule 40 PVC conduit
 - 3. Installed outside the climbing space and
 - 4. Meet the requirements of G.O. 95 Rule 54.6-D 1, 2, 3 and 5.
- B. On wood poles, where one riser is present, one additional cable riser may be affixed directly to the pole, provided the climbing space is not impaired.
 - 1. Appropriately sized galvanized pipe straps (with no less than three straps per each 10 feet length of conduit) and size 16D nails or equivalent lags shall be utilized.
- C. On wood poles where two or more risers are present, any additional risers shall be installed with unistrut or power-strut riser supports in accordance with [Distribution Underground Construction Standards](#), DUG CR 110.2.

- D. On Light Weight Steel poles where antennas are installed, unistrut or power strut supports shall be utilized in accordance with [Distribution Underground Construction Standards](#), DUG CR 141.
- E. Cables emanating from a pole top antenna riser or transiting from a vertical run that extends to an adjacent pole or building shall be:
 - 1. Bonded to the support pole's existing communication cables and messengers
 - 2. Effectively grounded in accordance with G.O. 95 Rule 83.4 and
 - 3. Where a guard arm is present, the bottom of the riser shall extend at least one foot below the guard arm.
- F. Ground wires, connectors, and associated grounding equipment installed on nonmetallic poles shall be installed outside the climbing space.
 - 1. Ground wires shall be covered with Schedule 40 PVC conduit or its equivalent wood or PVC molding.

5.7 Stepping

- A. On wood see G.O. 95, Rule 31.3A.
 - 1. For wood poles where steps are required and all metallic or composite poles, the first pole step shall be installed not less than 9 feet above the ground line or any easily climbable foreign structure from which one could reach or step, with a maximum vertical separation of 3 feet on the same side of the pole.

5.8 Cable / Messenger Mounted

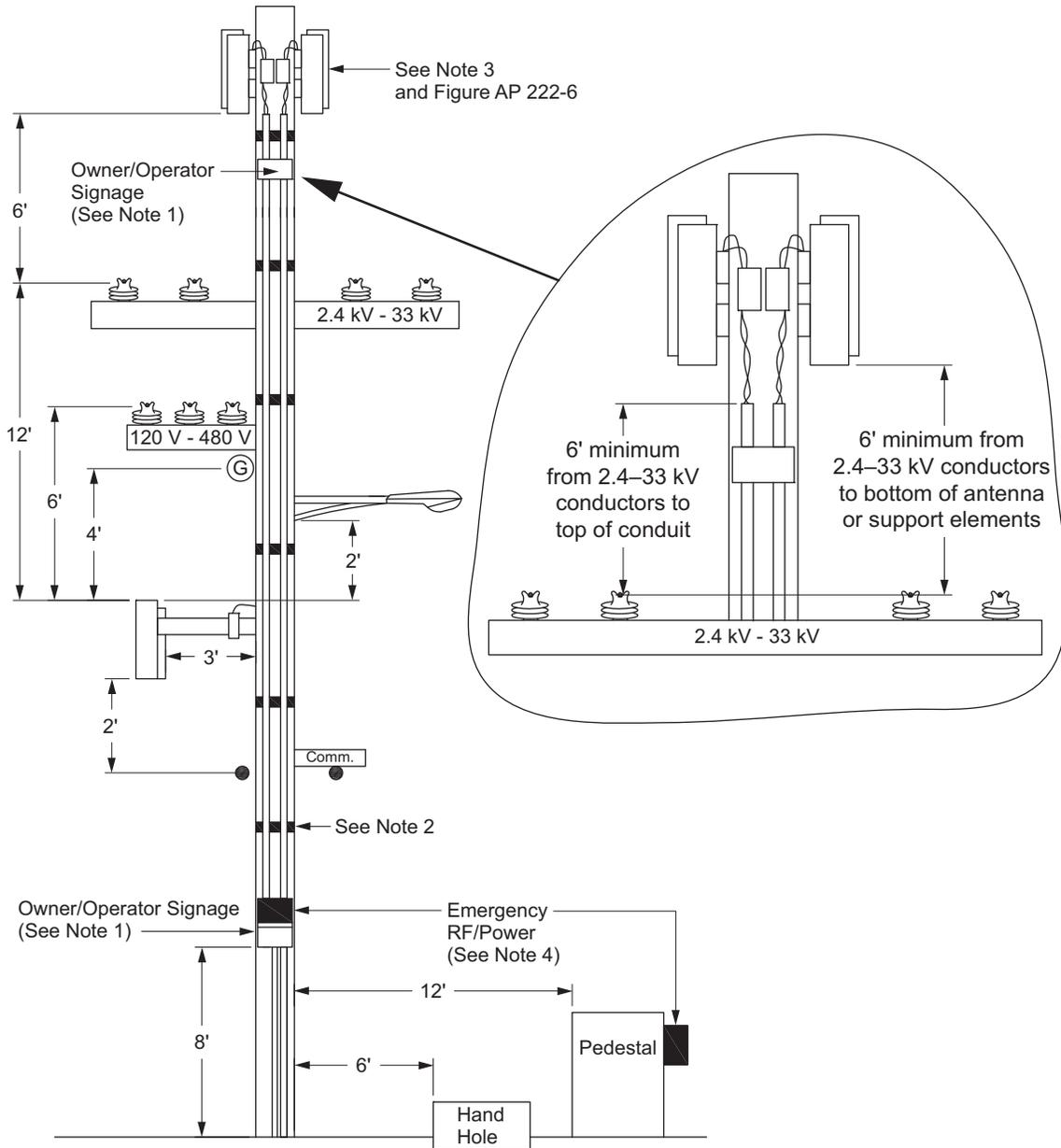
- A. Cable/Messenger mounted antennas shall be installed with at least:
 - 1. Six (6) feet of horizontal clearance (measured from the nearest part of the antenna to the surface of the pole).
 - 2. Four (4) feet of vertical clearance below 120–480 V lines.
 - 3. Ten (10) feet of vertical clearance below 2.4–33 kV lines (where no 120–480 V lines are present).
 - 4. Six (6) feet of horizontal clearance from self-supporting streetlights.
- B. The maximum length of a Cable/Messenger mounted antenna is 3 feet.
- C. Cable/Messenger mounted antennas shall not be installed below pole mounted streetlight fixtures, nor interfere with intended illumination pattern.

5.9 Emergency RF / Power Shut-Off Device

- A. Antennas affixed to poles supporting lines and/or guys shall be installed with a device that disconnects all RF energy.
 - 1. This device maybe affixed to the support pole, above ground communication equipment, or contained in a subsurface enclosure, but must be located no more than 20 feet from the pole supporting the antenna within line of sight.
 - 2. Devices shall be permanently marked with a weather and UV resistant sign or decal that reads: SCE RF/Power Shut-Off Switch.

6.0 Attachments

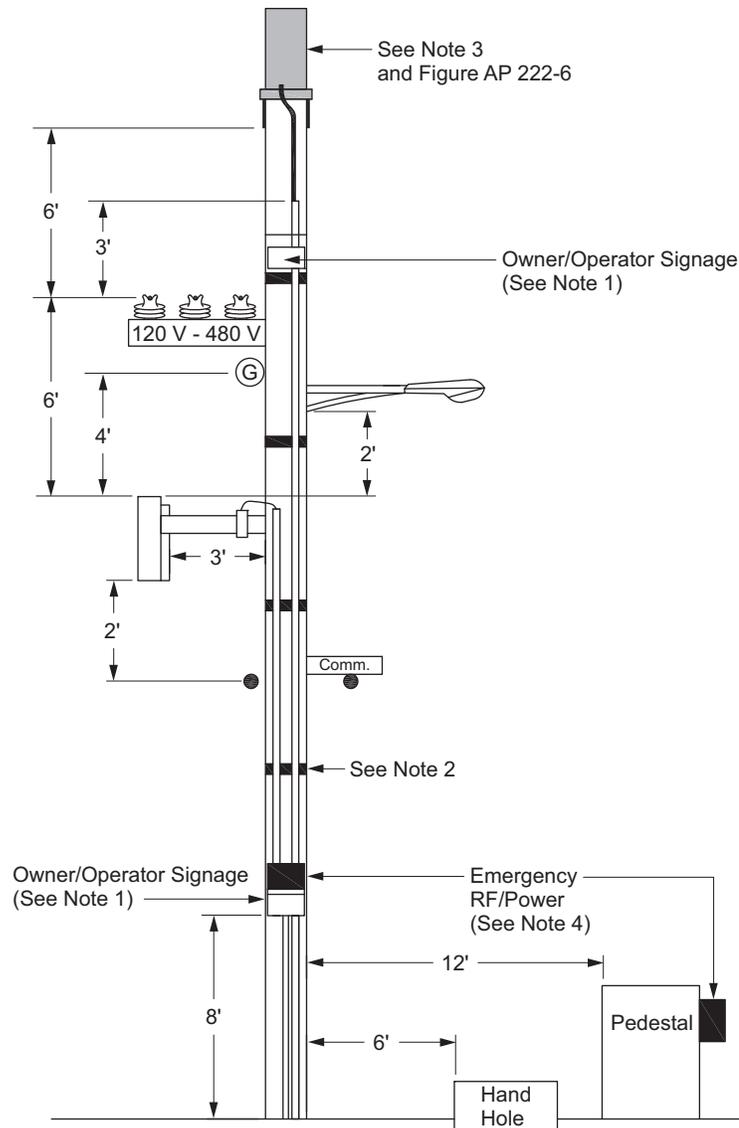
Attachment 1: Typical High Voltage Distribution Pole with Non-SCE Antenna



Note(s):

1. Antenna markings shall be affixed so as to be clearly visible, at two locations on the support structure. 3–4 feet below the antenna (measured from the top of the sign), and 8–10 feet above the ground (measured from the bottom of the sign).
2. On wood poles, where two or more risers are present, any additional riser shall be installed with unistrut or power-strut supports in accordance with DUG CR 110.2.
3. Antennas atop HV distribution poles — no specified horizontal clearance between the pole and antenna.
4. The preferred location of RF/Power Shut-Off Switch is the customer's pedestal; however, at SCE's discretion the device may be affixed on the antenna pole (for non-metered cellular service equipment details, see AP 800).
5. Clearance dimensions shown are the required minimum vertical, horizontal, and/or radial clearances.

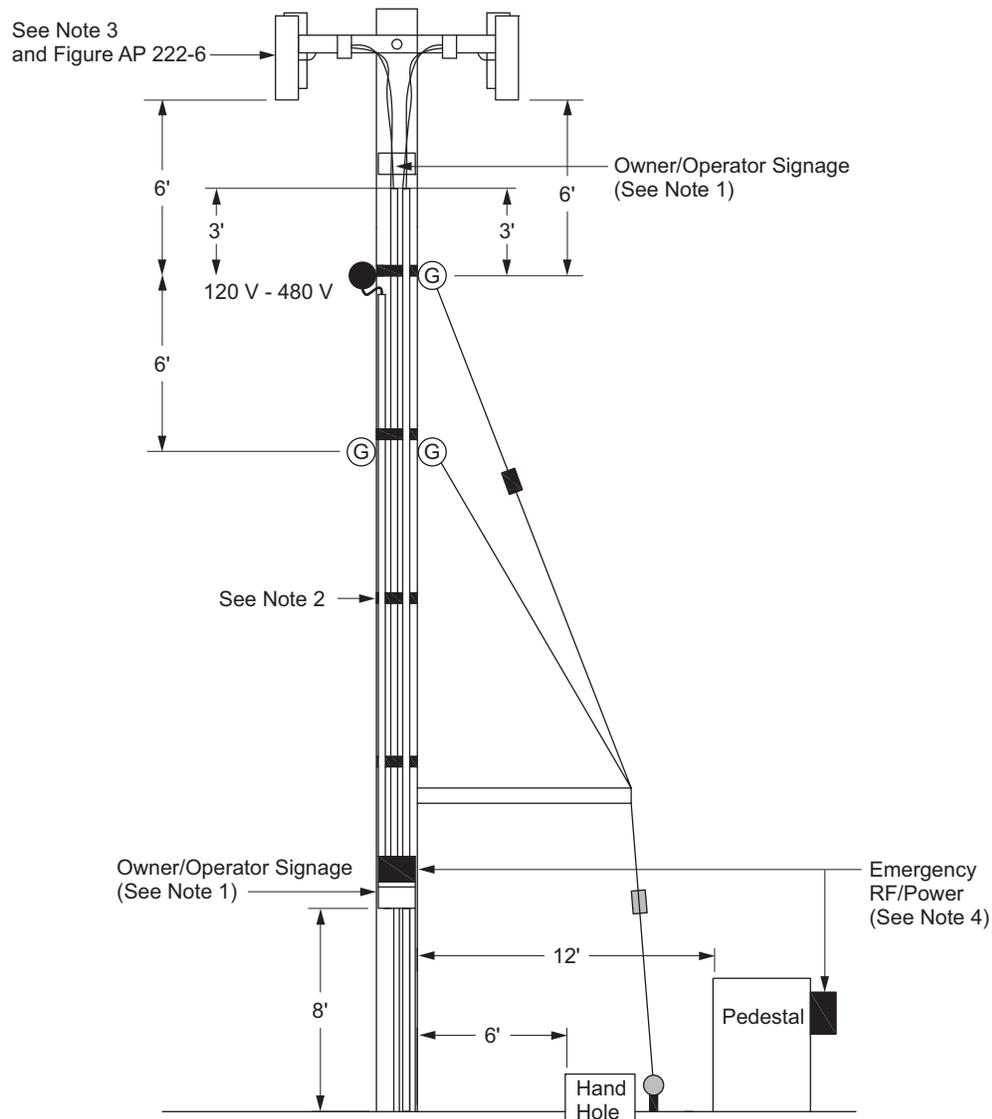
Attachment 2: Typical Low Voltage Distribution Pole with Non-SCE Antenna



Note(s):

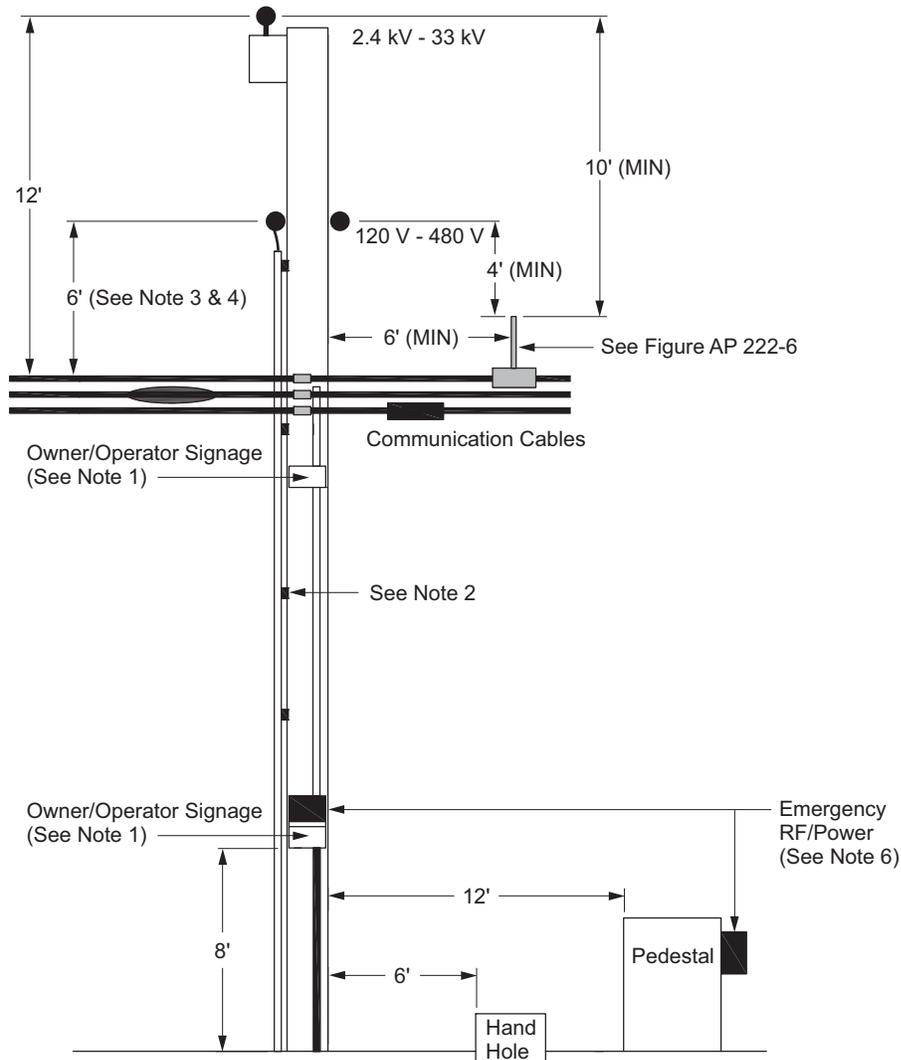
1. Antenna markings shall be affixed so as to be clearly visible, at two locations on the support structure. 3–4 feet below the antenna (measured from the top of the sign), and 8–10 feet above the ground (measured from the bottom of the sign).
2. On wood poles, where two or more risers are present, any additional riser shall be installed with unistrut or power-strut supports in accordance with DUG CR 110.2.
3. Antennas atop LV distribution poles — no specified horizontal clearance between the pole and antenna
4. The preferred location of RF/Power Shut-Off Switch is the customer's pedestal; however, at SCE's discretion the device may be affixed on the antenna pole (for non-metered cellular service equipment details, see AP 800).
5. Clearance dimensions shown are the required minimum vertical, horizontal, and/or radial clearances.

Attachment 3: Typical Guy Pole with Non-SCE Antenna

**Note(s):**

1. Antenna markings shall be affixed so as to be clearly visible, at two locations on the support structure. 3–4 feet below the antenna (measured from the top of the sign), and 8–10 feet above the ground (measured from the bottom of the sign).
2. On wood poles, where two or more risers are present, any additional riser shall be installed with unistrut or power-strut supports in accordance with DUG CR 110.2.
3. Antennas atop guy poles — no specified horizontal clearance between the pole and antenna.
4. The preferred location of RF/Power Shut-Off Switch is the customer's pedestal; however, at SCE's discretion the device may be affixed on the antenna pole (for non-metered cellular service equipment details, see AP 800).
5. Clearance dimensions shown are the required minimum vertical, horizontal, and/or radial clearances.
6. Antennas may only be affixed at the top, under a pole license agreement.

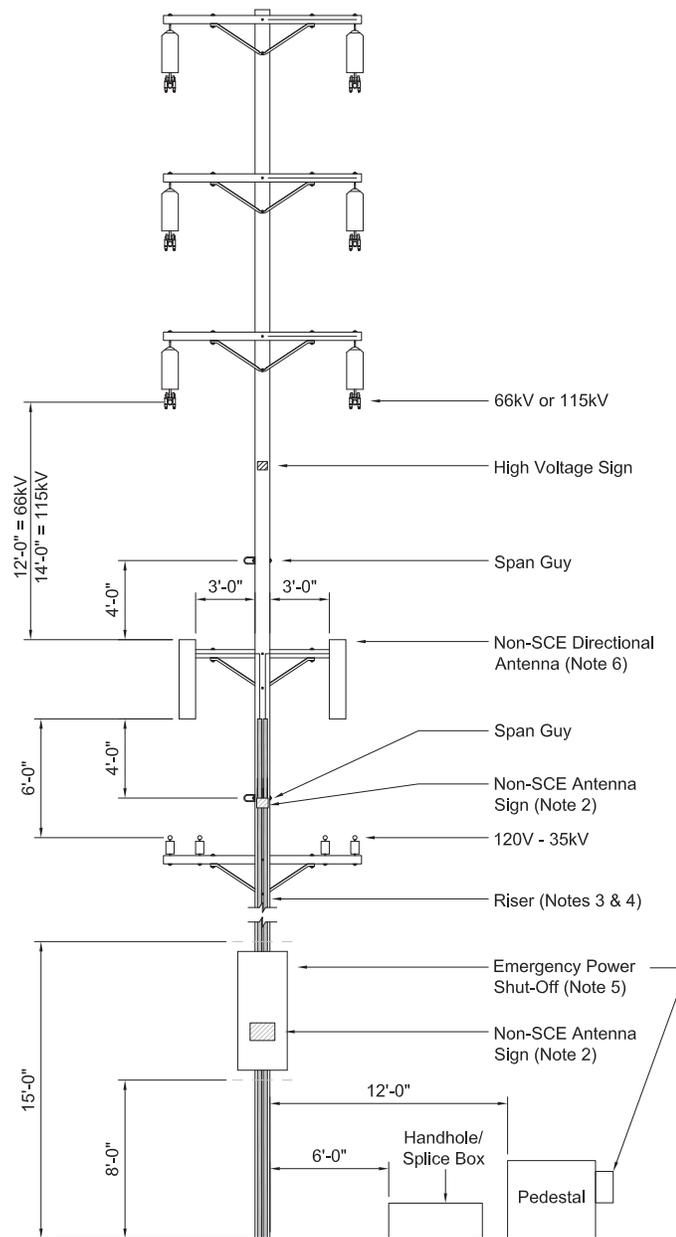
Attachment 4: Typical High Voltage Distribution Pole with Non-SCE Cable/Strand Mounted Omni Antenna



Note(s):

1. Antenna markings shall be affixed so as to be clearly visible, at two locations on the support structure. 3–4 feet below the antenna (measured from the top of the sign), and 8–10 feet above the ground (measured from the bottom of the sign).
2. On wood poles, where two or more risers are present, any additional riser shall be installed with unistrut or power-strut supports in accordance with DUG CR 110.2.
3. Unguarded communication cables below distribution lines (120–480 V) require 6 feet vertical clearance (measured from centerline of conductor to centerline of nearest communication cable).
4. Guarded communication cables below distribution lines (120–480 V) require 4 feet vertical clearance (measured from centerline of conductor to centerline of nearest communication cable).
5. The preferred location of RF/Power Shut-Off Switch is the customer's pedestal; however, at SCE's discretion the device may be affixed on the antenna pole (for non-metered cellular service equipment details, see AP 800).
6. Clearance dimensions shown are the required minimum vertical, horizontal, and/or radial clearances.
7. Cable/strand mounted antennas: Maximum length is 3 feet.

Attachment 5: Non-SCE Directional Antenna Between Transmission and Distribution Lines



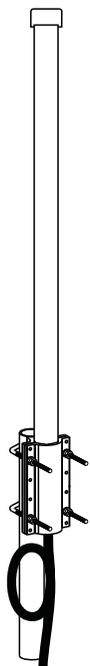
Note(s):

1. All noted clearances are shown as minimums unless otherwise noted.
2. Antenna markings shall be affixed so as to be clearly visible, at two locations on the support structure; 3–4 feet below the antenna (measured from the top of the sign), and 8–10 feet above the ground (measured from the bottom of the sign).
3. On wood poles, where two or more risers are present, any additional riser shall be installed with stand-off brackets.
4. The top riser opening shall maintain a minimum distance of one (1) foot from guy attachments and a minimum distance of 6 feet from any distribution conductor below it.
5. The preferred location of the Power Shutoff Switch is the customer's pedestal; however, at SCE's discretion, the device may be affixed on the antenna pole. (For non-metered cellular service equipment details, refer to DOH AP 800.)
6. Antennas shall maintain a minimum distance of 4 feet from guy attachments and a minimum distance of 6 feet from any distribution conductor above or below it.

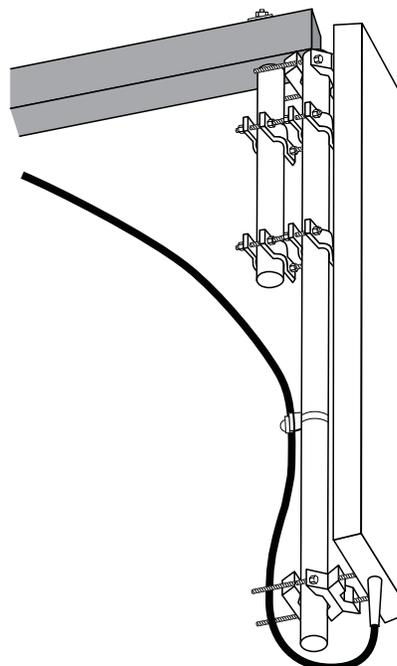
Attachment 6: Emergency RF/Power Shut-Off Switch



Attachment 7: Omni-Directional Antenna and Directional Antenna



Omni-Directional Antenna



Directional Antenna

Attachment 8: Example of Non-SCE Cable/Strand Mounted Omni Antenna Attached to Communication Cables



Note(s):

1. For Non-SCE Cable/Strand Mounted Omni Antenna's minimum clearance requirements, refer to [Attachment 4](#).

7.0 Contact Information

Manual Access Information

The External Manual for Non-SCE Antennas Placed on Distribution Pole can be accessed and downloaded from the following SCE web site:

<http://www.sce.com/AboutSCE/Regulatory/distributionmanuals/>

Getting Help

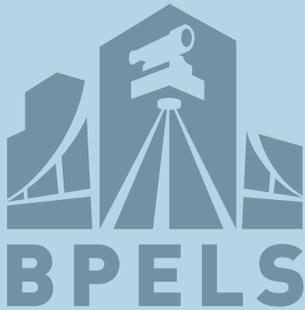
If you have any comments, questions, or suggestions concerning this manual, please contact Joint Pole Organization at:

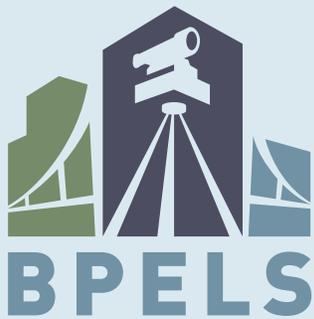
JPORFAinbox@sce.com

GUIDE TO

Engineering & Land Surveying

for City and County Officials





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INTRODUCTION

This guide was written to serve as a quick reference for California’s city and county building officials, county surveyors, city engineers, and public works officials to help answer questions about engineers and land surveyors—what they can do or cannot do and what constitutes unlicensed practice. Your comments are encouraged so that we can update and revise this guide to include information you need. Please telephone, write or e-mail the Board’s Enforcement Unit if you have a question that is not answered here.



How can city and county officials help the Board? In order to do our job, we need the support and assistance of city and county officials, city engineers, and county surveyors. California consumers are much more likely to discuss issues with a city or county official rather than Board staff. As a city or county official or county surveyor, you see the people who hire engineers and land surveyors. You can let consumers know that if they have a complaint, they can contact the Board's Enforcement staff. The Board investigates consumer complaints and takes legal action when the law is violated. You are also encouraged to distribute the Board's *Consumer Guide to Professional Engineering and Professional Land Surveying* publication to consumers.

What resources can the Board provide to me? We hope to help you by answering your questions, either here, on the telephone, through e-mail, at Enforcement Outreach meetings scheduled with your office, or via other printed information. A copy of the Board's complaint form is included at the back of this guide. You may make copies yourself or request copies from the Board's office. We've also published a *Consumer Guide to Professional Engineering and Professional Land Surveying* to help consumers decide when they need an engineer or land surveyor, how to hire one, and what to expect. Call, write, or e-mail the Board to have multiple copies sent to your agency. The *Consumer Guide* and the Complaint Form are also available online at www.bpelsg.ca.gov. If you'd like to schedule an Enforcement Outreach meeting to discuss the Board's laws and rules or problems you frequently encounter, contact the Board's Enforcement Unit at (866) 780-5370 (toll free) or via e-mail at BPELSG.Enforcement.Information@dca.ca.gov.

Where can I get a copy of the laws dealing with engineers and land surveyors? The powers and duties of the Board rest with the authority given in the Professional Engineers Act (Business and Professions Code §§ 6700 - 6799), the Professional Land Surveyors Act (Business and Professions Code §§ 8700 - 8805), and the Board's regulations as codified in Title 16, California Code of Regulations, §§ 400 - 476 (often referred to as the "Board Rules"). The laws are available on the Board's Web site at www.bpelsg.ca.gov.

ABBREVIATIONS USED IN THIS GUIDEBOOK

B&P Code – Business and Professions Code

CCR – California Code of Regulations

Board – Board for Professional Engineers and Land Surveyors

§ - section (as in B&P Code § 6700)

§§ - more than one section

ENGINEERS

PRACTICE ACT, TITLE ACT, AND TITLE AUTHORITY

1. There are three categories of licensure in California: Practice Acts, Title Acts, and Title Authorities.

- A. The **practice acts** consist of **civil, electrical, and mechanical engineering**. Only a person licensed with the Board in the appropriate discipline may practice or offer to practice these disciplines. There are, however, several exemptions to the Professional Engineers Act, listed under Business and Professions Code §§ 6739 – 6747.

Civil engineering includes studies or activities in connection with fixed works for irrigation, drainage, waterpower, water supply, flood control, inland waterways, harbors, municipal improvements, railroads, highways, tunnels, airports and airways, purification of water, sewerage, refuse disposal, foundations, grading, framed and homogeneous structures, buildings, or bridges. Civil engineering also includes city and regional planning concerning the features listed above. Civil engineers licensed prior to January 1, 1982, (with a license number before 33966) are authorized to practice all land surveying and engineering surveying. (B&P Code §§ 6731, 6731.1)

Electrical engineering includes studies or activities relating to the generation, transmission, and utilization of electrical energy, including the design of electrical, electronic and magnetic circuits and the technical control of their operation and of the design of electrical gear. It is concerned with research, organizational and economic aspects of the above. (B&P Code § 6731.5)

Mechanical engineering deals with engineering problems relating to generation, transmission, and utilization of energy in the thermal or mechanical form and also within engineering problems relating to the production of tools, machinery, and their products and to heating, ventilation, refrigeration and plumbing. (B&P Code § 6731.6)

- B. The title acts consist of the branches of Agricultural, Chemical, Control System, Fire Protection, Industrial, Metallurgical, Nuclear, Petroleum, and Traffic Engineering. Only a person licensed in that engineering branch may use the title of that branch.

The title is regulated, but the practice is not. Anyone—whether or not they are licensed—may practice in any of the title act disciplines. Each title act branch is defined in Title 16, California Code of Regulations, § 404.

C. **Title authorities** apply to two specialized areas of civil engineering: structural engineering and geotechnical engineering. Only the use of the title is restricted. Civil engineers may choose to obtain the additional licenses giving them the authority to use the titles “Structural Engineer,” “Geotechnical Engineer,” “Soil Engineer,” and “Soils Engineer.” Any civil engineer may practice structural engineering or geotechnical engineering except in specifically restricted areas. Specifically, only a structural engineer may design a hospital or public school (primary, secondary, and junior college). (These restrictions are contained in the Health & Safety Code and the Education Code.) Civil engineers may perform all geotechnical work. The titles “Geotechnical Engineer,” “Soil Engineer” and “Soils Engineer” are synonymous. Since structural engineering and geotechnical engineering are part of the practice of civil engineering, and since all structural engineers and geotechnical engineers are also civil engineers, any reference to “civil engineering” or “civil engineer” inherently includes structural and geotechnical engineering and structural and geotechnical engineers. (B&P Code §§ 6736, 6736.1)

2. Is there a difference between “registered” and “licensed” for engineers? (B&P Code § 6732)

No. The terms are interchangeable.

3. Can all licensed engineers use the titles or abbreviations of the titles, “Professional Engineer,” “Consulting Engineer,” “Licensed Engineer,” and “Registered Engineer”? (B&P Code § 6732)

Yes. All engineers licensed in any branch may use these titles, in addition to their specific branch titles.

OFFERING ENGINEERING SERVICES

4. Can an unlicensed person offer engineering services?
(B&P Code §§ 6730, 6732, 6736, 6736.1)

An unlicensed person cannot offer to practice civil (including structural and geotechnical), electrical, or mechanical engineering services, unless otherwise exempt.

An unlicensed person can offer to and practice any of the “title act” branches of engineering. See previous section on **Practice Act, Title Act and Title Authority** for additional information.

5. Can an unlicensed person use the title “engineer”?

(B&P Code § 6732)

The word “engineer” by itself is considered generic and is not regulated. However, it is unlawful for anyone to use the title “Professional Engineer,” “Licensed Engineer,” “Registered Engineer,” or “Consulting Engineer,” or any of the following **titles**, or any combination of such words and phrases or abbreviations unless licensed in the respective branch or authority of engineering.

Civil Engineer	Agricultural Engineer	Metallurgical Engineer
Electrical Engineer	Chemical Engineer	Nuclear Engineer
Mechanical Engineer	Control System Engineer	Petroleum Engineer
Structural Engineer	Fire Protection Engineer	Traffic Engineer
Geotechnical Engineer or Soil Engineer or Soils Engineer	Industrial Engineer	

It is also unlawful for an unlicensed person to use the title “engineer” in any way that would misrepresent that he or she is licensed by this Board or that he or she is authorized to practice civil, electrical, or mechanical engineering.

The Board no longer regulates the titles “Corrosion Engineer,” “Manufacturing Engineer,” “Quality Engineer,” and “Safety Engineer.” Anyone may use these titles, whether or not they are licensed. However, individuals who obtained licensure in these disciplines before the titles were deregulated and who maintain their licenses by paying their renewal fees may use the titles “Registered Engineer,” “Licensed Engineer,” “Consulting Engineer,” and “Professional Engineer.”

6. Can an unlicensed person own an engineering business?

(B&P Code § 6738)

An unlicensed person cannot be the sole owner of an engineering business offering civil (including structural and geotechnical), electrical, or mechanical services. However, an unlicensed person may be a partner or officer, provided that a licensed engineer is also a partner or officer in charge of the engineering practice of the business.

7. Does an engineering business need to be licensed by the Board?

(16 CCR § 463; B&P Code § 6738)

No, but a licensed engineer who is associated as a partner, member, officer, or employee in responsible charge of professional engineering services offered or performed by a firm, partnership, or corporation must file an Organization Record with the Board within 30 days of such association.

ENGINEERS' RESPONSIBILITIES

8. What does the term "responsible charge" mean as applied to professional engineering? (B&P Code § 6703; 16 CCR § 404.1)

"Responsible charge" relates to the extent or degree of control a licensed engineer is required to maintain while exercising independent control and direction of engineering services or creative work, and to the engineering decisions which can be made only by a licensed engineer. It does not refer to the concepts of management, hierarchy, or financial liability.

The extent of control necessary to be in responsible charge shall be such that the licensed engineer:

- a) Makes or reviews and approves the engineering decisions (described below).
- b) In making or reviewing and approving the engineering decisions, determines the applicability of design criteria and technical recommendations provided by others before incorporating such criteria or recommendations.

Engineering decisions include those within the purview of the Professional Engineers Act. They do not include decisions concerning administrative or personnel management. Engineering decisions of the licensed engineer in responsible charge may include, but are not limited to:

- a) The selection of engineering alternatives to be investigated and the comparison of alternatives for the project;
- b) The selection or development of design standards or methods, and materials to be used;
- c) The decisions related to the preparation of engineering plans, specifications, calculations, reports, and other documents for the engineered works;
- d) The selection or development of techniques or methods of testing to be used in evaluating materials or completed projects, either new or existing;
- e) The review and evaluation of manufacturing, fabrication or construction methods or controls to be used and the evaluation of test results, materials and workmanship insofar as they affect the character and integrity of the completed project;
- f) The development and control of operating and maintenance procedures.

Questions to be answered by the licensed engineer in responsible charge may relate to the criteria for design, methods of analysis, methods of manufacture and construction, selection of materials and systems, and environmental considerations. The licensed engineer should be able to clearly express the extent of control and how it is exercised and to demonstrate that the licensed engineer is answerable within the extent of control.

9. What structures or parts of structures can an unlicensed person design? (B&P Code §§ 6731, 6737.1, 6745)

An unlicensed person may prepare plans, drawings, or specifications for:

- a) Single family dwellings of wood frame construction not more than two stories and basement in height;
- b) Multiple dwellings with not more than four dwelling units of wood frame construction not more than two stories and basement in height;
- c) Garages and other structures appurtenant to buildings described above, of wood frame construction and not more than two stories and basement in height.
- d) Agricultural and ranch buildings of wood frame construction, unless the building official having jurisdiction deems an undue risk to the public health, safety, or welfare is involved;

If any portion of a) through d) deviates from conventional framing requirements for wood frame construction found in Title 24 of the California Code of Regulations or other state or local building codes, such portions shall be designed by, or under the responsible charge of, a licensed architect or licensed engineer.

An unlicensed person may prepare the plans, drawings, and specifications for any alterations or additions to any buildings necessary to the installation of store fronts, interior alterations or additions, fixtures, cabinet work, furniture, appliances or equipment as long as the alterations or additions do not affect the structural safety of the building.

10. Can a contractor prepare electrical or mechanical drawings?
(B&P Code § 6737.3)

A contractor appropriately licensed by the Contractors State License Board (CSLB) may only design electrical or mechanical systems which he or she will install. An employee of the contractor may perform the installation. However, the contractor cannot subcontract the installation to another contractor.

11. Must all plans, specifications and reports contain the professional engineer's seal and signature?
(B&P Code §§ 6735, 6735.3, 6735.4; 16 CCR § 411)

Only **final documents** – those which have been finalized, permitted, or released for construction – are required to be signed and stamped. They must also include the date on which they are signed and stamped. The presence of the responsible charge engineer's signature and stamp and date of signing is intended to represent that those documents have been completed, reviewed, permitted, or are ready to be released for construction. **Interim documents** (such as drafts, preliminary documents, work-in-progress documents, or building department review documents) must include the

name and license number of the licensed engineer in responsible charge. These **interim** documents must also include a notation indicating their status, such as “preliminary,” “for plan check only,” or “not for construction.”

12. Can a local agency require all engineering documents that are submitted for review to be signed and sealed?

(B&P Code §§ 6735, 6735.3, 6735.4)

A local agency may adopt ordinances or regulations to require that all engineering documents submitted for review be signed and sealed. However, the interim documents, even if signed and sealed, must still contain the interim notation as required by state law.

13. What information must be included in a professional engineer’s seal?

(16 CCR§ 411)

The professional engineer’s seal (stamp or digital representation) must contain the licensed engineer’s name, license number, and branch or authority of engineering in which licensed.

14. Can an unlicensed person use the seal or stamp of a licensed engineer?

(B&P Code §§ 6732, 6735, 6735.3, 6735.4)

No. It is unlawful for anyone other than a licensed professional engineer to stamp or seal any plans, specifications, reports, or other engineering documents. An unlicensed person cannot sign for a licensed person.

15. Are licensed engineers required to have liability insurance or be bonded?

No. The laws do not require licensed engineers to have liability insurance or be bonded.

16. Can an unlicensed person practice civil engineering?

(B&P Code §§ 6730.2, 6732, 6736, 6736.1, 6739, 6740, 6746)

Only if the person is:

- a) A federal officer or employee;
- b) An employee of the state, or any city or county, who was in responsible charge of engineering work on or before January 1, 1985, until such time that person is replaced;
- c) Working under the responsible charge of a licensed civil engineer;
- d) An employee of a communications company under the jurisdiction of the Public Utilities Commission (PUC), or an employee of a contractor engaged in work for such a communications company, while engaged in work on communication lines and equipment for communications companies under the jurisdiction of the PUC.

Individuals covered by these exemptions may not use any of the restricted titles listed in B&P Code Sections 6732, 6736, or 6736.1.

17. When can an unlicensed person practice mechanical or electrical engineering?

(B&P Code §§ 6730.2, 6737.3, 6739, 6740, 6746, 6746.1, 6747)

An unlicensed person can practice mechanical or electrical engineering if he or she is:

- a) A federal officer or employee;
- b) An employee of the state, or any city or county, who was in responsible charge of engineering work on or before January 1, 1985, until such time that person is replaced;
- c) Working under the responsible charge of a licensed mechanical or electrical engineer, as appropriate;
- d) An employee of a communications company or an employee of a contractor engaged in work for such a communications company, while engaged on work on communication lines and equipment for a communications company;
- e) An employee, consultant, temporary employee, a person hired pursuant to a third-party contract, or a contract employee of a manufacturing, mining, public utility, research and development, or other industrial corporation provided that work is in connection with the products, systems, or services of that corporation or its affiliates;
- f) A contractor appropriately licensed by the Contractors State License Board (CSLB) and only designs electrical or mechanical systems which he or she will install. An employee of the contractor may perform the installation. However, the contractor cannot subcontract the installation to another contractor.

18. Who can practice geotechnical engineering?

(B&P Code §§ 460, 6736.1)

All civil engineers are legally authorized to practice geotechnical engineering. This includes preparing soils reports.

Geotechnical engineers are civil engineers who have obtained an additional license which authorizes them to use the title “Geotechnical Engineer.” The terms “Geotechnical Engineer,” “Soil Engineer,” and “Soils Engineer” are synonymous.

Local agencies cannot require a geotechnical engineer to prepare geotechnical engineering documents rather than a civil engineer.

19. Can licensed geologists and licensed engineering geologists practice civil engineering?

No. There is no exemption in the Professional Engineers Act that allows licensed geologists or licensed engineering geologists to practice civil engineering.

20. Can a civil engineer sign mechanical or electrical engineering drawings if the civil engineer is not licensed in those disciplines?
(B&P Code § 6737.2)

Yes, as long as the electrical or mechanical work is in connection with or supplementary to civil engineering work.

21. Can a mechanical engineer sign civil or electrical engineering documents? (B&P Code §§ 6704, 6730, 6732, 6735, 6735.3, 6735.4)

No.

22. Can an electrical engineer sign civil or mechanical engineering documents? (B&P Code §§ 6704, 6730, 6732, 6735, 6735.3, 6735.4)

No.

24. Who can practice structural engineering?
(B&P Code §§ 460, 6736; Health & Safety Code § 129805;
Education Code § 17302)

All civil engineers are legally authorized to practice structural engineering under the Professional Engineers Act. However, only structural engineers may design hospitals or public schools, pursuant to the Health and Safety Code and the Education Code.

Structural engineers are civil engineers who have obtained an additional license which authorizes them to use the title “Structural Engineer.”

Local agencies cannot require a structural engineer to prepare structural engineering documents rather than a civil engineer.

25. Can someone with an expired (delinquent) license still practice civil, structural, geotechnical, electrical, or mechanical engineering?
(B&P Code §§ 6733, 6796, 6796.3)

No. If the license is expired (delinquent), the person cannot practice, offer to practice, or act as a consultant. However, as with any unlicensed individual, the person may work under the responsible charge of a licensed engineer.

26. Can someone with a cancelled, denied, retired, revoked, suspended, or surrendered license still practice civil, structural, geotechnical, electrical, or mechanical engineering? (B&P Code §§ 6733, 6796.1, 6796.2)

No. If the license has a status of cancelled, denied, retired, revoked, suspended or surrendered, the person cannot practice, offer to practice, or act as a consultant. However, as with any unlicensed individual, the person may work under the responsible charge of a licensed engineer.

- 27. If the license has expired between the time the engineering documents were prepared and the time when the local agency's review is performed, do the documents need to be re-sealed by a licensee with a current license?** (B&P Code §§ 6733, 6735, 6735.3, 6735.4)

As long as the license was current at the time the engineering documents were prepared, the documents do not need to be re-sealed prior to review by the local agency. However, any changes (updates or modifications) to the documents that are made following the review by the local agency would have to be prepared by a licensed engineer with a current license and those changes would have to be signed and sealed.

BUILDING OFFICIALS RESPONSIBILITIES WITH RESPECT TO THE PROFESSIONAL ENGINEERS ACT

- 28. Are building officials required to verify whether the individual who prepares engineering documents has a current license?**

They are not required to do so by law, however, the Board encourages building officials to verify licensure. Building officials may verify that the individual who prepares engineering documents is currently licensed or is working under the responsible charge of a licensed engineer. To verify licensure online, visit the Board's Web site at www.bpelsg.ca.gov or call (866) 780-5370.

- 29. Can a building official require a civil engineer to prepare plans, drawings, specifications, or calculations for portions of a wood-framed residential structure?** (B&P Code § 6737.1)

Yes. If any portion of any structure exempted by section 6737.1 deviates from substantial compliance with conventional framing requirements for wood frame construction found in the most recent edition of Title 24 of the California Code of Regulations or tables of limitation for wood frame construction, as defined by the applicable building code duly adopted by the local jurisdiction or the state, the building official having jurisdiction shall require the preparation of plans, drawings, specifications, or calculations for that portion by, or under the responsible charge of, a licensed architect or licensed engineer. The documents for that portion shall bear the stamp and signature of the licensee who is responsible for their preparation.

SIGNING AND SEALING

- 30. What engineering documents are required to be signed and sealed?** (B&P Code §§ 6735, 6735.3, 6735.4; 16 CCR § 411)

All final civil (including geotechnical and structural), electrical, or mechanical engineering plans, specifications, reports, or documents must bear the professional engineer's seal or stamp, as well as his/her signature. If there are multiple pages, the seal or stamp, and signature must appear on each sheet of the plans, and on the original title page of the specifications, calculations and reports. Each licensee shall include the date of signing and sealing immediately below or next to the signature and seal.

Interim (non-final) documents are not required to be signed and sealed. However, the interim documents must include the name and license number of the engineer, as well as a notation as to their intended purpose, such as "for review only," "not for construction," or "draft."

31. Are professional engineers and land surveyors required to include their license expiration date when they sign and seal engineering or land surveying documents? (B&P Code §§ 6735, 6735.3, 6735.4, 6764, 8750, 8761 & 8764.5)

No. January 1, 2010, professional engineers and land surveyors are no longer required to include their license expiration date when they sign and seal engineering or land surveying documents. It is also no longer required that the license expiration date be included in their professional seal/stamp.

32. Are electronic seals and/or signatures acceptable?
(16 CCR § 411)

Yes. Licensed engineers may choose to affix their signature and seals to their documents through electronic means. However, a rubber stamp of the signature is prohibited and may not be used. A rubber stamp for the seal is acceptable. Local agencies may adopt ordinances or regulations requiring "wet" stamps and/or signatures.

33. Can a civil engineer sign mechanical or electrical engineering drawings if the civil engineer is not licensed in those disciplines?
(B&P Code § 6737.2)

Yes, as long as the electrical or mechanical work is in connection with or supplementary to civil engineering work.

34. Who can sign and seal for the engineering design of building components? (B&P Code § 6735; 16 CCR §§ 404.1, 411)

A licensed engineer designing a portion of a building is in responsible charge of the engineering of that portion of the project and is required to seal and sign the documents related to that portion of the project. The licensed engineer must indicate on all documents exactly which portions he or she is in responsible charge of.

35. What happens when a licensed engineer does not complete a project and a new licensed engineer takes over? (16 CCR §§ 404.1, 411)

The new licensed engineer (successor licensee) may assume responsible charge of a project and complete the design as long as he or she exercises the extent of control and assumed responsibility for the engineering decisions. Thus, this successor licensee must review drawings, calculations, studies, etc., to the degree that meets the responsible charge criteria. The successor licensee cannot be required to assume responsibility for portions of the project where responsible charge was by the original licensed engineer (stamped and signed by the original licensed engineer). However, the original licensed engineer is not relieved of any responsibility arising from engineering services of which he or she was in responsible charge (documents stamped and signed only by the original licensed engineer).

36. Can a licensed engineer modify or add to a project for which another licensed engineer is in responsible charge? (16 CCR § 404.1)

The licensed engineer (called a “successor licensee”) can modify or add to a project which has been designed under the responsible charge of another licensed engineer. The “successor licensee” must exercise the requisite extent of control and assume the responsibility for the engineering decisions for all new work and for the effect the new work has on the existing work. The “successor licensee” is not required to assume responsible charge of the entire project.

37. Can a licensed engineer be in responsible charge of only a portion or portions of a project? (16 CCR § 404.1)

The licensed engineer may provide services for a portion or portions of an engineering project as long as he or she exercises the requisite extent of control and assumes the responsibility for the engineering decisions relating to those portions. The licensed engineer is not required to assume responsible charge of the entire project.

38. Can a local agency require all engineering documents that are submitted for review to be signed and sealed? (B&P Code §§ 6735, 6735.3, 6735.4)

A local agency may adopt ordinances or regulations to require that all engineering documents submitted for review be signed and sealed. However, the interim documents, even if signed and sealed, must still contain the interim notation as required by state law.

39. What information must be included in a professional engineer’s seal?

The professional engineer’s seal (stamp or digital representation) must contain the licensed engineer’s name, license number, and branch or authority of engineering in which licensed.

PLAN CHECKING

40. Does the plan checking of documents prepared by a licensed engineer have to be done by a licensed engineer?
(B&P Code §§ 6704, 6730, 6730.2; 16 CCR § 404.1)

If the level of review done during plan checking is strictly simple code compliance—a non-discretionary comparison of the engineering documents with the clearly mandated code requirements and a determination of whether the engineering documents comply with those clearly mandated code requirements—then the plan checking does not rise to the level of professional engineering and does not have to be performed by, or under the responsible charge of, an appropriately licensed engineer.

HOWEVER, if the level of review done during plan checking involves the exercise of professional engineering discretion and independent engineering judgments, analyses, and determinations by the plan checker, then the plan checking would rise to the level of professional engineering and would have to be performed by, or under the responsible charge of, an appropriately licensed engineer.

41. Do plan check comments have to be signed and sealed by a licensed engineer? (B&P Code §§ 6704, 6730, 6730.2, 6735, 6735.3, 6735.4; 16 CCR §§ 404.1, 411)

If the plan check comments involve the exercise of professional engineering discretion and independent engineering judgments, analyses, and determinations by the plan checker, then the plan check comments constitute an engineering report and must be signed and sealed by the licensed engineer in responsible charge of the plan checking that resulted in plan check comments. (See previous question for additional information.)

LAND SURVEYORS

OFFERING LAND SURVEYING SERVICES

42. Can an unlicensed person offer land surveying services?

(B&P Code §§ 8725, 8726)

No. A person not licensed in California as a land surveyor or a civil engineer cannot offer to practice land surveying in the State.

43. What titles can only be used by a licensed land surveyor?

(B&P Code §§ 8701, 8708, 8751, 8775)

Professional Land Surveyor	Licensed Land Surveyor	Land Surveyor
Photogrammetrist	Photogrammetric Surveyor	Geodetic Engineer
Land Survey Engineer	Survey Engineer	Geomatics Engineer
Geometronic Engineer		

44. Can an unlicensed person own a land surveying business?

(B&P Code § 8729)

An unlicensed person cannot be the sole owner of a land surveying business. However, an unlicensed person may be a partner or an officer, provided that a licensed land surveyor or legally authorized civil engineer is a partner or officer in charge of the land surveying practice of the business.

LAND SURVEYORS' RESPONSIBILITIES

45. Who can perform land surveying activities without being licensed as a land surveyor or civil engineer legally authorized to practice land surveying? (B&P Code §§ 8725, 8726, 8730, 8731)

- a) An employee of the State or any city, county, or city and county who is in responsible charge of land surveying work on or before January 1, 1986, until such time that person is replaced;
- b) A civil engineer licensed prior to January 1, 1982, with a license number below C 33966;
- c) Officers and employees of the United States of America practicing solely in that capacity, except when surveying the exterior boundaries of federal lands in California;
- d) An officer or employee of an electric, gas, or telephone corporation as defined in Public Utilities Code §§ 218, 222, and 234, with annual revenues of twenty-five million dollars (\$25,000,000) or more, in the preparation of a legal description of an easement for utility distribution lines and service facilities;
- e) A subordinate working under the responsible charge of a land surveyor or legally authorized civil engineer.

46. Can ALL civil engineers practice land surveying? (B&P Code §§ 6731, 6731.1, 6731.2, 8731)

Only civil engineers licensed prior to January 1, 1982, are authorized to practice all land surveying. The last license number issued to a civil engineer before January 1, 1982, was 33965. Civil engineers licensed after January 1, 1982, may only practice “engineering surveying” as defined in Business and Professions Code § 6731.1.

A civil engineer licensed after January 1, 1982, can offer land surveying work incidental to his or her civil engineering practice, provided all the land surveying work is performed by, or under the direction of, a licensed land surveyor or licensed civil engineer legally authorized to perform land surveying.

47. Can land surveyors prepare grading plans? (B&P Code §§ 6731, 8728)

No, only licensed civil engineers can prepare grading plans.

48. What surveys do not require a professional land surveyor or legally authorized civil engineer? (B&P Code §§ 6731.1, 8726, 8727)

Engineering surveys as defined in B&P Code §§ 6731.1 may also be done by civil engineers licensed after January 1, 1982.

Surveys made exclusively for geological or landscaping purposes not involving property line determination do not constitute surveying under the Professional Land Surveyors Act.

49. Under what conditions must a record of survey be filed?
(B&P Code §§ 8762, 8767, 8768, 8771, 8773(b))

The following conditions require the filing of a record of survey:

- a) Every survey relating to land boundaries or property lines done by a professional land surveyor or legally authorized civil engineer using existing subdivision maps, official maps, or records of survey that discloses any one or more of the following:
 - 1) Material evidence or physical change is found which does not appear on the existing maps;
 - 2) A material discrepancy with the information contained on the existing maps concerning the position of points, lines, or dimensions;
 - 3) Evidence that might result in materially alternate positions of lines or points;
 - 4) Establishment of one or more points or lines not shown on the existing maps;
 - 5) Points or lines set for a parcel of land described in a deed or other instrument of title that are not shown on a map of record.
- b) After the establishment of a lost corner, as defined by the Manual of Instructions for the Survey of the Public Lands of the United States.
- c) If the county surveyor and the licensed land surveyor or legally authorized civil engineer disagree upon matters appearing on a record of survey after the record of survey has been resubmitted for filing without further changes, an explanation of the differences must be noted on the map for filing. If the county surveyor and the licensed land surveyor or legally authorized civil engineer cannot agree on the language explaining the differences, both must note an explanation, specific enough to identify the factual basis for the difference, on the record of survey.

50. When is a record of survey not required?

(B&P Code § 8765)

A record of survey is not required when:

- a) It has been made by a public officer in his or her official capacity and a copy has been filed with the county surveyor of the county where the land is located.
- b) A survey has been made by the United States Bureau of Land Management.
- c) A map is in preparation for recording or shall have been recorded under the provisions of the Subdivision Map Act.
- d) The survey is a retracing of lines shown on a subdivision map, official map, or a record of survey, where no material discrepancies in the position of points or lines, or in dimensions, are found, provided that a corner record is filed for any corners set or reset or found to be different than indicated by prior records.

51. When is a corner record required?

(B&P Code §§ 8771, 8773)

Prior to the time when any streets, highways, other rights-of-way, or easements are improved, constructed, reconstructed, maintained, resurfaced, or relocated, any monuments that exist that control the location of subdivisions, tracts, boundaries, roads, streets, or highways, or provide horizontal or vertical survey control shall be located and referenced by or under the direction of a licensed land surveyor or legally authorized civil engineer and a corner record (or record of survey) of the references shall be filed with the county surveyor.

Upon completion of the new construction, a new suitable monument or permanent witness monuments shall be set to perpetuate the location of the destroyed, damaged, covered or otherwise obliterated monument and a corner record (or record of survey) shall be filed with the county surveyor prior to the recording of a certificate of completion for the project.

A corner record shall be filed with the county surveyor for any corner and every accessory to such corner which is found, set, reset, or used as control in any survey by a licensed land surveyor for every corner established by the Survey of the Public Lands of the United States, except “lost corners” as defined by the Manual of Instructions for the Survey of the Public Lands of the United States.

52. What must be included in a record of survey?

(B&P Code §§ 8763, 8764)

The record of survey shall be a map, legibly drawn or printed by a process guaranteeing a permanent record in black on tracing cloth, or polyester-base film, 18 by 26 inches or 460 by 660 millimeters, with a marginal line around each sheet leaving a blank margin of one inch or 25 millimeters.

The record of survey must show the following:

- a) All monuments found, set, reset, replaced, or removed, describing their kind, size, and location, and other related data;
- b) Bearing or witness monuments, basis of bearings, bearing and length of lines, scale of map, and north arrow;
- c) Name and legal designation of the property and the date of the survey;
- d) The relationship of adjacent tracts, streets, or senior conveyances which have common lines with the survey;
- e) Memorandum of oaths;
- f) Statements required by section 8764.5;
- g) Any other data necessary for interpretation of the various items and locations of the points, lines, and areas shown, or for identification of the survey or surveyor.

The record of survey must also show the reason why the mandatory filing provisions of Section 8762(b)(1)–(5) apply.

53. What are the time frames for filing and for examining a record of survey and/or resubmitting such record after examination?

(B&P Code §§ 8762, 8766, 8767, 8768)

Submission of record of survey is required within 90 days after setting of boundary monuments or within 90 days after completion of a field survey, whichever comes first. If for reasons beyond his or her control the licensed land surveyor or legally authorized civil engineer cannot comply with the time limit, he or she must provide a letter stating that inability to the county surveyor before the 90-day time limit has expired. The letter must give an estimate of date of completion of the record of survey, reasons for the delay, and a general statement of the location of the survey including assessor's parcel number or numbers.

Examination of record of survey—The county surveyor must examine the record of survey within 20 working days of receipt of the record of survey, or within additional time as mutually agreed upon by the licensed land surveyor or legally authorized civil engineer and the county surveyor.

Resubmittal of record of survey—The licensed land surveyor or legally authorized civil engineer has 60 days following receipt of the county surveyor’s written statement of changes necessary to make the record of survey conform to the section 8766 requirements. That time may be extended as mutually agreed upon by the licensed land surveyor or legally authorized civil engineer and the county surveyor.

Record of survey explanation of differences—If the county surveyor and the licensed land surveyor or legally authorized civil engineer cannot agree upon matters appearing on a record of survey within 10 working days after the record of survey has been resubmitted with a request that it be filed without further change, an explanation of the differences must be noted on the map and it must be presented by the county surveyor to the county recorder for filing. If the county surveyor and the licensed land surveyor or legally authorized civil engineer cannot agree on the language explaining the differences, both must note an explanation, specific enough to identify the factual basis for the difference of opinion, on the record of survey.

54. What items must be examined by the county surveyor for a record of survey? (B&P Code § 8766)

- a) The accuracy of the mathematical data shown on the record of survey.
- b) The record of survey must be in substantial compliance with Sections 8762.5, 8763, 8764, 8764.5, 8771.5 and 8772 of the Business and Professions Code and indicates:
 - 1) Monuments found, set, reset, replaced, or removed, describing their kind, size and location, and giving other related data;
 - 2) Bearing or witness monuments, basis of bearings, bearing and length of lines, scale of map and north arrow;
 - 3) Name and legal designation of the property in which the survey is located and the date or time period of the survey;
 - 4) Relationship to portions of adjacent tracts, streets, or senior conveyances which have common lines with the survey;
 - 5) Memorandum of oaths;
 - 6) Statements required by section 8764.5;
 - 7) Any other data necessary to interpret the items and locations of the points, lines, and areas shown.

The record of survey must also show, either graphically or by note, the reason or reasons, if any, why the mandatory filing provisions of section 8762(b)(1)-(5) apply.

A record of survey which divides into additional parcels of land which is shown on the latest adopted county assessment roll as a unit or as contiguous units cannot be filed without a certificate by the county surveyor (if the land lies within an unincorporated area) or city engineer (if the land lies within a city) of compliance with the provisions of the Subdivision Map Act, Division 2 (commencing with section 66410) of Title 7 of the Government Code, and any applicable local ordinance enacted pursuant thereto.

55. What must be done if the land surveyor or legally authorized civil engineer and the county surveyor disagree about matters on the record of survey or corner record? (B&P Code §§ 8768, 8773.2)

If the county surveyor and the licensed land surveyor or legally authorized civil engineer cannot agree upon matters appearing on a record of survey or corner record within 10 working days after the record of survey or corner record has been resubmitted with a request that it be filed without further change, an explanation of the differences must be noted on the map and it must be presented by the county surveyor to the county recorder for filing. If the county surveyor and the licensed land surveyor or legally authorized civil engineer cannot agree on the language explaining the differences, both must note an explanation, specific enough to identify the factual basis for the difference of opinion, on the record of survey.

56. What are the city local agencies' responsibilities with regard to the preservation and perpetuation of monuments? (B&P Code § 8771)

When monuments exist that control the location of subdivisions, tracts, boundaries, roads, streets, or highways, or provide horizontal or vertical survey control, the monuments shall be located and referenced by or under the direction of a licensed land surveyor or legally authorized civil engineer prior to the time when any streets, highways, other rights-of-way, or easements are improved, constructed, reconstructed, maintained, resurfaced, or relocated and a corner record or record of survey of the references shall be filed with the county surveyor.

It shall be the responsibility of the governmental agency or others performing construction work to provide for the monumentation required. It shall be the duty of every land surveyor or civil engineer to cooperate with the governmental agency in matters of maps, field notes, and other pertinent records.

The project engineer/surveyor should coordinate with the contractor to reset monuments or provide permanent witness monuments and file the required documentation with the county surveyor, per Business and Professions Code section 8771.

57. Can a civil engineer licensed after January 1, 1982, determine property boundaries? (B&P Code §§ 6731, 8726, 8731)

No. Civil engineers licensed after January 1, 1982, cannot determine property boundaries.

58. Can a civil engineer licensed after January 1, 1982, prepare site plans? (B&P Code §§ 6731, 6731.1, 8726, 8731)

Site plans showing grading, utilities, paving, and layout of a building site may be done by all civil engineers, no matter when their license was issued. However, civil engineers licensed after January 1, 1982, may not determine the property boundaries in relationship to the fixed works shown on the site plan.

59. Can a civil engineer licensed after January 1, 1982, certify elevations and prepare topographic or elevation surveys? (B&P Code §§ 6731, 6731.1, 8726, 8731)

All civil engineers, no matter when their license was issued, may certify elevations of any portion of a structure or other fixed work and may prepare topographic and elevation surveys. However, civil engineers licensed after January 1, 1982, may not determine the property boundaries in relationship to the fixed works shown on the topographic or elevation surveys.

60. Can someone with a delinquent license still practice land surveying? (B&P Code §§ 8802, 8803, 8803.1, 8761)

No. If the license is delinquent, the person cannot practice, offer to practice, or act as a consultant. However, as with any unlicensed individual, the person may work under the responsible charge of a licensed land surveyor or legally authorized civil engineer.

61. Can someone with a cancelled, denied, retired, revoked, suspended or surrendered license still practice land surveying? (B&P Code §§ 8761, 8802.1, 8802.2)

No. If the license has a status of denied, retired, revoked, suspended or surrendered, the person cannot practice, offer to practice, or act as a consultant. However, as with any unlicensed individual, the person may work under the responsible charge of a licensed land surveyor or legally authorized civil engineer.

SIGNING AND SEALING

62. Who can sign and seal land surveying documents?

(B&P Code §§ 8761, 8761.1; 16 CCR § 411)

A professional land surveyor or a legally authorized civil engineer must sign and seal all maps, plats, reports, and descriptions that are prepared under his or her responsible charge. The required signature and seal must appear on the original map or plat and on the title page of descriptions, documents, and reports. The signature and seal is not required on every sheet of a final map.

Interim (non-final) documents are not required to be signed and sealed. However, the interim documents must include the name and license number of the land surveyor, as well as a notation as to their intended purpose, such as “for review only,” “preliminary,” or “draft.”

63. Are professional engineers and land surveyors required to include their license expiration date when they sign and seal engineering or land surveying documents? (B&P Code §§ 6735, 6735.3, 6735.4, 6764, 8750, 8761 & 8764.5)

No. January 1, 2010, professional engineers and land surveyors are no longer required to include their license expiration date when they sign and seal engineering or land surveying documents. It is also no longer required that the license expiration date be included in their professional seal/stamp.



64. What does the term “responsible charge” mean as applied to land surveying? (16 CCR § 404.2)

Responsible charge relates to the extent of control a licensed land surveyor or legally authorized civil engineer is required to maintain while exercising independent control and direction of land surveying work, and the land surveying decisions which can only be made by a licensed land surveyor or legally authorized civil engineer. It does not refer to the concepts of management, hierarchy, or financial liability.

The extent of control necessary to be in responsible charge shall be such that the land surveyor:

- a) Makes or reviews and approves that land surveying decisions (described below).
- b) In making or reviewing and approving the land surveying decisions, determines the applicability of survey criteria and technical recommendations provided by others before incorporating such criteria or recommendations.

Land surveying decisions include those within the purview of the Professional Land Surveyors Act. They do not include decisions concerning administrative or personnel management. Land surveying decisions of the licensed land surveyor or legally authorized civil engineer in responsible charge may include, but are not limited to:

- a) Selecting the methods, procedures, and tolerances of field work.
- b) Determining calculation and adjustment methods.
- c) Determining and specifying the information to be shown on maps or documents furnished in connection with the land surveying services, including the format of the information and the format of the maps or documents.
- d) The decisions related to the preparation of maps, plats, land surveying reports, descriptions and other land surveying documents furnished in connection with the land surveying services.
- e) Reviewing the sufficiency and accuracy of the work product.

Examples of questions to be answered by the licensed land surveyor or legally authorized civil engineer in responsible charge could relate to the criteria for measurement, surveying, methods, analysis, and conclusions made including, but not limited to, the retracement of government surveys, interpretation and construction of deed descriptions, conflicts between construction drawings and actual conditions, determination of the proper control datum and epoch, application of proportion methods and analysis of evidence related to written and unwritten property rights. The licensee should be able to clearly express the extent of control and how it is exercised and to demonstrate that he or she is answerable within the extent of control.

CONTRACTORS

- 65. Can a licensed contractor perform design services under the direction of a licensed civil engineer for a non-exempt structure?**
(B&P Code §§ 5537.2, 6740)

Yes, provided that the contractor works under the responsible charge of the civil engineer, and the civil engineer signs and seals all work prepared by the contractor.

- 66. Can licensed mechanical and electrical contractors prepare and sign drawings for their respective systems without the supervision of a licensed engineer?**
(B&P Code § 6737.3)

A contractor appropriately licensed by the Contractors State License Board (CSLB) may only design systems which he or she will install. An employee of the contractor may perform the installation. However, the contractor cannot subcontract the installation to another contractor.

- 67. Can a contractor prepare civil engineering or land surveying documents?**

No.

ENGINEERING, LAND SURVEYING AND ARCHITECTURAL SERVICES

68. Are architects exempt from the Professional Engineers Act?
(B&P Code § 6737)

An architect who holds a certificate to practice architecture in California is exempt from licensure as an engineer as long as he or she practices architecture as it is defined in the Architects Practice Act (B&P Code §§ 5500 – 5610). An architect may not use any of the restricted engineering titles or offer civil, geotechnical, structural, electrical, or mechanical engineering services separate from their architectural services unless licensed as an engineer by the Board for Professional Engineers and Land Surveyors.

69. Are architects exempt from the Professional Land Surveyors Act?

No.

70. Can a civil engineer licensed after January 1, 1982, prepare, approve, or sign a record of survey, a parcel map, a final map, or legal description related to the completion of a subdivision as defined in the Subdivision Map Act or a survey as defined in the Professional Land Surveyors Act?
(B&P Code § 8731; Government Code §§ 66442, 66450)

No. However, per Government Code Sections 66442(b) and 66450(b), a civil engineer licensed after January 1, 1982, acting as the City or County Engineer may sign the map for the City or County. However, in this case, the City or County Engineer may not sign for the technical correctness of the map; this may only be done by someone legally authorized to practice land surveying.

71. Can architects prepare plans for grading work?
(B&P Code §§ 5500.1, 6737)

Yes. An architect responsible for preparation of a site plan is authorized to prepare site grading and drainage plans, except where such plans are submitted pursuant to the Subdivision Map Act. However, an architect may not determine property lines.

72. Can a land surveyor prepare grading plans? (B&P Code § 6731)

No.

VIOLATIONS, COMPLAINTS, LETTERS OF INQUIRY

73. Who can file a complaint?

Anyone who believes there has been a violation of the Board's licensing laws may file a complaint. All complaints must be filed in writing with a description of the problem and as much identifying information as possible, such as plans, pictures, maps, etc. Although a complaint form is not necessary, such forms are available from the Board office or on the Internet at www.bpelsg.ca.gov.

The Board also accepts anonymous complaints; however, the Board can only investigate the complaint if there is sufficient evidence provided with the complaint to indicate a violation may have occurred.

74. How does someone find out if there is a complaint against a licensed engineer or land surveyor or an unlicensed person?

Call the Board's Enforcement Unit at (866) 780-5370 to verify that the person is licensed and to find out if there have been any complaints or disciplinary actions taken against him or her. You may also e-mail the Enforcement Unit at BPESLG.Enforcement.Information@dca.ca.gov.

73. What can an individual do if he or she is concerned that someone may be violating the Professional Engineers Act or the Professional Land Surveyors Act?

Anyone may write, e-mail, or call the Board's Enforcement Unit at (866) 780-5370. If it appears that a violation has occurred, staff will ask the caller to provide evidence so an investigation can be initiated.

Also, a letter or e-mail may be sent to the Board to request clarification of any law or rule or inquiring whether or not an action is a violation. If it appears that a violation has occurred, the Board may investigate the matter on its own. It is not necessary to be the owner of the property or to have engaged the services being questioned to file a complaint.



*This guide was produced by the BPELS Enforcement Unit Staff
For additional copies, write, e-mail or telephone:*

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Sacramento, CA 95833-2944
BPELSG.Enforcement.Information@dca.ca.gov
(866) 780-5370 (toll-free)

Kelsey Pettijohn

Subject: Wireless Communication facility

From: Yusuf Broachwala <[REDACTED]>
Sent: Wednesday, December 16, 2020 5:07 PM
To: City Council <citycouncil@malibucity.org>
Subject: Re: Wireless Communication facility

In addition

1. There should also be a mechanism or process that measures the RF power in the area of the antenna to make sure it is not at a level that can cause a health hazard
2. The antenna, towers or equipment should not block view

From: Yusuf Broachwala <[REDACTED]>
Date: Wednesday, December 16, 2020 at 5:40 PM
To: <citycouncil@malibucity.org>
Subject: Wireless Communication facility

1. All Wireless RF antennas and towers should be at least 500 ft away from residential area or houses – for safety reasons. Strong RF signals causes Cancer
2. Aesthetics should be such that the antenna assimilates with the surrounding area
3. Additional RF Frequency measurements should be taken to make sure it does not exceed the safety limitations

Best Regards

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Best Regards

Malibu Virtual Public Workshop

December 16, 2020

Presentation By Community Expert Panel
Tony P. Simmons, P.E.
Susan Foster, Honorary Firefighter, SDFD
W. Scott McCollough

- ❖ Addressing projects in rights-of-way and other properties
 - Right-of-way Projects now handled in Chapter 12.02 under Urgency Ordinance 477-U and Resolution 20-65
 - ❑ Mostly involves small cells and eligible facilities
 - ❑ Changes possible with final adoption
 - Projects on other properties still subject to Chapter 17.46
 - ❑ Macro-cells, small cells, eligible facilities
 - ❑ Applications relating to amateur and satellite antennas
- ❖ Many common issues but also some unique to 12.02 or 17.46

❖ Community requests based on City's still-retained authority

- **Not** asking City to
 - ❑ regulate on the basis of the environmental effects of compliant radio frequency emissions
 - ❑ effectively prohibit personal wireless services provision
 - ❑ unreasonably discriminate among providers of functionally equivalent service
- All requests based on
 - ❑ local values and priorities (rural, residential, family friendly)
 - ❑ safety requirements, especially given Malibu-specific conditions (fire-prone, seismically active, coastal conditions, high winds) and past experiences
 - ❑ preservation of property values
 - ❑ aesthetic concerns and preferences

❖ Major Issues

- Project design, application content, post construction inspections (12.02 and 17.46)
 - ❑ Current ordinance and forms do not ensure professional design rigor, require enough application content information or sufficiently contemplate ongoing post-construction inspections
 - ❑ Projects receive inadequate review. Present safety evaluation and protection considerations are entirely inadequate

Existing Application Weaknesses

Wireless equipment is electrical equipment

Wireless fires are electrical fires

- ❖ The Planning Department website <https://www.malibucity.org/369/Applications-Forms-Fees> lists a Uniform Application and the three checklists for WCF (Wireless Communication Facilities), WCF Checklist for non-PROW, WCK Checklist of PROW, and WCF upgrade Checklist. Each checklist specifies certain required documents
- ❖ **They do not require signed and sealed electrical drawings and reports or signed and sealed architectural, structural and other engineering drawing and reports**

Duty to ensure safety

Wireless fires are electrical fires

- ❖ California Public Utility Commission General Order GO-159 Section II defers to local governments on numerous issues. Safety is specifically mentioned as a local government concern.
- ❖ The answer to Question 12 on page number 9 of the Guide to Engineering & Land Surveying for City and County Officials states: *“A local agency may adopt ordinances or regulations to require that all engineering documents submitted for review be signed and sealed. However, the interim documents, even if signed and sealed, must still contain the interim notation as required by state laws”*
- ❖ Section 2.1.5 of the January 2019 edition of the Southern California Edison (SCE) Non-SCE Antennas Placed on SCE Poles External Manual on page 1 requires “An engineered site plan and construction drawings, approved by appropriate permitting agency”.
- ❖ SCE Manual Section 2.1.6 requires “Pole loading calculations including all SCE attachments.”

Engineering Rigor

Wireless fires are electrical fires

- ❖ Engineering rigor is the attention to detail required for a Subject Matter Expert to certify that life, health, and property are safeguarded

History demonstrates need for engineering rigor in all installations and modifications

- ❖ 2007 Malibu Canyon Fire. 3,836 acres, 36 vehicles and 14 structures burned due to fire caused by the failure of an SCE pole carrying three wireless facilities. SCE admitted the pole was overloaded
- ❖ 2015 January 22. Ontario (Province of Canada) Electrical Safety Authority ordered all electric utilities in the province to remove Sensus Gen 3 meters with remote disconnect as a safety precaution. The order noted that multiple utilities had already removed 785,000 smart meters as a safety precaution
- ❖ 2015 March Stockton Meter Explosion. Several thousand PG&E meters exploded due to overvoltage caused by a car accident. Customer owned electrical equipment also failed
- ❖ 2018 November 18 Camp Fire. PG&E CEO pled guilty to 84 counts of manslaughter on behalf of PG&E. The fire burned 153,336 acres and 18,804 structures
- ❖ 2018 November 18. Woolsey Fire. Killed 3 people and burned 1,643 homes and 96,949 acres
- ❖ **The commonality is lack of engineering rigor**

Mitigating Safety Hazards in All Four Phases (Design, Application, Review and Post-construction inspection)

- ❖ Electric fire safety begins with the engineering (design) stage: A Subject Matter Expert identifies and mitigates hazards and designs to comply with all other requirements
- ❖ The application will be the proof of appropriate design rigor, and can be independently assessed by the case manager/consultants
- ❖ The City can then review and enter appropriate findings of demonstrated plan compliance
- ❖ Post-construction inspection will verify the approved plan was properly implemented

Subject Matter Expert

Wireless fires are electrical fires

Safeguarding life health and property is part of a Regulated Affirmative Certification Process

- ❖ To protect the public from electrical and other hazards that require Subject Matters Expertise (SME) with advanced training in sciences and math, the California Legislature enacted the Professional Engineering Act to **regulate** SMEs
- ❖ The Act recognizes that professional engineering is a **process** that includes “*consultation, investigation, evaluation, planning or design*”
- ❖ The Act requires the all tasks be performed under the responsible charge of the professional engineer (P.E.)
- ❖ The act requires the PE sign and seal the final documents. This is the de facto **affirmative certification** that final engineering documents protect public safety

Signed and Sealed Engineering Documents

Wireless fires are electrical fires.

- ❖ Once the professional engineer is satisfied the engineering documents safeguard life, health, and property, he or she signs the document and affixes his or her seal
- ❖ No one is authorized to modify signed and sealed documents except another professional engineer who accept full responsibly for the impact of changes and then signs and seals the modified portion of the document
- ❖ Unknown field conditions may arise or be found that require the signed and sealed document to revised. The Engineer of Record, the professional engineer who signed and sealed the document, must be notified. The professional engineer may authorize modifications that will be signed and sealed later
- ❖ The Engineer of Record may delegate field workers to authorize modifications but retains responsible charge of the signed and sealed document

Evaluating Signed and Sealed Engineering Documents

Wireless fires are electrical fires

- ❖ Signed and sealed engineering documents are prepared under the responsible charge of and then signed and sealed by a California-credentialed Subject Matter Expert, a P.E., and warrant review by a similarly California-credentialed Subject Matter Expert, another P.E.

Wireless Communication Facility sealed engineering design documents that should be reviewed, approved and enforced during the application, approval and post-construction inspection phases

1. Title Page
2. Electrical Site Plan
3. One-Line Diagram
4. Equipment List
5. Three-Line Diagram
6. Ground Plan
7. Panel Directory
8. Load Calculation
9. Wiring Diagram
10. Voltage Drop and Load Flow Study
11. Elevations and Plans of Electrical Equipment
12. Elevations and Plans of Service Disconnecting Means
13. Electrical Details and Signage
14. Coordination and Short Circuit Study
15. Site Specific Instructions
16. Notes
17. Test Specifications

We don't want this



❖ Major Issues (cont'd)

○ Setback/Spacing (12.02 and 17.46)

□ Other California Cities

➤ Calabasas:

- ✓ In ROW, 1,000 foot setback from property line of schools, dwelling units and parks
- ✓ Not in ROW: no placement in residential areas, open space, parks or playgrounds
- ✓ 500 foot separation from another facility in ROW

➤ Fairfax

- ✓ Small cell prohibited in residential areas; eligible facilities and Gov. Code 65850.6 collocations allowed
- ✓ Pole mounted minimum 1,500 foot separation

➤ Mill Valley

- ✓ In ROW, 1,500 foot separation from nearest facility
- ✓ No installations in residential areas other than exempt facilities and additional collocation under Gov. Code 65850.6(b).

➤ Petaluma

- ✓ 500 foot setback from residence
- ✓ 1,500 separation from nearest facility

➤ Santa Cruz County prohibits placement in residential areas

➤ City of Santa Cruz prohibits placement in residential areas, natural areas and strong preference that not be “highly visible from adjacent roadways, public areas, parks, schools, greenbelts or other visually sensitive areas

❖ Major Issues (cont'd)

○ Setback/Spacing (12.02 and 17.46) (cont'd)

□ Other California Cities (cont'd)

□ Sonoma

- ✓ No installations in residential areas other than small wireless facilities s.
- ✓ In ROW 1,500 foot separation from other wireless facilities

□ Suisun City

- ✓ 500 foot setback from residence
- ✓ 1,500 from other wireless facilities

□ Walnut City

- ✓ towers and antennas shall not be located within 1,500 feet of any school (nursery, elementary, junior high, and high school), trail, park or outdoor recreation area, sporting venues, and residential zones.
- ✓ 1,500 separation from other antennas; Monopoles and alternative antenna support structures shall be located a minimum of one-half mile from any other monopole or alternative support structure.

□ Largely matter of judgment and local preferences

- ✓ There is no magic number; need to balance desire for larger number against how many applications would have to seek waiver based on the distance chosen
- ✓ Need to have articulated valid purpose and show reason for numbers chosen
- ✓ Cannot unreasonably discriminate among providers of functionally equivalent services; and cannot have effective prohibition

❖ Major Issues (cont'd)

- Strand Mounting (12.02)
 - Other California Cities - Prohibited
 - ✓ Berkeley
 - ✓ Grand Terrace
 - ✓ Fairfax
 - ✓ Lake Forest
 - ✓ Montclair
 - ✓ Morro Bay
 - ✓ Stanton

❖ Major Issues (cont'd)

- Insurance (12.02 and 17.46)
 - ❑ Every commercial insurance policy has a standard provision excluding coverage for any liability flowing from exposure to even compliant RF emissions. The insurance industry fears huge losses like those from asbestos, so it treats RF like a form of “pollution” that requires a special policy.
 - ✓ Insurance Re candidly explained why: “If a direct link between EMF and human health problems were established” “large losses” could follow.
 - ✓ In February 2013, AM Best classified RF radiation from wireless antennas as an “Emerging Technology-Based Risk.”
 - ✓ Verizon Wireless’ latest SEC 10-K filing for 2019, p. 17 says “...our wireless business also faces personal injury and wrongful death lawsuits relating to alleged health effects of wireless phones or radio frequency transmitters. We may incur significant expenses in defending these lawsuits. In addition, we may be required to pay significant awards or settlements.”)
 - ❑ Other California cities
 - ❑ Encinitas requires pollution coverage
 - ❑ Santa Cruz imposes strict liability in its Municipal Code (24.12.155(B), (C)):
 - ✓ 24.12.1455 INDEMNITY AND LIABILITY.
 - ✓ B. Wireless telecommunications providers shall be strictly liable for any and all sudden and accidental pollution and gradual pollution from the usage of their wireless telecommunications facilities within the city. This liability shall include responsibility for clean-up, injuries or damages to persons or property. Additionally, wireless telecommunications providers shall be responsible for any sanctions, fines or other monetary costs imposed as a result of the release of pollutants from their operations.
 - ✓ C. Wireless telecommunications providers shall be strictly liable for any and all damages resulting from electromagnetic waves or radio frequency emissions in excess of the current Federal Communication Commission’s standards.
 - ❑ Many Wisconsin cities and counties, (ex., Brookfield, Fox Point, Muskego, Oconomowoc and Waukesa County) require pollution coverage
 - ❑ Policy limits
 - ✓ \$5,000,000 per occurrence/\$6,000,000 aggregate is sufficient for commercial general liability, but higher policy limits are needed for pollution coverage. Damages from one case could exceed the per occurrence limit and if there is more than one case the aggregate will be quickly exhausted.

❖ Major Issues (cont'd)

- E. Notice, participation and appeal issues (12.02 and 17.46)
 - Actual notice to everyone within 1500 feet of a proposed project
 - ✓ instructions on how to obtain more information
 - ✓ all applications and related materials should be placed online as soon as possible
 - ✓ notice should occur in time for people to participate in the decision on completeness
 - Malibu residents should retain the right to obtain a final decision from the City Council rather than the Director or a hearing officer.

❖ Other Issues

- Amateur and Satellite (17.46 only)
 - ❑ Current city code addresses only height and sometimes antenna diameter (17.39.040, 17.40.040, 17.40.080, 17.40.110, 17.42.020, 17.62.040)
 - ❑ The code does not adequately distinguish between different satellite antenna types based on service or exercise all the powers not preempted by statute or FCC rule.
 - ✓ satellite earth stations/terminals other than those covered by FCC rule 47 C.F.R. 1.4000
 - ✓ antennas for direct broadcast satellite services, receive/transmit fixed satellite antennas/terminals, fixed wireless services and multichannel multipoint distribution services on residential or commercial property covered by FCC rule 47 C.F.R. 1.4000
 - ✓ FCC rules allow more regulation for stations/terminals not covered by rule 1.400
 - ✓ The City can, and should, impose a prohibition on cross-property line service sharing and protect neighbors from cross-property line emission intrusions
 - ❑ The City only regulates amateur/ham radio antenna as to number of ground mounted amateur radio antennas (17.46.060(G)) and height (17.46.160(A)(2)). It does not have a property line setback requirement or front-yard restriction.

Adrian Fernandez

From: R Y A N <[REDACTED]>
Sent: Wednesday, December 30, 2020 4:25 PM
To: Mikke Pierson; Karen Farrer; Paul Grisanti; Steve Uhring; 'Bruce Silverstein'; Susan Duenas; Jerry Vandermeulen; Lisa Soghor; Adrian Fernandez; Richard Mollica; res02igz; Jeffrey D Jennings; xramman@gmail.com; David Weil; Trevor Rusin; John Cotti; Patricia Salazar; Kathleen Stecko; [REDACTED] Reva Feldman
Subject: Battery Back-Up to Wireless Communications Facilities serving Very High Fire Hazard Severity Zones
Attachments: MVC-078F.JPG; MVC-079F.JPG

Honorable California State Senator Henry Stern
Honorable Mayor Mikke Pierson and the Malibu City Council
Richard Mollica, City of Malibu Interim Planning Director

Gentlemen and lady:

I took the attached two photos of a Sprint MicroCell's cabinet that was left open on Malibu Canyon Road north of the tunnel about 18 years ago (before I reported it to Sprint). The photos show the four stacked golf cart batteries inside that provided battery back-up operation during local power outage using the charger/inverter equipment provided by Reliable Power Systems -- which also provided conventional 120-volt OUTLETS to operate service equipment, portable lighting, etc., from the wireless communication facility (WCF) site.

I was informed that Sprint's battery systems were decommissioned many years prior to Woolsey Fire, so the WCF's operational integrity degraded in functional ability.

When a WCF carrier balks at providing battery back-up to a site, these photos prove that such WAS done locally (by lobbying efforts and good wisdom of locals) and should be resume; battery technology has exponentially improved in the interim 18 years.

The wireless carriers are licensed by the FCC to provide voice telephone service to mobile devices. After the known power failures occurring during 2018's Woolsey Fire, and subsequent Public Safety Power Shut-Offs (PSPS), battery back-up to WCFs is functionally necessary to mitigate our region's very high fire hazard severity zone coverage area as a matter of public necessity. The local power outages known to occur during local and regional fires, and now as a result of Southern California Edison's preemptive PSPS program as approved by the California Public Utilities Commission, are known to cause operational failure to WCFs that omit battery back-up hardware -- such as occurred during the Woolsey Fire and caused well-documented communications failure to first-responder fire resources that sat idly by awaiting assignment orders for deployment and response calls that could not occur due to local WCF operational failure from local power interruption. The lack of implementation of public fire resources during Woolsey Fire in Malibu directly contributed to hundreds of structure losses due to the inability of mutual aid fire trucks to receive assignment orders for deployment and response calls.

Ryan



Reliable Power
Systems, Inc.



DANGER
HIGH VOLTAGE

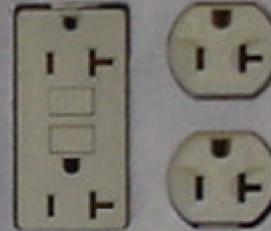


OWNER'S MANUAL
FUSE BLOCK
TERMINAL BLOCK
FAN



Reliable Power Systems, Inc.

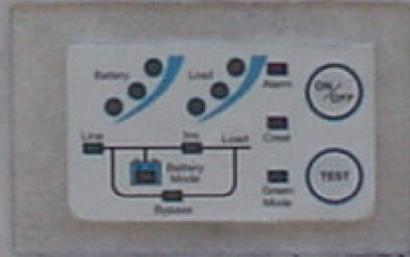
MAIN INPUT	UPS OUTPUT	LOAD # 1	LOAD # 2	LOAD # 3	LOAD # 4	NO BATT. PROT.	CONV. OUTLET 1	CONV. OUTLET 2	CB1	CB2	CB3	BATTERY
30A	30A	30A	30A	30A	30A	30A	30A	30A	30A	30A	30A	30A



CONV. OUTLET 1 CONV. OUTLET 2

DANGER:  HAZARD OF ELECTRICAL SHOCK OR BURN. **TURN OFF POWER** SUPPLY TO THE EQUIPMENT BEFORE WORKING INSIDE.

- Start-Up Sequence**
1. Turn On CB 1 Breaker
 2. Press and Hold () on () On/Off Switch (On the Main Panel)
 3. Turn On CB 2 Breaker
- Power Down Sequence**
- A. Turn Off CB 2 Breaker
 - B. Press and Hold () on () On/Off Switch (On the Main Panel)
 - C. Turn Off CB 1 Breaker



UPS CONTROL MONITOR

Adrian Fernandez

From: Lonnie Gordon [REDACTED]
Sent: Monday, December 21, 2020 3:37 PM
To: Richard Mollica; Trevor Rusin; Mikke Pierson; Karen Farrer; Bruce Silverstein; Steve Uhring; Paul Grisanti
Cc: Reva Feldman; Patricia Salazar; Heather Glaser; Adrian Fernandez
Subject: Re: WCF Public Workshop

Dear Richard and Trevor, (and those involved with this workshop who I may not have email addresses for),

I am writing in response to the WCF Public Workshop on December 16th. I waited to watch the "workshop" a second time before writing. I have several points to make. First let me say that I speak for myself, and not for Scott McCollough, Susan Foster, Tony Simmons or Nichole McGinley. However many in our group feel the same as I do. I will address the points as they were discussed in the workshop.

1. I appreciate that you are taking care of the sloppy and incomplete telecommunication lines with the PUC. However, then you mention "cell service and gaps in coverage", and what we are dealing with now has nothing to do with that.
a) What we are now dealing with is "data download", data collection, and the IoT issues with the new small cell sites. The new ordinance must deal with both of these issues. But they are separate.

2. Gail's presentation: We here in Malibu do not feel that wireless phone "cell" service is the same as faster data downloads for gaming, or movies, or smart homes, i.e. the internet of things (IoT). Gail states "there are things we just have to live with", but,

a) We do not want to live with any additional and unnecessary cell sites.
b) Additionally, and ideally, residents should receive notice of an installation at least 20 days in advance, not 5, so they have a chance to appeal. Many people are not even aware of what the notice means. This is the educational component that we are dealing with.

She also mentions stealth structures.

a) We do not want or need any structures, let alone, stealth structures, that are not for better cell service.

3. Andrew mentions we cannot regulate regarding RF emissions. There are currently 2 suits against the FCC, so this may change.

a) I would like to see the documentation or law that says wireless companies will not accept testing on a regular basis. Based on what? Why not?

Re the aesthetics: "unsightly or out of character employments",

a) take a look at what has been installed all along PCH and in many residential areas. They are very unsightly and out of character with our community.

b) Spacing requirements may have been violated in many places.

c) Strand mounted facilities are undesirable and have many hazards associated with them.

4. Tyler's presentation: He slipped and said he thinks an installation is "cool". No installation designs are "cool". This shows a lack of objectivity and a bias towards these cell sites in my opinion.

a) Why does SCE have design control?

5. The Fire people who spoke had no idea about the fires that have been caused by small cells. I know you needed them to bolster your points, but they failed. It's public fact about the fires that have been started by telephone poles and cell sites.

This was not a public workshop, but a presentation by the city, with some time set aside for our experts to comment. There was no give and take, and no time for questions and answers. You presented the telecom industry rhetoric as to why we can't do anything, yet said you are open to hearing our side. Many of us gave up our 3 minutes so our experts could have more time, but that didn't happen, and Scott McCollough was cut off before he could finish his second set of comments. This is ludicrous since the meeting ended 15 minutes early.

Most speakers, after our experts, were given 3 minutes which also was not adequate time, but we got our points across. Even Bruce Silverstein, a new Council member was only given 3 minutes, yet Paul Grisanti was given 6 minutes. I appreciate that Paul seems open to learning about this issue.

I'm not sure who designed this format. Previously I submitted a list of questions to Patricia Salazar asking what the format would be, and telling her what our preferred format would look like. We desired it to be give and take, and educational for both residents and the city. I was also hoping we could have an open Zoom meeting so we could see everyone.

I do hope the next workshop format will be different, and that there will be equal time for both sides for input and Q&A. You mention at the end of the meeting that you will be revealing the new telecom consultant soon. It is our fervent hope that it will be CMS. If TLF is hired again, you will be sure to hear the wrath and dismay of the residents loud and clear. And, I would love to see the survey you are preparing to send out to the community, so we can have input on that.

And finally, I am grateful we have come this far together, and I wish everyone a peaceful holiday season and a happy new year, whatever that means this year. Let's hope that 2021 will be much better than 2020. I do appreciate your willingness to work with us, and together we can make our city a better and safer place.

Sincerely,

Lonnie (Gordon)

<https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fMalibuForSafeTech.org&c=E,1,FvoxXkiRCYqkFBtaLHxaFSXKL-kGEGJT07sUIJGonX9ukTCmy7lkaumi9b18rytXFlgc2cei9GdSKL-WHsTsvvdtPrJUMdlu1KB59dfu59y3i4-K0gFVXA,,&typo=1>

"The world is not dangerous because of those who do harm, but because of those who look at it without doing anything".

Albert Einstein

Adrian Fernandez

From: Richard Hinson <[REDACTED]>
Sent: Tuesday, December 1, 2020 3:29 PM
To: Adrian Fernandez
Subject: wireless service dead spots on hills in Malibu

Adrian,

I'm not certain if this is the best forum for our issues.

We live at 32915 calle de la Burrita, slightly up Encinal Cyn road (about 1/2 mile up at first big turn)

We currently have AT & T cell service which works some of the time; but drops calls if we move to different areas within our house. Will your ordinance reviews encourage better coverage for cell services? We had Sprint before which was worse.

Also, as part of to the City wide warning program, we were told to listen to KBUU 99.1 FM. However, once again we can't get a signal here for that. Is there a repeater or a planned repeater for better coverages on the hills.

Let me know any thoughts.

Thanks,

Dick Hinson 32915 calle de la Burrita, Malibu 310 457 3010
or sketchy cell 515 778 2333

Adrian Fernandez

From: David Kelmenson <[REDACTED]>
Sent: Saturday, November 28, 2020 7:49 AM
To: Adrian Fernandez
Cc: Colin Drummond; Joanne Drummond
Subject: Re: Wireless communications in Malibu

Hi Adrian,

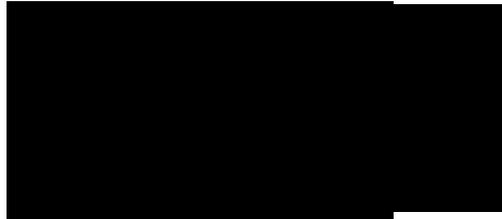
Can you please forward my comments about this topic? See below...

*As a long term Malibu resident and home owner, we are **highly** in favor of improving cell service in Malibu especially my neighborhood of Big Rock. We are living in a 100% digital age and it's totally antiquated to not have cell service. At our home on Roca Chica Dr., if our internet goes down, we have absolutely zero access to anything, internet, phones, etc... It can be quite alarming when there is an emergency. As an example a few years ago, our Frontier service was down for 3 weeks as it was post Woosley fire and there were few technicians available to fix my line as they were working on rebuilding their burned down infrastructure. When a tech finally came out, it was a simple fix as some contractor had accidentally disconnected our Fios line at the hub box on Big Rock Dr. So we are 110% in favor of doing whatever it takes to improve cell service...*

Thank you for considering this, it's very much appreciated. I am also copying in my neighbors Colin and Jo Drummond as they can get the word out.

Jo/Colin - the City is considering improvement to cell service in Malibu... The more voices they hear in favor, the better... Wanna help get the word out?

David Kelmenson

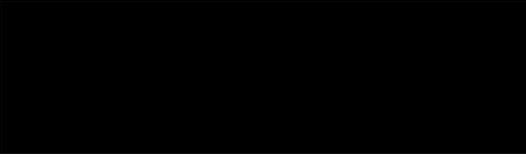


On Wed, Nov 25, 2020 at 2:23 PM David Kelmenson <[REDACTED]> wrote:
More restrictive as in not improving the cell service in Malibu?

And can I email in my comments about this topic and you can submit for me?

David Kelmenson

Executive Director, Luxury Estates Division
DRE#01435306



On Wed, Nov 25, 2020 at 12:29 PM Adrian Fernandez <afernandez@malibucity.org> wrote:

Hello Mr. Kelmenson,

The public workshop is to hear from the public about how to amend the City's wireless ordinance. The public comments received so far would like for City standards to be more restrictive. I encourage you to participate for your point of view to be heard.

Adrian Fernandez

Principal Planner

(424) 422-8319

From: David Kelmenson [redacted]
Sent: Monday, November 23, 2020 9:43 PM
To: Adrian Fernandez <afernandez@malibucity.org>; Adrian Fernandez <afernandez@malibucity.org>
Subject: Wireless communications in Malibu

Hi there-

I saw a Nextdoor post about a meeting about wireless communications in Malibu. Is this about improving cell service in Malibu? I live in the Big Rock neighborhood and cell service at my house is non-existent. Would love for it to get improve. Let me know and thank you!

David Kelmenson

Executive Director, Luxury Estates Division
DRE# [01435306](#)



Compass | www.davidkelmenson.com

2115 Main Street
Santa Monica, CA 90405



Adrian Fernandez

From: Lonnie Gordon [REDACTED]
Sent: Monday, February 15, 2021 9:38 AM
To: Adrian Fernandez
Cc: Richard Mollica; Patricia Salazar; Mikke Pierson; Karen Farrer; Bruce Silverstein; Steve Uhring; Paul Grisanti; Trevor Rusin; Reva Feldman; Heather Glaser; Tyler Eaton
Subject: WCF Ordinance and inclusion of fire safety amendments

Dear Adrian,

The City WCF site directs me to you to comment on the ordinance, so I would like to state the obvious. Mayor Mikke is always saying how fire prevention is one of the city's highest priorities. I believe you all agree. It is the highest priority of the residents who experienced the Woolsey and previous fires. Many of us get PTSD when the winds come up and we know there is a possibility a power pole could fall and start a fire, especially one laden with extra cell equipment, or that a smart meter attached to an installation might explode, as they have done many times before in other locations.

It is with this in mind that I urge the City to adopt the fire safety amendments, as written by Susan Foster, and Tony Simmons P.E., and presented to the city by Scott McCollough. I cannot fathom why these would not be included. I understand you are all working hard on the ordinance, and believe me we appreciate your efforts. We did submit a complete, legal and comprehensive ordinance to the city a few months ago as you know. If you follow those guidelines the city will have a strong ordinance to protect its residents, and be a model for other cities.

This email is to urge you to include the fire safety requirements that have been previously submitted. Thank you for your time on this project.

Sincerely, (please include in the public record)

Lonnie Gordon

Exec. Director Malibu For Safe Tech

https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.malibuforsafetech.org&c=E,1,uWWfFxKwKp_fohLSQI9DQIUNKYBmR1msyaWx0HglFTygcZ5Cbe9iclXfqQBIRpaeVJCERhvZtFoO1m9psc76Ells7Xt0urTHFtprcY5qwjmrlf12DIO_WHCuo,&typo=1

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"The world is not dangerous because of those who do harm, but because of those who look at it without doing anything".

Albert Einstein

Adrian Fernandez

From: Adrian Fernandez
Sent: Monday, November 23, 2020 2:32 PM
To: Nichole McGinley; Jess Isles
Subject: RE: 5g

Thank you both.

Jess, this is a complicated issue as you can imagine. It may be easier to have a phone conversation if that works for you.

Adrian Fernandez

Principal Planner

Cell: (424) 422-8319

From: Nichole McGinley [REDACTED]
Sent: Monday, November 23, 2020 10:24 AM
To: Jess Isles [REDACTED]
Cc: Adrian Fernandez <afernandez@malibucity.org>
Subject: Re: 5g

Hello Jess,

I couldn't agree more with your email but I would like to offer one clarification so that Adrienne can address your questions and concerns more meaningfully.

The applications coming in are for small cell antennas which have the capacity to be upgraded to 5g technology. At the moment, the city is fielding applications and approving placement for small cell antennas. Our current ordinance was not updated when the change to small cell technologies came in.

Adrienne, can you please answer her in regards to small cell antennas and the timeline of the ordinance?

Thank you both,

Nichole

On Mon, Nov 23, 2020 at 10:16 AM Jess Isles <[REDACTED]> wrote:

Hi Adrian

Thank you for organizing this.

However, the speed at which the industry is putting up towers in Malibu makes this too little too late unless we have an emergency ordinance put in place.

Wouldn't you agree that the process you are suggesting will be completely obsolete given the number of applications already submitted for 5g towers and given that we do not have an updated ordinance?

The industry is way ahead of us and working quickly - without the adoption of an emergency ordinance immediately by the time the process you are suggesting has been worked through Malibu will already be covered in 5g towers.

What are your views on this?

How many 5g towers would the industry want in Malibu? How many do we have? How many applications are submitted and being processed?

Many thanks for your help.

Best Jessica Isles

Sent from my iPhone

Received

02/01/2021

Planning Dept.

Susan Dana Foster



February 1, 2021

Malibu Planning Commission
Richard Mollica, Planning Director
Jeffrey Jennings, Chair
David Weil, Vice Chair
Kraig Hill
John Mazza
Dennis Robert Smith

ITEM: 4E. Local Coastal Program Amendment No. 16-007 And Zoning Text Amendment No. 16-005 – Implementing a comprehensive regulatory system for the placement of wireless facilities, including procedures, permitting, and penalties by amending Malibu Municipal Code (MMC) Chapter 17, including, but not limited to Chapter 17.46 and Table B and amending Local Coastal Program Local Implementation Plan Chapter 3, including, but not limited to Section 3.16 and Table B (Continued from January 19, 2021)

Dear Commissioners:

I will be speaking on Monday evening about wireless facilities in Malibu. This is not on your agenda, but I understand you may receive some draft materials from Staff on Friday.

We have made a lot of progress toward updating Malibu's local rules, regulations and processes, but much remains to be done, and that is especially so with regard to fire and electrical safety issues.

In late August, at the request of attorney Scott McCollough and several resident representatives of Malibu, I was asked to assist with the fire safety portion of the Community's Ordinance because of my previous work with other municipal ordinances, as well as my work with the rank-and-file firefighters of California and across the country over the last two decades. I am honored to be part of the team. I then brought Tony P. Simmons, P.E. on board because he is an exceptionally qualified professional engineer. Mr. Simmons is a state credentialed electrical safety Subject Matter Expert. You will be hearing from Mr. Simmons separately prior to your meeting two weeks from now.

Our shared objective is to help Malibu establish robust and engineering-based requirements and procedures to address their greatest fear and deepest concern: fire. I helped with the fire safety portion of the Encinitas ordinance, yet for Malibu we wanted to go even farther to prevent a

reoccurrence of the two devastating fires in the last 15 years from which Malibu is still trying to recover.

We started with some basic assumptions:

- 1) Wireless facility fires are electrical fires.
- 2) Every electrical device *will* eventually fail. The professional electrical engineer's job is to make sure that when electrical devices fail, they fail safely.

In order to make Malibu as safe as we possibly could, we needed to introduce basic yet thorough engineering rigor for all cell towers coming into the city. This electric engineering rigor is more important in Malibu for three very specific reasons:

- 1) Malibu has significant uncontrolled, dry vegetation. We need to mitigate the chances that a spark would be thrown into this vegetation, thus igniting a fire.
- 2) Malibu is a marine environment. Thus, there are issues of corrosion that you do not have in other places. Metal parts within cell towers are going to wear out faster in this corrosive environment. Therefore, the failure rate is higher and the need for stricter standards in the very beginning is essential.
- 3) Malibu routinely experiences high winds that can cause fires, and then make them worse.

Tony Simmons and I were determined to give Malibu the best electric fire safety protocol of any city in California – and perhaps any city in the country. But first we needed to determine who actually was responsible for establishing whether new or established wireless facility in Malibu will be or are in fact safe.

Our analysis shows that the responsibility for fire protection measures rests with Malibu itself. Here, briefly, is the breakdown.

The FCC specifically allows localities to legislate safety regarding wireless facilities; further, the California Public Utilities Commission in GO159 expressly states local jurisdictions have safety oversight (and this includes wireless facilities); and further, Southern California Edison (SCE) recognizes non-SCE antennas installed on SCE poles as “safe” expressly because they have been permitted by the city planning departments. The bottom line is that the city of Malibu has both the power and the ultimate responsibility to ensure that the wireless facilities being installed in the city are built and installed to the highest possible safety standard.

Malibu can and should have the best electric fire safety protocol possible to minimize liability and maximize prevention. The ordinance and LCP amendments you will be receiving soon are where this must be done. Together we can add a superior layer of protection for Malibu.

We urge the members of the Planning Commission to please look for and support the following language at the application stage of the process:

(1) All applications:

- (i) Applicant's name, address, telephone number and email address;
- (ii) Names, addresses, telephone numbers, and email addresses of anyone acting on behalf of the applicant with regard to the application;
- (iii) The name, address and phone number of all persons that prepared or assisted in preparing the application and any required reports;
- (iv) The postal address, the parcel number, or utility pole identifier of the property;
- (v) Electrical Safety Information. The following engineering documents prepared under the responsible charge of and sealed by a California licensed professional engineer must be included in the application:
 - (vi) A short circuit and coordination study ("SCCS") calculated pursuant to the IEEE 551-2006: Recommended Practice for Calculating AC Short-Circuit Currents in Industrial and Commercial Power Systems or the latest version of that standard. The study must demonstrate the protection devices will ensure the equipment enclosure will not be breached. The SCCS must include analysis of Voltage Transient Surges due to contact of conductors of different voltage or lightning strikes;
 - (vii) A one-line diagram of the electrical system;
 - (viii) Voltage Drop Study;
 - (ix) A Load Calculation;
 - (x) Panel Directories;
 - (xi) A plot plan showing the location of the mounting structure including address, or structure designation, or GPS location;
 - (xii) A plot plan showing the location of the service disconnecting means;
 - (xiii) An elevation drawing of the equipment and the service disconnecting means;
 - (xiv) A demonstration there will be signage as required by the National Electric Code or the Los Angeles County Fire Department Chief or his or her designee;

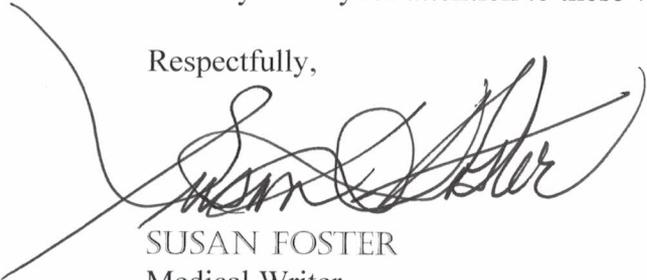
- (xv) A demonstration the service disconnecting means shall be mounted at an elevation determined by the Los Angeles County Fire Chief or his or her designee in conjunction with the electric utility;
- (xvi) A demonstration there will be instructions for deenergizing the equipment by First Responders.
- (xvii) A list of toxic substances that may develop during arcing or fire that may impede fire suppression efforts;
- (xviii) A list of hazards that may develop during arcing or fire that may impede fire suppression efforts;
- (xix) Structural Safety Information. The structural/civil engineering documents as recommended by a California licensed professional civil or structural engineer employed by Center for Municipal Solutions.

This language requires no more engineering rigor and documentation than would be required for the corner convenience store. For wireless facilities placed throughout the city of Malibu, we believe the residents, business owners and particularly schoolchildren deserve no less than the most basic building requirements.

Our goal is to prevent fires, but this will not always be possible. Because wireless facility electrical fires do occur, we would ask the Commissioners to support a 1500-foot setback from all residences, schools, businesses, hospitals, nursing homes and any structure inhabited or used by persons who may need this distance from the dwelling or building to escape.

Thank you for your attention to these very important details.

Respectfully,



SUSAN FOSTER
Medical Writer
Honorary Firefighter, San Diego Fire Department

Cc: Adrian Fernandez
Kathleen Stecko
Patricia Salazar
Heather Glaser

**NOTICE OF PUBLIC HEARING
CITY OF MALIBU
PLANNING COMMISSION**

**NOTICE OF AVAILABILITY
OF LCP AMENDMENT MATERIALS**

The Malibu Planning Commission will hold a public hearing on **TUESDAY, January 19, 2021, at 6:30 p.m.** on the project identified below. This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer's Safer at Home Order. All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

WIRELESS COMMUNICATION FACILITY ORDINANCE UPDATE

LOCAL COASTAL PROGRAM AMENDMENT NO. 16-007 AND ZONING TEXT AMENDMENT NO. 16-005 – Implementing a comprehensive regulatory system for the placement of wireless facilities, including procedures, permitting, and penalties by amending Malibu Municipal Code (MMC) Chapter 17, including, but not limited to Chapter 17.46 and Table B and amending Local Coastal Program Local Implementation Plan (LIP) Chapter 3, including, but not limited to Section 3.16 and Table B.

Applicant:	City of Malibu
Location:	Citywide
Case Planner:	Adrian Fernandez, Principal Planner (310) 456-2489, extension 482 afernandez@malibucity.org

In accordance with the California Environmental Quality Act (CEQA), Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This application is for an LCP amendment which must be certified by the California Coastal Commission before it takes effect.

A written staff report will be available at or before the hearing. All persons wishing to address the Planning Commission will be afforded an opportunity in accordance with the Commission's procedures.

LCP amendment documents are available for review by contacting the Case Planner and on the City's website at www.malibucity.org/WCF.

Richard Mollica, Acting Planning Director

Publish Date: December 24, 2020