

ORDINANCE NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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**AN ORDINANCE ADDING CHAPTER 24.5 TO DIVISION VI, PART ONE, OF THE
SAN MATEO COUNTY ORDINANCE CODE (ZONING REGULATIONS) TO
ESTABLISH REGULATIONS FOR TELECOMMUNICATION FACILITIES**

The Board of Supervisors of the County of San Mateo, State of California,
ORDAINS as follows:

SECTION 1. The San Mateo County Ordinance Code, Division VI, Part One, is hereby amended to add Chapter 24.5, Sections 6510 through 6513-34, as follows:

CHAPTER 24.5. TELECOMMUNICATION FACILITIES

SECTION 6510. PURPOSE. The purpose of this chapter is to establish regulations for the establishment of wireless telecommunication facilities within the unincorporated area of San Mateo County, consistent with the General Plan, and with the intent to:

- A. Allow for the provision of wireless communications services adequate to serve the public's interest within the County.
- B. Require, to the maximum extent feasible, the co-location of telecommunication facilities.
- C. Encourage and require, to the maximum extent feasible, the location of new telecommunication facilities in areas where negative external impacts will be minimized.
- D. Protect and enhance public health, safety, and welfare.
- E. Conform to applicable Federal and State laws.

SECTION 6511. DEFINITIONS. For purposes of this chapter, the following terms shall have the meanings set forth below:

- A. "Abandoned." A facility shall be considered abandoned if it is not in use for six consecutive months.
- B. "Administrative review" means consideration of a proposed co-location facility by staff for consistency with the requirements of this chapter, the consideration of which shall be ministerial in nature, shall not include conditions of approval, and shall not include a public hearing.
- C. "Co-location" means the placement or installation of wireless telecommunication facilities, including antennas and related equipment on, or immediately adjacent to, an existing wireless telecommunication facility.
- D. "Co-location facility" means a telecommunication facility that has been co-located consistent with the meaning of "co-location" as defined in Section 6511.C. It does not include the initial installation of a new telecommunication facility that will support multiple service providers.
- E. "Telecommunication facility" means equipment installed for the purpose of providing wireless transmission of voice, data, images, or other information including, but not limited to, cellular telephone service, personal communications services, and paging services, consisting of equipment and network components such as towers, utility poles, transmitters, base stations, and emergency power systems. Telecommunication facility does not include radio or television transmission facilities.

SECTION 6512. PERMIT REQUIREMENTS AND STANDARDS FOR NEW TELECOMMUNICATION FACILITIES THAT ARE NOT CO-LOCATION FACILITIES. All new telecommunication facilities that are not co-location facilities must meet the following standards and requirements:

SECTION 6512.1. PERMIT REQUIREMENTS FOR NEW TELECOMMUNICATION FACILITIES THAT ARE NOT CO-LOCATION FACILITIES. A use permit will be required for the initial construction and installation of all new telecommunication facilities, in accordance with requirements, procedures, appeal process, and revocation process outlined in Sections 6500 through 6505 of Chapter 24 of the Zoning Regulations, except as modified by this chapter.

SECTION 6512.2. DEVELOPMENT AND DESIGN STANDARDS FOR NEW TELECOMMUNICATION FACILITIES THAT ARE NOT CO-LOCATION FACILITIES. All new telecommunication facilities must meet the following minimum standards. Where appropriate, more restrictive requirements may be imposed as a condition of use permit approval.

- A. New telecommunication facilities shall not be located in a Sensitive Habitat, as defined by Policy 1.8 of the General Plan (Definition of Sensitive Habitats) for facilities proposed outside of the Coastal Zone, and by Policy 7.1 of the Local Coastal Program (Definition of Sensitive Habitats) for facilities proposed in the Coastal Zone.
- B. New telecommunication facilities shall not be located in areas zoned Residential (R), unless the applicant demonstrates, by a preponderance of the evidence, that a review has been conducted of other options, and no other sites or combination of sites allows feasible service or adequate coverage. This review shall include, but is not limited to, identification of alternative site(s) within 2.5 miles of the proposed facility. See Section 6512.5.B.11 for additional application requirements.
- C. New telecommunication facilities shall not be located in areas where co-location on existing facilities would provide equivalent coverage.
- D. New telecommunication facilities must be constructed so as to physically and structurally accommodate co-location, and must be made available for co-location unless technologically unfeasible.

- E. The adverse visual impact of utility structures shall be avoided by: (1) siting new telecommunication facilities outside of public viewshed; (2) maximizing the use of existing vegetation and natural features to cloak telecommunication facilities; and (3) constructing towers no taller than necessary to provide adequate coverage. When visual impacts cannot be avoided, they shall be minimized and mitigated by: (a) screening telecommunication facilities with landscaping consisting of non-invasive and/or native plant material; (b) painting all equipment to blend with existing landscape colors; and (c) designing telecommunication facilities to blend in with the surrounding environment. Attempts to replicate trees or other natural objects shall be used as a last resort. Landscaping shall be maintained by the property or facility owner and/or operator. The landscape screening requirement may be modified or waived by the Community Development Director or his/her designee in instances where it would not be appropriate or necessary, such as in a commercial or industrial area.
- F. Paint colors for the telecommunication facility shall minimize its visual impact by blending with the surrounding environment and/or buildings. Prior to the issuance of a building permit, the applicant shall submit color samples for the telecommunication facility. Paint colors shall be subject to the review and approval of the Planning and Building Department. Color verification shall occur in the field after the applicant has painted the equipment the approved color, but before the applicant schedules a final inspection.
- G. The exteriors of telecommunication facilities shall be constructed of non-reflective materials.
- H. The telecommunication facility shall comply with all the requirements of the underlying zoning district(s), including, but not limited to, setbacks, Design Review in the DR district(s), Architectural Review in designated Scenic Corridors, and Coastal Development Permit regulations in the CZ or CD zones.

- I. Except as otherwise provided below, ground-mounted towers, spires and similar structures may be built and used to a greater height than the limit established for the zoning district in which the structure is located; provided that no such exception shall cover, at any level, more than 15% in area of the lot nor have an area at the base greater than 1,600 sq. ft.; provided, further that no tower, spire or similar structure in any district shall ever exceed a maximum height of 150 feet.
 1. In the PAD, RM, RM-CZ, TPZ, and TPZ-CZ districts, in forested areas, no structure or appurtenance shall exceed the height of the forest canopy by more than 10% of the height of the forest canopy, or five feet, whichever is less.
 2. In any Residential (R) district, no monopole or antenna shall exceed the maximum height for structures allowed in that district, except that co-locations on an existing structure in the public right-of-way shall be allowed to exceed the maximum height for structures allowed in that district by 10% of the ~~allowed height in that district~~ height of the existing structure, or by five feet, whichever is less.
 3. A building-mounted wireless telecommunication facility shall not exceed the maximum height allowed in the applicable zoning district, or 16 feet above the building roofline, whichever is higher, except that in any Residential (R) district, no monopole or antenna shall exceed the maximum height for structures allowed in that district.
- J. In any Residential (R) district, ~~one (1)~~ accessory buildings, shelters, or cabinets in support of the operation of the telecommunication facility may be constructed, provided ~~it that they~~ complies with the provisions of Sections 6410 through 6411 regarding accessory buildings, except that the building coverage and floor area maximums shall apply to buildings, shelters, and cabinets in aggregate, rather than individually. If an accessory building not used in support of a telecommunication facility already exists on ~~at~~ the parcel, no accessory building, shelter, or cabinet in support of the operation

of the telecommunication facility may be constructed. If an accessory building(s), shelter(s), or cabinet(s) in support of the operation of the telecommunication facility is constructed on a parcel, no other accessory buildings not used in support of a telecommunication facility shall be constructed until the accessory building(s), shelter(s), or cabinet(s) in support of the operation of the telecommunication facility is(are) removed.

- K. In any Residential (R) district, ground-mounted towers, spires and similar structures may be built and used provided that they shall not cover, in combination with any accessory building(s), shelter(s), or cabinet(s) in support of the operation of the telecommunication facility, more than 15% in area of the lot nor an area greater than 1,600 sq. ft. Buildings, shelters, and cabinets shall be grouped. Towers, spires, and poles shall also be grouped, to the extent feasible for the technology.

- L. Diesel generators shall not be ~~used~~ installed as an emergency power source unless the use of electricity, natural gas, solar, wind or other renewable energy sources are not feasible. If a diesel generator is proposed, the applicant shall provide written documentation as to why the ~~use~~ installation of options such as electricity, natural gas, solar, wind or other of a renewable energy sources is not feasible.

SECTION 6512.3. PERFORMANCE STANDARDS FOR NEW TELECOMMUNICATION FACILITIES THAT ARE NOT CO-LOCATION FACILITIES. No

use may be conducted in a manner that, in the determination of the Community Development Director, does not meet the performance standards below. Measurement, observation, or other means of determination must be made at the limits of the property, unless otherwise specified.

- A. Telecommunication facilities shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).

- B. The applicant shall receive and maintain approval from the Federal

Communications Commission (FCC), the California Public Utilities Commission (CPUC) and any other applicable regulatory bodies prior to initiating the operation of the telecommunication facility. Upon receipt of each of these approvals, the applicant shall supply the Planning and Building Department with copies of them. If these approvals are ever revoked, the applicant shall inform the Planning and Building Department of the revocation within ten (10) days of receiving notice of such revocation.

- C. Once a use permit is obtained, the applicant shall obtain a building permit and build in accordance with the approved plans.
- D. The project's final inspection approval shall be dependent upon the applicant obtaining a permanent and operable power connection from the applicable energy provider.
- E. The telecommunication facility and all equipment associated with it shall be removed in its entirety by the applicant within 90 days if the FCC and/or CPUC permits are revoked or the facility is abandoned or no longer needed, and the site shall be restored and revegetated to blend with the surrounding area. The owner and/or operator of the telecommunication facility shall notify the County Planning Department upon abandonment of the facility. Restoration and revegetation shall be completed within two months of the removal of the facility.
- F. Telecommunication facilities shall be maintained by the permittee(s) and subsequent owners in a manner that implements visual resource protection requirements of Section 6512.2.E, and F above (e.g., landscape maintenance and painting), as well as all other applicable zoning standards and permit conditions.
- G. Road access shall be designed, constructed, and maintained over the life of the project to avoid erosion, as well as to minimize sedimentation in nearby streams.

- H. A grading permit may be required, per Sections 8600-8609 of the County Ordinance Code. All grading, construction and generator maintenance activities associated with the proposed project shall be limited from 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday or as further restricted by the terms of the use permit. Construction activities will be prohibited on Sunday and any nationally observed holiday. Noise levels produced by construction activities shall not exceed 80-dBA at any time.
- I. The use of diesel generators or any other emergency backup energy source shall comply with the San Mateo County Noise Ordinance.

SECTION 6512.4. ADDITIONAL REQUIREMENTS AND STANDARDS FOR TELECOMMUNICATION FACILITIES IN THE COASTAL ZONE.

- A. New telecommunication facilities shall not be located between the first public road and the sea, or on the seaward side of Highway 1 in rural areas, unless no feasible alternative exists, the facility is not visible from a public location, or will be attached to an existing structure in a manner that does not significantly alter the appearance of the existing structure.
- B. New telecommunication facilities shall comply with all applicable policies, standards, and regulations of the Local Coastal Program (LCP) and the CZ or CD Zoning Districts.

SECTION 6512.5. APPLICATION REQUIREMENTS FOR NEW TELECOMMUNICATION FACILITIES THAT ARE NOT CO-LOCATION FACILITIES.

- A. A Major Development Pre-Application will be required for all new telecommunication facilities in accordance with the procedures outlined in Sections 6415.0 through 6415.4 of the San Mateo County Zoning Regulations, unless there is an existing telecommunication facility within a 1-mile radius of the proposed facility. This requirement may be waived at the discretion

of the Community Development Director or his/her designee.

B. In addition to the requirements set for in Chapter 24, Use Permits, applicants for new telecommunication facilities shall submit the following materials regarding the proposed telecommunication facility:

1. A completed Planning Permit application form.
2. A completed Use Permit for a Cellular or Other Personal Telecommunication Facility Form.
3. A completed Environmental Information Disclosure Form.
4. Proof of ownership or statement of consent from the owner of the property.
5. A site plan, including a landscape plan (if appropriate under the provision of Section 6512.2.E), and provisions for access.
6. Elevation drawing(s).
7. Photo simulation(s) of the telecommunication facility from reasonable line-of-sight locations from public roads or viewing locations.
8. A construction and erosion control plan.
9. A maintenance plan detailing the type and frequency of required maintenance activities, including maintenance of the access road.
10. A description of the planned maximum ten-year buildout of the site for the applicant's telecommunication facilities, including, to the extent possible, the full extent of telecommunication facility expansion associated with future co-location facilities by other telecommunication facility operators. The applicant shall contact all other telecom-

munication service providers in the County to determine the demand for future co-locations at the proposed site, and shall provide written evidence that these consultations have taken place, and a summary of the results, at the time of application. The location, footprint, maximum tower height, and general arrangement of future co-locations shall be identified. If future co-locations are not technically feasible, an explanation shall be provided of why this is so.

11. Identification of existing telecommunication facilities within a 2.5-mile radius of the proposed location of the new telecommunication facility, and an explanation of why co-location on these existing facilities, if any, is not feasible. This explanation shall include such technical information and other justifications as are necessary to document the reasons why co-location is not a viable option. The applicant shall provide a list of all existing structures considered as alternatives to the proposed location. The applicant shall also provide a written explanation why the alternatives considered were either unacceptable or infeasible. If an existing tower was listed among the alternatives, the applicant must specifically address why the modification of such tower is not a viable option. The written explanation shall also state the radio frequency coverage needs and objective(s) of the applicant.
12. A statement that the telecommunication facility is available for future co-location projects, or an explanation of why future co-location is not technologically feasible.
13. A Radio Frequency (RF) report describing the emissions of the proposed telecommunication facility and the anticipated increase in emissions associated with future co-location facilities.
14. The mandated use permit application fee, and other fees as applicable.

15. Depending on the nature and scope of the project, other application materials, including but not limited to a boundary and/or topographical survey, may be required.
16. Applications for the establishment of new telecommunication facilities inside Residential (R) zoning districts and General Plan land use designations shall be accompanied by a detailed alternatives analysis that demonstrates that there are no alternative non-residential sites or combination of sites available to eliminate or substantially reduce significant gaps in the applicant carrier's coverage network.

SECTION 6512.6. USE PERMIT TERM, RENEWAL AND EXPIRATION. Use permits for telecommunication facilities, including approval of the ten-year buildout plan as specified by Section 6512.5.B.10, shall be valid for ten years following the date of final approval. The applicant shall file for a renewal of the use permit and pay the applicable renewal application fees six months prior to expiration with the County Planning and Building Department, if continuation of the use is desired. In addition to providing the standard information and application fees required for a use permit renewal, telecommunication facility use permit renewal applications shall provide an updated buildout description prepared in accordance with the procedures established by Section 6512.5.B.10.

Renewals for use permits for existing telecommunication facilities constructed prior to the effective date of this chapter [date November 27, 2008] are subject to the provisions of Sections 6512 through 6512.5. Renewals of use permits approved after the effective date of this chapter shall only be approved if all conditions of the original use permit have been satisfied, and the ten-year buildout plan has been provided. If the use permit for an existing telecommunication facility has expired, applications for co-location at that site, as well as after-the-fact renewals of use permits for the existing telecommunication facilities, will be subject to the standards and procedures for new telecommunication facilities outlined in Sections 6512 through 6512.5.

SECTION 6513. PERMIT REQUIREMENTS AND STANDARDS FOR CO-LOCATION FACILITIES.

A. Co-location Facilities Requiring a Use Permit. In accordance with Section 65850.6 of the California Government Code, applications for co-location will be subject to the standards and procedures outlined for new telecommunication facilities, above (in Section 6512 through 6512.6), if any of the following apply:

1. No use permit was issued for the original telecommunication facility,
2. The use permit for the original telecommunication facility did not expressly allow for future co-location facilities or the extent of site improvements involved with the co-location project, or
3. No Environmental Impact Report (EIR) was certified, or no Negative Declaration or Mitigated Negative Declaration was adopted for the location of the original telecommunication facility that addressed the environmental impacts of future co-location of facilities.

B. Permit Requirements for Other Co-location Facilities. Applications for all other co-locations shall be subject to a building permit approval. Prior to the issuance of a building permit for co-location, the applicant shall demonstrate compliance with the conditions of approval, if any, of the original use permit, by submitting an application to the Planning and Building Department for an administrative review of the original use permit, including all information requests and all associated application fees, including specifically those for administrative review of a use permit, which fee shall be equivalent to the fee established for a use permit inspection.

SECTION 6513.1. DEVELOPMENT AND DESIGN STANDARDS FOR CO-LOCATION FACILITIES.

- A. The co-location facility must comply with all approvals and conditions of the underlying use permit for the telecommunication facility.
- B. ~~The adverse visual impact of utility structures must be minimized, in accordance with General Plan Policy 4.20 regarding utility structures, among other ways, shall be avoided by:~~ 1) maximizing the use of existing vegetation and natural features to cloak telecommunication facilities~~designing co-location facilities to blend in with the surrounding environment;~~ 2) constructing towers no taller than necessary to provide adequate coverage; When visual impacts cannot be avoided, they shall be minimized and mitigated by: ~~maximizing the use of existing vegetation and natural features to cloak telecommunication facilities;~~ a) screening co-location facilities with landscaping consisting of non-invasive and/or native plant material; and by b) painting all equipment to blend with existing landscape colors; and c) designing co-location facilities to blend in with the surrounding environment. Attempts to replicate trees or other natural objects shall be used as a last resort. ~~If the previously listed methods would not adequately comply with General Plan 4.20, the applicant may propose designs that camouflage towers and antennas as trees, chimneys, mansard-style roofs or other unobtrusive objects.~~ ~~To the extent feasible, the design of co-location facilities shall also be in visual harmony with the other telecommunication facility(ies) on the site. Landscaping shall be maintained by the owner and/or operator. The landscape screening requirement may be modified or waived by the Community Development Director or his/her designee in instances where it would not be appropriate or necessary, such as in a commercial or industrial area.~~

- C. Paint colors for the co-location facility shall minimize its visual impact by blending with the surrounding environment and/or buildings. Prior to the issuance of a building permit, the applicant shall submit color samples for the co-location facility. Paint colors shall be subject to the review and approval of the Planning and Building Department. Color verification shall occur in the field after the applicant has painted the equipment the approved color, but before the applicant schedules a final inspection.
- D. The exteriors of co-location facilities shall be constructed of non-reflective materials.
- E. The telecommunication facility shall comply with all the requirements of the underlying zoning district(s), including, but not limited to, setbacks, and Coastal Development Permit regulations in the CZ or CD zones.
- F. Except as otherwise provided below, ground-mounted towers, spires and similar structures may be built and used to a greater height than the limit established for the zoning district in which the structure is located; provided that no such exception shall cover, at any level, more than 15% in area of the lot nor have an area at the base greater than 1,600 sq. ft.; provided, further that no tower, spire or similar structure in any district shall ever exceed a maximum height of 150 feet.
1. In the PAD, RM, RM-CZ, TPZ and TPZ-CZ districts, in forested areas, no structure or appurtenance shall exceed the height of the forest canopy by more than 10% of the height of the forest canopy, or five feet, whichever is less.
 2. In any Residential (R) district, no monopole or antenna shall exceed the maximum height for structures allowed in that district, except that co-locations on an existing structure in the public right-of-way shall be allowed to exceed the maximum height for structures allowed in that district by 10% of the allowed height in that district, the height of the existing structure, or by five feet, whichever is less.

3. In any Residential (R) district, no monopole or antenna shall exceed the maximum height for structures allowed in that district, except that co-locations on an existing structure in the public right-of-way shall be allowed to exceed the maximum height for structures allowed in that district by 10% of the allowed height in that district.

G. In an Residential (R) district, ~~one (1)~~ accessory buildings, shelters, or cabinets in support of the operation of the telecommunication facility may be constructed, provided ~~it that they~~ complies with the provisions of Sections 6410 through 6411 regarding accessory buildings, except that the building coverage and floor area maximums shall apply to buildings, shelters, and cabinets in aggregate, rather than individually. If an accessory building not used in support of a telecommunication facility already exists on a parcel, no accessory building(s), shelter(s), or cabinet(s) in support of the operation of the telecommunication facility may be constructed. If an accessory building(s), shelter(s), or cabinet(s) in support of the operation of the telecommunication facility is(are) constructed on a parcel, no other accessory buildings not used in support of a telecommunication facility shall be constructed until the accessory building(s), shelter(s), or cabinet(s) in support of the operation of the telecommunication facility is(are) removed.

H. In any Residential (R) district, ground-mounted towers, spires and similar structures may be built and used provided that they shall not cover, in combination with any accessory building(s), shelter(s), or cabinet(s) in support of the operation of the telecommunication facility, more than 15% in area of the lot nor an area greater than 1,600 sq. ft. Buildings, shelters, and cabinets shall be grouped. Towers, spires, and poles shall also be grouped, to the extent feasible for the technology.

- I. Diesel generators shall not be ~~used~~installed as an emergency power source unless the use of electricity, natural gas, solar, wind or other renewable energy sources are not feasible. If a diesel generator is proposed, the applicant shall provide written documentation as to why the ~~use~~installation of options such as electricity, natural gas, solar, wind or other~~of a renewable energy sources~~ is~~is~~ not feasible.

- J. Expansion of co-location facilities beyond the footprint and height limit identified in the planned maximum ten-year buildout of the site as specified in Section 6512.5.B.10, or in the original use permit for the facility, shall not be subject to administrative review and shall instead comply with the use permit provisions for new telecommunication facilities in Sections 6512 through 6512.5, unless a minor change or expansion beyond these limits is determined to be a minor modification of the use permit by the Community Development Director. If the Community Development Director does determine that such change or expansion is a minor modification, the change or expansion shall instead be subject to the provisions of Sections 6513 through 6513.4.

SECTION 6513.2. PERFORMANCE STANDARDS FOR CO-LOCATION

FACILITIES. No use may be conducted in a manner that, in the determination of the Community Development Director, does not meet the performance standards below. Measurement, observation, or other means of determination must be made at the limits of the property, unless otherwise specified.

- A. Co-location facilities shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).

- B. The applicant shall receive and maintain approval from the Federal Communications Commission (FCC), the California Public Utilities Commission (CPUC) and any other applicable regulatory bodies prior to initiating the operation of the co-location facility. Upon receipt of each of these approvals, the applicant shall supply the Planning and Building Department with copies of them. If these approvals are ever revoked, the applicant shall inform the Planning and Building Department of the revocation within ten (10) days of receiving notice of such revocation.

- C. The project's final inspection approval shall be dependent upon the applicant obtaining a permanent and operable power connection from the applicable energy provider.

- D. The co-location facility and all equipment associated with it shall be removed in its entirety by the applicant within 90 days if the FCC and/or CPUC permits are revoked or the facility is abandoned or no longer needed, and the site shall be restored and revegetated to blend with the surrounding area. The owner and/or operator of the telecommunication facility shall notify the County Planning Department upon abandonment of the facility. Restoration and revegetation shall be completed within two months of the removal of the facility.

- E. Co-location facility maintenance shall implement visual resource protection requirements of Section 6513.1.B, and C above (e.g., landscape maintenance and painting).

- F. Road access shall be maintained over the life of the project to avoid erosion, as well as to minimize sedimentation in nearby streams.

- G. The use of diesel generators or any other emergency backup energy source shall comply with the San Mateo County Noise Ordinance.

SECTION 6513.3. ADDITIONAL REQUIREMENTS AND STANDARDS FOR CO-LOCATION FACILITIES IN THE COASTAL ZONE.

- A. Co-location facilities located between the first public road and the sea, or on the seaward side of Highway 1 in rural areas, shall only be allowed if the facility is not visible from a public location, or will be attached to an existing structure in a manner that does not significantly alter the appearance of the existing structure.
- B. Co-location facilities shall comply with all applicable policies, standards, and regulations of the Local Coastal Program (LCP) and the CZ or CD Zoning Districts, except that no public hearing shall be required.

SECTION 6513.4. APPLICATION REQUIREMENTS FOR CO-LOCATION FACILITIES. Applicants that qualify for administrative review of co-location facilities in accordance with Section 6513 shall be required to submit the following:

- A. A completed Planning Permit application form.
- B. Proof of ownership or statement of consent from the owner of the property and/or the primary operator of the telecommunication facility where the co-location is proposed.
- C. A site plan showing existing and proposed telecommunication facilities.
- D. Elevation drawing(s) showing existing and proposed telecommunication facilities.
- E. A completed Environmental Information Disclosure Form.
- F. A construction and erosion control plan.
- G. A maintenance and access plan that identifies any changes to the original maintenance and access plan associated with the existing telecommunication facility or use permit.

- H. A Radio Frequency (RF) report demonstrating that the emissions from the co-location equipment as well as the cumulative emissions from the co-location equipment and the existing facility will not exceed the limits established by the Federal Communications Commission (FCC) and the use permit for the existing telecommunication facility.
- I. The mandated administrative review fee, and other fees as applicable.
- J. Prior to the issuance of a building permit, the applicant shall submit color samples for the co-location equipment. Paint colors shall be subject to the review and approval of the Planning and Building Department. Color verification shall occur in the field after the applicant has painted the equipment the approved color, but before the applicant schedules a final inspection.

SECTION 6514. SEVERABILITY. If any provision of this Chapter 24.5 to Division VI, Part One, of the San Mateo County Ordinance Code (Zoning Regulations) or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 2. Outside of the Coastal Zone, this ordinance shall be in full force and effect 30 days after adoption by the San Mateo County Board of Supervisors. Within the Coastal Zones (CZ or CD), this ordinance shall take force and effect immediately upon final certification by the Coastal Commission.

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ORDINANCE NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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**AN ORDINANCE ADDING CHAPTER 24.5 TO DIVISION VI, PART ONE, OF THE
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ESTABLISH REGULATIONS FOR TELECOMMUNICATION FACILITIES**

The Board of Supervisors of the County of San Mateo, State of California,
ORDAINS as follows:

SECTION 1. The San Mateo County Ordinance Code, Division VI, Part One, is hereby amended to add Chapter 24.5, Sections 6510 through 6513.3, as follows:

CHAPTER 24.5. TELECOMMUNICATION FACILITIES

SECTION 6510. PURPOSE. The purpose of this chapter is to establish regulations for the establishment of wireless telecommunication facilities within the unincorporated area of San Mateo County, consistent with the General Plan, and with the intent to:

- A. Allow for the provision of wireless communications services adequate to serve the public's interest within the County.
- B. Require, to the maximum extent feasible, the ~~collocation~~co-location of telecommunication facilities.
- C. Encourage and require, to the maximum extent feasible, the location of new telecommunication facilities in areas where negative external impacts will be minimized.
- D. Protect and enhance public health, safety, and welfare.
- E. Conform to applicable Federal and State laws.

SECTION 6511. DEFINITIONS. For purposes of this chapter, the following terms shall have the meanings set forth below:

- A. "Abandoned." A facility shall be considered abandoned if it is not in use for six consecutive months.
- B. "Administrative review" means consideration of a proposed ~~collocation~~co-location facility by staff for consistency with the requirements of this chapter, the consideration of which shall be ministerial in nature, shall not include conditions of approval, and shall not include a public hearing.
- C. "~~Collocation~~Co-location" means the placement or installation of wireless telecommunication facilities, including antennas and related equipment on, or immediately adjacent to, an existing wireless telecommunication facility.
- D. "~~Collocation~~Co-location facility" means a telecommunication facility that has ~~been collocated~~ co-located consistent with the meaning of "~~collocation~~co-location" as defined in Section 6511.BC. It does not include the initial installation of a new telecommunication facility that will support multiple service providers.
- E. "Telecommunication facility" means equipment installed for the purpose of providing wireless transmission of voice, data, images, or other information including, but not limited to, cellular telephone service, personal communications services, and paging services, consisting of equipment and network components such as towers, utility poles, transmitters, base stations, and emergency power systems. Telecommunication facility does not include radio or television transmission facilities.

SECTION 6512. PERMIT REQUIREMENTS AND STANDARDS FOR NEW TELECOMMUNICATION FACILITIES THAT ARE NOT COLLOCATIONCO-LOCATION FACILITIES. All new telecommunication facilities that are not ~~collocation~~co-location facilities must meet the following standards and requirements:

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SECTION 6512.2. DEVELOPMENT AND DESIGN STANDARDS FOR NEW TELECOMMUNICATION FACILITIES THAT ARE NOT COLLOCATION/CO-LOCATION FACILITIES. All new telecommunication facilities must meet the following minimum standards. Where appropriate, more restrictive requirements may be imposed as a condition of use permit approval.

- A. New telecommunication facilities shall not be located in a Sensitive Habitat, as defined by Policy 1.8 of the General Plan (Definition of Sensitive Habitats) for facilities proposed outside of the Coastal Zone, and by Policy 7.1 of the Local Coastal Program (Definition of Sensitive Habitats) for facilities proposed in the Coastal Zone.
- B. New telecommunication facilities shall not be located in areas zoned Residential (R), unless the applicant demonstrates, by a preponderance of the evidence, that a review has been conducted of other options, and no other sites or combination of sites allows feasible service or adequate coverage. This review shall include, but is not limited to, identification of alternative site(s) within 2.5 miles of the proposed facility. See Section 6512.5.B.11 for additional application requirements.
- C. New telecommunication facilities shall not be located in areas where ~~collocation~~co-location on existing facilities would provide equivalent coverage.
- D. New telecommunication facilities must be constructed so as to physically and structurally accommodate ~~collocation~~co-location, and must be made available for ~~collocation~~co-location unless technologically unfeasible.
- E. The adverse visual impact of utility structures shall be avoided by: ~~must be minimized, in accordance with General Plan Policy 4.20 regarding utility structures, among other ways, by:~~ (1) siting new telecommunication facilities outside of public viewshed; (2) maximizing the use of existing

vegetation and natural features to cloak telecommunication facilities; and (3) constructing towers no taller than necessary to provide adequate coverage. When visual impacts cannot be avoided, they shall be minimized and mitigated by: (a) screening telecommunication facilities with landscaping consisting of non-invasive and/or native plant material; (b) painting all equipment to blend with existing landscape colors; and (c) designing telecommunication facilities to blend in with the surrounding environment. Attempts to replicate trees or other natural objects shall be used as a last resort. (e.g., through the use of designs that camouflage towers and antennas as trees, chimneys, mansard style roofs or other unobtrusive objects); constructing towers no taller than necessary to provide adequate coverage; painting all equipment to blend with existing landscape colors; maximizing the use of existing vegetation and natural features to cloak telecommunication facilities; and/or screening telecommunication facilities with landscaping consisting of non-invasive and/or native plant material; and painting all equipment to blend with existing landscape colors. If the previously listed methods would not adequately comply with General Plan 4.20, the applicant may propose designs that camouflage towers and antennas as trees, chimneys, mansard style roofs or other unobtrusive objects. Landscaping shall be maintained by the property or facility owner and/or operator. The landscape screening requirement may be modified or waived by the Community Development Director or his/her designee in instances where it would not be appropriate or necessary, such as in a commercial or industrial area.

- F. Paint colors for the telecommunication facility shall minimize its visual impact by blending with the surrounding environment and/or buildings. Prior to the issuance of a building permit, the applicant shall submit color samples for the telecommunication facility. Paint colors shall be subject to the review and approval of the Planning and Building Department. Color verification shall occur in the field after the applicant has painted the equipment the approved color, but before the applicant schedules a final inspection.
- G. The exteriors of telecommunication facilities shall be constructed of non-reflective materials.

H. The telecommunication facility shall comply with all the requirements, of the underlying zoning district(s), including, but not limited to, setbacks, Design Review in the DR district(s), Architectural Review in designated Scenic Corridors, and Coastal Development Permit regulations in the CZ or CD zones.

I. Except as otherwise provided below, in accordance with Section 6405 of the Zoning Regulations, ground-mounted towers, spires and similar structures may be built and used to a greater height than the limit established for the zoning district in which the structure is located; provided that no such exception shall cover, at any level, more than 15% in area of the lot nor have an area at the base greater than 1,600 sq. ft.; provided, further that no tower, spire or similar structure in any district except an A-1, A-2, PAD, RM, RM-CZ, TPZ, TPZ-CZ, or M-2 District shall ever exceed a maximum height of 150 feet.

1. In the PAD, RM, RM-CZ, TPZ, and TPZ-CZ districts, in forested areas, no structure or appurtenance shall exceed the height of the forest canopy.

2. In any Residential (R) district, no monopole or antenna shall exceed the maximum height for structures allowed in that district, except that co-locations on an existing structure in the public right-of-way shall be allowed to exceed the maximum height for structures allowed in that district by 10% of the allowed height in that district.

3. A building-mounted wireless telecommunication facility shall not exceed the maximum height allowed in the applicable zoning district, or 16 feet above the building roofline, whichever is higher, except that in any Residential (R) district, no monopole or antenna shall exceed the maximum height for structures allowed in that district.

J. In any Residential (R) district, one (1) accessory building, shelter, or cabinet in support of the operation of the telecommunication facility may be constructed, provided it complies with the provisions of Sections 6410 through 6411 regarding accessory buildings. If an accessory building already exists on the parcel, no accessory building, shelter, or cabinet in support of the operation of the telecommunication facility may be constructed. If an accessory building, shelter, or cabinet in support of the operation of the telecommunication facility is constructed, no other

accessory buildings shall be constructed until the accessory building, shelter, or cabinet in support of the operation of the telecommunication facility is removed.

K. In any Residential (R) district, ground-mounted towers, spires and similar structures may be built and used provided that they shall not cover, in combination with any accessory building, shelter, or cabinet in support of the operation of the telecommunication facility, more than 15% in area of the lot nor an area greater than 1,600 sq. ft.

L. Diesel generators shall not be used as an emergency power source unless the use of solar, wind or other renewable energy sources are not feasible. If a diesel generator is proposed, the applicant shall provide written documentation as to why the use of a renewable energy source is not feasible.

SECTION 6512.3. PERFORMANCE STANDARDS FOR NEW TELECOMMUNICATION FACILITIES THAT ARE NOT COLLOCATION/CO-LOCATION FACILITIES.

No use may be conducted in a manner that, in the determination of the Community Development Director, does not meet the performance standards below. Measurement, observation, or other means of determination must be made at the limits of the property, unless otherwise specified.

- A. Telecommunication facilities shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).
- B. The applicant shall receive and maintain approval from the Federal Communications Commission (FCC), the California Public Utilities Commission (CPUC) and any other applicable regulatory bodies prior to initiating the operation of the telecommunication facility. Upon receipt of each of these approvals, the applicant shall supply the Planning and Building Department with copies of them. If these approvals are ever revoked, the applicant shall inform the Planning and Building Department of the revocation within ten (10) days of receiving notice of such revocation.
- C. Once a use permit is obtained, the applicant shall obtain a building permit and build in accordance with the approved plans.

- D. The project's final inspection approval shall be dependent upon the applicant obtaining a permanent and operable power connection from the applicable energy provider.
- E. The telecommunication facility and all equipment associated with it shall be removed in its entirety by the applicant within ~~180-90~~ days when this technology becomes obsolete, if the FCC and/or CPUC permits are revoked, or the facility is abandoned or no longer needed, and the site shall be restored and revegetated to blend with the surrounding area. The owner and/or operator of the telecommunication facility shall notify the County Planning Department upon abandonment of the facility. Restoration and revegetation shall be completed within two months of the removal of the facility.
- F. Telecommunication facilities shall be maintained by the permittee(s) and subsequent owners in a manner that implements visual resource protection requirements of Section 6512.2.E, and F above (e.g., landscape maintenance and painting), as well as all other applicable zoning standards and permit conditions.
- G. Road access shall be designed, constructed, and maintained over the life of the project to avoid erosion, as well as to minimize sedimentation in nearby streams.
- H. A grading permit may be required, per Sections 8600-8609 of the County Ordinance Code. All grading, construction and maintenance activities associated with the proposed project shall be limited from 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday or as further restricted by the terms of the use permit. Construction activities will be prohibited on Sunday and any nationally observed holiday. Noise levels produced by construction activities shall not exceed 80-dBA at any time.
- I. The use of diesel generators or any other emergency backup energy source shall comply with the San Mateo County Noise Ordinance.

SECTION 6512.4. ADDITIONAL REQUIREMENTS AND STANDARDS FOR TELECOMMUNICATION FACILITIES IN THE COASTAL ZONE.

- A. New telecommunication facilities shall not be located between the first public road and the sea, or on the seaward side of Highway 1 in rural areas,

unless no feasible alternative exists, the facility is not visible from a public location, or will be attached to an existing structure in a manner that does not significantly alter the appearance of the existing structure.

- B. New telecommunication facilities shall comply with all applicable policies, standards, and regulations of the Local Coastal Program (LCP) and the CZ or CD Zoning Districts.

SECTION 6512.5. APPLICATION REQUIREMENTS FOR NEW TELECOMMUNICATION FACILITIES THAT ARE NOT COLLOCATION CO-LOCATION FACILITIES.

- A. A Major Development Pre-Application will be required for all new telecommunication facilities in accordance with the procedures outlined in Sections 6415.0 through 6415.4 of the San Mateo County Zoning Regulations, unless there is an existing telecommunication facility within a 1-mile radius of the proposed facility. This requirement may be waived at the discretion of the Community Development Director or his/her designee.
- B. In addition to the requirements set for in Chapter 24, Use Permits, applicants for new telecommunication facilities shall submit the following materials regarding the proposed telecommunication facility:
 - 1. A completed Planning Permit application form.
 - 2. A completed Use Permit for a Cellular or Other Personal Telecommunication Facility Form.
 - 3. A completed Environmental Information Disclosure Form.
 - 4. Proof of ownership or statement of consent from the owner of the property.
 - 5. A site plan, including a landscape plan (if appropriate under the provision of Section 6512.2.E), and provisions for access.
 - 6. Elevation drawing(s).
 - 7. Photo simulation(s) of the telecommunication facility from reasonable line-of-sight locations from public roads or viewing locations.

8. A construction and erosion control plan.
9. A maintenance plan detailing the type and frequency of required maintenance activities, including maintenance of the access road.
10. A description of the planned maximum ~~ten~~¹⁰-year buildout of the site for the applicant's telecommunication facilities, including, to the extent possible, the full extent of telecommunication facility expansion associated with future ~~collocation~~co-location facilities by other telecommunication facility operators. The applicant shall contact all other telecommunication service providers in the County to determine the demand for future ~~collocation~~co-locations at the proposed site, and shall provide written evidence that these consultations have taken place, and a summary of the results, at the time of application. The location, footprint, maximum tower height, and general arrangement of future ~~collocation~~co-locations shall be identified. If future ~~collocation~~co-locations are not technically feasible, an explanation shall be provided of why this is so.
11. Identification of existing telecommunication facilities within a 2.5-mile radius of the proposed location of the new telecommunication facility, and an explanation of why ~~collocation~~co-location on these existing facilities, if any, is not feasible. This explanation shall include such technical information and other justifications as are necessary to document the reasons why co-location is not a viable option. The applicant shall provide a list of all existing structures considered as alternatives to the proposed location. The applicant shall also provide a written explanation why the alternatives considered were either unacceptable or infeasible. If an existing tower was listed among the alternatives, the applicant must specifically address why the modification of such tower is not a viable option. The written explanation shall also state the radio frequency coverage needs and objective(s) of the applicant.
12. A statement that the telecommunication facility is available for future collocationco-location projects, or an explanation of why future collocationco-location is not technologically feasible.

13. A Radio Frequency (RF) report describing the emissions of the proposed telecommunication facility and the anticipated increase in emissions associated with future co-location facilities.
14. The mandated use permit application fee, and other fees as applicable.
15. Depending on the nature and scope of the project, other application materials, including but not limited to a boundary and/or topographical survey, may be required.
16. Applications for the establishment of new telecommunication facilities inside Residential (R) zoning districts and General Plan land use designations shall be accompanied by a detailed alternatives analysis that demonstrates that there are no alternative non-residential sites or combination of sites available to eliminate or substantially reduce significant gaps in the applicant carrier's coverage network.

SECTION 6512.6. USE PERMIT TERM AND, RENEWAL AND EXPIRATION.

Use permits for telecommunication facilities, including approval of the ten-year buildout plan as specified by Section 6512.5.B.10, shall be valid for ten years following the date of final approval. The applicant shall file for a renewal of the use permit and pay the applicable renewal application fees six months prior to expiration with the County Planning and Building Department, if continuation of the use is desired. In addition to providing the standard information and application fees required for a use permit renewal, telecommunication facility use permit renewal applications shall provide an updated buildout description prepared in accordance with the procedures established by Section 6512.5.B.10.

Renewals for use permits for existing telecommunication facilities constructed prior to the effective date of this chapter [date] are subject to the provisions of Sections 6512 through 6512.5. Renewals of use permits approved after the effective date of this chapter shall only be approved if all conditions of the original use permit have been satisfied, and the ten-year buildout plan has been provided. If the use permit for an existing telecommunication facility has expired, applications for co-location at that site, as well as after-the-fact renewals of use permits for the existing telecommunication facilities, will be subject to the standards and procedures for new telecommunication facilities outlined in Sections 6512 through 6512.5.

SECTION 6513. PERMIT REQUIREMENTS AND STANDARDS FOR COLLOCATIONCO-LOCATION FACILITIES.

- A. CollocationCo-location Facilities Requiring a Use Permit. In accordance with Section 65850.6 of the California Government Code, applications for collocationco-location will be subject to the standards and procedures outlined for new telecommunication facilities, above (in Section 6512 through 6512.6), if any of the following apply:
1. No use permit was issued for the original telecommunication facility,
 2. The use permit for the original telecommunication facility did not expressly allow for future collocationco-location facilities or the extent of site improvements involved with the collocationco-location project, or
 3. No Environmental Impact Report (EIR) was certified, or no Negative Declaration or Mitigated Negative Declaration was adopted for the location of the original telecommunication facility that addressed the environmental impacts of future collocationco-location of facilities.
- B. Permit Requirements for Other CollocationCo-location Facilities. Applications for all other collocationco-locations shall be subject to a building permit approval. Prior to the issuance of a building permit for collocationco-location, the applicant shall demonstrate compliance with the conditions of approval, if any, of the original use permit, by submitting an application to the Planning and Building Department for an administrative review of the original use permit, including all information requests and all associated application fees, including specifically those for administrative review of a use permit, which fee shall be equivalent to the fee established for a use permit inspection.

SECTION 6513.1. DEVELOPMENT AND DESIGN STANDARDS FOR COLLOCATIONCO-LOCATION FACILITIES.

- A. The collocationco-location facility must comply with all approvals and conditions of the underlying use permit for the telecommunication facility.
- B. The adverse visual impact of utility structures must be minimized, in accordance with General Plan Policy 4.20 regarding utility structures,

among other ways, by: designing collocation-co-location facilities to blend in with the surrounding environment; ~~(e.g., through the use of designs that camouflage towers and antennas as trees, chimneys, mansard-style roofs or other unobtrusive objects, and/or by constructing towers no taller than necessary to provide adequate coverage;~~ maximizing the use of existing vegetation and natural features to cloak telecommunication facilities; ~~and/or by painting all equipment to blend with existing landscape colors) and/or screening collocation-co-location facilities with landscaping consisting of non-invasive and/or native plant material; and/or by painting all equipment to blend with existing landscape colors.~~ If the previously listed methods would not adequately comply with General Plan 4.20, the applicant may propose designs that camouflage towers and antennas as trees, chimneys, mansard-style roofs or other unobtrusive objects. To the extent feasible, the design of co-location facilities shall also be in visual harmony with the other telecommunication facility(ies) on the site. Landscaping shall be maintained by the owner and/or operator. The landscape screening requirement may be modified or waived by the Community Development Director or his/her designee in instances where it would not be appropriate or necessary, such as in a commercial or industrial area.

- C. Paint colors for the collocation-co-location facility shall minimize its visual impact by blending with the surrounding environment and/or buildings. Prior to the issuance of a building permit, the applicant shall submit color samples for the collocation-co-location facility. Paint colors shall be subject to the review and approval of the Planning and Building Department. Color verification shall occur in the field after the applicant has painted the equipment the approved color, but before the applicant schedules a final inspection.
- D. The exteriors of collocation-co-location facilities shall be constructed of non-reflective materials.
- E. The telecommunication facility shall comply with all the requirements of the underlying zoning district(s), including, but not limited to, setbacks, and Coastal Development Permit regulations in the CZ or CD zones.
- F. Except as otherwise provided below, in accordance with Section 6405 of the Zoning Regulations, ground-mounted towers, spires and similar structures may be built and used to a greater height than the limit established for the zoning district in which the structure is located; provided

that no such exception shall cover, at any level, more than 15% in area of the lot nor have an area at the base greater than 1,600 sq. ft.; provided, further that no tower, spire or similar structure in any district ~~except an A-1, A-2, PAD, RM, RM-CZ, TPZ, TPZ-CZ, or M-2 District~~ shall ever exceed a maximum height of 150 feet.

1. In the PAD, RM, RM-CZ, TPZ and TPZ-CZ districts, in forested areas, no structure or appurtenance shall exceed the height of the forest canopy.
 2. In any Residential (R) district, no monopole or antenna shall exceed the maximum height for structures allowed in that district, except that co-locations on an existing structure in the public right-of-way shall be allowed to exceed the maximum height for structures allowed in that district by 10% of the allowed height in that district.
 3. In any Residential (R) district, no monopole or antenna shall exceed the maximum height for structures allowed in that district, except that co-locations on an existing structure in the public right-of-way shall be allowed to exceed the maximum height for structures allowed in that district by 10% of the allowed height in that district.
- G. In an Residential (R) district, one (1) accessory building, shelter, or cabinet in support of the operation of the telecommunication facility may be constructed, provided it complies with the provisions of Sections 6410 through 6411 regarding accessory buildings. If an accessory building already exists on the parcel, no accessory building, shelter, or cabinet in support of the operation of the telecommunication facility may be constructed. If an accessory building, shelter, or cabinet in support of the operation of the telecommunication facility is constructed, no other accessory buildings shall be constructed until the accessory building, shelter, or cabinet in support of the operation of the telecommunication facility is removed.
- H. In any Residential (R) district, ground-mounted towers, spires and similar structures may be built and used provided that they shall not cover, in combination with any accessory building, shelter, or cabinet in support of the operation of the telecommunication facility, more than 15% in area of the lot nor an area greater than 1,600 sq. ft.

- I. Diesel generators shall not be used as an emergency power source unless the use of solar, wind or other renewable energy sources are not feasible. If a diesel generator is proposed, the applicant shall provide written documentation as to why the use of a renewable energy source is not feasible.

- J. Expansion of ~~collocation~~co-location facilities beyond the footprint and height limit identified in the planned maximum ~~ten~~40-year buildout of the site as specified in Section 6512.5.B.10, or in the original use permit for the facility, shall not be subject to administrative review and shall instead comply with the use permit provisions for new telecommunication facilities in Sections 6512 through 6512.5, unless expansion beyond these limits is determined to be a minor modification of the use permit by the Community Development Director. If the Community Development Director does determine that such expansion is a minor modification, the expansion shall instead be subject to the provisions of Sections 6513 through 6513.4. ~~If such expansion beyond these limits is proposed, a use permit under the provisions of Section 6512 shall be required.~~

SECTION 6513.2. PERFORMANCE STANDARDS FOR COLLOCATIONCO-LOCATION FACILITIES. No use may be conducted in a manner that, in the determination of the Community Development Director, does not meet the performance standards below. Measurement, observation, or other means of determination must be made at the limits of the property, unless otherwise specified.

- A. ~~Collocation~~Co-location facilities shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).

- B. The applicant shall receive and maintain approval from the Federal Communications Commission (FCC), the California Public Utilities Commission (CPUC) and any other applicable regulatory bodies prior to initiating the operation of the ~~collocation~~co-location facility. Upon receipt of each of these approvals, the applicant shall supply the Planning and Building Department with copies of them. If these approvals are ever revoked, the applicant shall inform the Planning and Building Department of the revocation within ten (10) days of receiving notice of such revocation.

- C. The project's final inspection approval shall be dependent upon the applicant obtaining a permanent and operable power connection from the applicable energy provider.
- D. ~~The collocation~~co-location facility and all equipment associated with it shall be removed in its entirety by the applicant within ~~180-90~~ days when ~~this technology becomes obsolete or if the FCC and/or CPUC permits are revoked or the facility is abandoned or no longer needed,~~ and the site shall be restored and revegetated to blend with the surrounding area. The owner and/or operator of the telecommunication facility shall notify the County Planning Department upon abandonment of the facility. Restoration and revegetation shall be completed within two months of the removal of the facility.
- E. ~~Collocation~~Co-location facility maintenance shall implement visual resource protection requirements of Section 65132.12.BE, and CF above (e.g., landscape maintenance and painting).
- F. Road access shall be maintained over the life of the project to avoid erosion, as well as to minimize sedimentation in nearby streams.
- G. The use of diesel generators or any other emergency backup energy source shall comply with the San Mateo County Noise Ordinance.

SECTION 6513.3. ADDITIONAL REQUIREMENTS AND STANDARDS FOR CO-LOCATION FACILITIES IN THE COASTAL ZONE.

- A. Co-location facilities located between the first public road and the sea, or on the seaward side of Highway 1 in rural areas, shall only be allowed if the facility is not visible from a public location, or will be attached to an existing structure in a manner that does not significantly alter the appearance of the existing structure.
- B. Co-location facilities shall comply with all applicable policies, standards, and regulations of the Local Coastal Program (LCP) and the CZ or CD Zoning Districts, except that no public hearing shall be required.

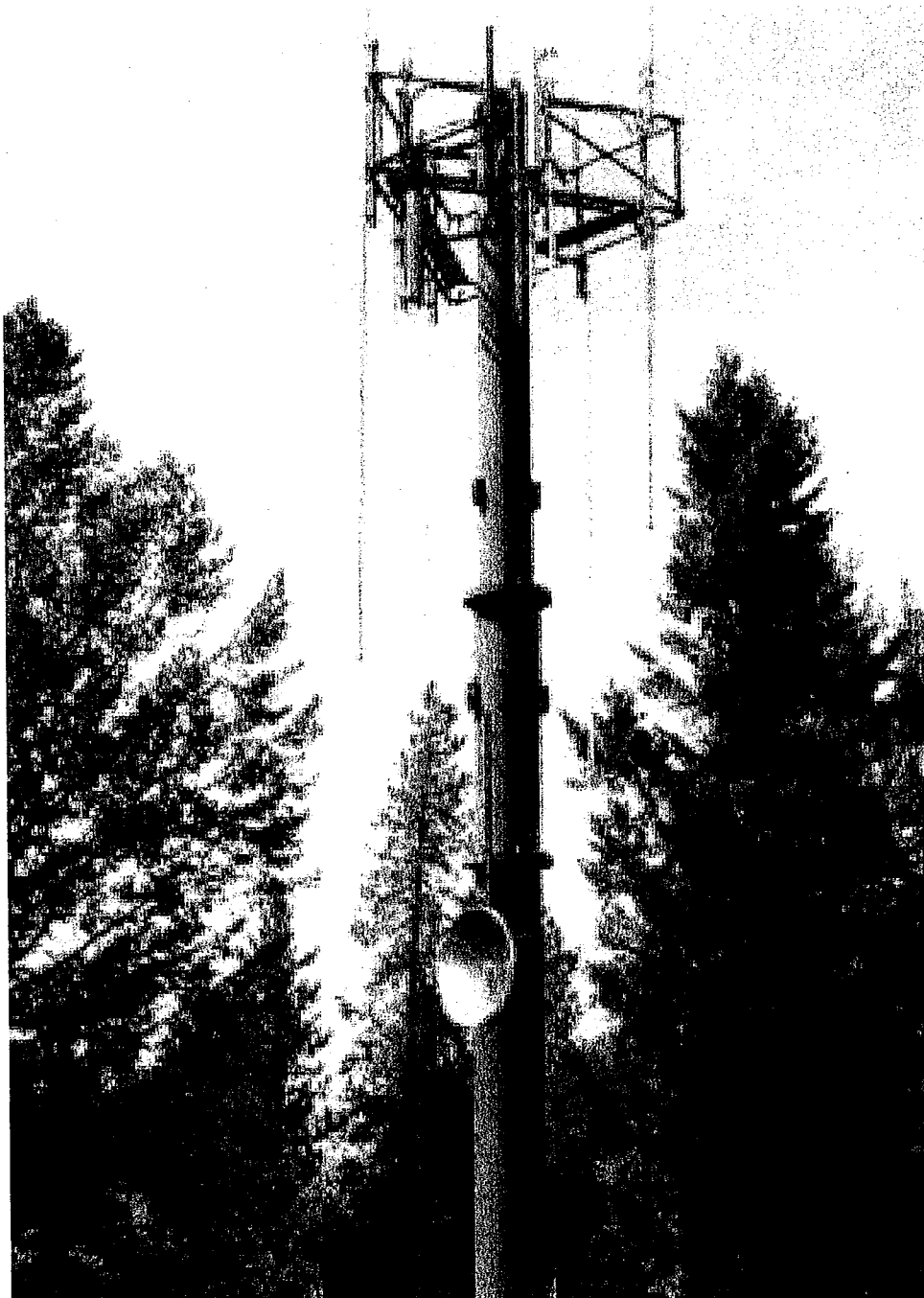
SECTION 6513.34. APPLICATION REQUIREMENTS FOR COLLOCATION/CO-LOCATION FACILITIES. Applicants that qualify for administrative review of collocation/co-location facilities in accordance with Section 6513 shall be required to submit the following:

- A. A completed Planning Permit application form.
- B. Proof of ownership or statement of consent from the owner of the property and/or the primary operator of the telecommunication facility where the collocation/co-location is proposed.
- C. A site plan showing existing and proposed telecommunication facilities.
- D. Elevation drawing(s) showing existing and proposed telecommunication facilities.
- E. A completed Environmental Information Disclosure Form.
- F. A construction and erosion control plan.
- G. A maintenance and access plan that identifies any changes to the original maintenance and access plan associated with the existing telecommunication facility or use permit.
- H. A Radio Frequency (RF) report demonstrating that the emissions from the collocation/co-location equipment will not exceed the limits established by the Federal Communications Commission (FCC) and the use permit for the existing telecommunication facility.
- I. The mandated administrative review fee, and other fees as applicable.
- J. Prior to the issuance of a building permit, the applicant shall submit color samples for the collocation/co-location equipment. Paint colors shall be subject to the review and approval of the Planning and Building Department. Color verification shall occur in the field after the applicant has painted the equipment the approved color, but before the applicant schedules a final inspection.

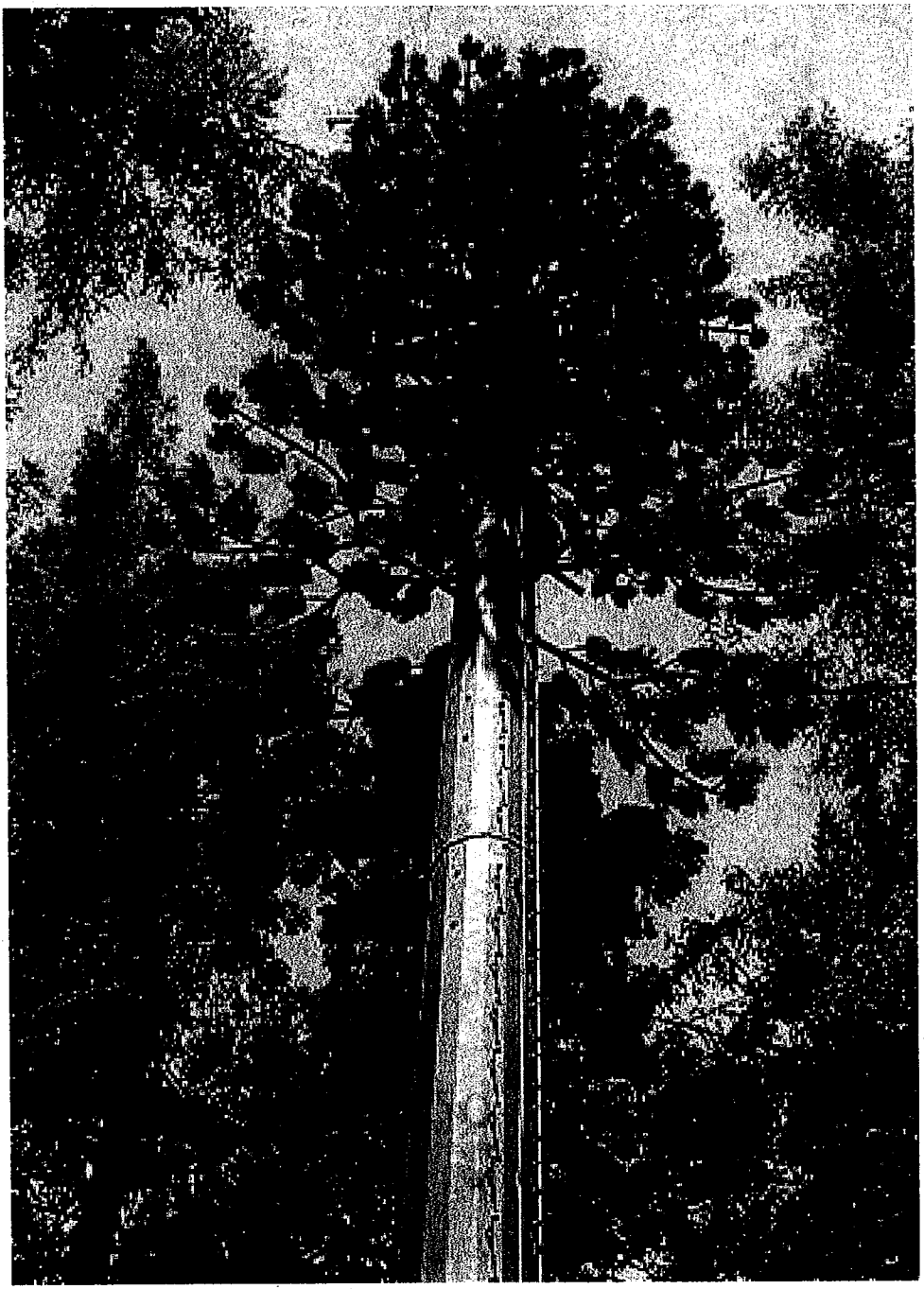
SECTION 2. Outside of the Coastal Zone, this ordinance shall be in full force and effect 30 days after adoption by the San Mateo County Board of Supervisors. Within the Coastal Zones (CZ or CD), this ordinance shall take force and effect immediately upon final certification by the Coastal Commission.

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ATTACHMENT F



ATTACHMENT G



INITIAL STUDY
ENVIRONMENTAL EVALUATION CHECKLIST
(To Be Completed By Planning Department)

FILED ENDORSED
IN THE OFFICE OF THE
COUNTY CLERK/RECORDER OF
SAN MATEO COUNTY, CALIF.

APR 16 2008

WARREN S. MADRILENE BRIDLEY
COUNTY CLERK

I. BACKGROUND

Project Title: Telecommunication Facilities Ordinance
File No.: PLN 2008-00048
Project Location: San Mateo County; Countywide
Assessor's Parcel No.: N/A
Applicant/Owner: San Mateo County Planning and Building Department
Date Environmental Information Form Submitted: N/A

PROJECT DESCRIPTION

The project is a proposed text amendment (the "Telecommunication Facilities Ordinance") to the Zoning Regulations that would establish specific regulations for wireless telecommunication facilities in the unincorporated areas of the County.

Current regulations generally require a use permit for the establishment of new telecommunication facilities, a use permit amendment for collocations at existing facilities, and a use permit renewal for continued operation of the facility after a five or sometimes ten-year period. These facilities are currently regulated by the general Use Permit Regulations in Chapter 24 of the Zoning Regulations – there are no regulations specific to telecommunication facilities.

The proposed text amendment to the Zoning Regulations would establish specific regulations for wireless telecommunication facilities in the unincorporated areas of the County. The purpose of the proposed regulations would be to allow for the provision of adequate wireless communications services in the County, require the collocation of facilities where feasible, encourage the location of new facilities in areas where negative external impacts would be minimized, protect and enhance public health, safety, and welfare, and conform to applicable Federal and State laws. The proposal sets standards and requirements for the location of new facilities, including minimizing visual impact and avoiding impacts to sensitive habitats. It also specifies application requirements for new facilities. It facilitates the collocation of facilities at existing locations, by allowing collocation applications to be approved ministerially, without a public hearing.

Telecommunication facilities are currently allowed in all zoning districts in the County, subject to the regulations and approvals pertinent to the district in question. The proposed ordinance is intended to provide additional controls over the type, design and location of facilities, additional protections for the public and the natural environment, and additional methods of monitoring and regulating ongoing operations and maintenance of facilities.

II. ENVIRONMENTAL ANALYSIS

Any controversial answers or answers needing clarification are explained on an attached sheet. For source, refer to pages 11 and 12.

	IMPACT					SOURCE
	NO	YES			Cumulative	
		Not Significant	Significant Unless Mitigated	Significant		
1. LAND SUITABILITY AND GEOLOGY						
Will (or could) this project:						
a. Involve a unique landform or biological area, such as beaches, sand dunes, marshes, tidelands, or San Francisco Bay?		X				B,F,O,Q
b. Involve construction on slope of 15% or greater?		X				E,Q
c. Be located in an area of soil instability (subsidence, landslide or severe erosion)?		X				B,D,Q
d. Be located on, or adjacent to a known earthquake fault?		X				B,D
e. Involve Class I or Class II Agriculture Soils and Class III Soils rated good or very good for artichokes or Brussels sprouts?		X				M,Q
f. Cause erosion or siltation?		X				M,Q
g. Result in damage to soil capability or loss of agricultural land?		X				M,Q
h. Be located within a flood hazard area?		X				G,Q
i. Be located in an area where a high water table may adversely affect land use?		X				D,Q
j. Affect a natural drainage channel or streambed, or watercourse?		X				Q

	IMPACT					SOURC
	NO	Not Significant	YES		Cumulative	
			Significant Unless Mitigated	Significant		
2. <u>VEGETATION AND WILDLIFE</u>						
Will (or could) this project:						
a. Affect federal or state listed rare or endangered species of plant life in the project area?		X				F
b. Involve cutting of heritage or significant trees as defined in the County Heritage Tree and Significant Tree Ordinance?		X				Q
c. Be adjacent to or include a habitat food source, water source, nesting place or breeding place for a federal or state listed rare or endangered wildlife species?		X				F
d. Significantly affect fish, wildlife, reptiles, or plant life?		X				Q
e. Be located inside or within 200 feet of a marine or wildlife reserve?		X				E,F,O
f. Infringe on any sensitive habitats?	X					F
g. Involve clearing land that is 5,000 sq. ft. or greater (1,000 sq. ft. within a County Scenic Corridor), that has slopes greater than 20% or that is in a sensitive habitat or buffer zone?		X				F,B
3. <u>PHYSICAL RESOURCES</u>						
Will (or could) this project:						
a. Result in the removal of a natural resource for commercial purposes (including rock, sand, gravel, oil, trees, minerals or topsoil)?	X					Q

	IMPACT					SOURCE
	NO	YES			Cumulative	
		Not Significant	Significant Unless Mitigated	Significant		
b. Involve grading in excess of 150 cubic yards?		X				Q
c. Involve lands currently protected under the Williamson Act (agricultural preserve) or an Open Space Easement?		X				L
d. Affect any existing or potential agricultural uses?		X				K,M,Q
4. <u>AIR QUALITY, WATER QUALITY, SONIC</u>						
Will (or could) this project:						
a. Generate pollutants (hydrocarbon, thermal odor, dust or smoke particulates, radiation, etc.) that will violate existing standards of air quality on-site or in the surrounding area?	X					N,R
b. Involve the burning of any material, including brush, trees and construction materials?	X					Q
c. Be expected to result in the generation of noise levels in excess of those currently existing in the area, after construction?	X					Ba
d. Involve the application, use or disposal of potentially hazardous materials, including pesticides, herbicides, other toxic substances, or radioactive material?		X				Q
e. Be subject to noise levels in excess of levels determined appropriate according to the County Noise Ordinance or other standard?	X					Ba
f. Generate noise levels in excess of levels determined appropriate according to the County Noise Ordinance standard?	X					Q

	IMPACT					SOURCE
	NO	YES			Cumulative	
		Not Significant	Significant Unless Mitigated	Significant		
g. Generate polluted or increased surface water runoff or affect groundwater resources?		X				Q
h. Require installation of a septic tank/leachfield sewage disposal system or require hookup to an existing collection system which is at or over capacity?	X					Q
5. TRANSPORTATION						
Will (or could) this project:						
a. Affect access to commercial establishments, schools, parks, etc.?	X					Q
b. Cause noticeable increase in pedestrian traffic or a change in pedestrian patterns?	X					Q
c. Result in noticeable changes in vehicular traffic patterns or volumes (including bicycles)?	X					B,Q
d. Involve the use of off-road vehicles of any kind (such as trail bikes)?		X				Q
e. Result in or increase traffic hazards?		X				B,Q
f. Provide for alternative transportation amenities such as bike racks?	X					Q
g. Generate traffic which will adversely affect the traffic carrying capacity of any roadway?	X					B,Q

	IMPACT					SOURCE
	NO	YES			Cumulative	
		Not Significant	Significant Unless Mitigated	Significant		
6. LAND USE AND GENERAL PLANS						
Will (or could) this project:						
a. Result in the congregating of more than 50 people on a regular basis?	X					B,Q
b. Result in the introduction of activities not currently found within the community?		X				B,Q
c. Employ equipment which could interfere with existing communication and/or defense systems?		X				Q
d. Result in any changes in land use, either on or off the project site?		X				Q
e. Serve to encourage off-site development of presently undeveloped areas or increase development intensity of already developed areas (examples include the introduction of new or expanded public utilities, new industry, commercial facilities or recreation activities)?	X					B,Q
f. Adversely affect the capacity of any public facilities (streets, highways, freeways, public transit, schools, parks, police, fire, hospitals), public utilities (electrical, water and gas supply lines, sewage and storm drain discharge lines, sanitary landfills) or public works serving the site?		X				B,Q
g. Generate any demands that will cause a public facility or utility to reach or exceed its capacity?	X					B,Q
h. Be adjacent to or within 500 feet of an existing or planned public facility?		X				Q

	IMPACT					SOURCE
	NO	YES			Cumulative	
		Not Significant	Significant Unless Mitigated	Significant		
i. Create significant amounts of solid waste or litter?	X					Q
j. Substantially increase fossil fuel consumption (electricity, oil, natural gas, coal, etc.)?	X					Q
k. Require an amendment to or exception from adopted general plans, specific plans, or community policies or goals?	X					B
l. Involve a change of zoning?		X				C, Q
m. Require the relocation of people or businesses?	X					Q
n. Reduce the supply of low-income housing?	X					Q
o. Result in possible interference with an emergency response plan or emergency evacuation plan?		X				Q
p. Result in creation of or exposure to a potential health hazard?		X				Q
7. <u>AESTHETIC, CULTURAL AND HISTORIC</u>						
Will (or could) this project:						
a. Be adjacent to a designated Scenic Highway or within a State or County Scenic Corridor?		X				B
b. Obstruct scenic views from existing residential areas, public lands, public water body, or roads?		X				Q
c. Involve the construction of buildings or structures in excess of three stories or 36 feet in height?		X				C

	IMPACT					SOURCE
	NO	YES			Cumulative	
		Not Significant	Significant Unless Mitigated	Significant		
d. Directly or indirectly affect historical or archaeological resources on or near the site?		X				H
e. Visually intrude into an area having natural scenic qualities?		X				Q

III. **RESPONSIBLE AGENCIES.** Check what agency has permit authority or other approval for the project.

AGENCY	YES	NO	TYPE OF APPROVAL
U.S. Army Corps of Engineers (CE)		X	
State Water Resources Control Board		X	
Regional Water Quality Control Board		X	
State Department of Public Health		X	
San Francisco Bay Conservation and Development Commission (BCDC)		X	
U.S. Environmental Protection Agency (EPA)		X	
County Airport Land Use Commission (ALUC)		X	
CalTrans		X	
Bay Area Air Quality Management District		X	
U.S. Fish and Wildlife Service		X	
Coastal Commission	X		Local Coastal Program (LCP) Amendment
City		X	
Sewer/Water District:		X	
Other:		X	

IV. MITIGATION MEASURES

<u>Yes</u>	<u>No</u>
_____	X _____
_____	X _____

Mitigation measures have been proposed in project application.

Other mitigation measures are needed.

The following measures are included in the project plans or proposals pursuant to Section 15070(b)(1) of the State CEQA Guidelines:

No site-specific projects are proposed by this ordinance. No impacts of the ordinance rise to the level of significance. Approvals of specific telecommunication facilities projects, should such approvals be granted, would include appropriate mitigation measures for any potential environmental impacts created by such projects. This ordinance, in itself, creates no significant impacts and requires no mitigation measures.

V. MANDATORY FINDINGS OF SIGNIFICANCE

	Yes	No
1. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal, or eliminate important examples of the major periods of California history or prehistory?		X
2. Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?		X
3. Does the project have possible environmental effects which are individually limited, but cumulatively considerable?		X
4. Would the project cause substantial adverse effects on human beings, either directly or indirectly?		X

On the basis of this initial evaluation:

I find the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared by the Planning Department.

I find that although the proposed project could have a significant effect on the environment, there **WILL NOT** be a significant effect in this case because of the mitigation measures in the discussion have been included as part of the proposed project. A **NEGATIVE DECLARATION** will be prepared.

I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.


(Sign)

Project Planner
(Title)

4-16-8

Date

VI. SOURCE LIST

- A. Field Inspection
- B. County General Plan 1986
 - a. General Plan Chapters 1-16
 - b. Local Coastal Program (LCP) (Area Plan)
 - c. Skyline Area General Plan Amendment
 - d. Montara-Moss Beach-El Granada Community Plan
 - e. Emerald Lake Hills Community Plan
- C. County Ordinance Code
- D. Geotechnical Maps
 - 1. USGS Basic Data Contributions
 - a. #43 Landslide Susceptibility
 - b. #44 Active Faults
 - c. #45 High Water Table
 - 2. Geotechnical Hazards Synthesis Maps
- E. USGS Quadrangle Maps, San Mateo County 1970 Series (See F. and H.)
- F. San Mateo County Rare and Endangered Species Maps, or Sensitive Habitats Maps
- G. Flood Insurance Rate Map – National Flood Insurance Program
- H. County Archaeologic Resource Inventory (Prepared by S. Dietz, A.C.R.S.) Procedures for Protection of Historic and Cultural Properties – 36 CFR 800 (See R.)
- I. Project Plans or EIF
- J. Airport Land Use Committee Plans, San Mateo County Airports Plan
- K. Aerial Photography or Real Estate Atlas – REDI
 - 1. Aerial Photographs, 1941, 1953, 1956, 1960, 1963, 1970
 - 2. Aerial Photographs, 1981
 - 3. Coast Aerial Photos/Slides, San Francisco County Line to Año Nuevo Point, 1971
 - 4. Historic Photos, 1928-1937

- L. Williamson Act Maps
- M. Soil Survey, San Mateo Area, U.S. Department of Agriculture, May 1961
- N. Air Pollution Isopleth Maps – Bay Area Air Pollution Control District
- O. California Natural Areas Coordinating Council Maps (See F. and H.)
- P. Forest Resources Study (1971)
- Q. Experience with Other Projects of this Size and Nature
- R. Environmental Regulations and Standards:

Federal	<ul style="list-style-type: none"> - Review Procedures for CDBG Programs - NEPA 24 CFR 1500-1508 - Protection of Historic and Cultural Properties - National Register of Historic Places - Floodplain Management - Protection of Wetlands - Endangered and Threatened Species - Noise Abatement and Control - Explosive and Flammable Operations - Toxic Chemicals/Radioactive Materials - Airport Clear Zones and APZ 	<ul style="list-style-type: none"> 24 CFR Part 58 36 CFR Part 800 Executive Order 11988 Executive Order 11990 24 CFR Part 51B 24 CFR 51C HUD 79-33 24 CFR 51D
State	<ul style="list-style-type: none"> - Ambient Air Quality Standards - Noise Insulation Standards 	<ul style="list-style-type: none"> Article 4, Section 1092
- S. Consultation with Departments and Agencies:
 - a. County Health Department
 - b. City Fire Department
 - c. California Department of Forestry
 - d. Department of Public Works
 - e. Disaster Preparedness Office
 - f. Other

DRAFT

ORDINANCE NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

* * * * *

**AN ORDINANCE ADDING CHAPTER 24.5 TO DIVISION VI, PART ONE, OF THE
SAN MATEO COUNTY ORDINANCE CODE (ZONING REGULATIONS) TO
ESTABLISH REGULATIONS FOR TELECOMMUNICATION FACILITIES**

The Board of Supervisors of the County of San Mateo, State of California,
ORDAINS as follows:

SECTION 1. The San Mateo County Ordinance Code, Division VI, Part One, is hereby amended to add Chapter 24.5, Sections 6510 through 6513.3 as follows:

CHAPTER 24.5. TELECOMMUNICATION FACILITIES

SECTION 6510. PURPOSE. The purpose of this chapter is to establish regulations for the establishment of wireless telecommunication facilities within the unincorporated area of San Mateo County, consistent with the General Plan, and with the intent to:

- A. Allow for the provision of commercially viable wireless communications services within the County.
- B. Require, to the maximum extent feasible, the collocation of telecommunication facilities.
- C. Encourage and require, to the maximum extent feasible, the location of new telecommunication facilities in areas where negative external impacts will be minimized.
- D. Protect and enhance public health, safety, and welfare.

- E. Conform to applicable Federal and State laws.

SECTION 6511. DEFINITIONS. For purposes of this chapter, the following terms shall have the meanings set forth below:

- A. "Administrative review" means consideration of a proposed collocation facility by staff for consistency with the requirements of this chapter, the consideration of which shall be ministerial in nature, shall not include conditions of approval, and shall not include a public hearing.
- B. "Collocation" means the placement or installation of wireless telecommunication facilities, including antennas and related equipment on, or immediately adjacent to, an existing wireless telecommunication facility.
- C. "Collocation facility" means a telecommunication facility that has been collocated consistent with the meaning of "collocation" as defined in Section 6511.B. It does not include the initial installation of a new telecommunication facility that will support multiple service providers.
- D. "Telecommunication facility" means equipment installed for the purpose of providing wireless transmission of voice, data, images, or other information including, but not limited to, cellular telephone service, personal communications services, and paging services, consisting of equipment and network components such as towers, utility poles, transmitters, base stations, and emergency power systems. Telecommunication facility does not include radio or television transmission facilities.

SECTION 6512. PERMIT REQUIREMENTS AND STANDARDS FOR NEW TELECOMMUNICATION FACILITIES THAT ARE NOT COLLOCATION FACILITIES. All new telecommunication facilities that are not collocation facilities must meet the following standards and requirements:

SECTION 6512.1. PERMIT REQUIREMENTS FOR NEW TELECOMMUNICATION FACILITIES THAT ARE NOT COLLOCATION FACILITIES. A use permit will be required for the initial construction and installation of all new telecommunication facilities, in accordance with requirements, procedures, appeal process, and revocation process outlined in Sections 6500 through 6505 of Chapter 24 of the Zoning Regulations.

SECTION 6512.2. DEVELOPMENT STANDARDS FOR NEW TELECOMMUNICATION FACILITIES THAT ARE NOT COLLOCATION FACILITIES. All new telecommunication facilities must meet the following minimum standards. Where appropriate, more restrictive requirements may be imposed as a condition of use permit approval.

- A. New telecommunication facilities shall not be located in a Sensitive Habitat, as defined by Policy 1.8 of the General Plan (Definition of Sensitive Habitats) for facilities proposed outside of the Coastal Zone, and by Policy 7.1 of the Local Coastal Program (Definition of Sensitive Habitats) for facilities proposed in the Coastal Zone.
- B. New telecommunication facilities shall not be located in areas zoned Residential (R), unless the applicant demonstrates, by a preponderance of the evidence, that a location within such a zoning district is necessary to provide commercially viable service coverage. See Section 6512.5 for additional application requirements.
- C. New telecommunication facilities shall not be located in areas where collocation on existing facilities would provide equivalent coverage.
- D. New telecommunication facilities must be constructed so as to physically and structurally accommodate collocation, and must be made available for collocation unless technologically unfeasible.

- E. The adverse visual impact of utility structures must be minimized, in accordance with General Plan Policy 4.20 regarding utility structures, among other ways, by siting new telecommunication facilities outside of public viewshed, designing telecommunication facilities to blend in with the surrounding environment (e.g., through the use of designs that camouflage towers and antennas as trees, chimneys, mansard-style roofs or other unobtrusive objects, and/or by painting all equipment to blend with existing landscape colors) and/or screening telecommunication facilities with landscaping consisting of non-invasive and/or native plant material. Landscaping shall be maintained by the property or facility owner and/or operator. The landscape screening requirement may be modified or waived by the Community Development Director or his/her designee in instances where it would not be appropriate or necessary, such as in a commercial or industrial area.

- F. Paint colors for the telecommunication facility shall minimize its visual impact by blending with the surrounding environment and/or buildings. Prior to the issuance of a building permit, the applicant shall submit color samples for the telecommunication facility. Paint colors shall be subject to the review and approval of the Planning and Building Department. Color verification shall occur in the field after the applicant has painted the equipment the approved color, but before the applicant schedules a final inspection.

- G. The exteriors of telecommunication facilities shall be constructed of non-reflective materials.

- H. The telecommunication facility shall comply with all the requirements, of the underlying zoning district(s), including, but not limited to, setbacks, Design Review in the DR district(s), Architectural Review in designated Scenic Corridors, and Coastal Development Permit regulations in the CZ or CD zones.

- I. In accordance with Section 6405 of the Zoning Regulations, ground-mounted towers, spires and similar structures may be built and used to a greater height than the limit established for the zoning district in which the structure is located; provided that no such exception shall cover, at any level, more than 15% in area of the lot nor have an area at the base greater than 1,600 sq. ft.; provided, further that no tower, spire or similar structure in any district except an A-1, A-2, PAD, RM, RM-CZ, TPZ, TPZ-CZ, or M-2 District shall ever exceed a maximum height of 150 feet.

- J. A building-mounted wireless telecommunication facility shall not exceed the maximum height allowed in the applicable zoning district, or 16 feet above the building roofline, whichever is higher.

SECTION 6512.3. PERFORMANCE STANDARDS FOR NEW TELECOM-MUNICATION FACILITIES THAT ARE NOT COLLOCATION FACILITIES. No use may be conducted in a manner that, in the determination of the Community Development Director, does not meet the performance standards below. Measurement, observation, or other means of determination must be made at the limits of the property, unless otherwise specified.

- A. Telecommunication facilities shall not be lit or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).

- B. The applicant shall receive and maintain approval from the Federal Communications Commission (FCC), the California Public Utilities Commission (CPUC) and any other applicable regulatory bodies prior to initiating the operation of the telecommunication facility. Upon receipt of each of these approvals, the applicant shall supply the Planning and Building Department with copies of them. If these approvals are ever revoked, the applicant shall inform the Planning and Building Department of the revocation within ten (10) days of receiving notice of such revocation.

- C. Once a use permit is obtained, the applicant shall obtain a building permit and build in accordance with the approved plans.
- D. The project's final inspection approval shall be dependent upon the applicant obtaining a permanent and operable power connection from the applicable energy provider.
- E. The telecommunication facility and all equipment associated with it shall be removed in its entirety by the applicant within 180 days when this technology becomes obsolete or the facility is abandoned or no longer needed.
- F. Telecommunication facility maintenance shall implement visual resource protection requirements of Section 6512.2.E, and F above (e.g., landscape maintenance and painting).
- G. Road access shall be maintained over the life of the project to avoid erosion, as well as to minimize sedimentation in nearby streams.
- H. A grading permit may be required, per Sections 8600-8609 of the County Ordinance Code. All grading, construction and maintenance activities associated with the proposed project shall be limited from 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday or as further restricted by the terms of the use permit. Construction activities will be prohibited on Sunday and any nationally observed holiday. Noise levels produced by construction activities shall not exceed 80-dBA at any time.

SECTION 6512.4. ADDITIONAL REQUIREMENTS AND STANDARDS FOR TELECOMMUNICATION FACILITIES IN THE COASTAL ZONE.

- A. New telecommunication facilities shall not be located between the first public road and the sea, or on the seaward side of Highway 1 in rural areas, unless no feasible alternative exists, the facility is not visible from a public

location, or will be attached to an existing structure in a manner that does not significantly alter the appearance of the existing structure.

- B. New telecommunication facilities shall comply with all applicable policies, standards, and regulations of the Local Coastal Program (LCP) and the CZ or CD Zoning Districts.

SECTION 6512.5. APPLICATION REQUIREMENTS FOR NEW TELECOMMUNICATION FACILITIES THAT ARE NOT COLLOCATION FACILITIES.

- A. A Major Development Pre-Application will be required for all new telecommunication facilities in accordance with the procedures outlined in Sections 6415.0 through 6415.4 of the San Mateo County Zoning Regulations, unless there is an existing telecommunication facility within a 1-mile radius of the proposed facility. This requirement may be waived at the discretion of the Community Development Director or his/her designee.
- B. In addition to the requirements set for in Chapter 24, Use Permits, applicants for new telecommunication facilities shall submit the following materials regarding the proposed telecommunication facility:
 - 1. A completed Planning Permit application form.
 - 2. A completed use permit for a Cellular or Other Personal Telecommunication Facility Form.
 - 3. A completed Environmental Information Disclosure Form.
 - 4. Proof of ownership or statement of consent from the owner of the property.

5. A site plan, including a landscape plan (if appropriate under the provision of Section 6512.2.E), and provisions for access.
6. Elevation drawing(s).
7. Photo simulation(s) of the telecommunication facility from reasonable line-of-sight locations from public roads or viewing locations.
8. A construction and erosion control plan.
9. A maintenance plan detailing the type and frequency of required maintenance activities, including maintenance of the access road.
10. A description of the planned maximum buildout of the site, including the full extent of telecommunication facility expansion associated with future collocation facilities.
11. Identification of existing telecommunication facilities within a 5-mile radius of the proposed location of the new telecommunication facility, and an explanation of why collocation on these existing facilities is not feasible.
12. A statement that the telecommunication facility is available for collocation, or an explanation of why collocation is not technologically feasible.
13. A Radio Frequency (RF) report describing the emissions of the proposed telecommunication facility and the increase in emissions associated with future collocation facilities.
14. The mandated use permit application fee, and other fees as applicable.

15. Depending on the nature and scope of the project, other application materials, including but not limited to a boundary and/or topographical survey, may be required.

16. Applications for the establishment of new telecommunication facilities inside Residential (R) zoning districts shall be accompanied by a detailed alternatives analysis that demonstrates that other locations outside of the R zoning district will not provide for commercially viable service coverage or public safety needs, or are otherwise infeasible. Applications for new telecommunication facilities within an R zoning district or Residential General Plan Land Use Designation shall also demonstrate why a location outside of the residential area will not provide for commercially viable telecommunication service coverage, public safety, or is technically infeasible.

SECTION 6512.6. USE PERMIT TERM AND RENEWAL. Use permits for telecommunication facilities shall be valid for ten years following the date of final approval. The applicant shall file for a renewal of the use permit and pay the applicable renewal application fees six months prior to expiration with the County Planning and Building Department, if continuation of the use is desired.

SECTION 6513. PERMIT REQUIREMENTS AND STANDARDS FOR COLLOCATION FACILITIES.

- A. Collocation Facilities Requiring a Use Permit. In accordance with Section 65850.6 of the California Government Code, applications for collocation will be subject to the standards and procedures outlined for new telecommunication facilities, above (in Section 6512 through 6512.6), if any of the following apply:
 1. No use permit was issued for the original telecommunication facility,

2. The use permit for the original telecommunication facility did not expressly allow for future collocation facilities or the extent of site improvements involved with the collocation project, or
3. No Environmental Impact Report (EIR) was certified, or no Negative Declaration or Mitigated Negative Declaration was adopted for the location of the original telecommunication facility that addressed the environmental impacts of future collocation of facilities.

B. Permit Requirements for Other Collocation Facilities. Applications for all other collocations shall be subject to a building permit approval. Prior to the issuance of a building permit for collocation, the applicant shall demonstrate compliance with the conditions of approval, if any, of the original use permit, by submitting an application to the Planning and Building Department for an administrative review of the original use permit, including all information requests and all associated application fees, including specifically those for administrative review of a use permit, which fee shall be equivalent to the fee established for a use permit inspection.

SECTION 6513.1. DEVELOPMENT STANDARDS FOR COLLOCATION FACILITIES.

- A. The collocation facility must comply with all approvals and conditions of the underlying use permit for the telecommunication facility.
- B. The adverse visual impact of utility structures must be minimized, in accordance with General Plan Policy 4.20 regarding utility structures, among other ways, by designing collocation facilities to blend in with the surrounding environment (e.g., through the use of designs that camouflage towers and antennas as trees, chimneys, mansard-style roofs or other unobtrusive objects, and/or by painting all equipment to blend with existing landscape colors) and/or screening collocation facilities with landscaping consisting of non-invasive and/or native plant material. Landscaping shall

be maintained by the owner and/or operator. The landscape screening requirement may be modified or waived by the Community Development Director or his/her designee in instances where it would not be appropriate or necessary, such as in a commercial or industrial area.

- C. Paint colors for the collocation facility shall minimize its visual impact by blending with the surrounding environment and/or buildings. Prior to the issuance of a building permit, the applicant shall submit color samples for the collocation facility. Paint colors shall be subject to the review and approval of the Planning and Building Department. Color verification shall occur in the field after the applicant has painted the equipment the approved color, but before the applicant schedules a final inspection.
- D. The exteriors of collocation facilities shall be constructed of non-reflective materials.
- E. The telecommunication facility shall comply with all the requirements of the underlying zoning district(s), including, but not limited to, setbacks, and Coastal Development Permit regulations in the CZ or CD zones.
- F. In accordance with Section 6405 of the Zoning Regulations, ground-mounted towers, spires and similar structures may be built and used to a greater height than the limit established for the zoning district in which the structure is located; provided that no such exception shall cover, at any level, more than 15% in area of the lot nor have an area at the base greater than 1,600 sq. ft.; provided, further that no tower, spire or similar structure in any district except an A-1, A-2, PAD, RM, RM-CZ, TPZ, TPZ-CZ, or M-2 District shall ever exceed a maximum height of 150 feet.
- G. A building-mounted wireless telecommunication facility shall not exceed the maximum height allowed in the applicable zoning district, or 16 feet above the building roofline, whichever is higher.

SECTION 6513.2. PERFORMANCE STANDARDS FOR COLLOCATION

FACILITIES. No use may be conducted in a manner that, in the determination of the Community Development Director, does not meet the performance standards below. Measurement, observation, or other means of determination must be made at the limits of the property, unless otherwise specified.

- A. Collocation facilities shall not be lit or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).
- B. The applicant shall receive and maintain approval from the Federal Communications Commission (FCC), the California Public Utilities Commission (CPUC) and any other applicable regulatory bodies prior to initiating the operation of the collocation facility. Upon receipt of each of these approvals, the applicant shall supply the Planning and Building Department with copies of them. If these approvals are ever revoked, the applicant shall inform the Planning and Building Department of the revocation within ten (10) days of receiving notice of such revocation.
- C. The project's final inspection approval shall be dependent upon the applicant obtaining a permanent and operable power connection from the applicable energy provider.
- D. The collocation facility and all equipment associated with it shall be removed in its entirety by the applicant within 180 days when this technology becomes obsolete or the facility is abandoned or no longer needed.
- E. Collocation facility maintenance shall implement visual resource protection requirements of Section 6512.2.E, and F above (e.g., landscape maintenance and painting).

- F. Road access shall be maintained over the life of the project to avoid erosion, as well as to minimize sedimentation in nearby streams.
- G. A grading permit may be required, per Sections 8600-8609 of the County Ordinance Code. All grading, construction and maintenance activities associated with the proposed project shall be limited from 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday or as further restricted by the terms of the underlying use permit. Construction activities will be prohibited on Sunday and any nationally observed holiday. Noise levels produced by construction activities shall not exceed 80-dBA at any time.

SECTION 6513.3. APPLICATION REQUIREMENTS FOR COLLOCATION

FACILITIES. Applicants that qualify for administrative review of collocation facilities in accordance with Section 6513 shall be required to submit the following:

- A. A completed Planning Permit application form.
- B. Proof of ownership or statement of consent from the owner of the property and/or the primary operator of the telecommunication facility where the collocation is proposed.
- C. A site plan showing existing and proposed telecommunication facilities.
- D. Elevation drawing(s) showing existing and proposed telecommunication facilities.
- E. A completed Environmental Information Disclosure Form.
- F. A construction and erosion control plan.

- G. A maintenance and access plan that identifies any changes to the original maintenance and access plan associated with the existing telecommunication facility or use permit.
- H. A Radio Frequency (RF) report demonstrating that the emissions from the collocation equipment will not exceed the limits established by the Federal Communications Commission (FCC) and the use permit for the existing telecommunication facility.
- I. The mandated administrative review fee, and other fees as applicable.
- J. Prior to the issuance of a building permit, the applicant shall submit color samples for the collocation equipment. Paint colors shall be subject to the review and approval of the Planning and Building Department. Color verification shall occur in the field after the applicant has painted the equipment the approved color, but before the applicant schedules a final inspection.

SECTION 2. Outside of the Coastal Zone, this ordinance shall be in full force and effect 30 days after adoption by the San Mateo County Board of Supervisors. Within the Coastal Zones (CZ or CD), this ordinance shall take force and effect immediately upon final certification by the Coastal Commission.

MAT:fc – MATS0373_WFQ.DOC (4/16/08)

COUNTY OF SAN MATEO
Planning and Building Department

Initial Study Pursuant to CEQA
Project Narrative and Answers to Questions for the Negative Declaration
File Number: PLN 2008-00048
San Mateo County Telecommunication Facilities Ordinance

PROJECT DESCRIPTION

The project is a proposed text amendment (the “Telecommunication Facilities Ordinance”) to the Zoning Regulations that would establish specific regulations for wireless telecommunication facilities in the unincorporated areas of the County.

Current regulations generally require a use permit for the establishment of new telecommunication facilities, a use permit amendment for collocations at existing facilities, and a use permit renewal for continued operation of the facility after a five or sometimes ten-year period. These facilities are currently regulated by the general Use Permit Regulations in Chapter 24 of the Zoning Regulations – there are no regulations specific to telecommunication facilities.

The proposed text amendment to the Zoning Regulations would establish specific regulations for wireless telecommunication facilities in the unincorporated areas of the County. The purpose of the proposed regulations would be to allow for the provision of adequate wireless communications services in the County, require the collocation of facilities where feasible, encourage the location of new facilities in areas where negative external impacts would be minimized, protect and enhance public health, safety, and welfare, and conform to applicable Federal and State laws. The proposal sets standards and requirements for the location of new facilities, including minimizing visual impact and avoiding impacts to sensitive habitats. It also specifies application requirements for new facilities. It facilitates the collocation of facilities at existing locations, by allowing collocation applications to be approved ministerially, without a public hearing, in accordance with Section 65850.6 of the California Government Code.

Telecommunication facilities are currently allowed in all zoning districts in the County, subject to the regulations and approvals pertinent to the district in question. The proposed ordinance is intended to provide additional controls over the type, design and location of facilities, additional protections for the public and the natural environment, and additional methods of monitoring and regulating ongoing operations and maintenance of facilities.

SITE DESCRIPTION

This is a countywide ordinance that will apply to all unincorporated areas of San Mateo County. No site-specific projects are proposed by this ordinance.

ANSWERS TO QUESTIONS

1. LAND SUITABILITY AND GEOLOGY

- a. **Involve a unique landform or biological area, such as beaches, sand dunes, marshes, tidelands, or San Francisco Bay?**

Unique landforms and biological areas exist in the County. To prevent new telecommunication facilities from adversely impacting unique biological areas, the proposed ordinance prohibits their location in Sensitive Habitats, which are defined by the San Mateo County General Plan as “any area where the vegetative, water, fish and wildlife resources provide especially valuable and rare plant and animal habitats that can be easily disturbed or degraded. These areas include but are not limited to: (1) habitats containing or supporting rare or unique species; (2) riparian corridors; (3) marine and estuarine habitats; (4) wetlands; (5) sand dunes; (6) wildlife refuges, reserves, and scientific study areas; and (7) important nesting, feeding, breeding or spawning areas.” In addition, the proposed ordinance requires new telecommunication facilities to be collocated with existing facilities where feasible, and thereby minimizes the expansion of new telecommunication facilities into areas containing unique biological areas or landforms. Where collocation does not provide for adequate communication coverage, public safety, or is otherwise infeasible, the proposed ordinance seeks to avoid adverse impacts to unique landforms by establishing specific criteria for siting, designing, and screening new telecommunication facilities. These standards would be applied during the County’s review of the discretionary use permit required for new telecommunication facilities, at which time a site-specific environmental review would be undertaken to ensure that no significant adverse environmental impacts would result.

- b. **Involve construction on slope of 15% or greater?**

Some telecommunication projects could be proposed on slopes of 15% or greater. The proposed ordinance addresses potential environmental impacts associated with the construction of new telecommunication facilities on steep slopes by requiring collocation with existing facilities where feasible, and requiring access and maintenance plans to ensure that construction and maintenance of the facility will not cause erosion, sedimentation, or landform instability. These standards would be applied during the County’s review of the discretionary use permit required for new telecommunication facilities, at which time a site-specific environmental review would be undertaken to ensure that no significant adverse environmental impacts will result from new telecommunication projects.

c. Be located in an area of soil instability (subsidence, landslide or severe erosion)?

Areas of soil instability exist in the County. Areas determined to be hazardous due to geologic factors are included in the County's Geologic Hazard Overlay District, which establishes requirements for development in such areas intended to protect property and the public's safety and welfare. In addition to complying with the provisions of the Geologic Hazards Overlay District (where applicable), the proposed ordinance requires all new telecommunication facilities to provide access and management plans, which will allow the County to address any issues regarding soil instability along the route used to access, construct, and maintain the facility. New and expanded telecommunication facility projects are also subject to building permit requirements and in some cases grading permits, which provide additional safeguards to ensure that telecommunication projects are designed and constructed to avoid and withstand areas of soil instability.

d. Be located on, or adjacent to a known earthquake fault?

Known earthquake faults exist in the County. Telecommunication projects proposed in such areas, if approved, would be mitigated by appropriate site- and project-specific mitigation measures, as described by the answer to question 1.c, above.

e. Involve Class I or Class II Agriculture Soils and Class III Soils rated good or very good for artichokes or Brussels sprouts?

Such soils exist in the County, and are typically found in areas that are designated and zoned for agricultural activities by the County's General Plan and Zoning Ordinance. Telecommunication projects proposed in such areas would be subject to conformance to existing County policies and regulations protecting agricultural lands, and if approved, would be mitigated by appropriate site- and project-specific mitigation measures in accordance with these policies and the California Environmental Quality Act (CEQA).

f. Cause erosion or siltation?

Proposed telecommunication projects could potentially cause erosion or siltation. The proposed ordinance addresses these potential impacts as discussed in the answer to question 1.b, above. Such impacts would be evaluated on a project-by-project basis, and if such projects were approved, impacts would be mitigated with appropriate measures.

g. Result in damage to soil capability or loss of agricultural land?

Proposed telecommunication projects could potentially result in such damage or loss of capacity, depending on the nature and proposed location of projects. Such impacts

would be evaluated on a project-by-project basis, and if such projects were approved, impacts would be mitigated with appropriate measures, as described in the answer to question 1.e, above.

h. Be located within a flood hazard area?

The County contains mapped flood hazard areas. However, it is unlikely that many new telecommunication facilities would be proposed in such areas, as locations on higher ground that have a wider transmission radius are preferred. In any case, certain types of telecommunication facilities such as poles and towers might be acceptable in flood hazard areas if they comply with Federal Emergency Management Association (FEMA) and other local policies and regulations. If projects were proposed in such areas, they would be evaluated on a site-specific basis, and if necessary, impacts would be mitigated with appropriate project-specific measures.

i. Be located in an area where a high water table may adversely affect land use?

Areas with high water tables exist in the County. However, a high water table would not necessarily be problematic for the installation of certain types of facilities, such as poles. If projects were proposed in such areas, they would be evaluated on a site-specific basis, and if necessary, impacts would be mitigated with appropriate project-specific measures. Telecommunication facilities would not be allowed in wetland areas, as these are considered Sensitive Habitats by the County's General Plan.

j. Affect a natural drainage channel or streambed, or watercourse?

Natural drainage channels, streambeds and watercourses exist in the County, many of which are considered Sensitive Habitats by the County's General Plan. As explained in 1.a above, the proposed ordinance prohibits new telecommunication facilities from being located in Sensitive Habitats. In addition, it is unlikely that new telecommunication facilities would be proposed near streams, drainage channels and watercourses, as higher elevation locations are preferred, as discussed in 1.h above. Current County standards minimize the negative impacts of potential facilities on steep slopes near streams, such as erosion and siltation, as explained in 1.b and 1.f above. If projects were proposed in watercourses that do not meet the County's definition of Sensitive Habitats, they would be evaluated on a site-specific basis. During the County's review of the discretionary use permit required for new telecommunication facilities, site-specific environmental review would be undertaken to ensure that no significant adverse environmental impacts will result from new telecommunication projects.

2. **VEGETATION AND WILDLIFE**

- a. **Affect Federal or State listed rare or endangered species of plant life in the project area?**

The County contains some rare or endangered species of plant life. Areas that support such plants are defined by the County's General Plan as Sensitive Habitats, where construction of new facilities is prohibited, as explained in 1.a above. During the County's review of the discretionary use permit required for new telecommunication facilities, site-specific environmental review would be undertaken to ensure that no significant adverse environmental impacts on rare and endangered species of plant life will result from new telecommunication projects.

- b. **Involve cutting of heritage or significant trees as defined in the County Heritage Tree and Significant Tree Ordinance?**

This ordinance proposes no site-specific projects. All telecommunication projects are evaluated for their impacts on heritage and significant trees, and must comply with the County Heritage Tree and Significant Tree Ordinance. In addition, telecommunication projects other than those that involve collocation on an existing facility designed for collocation will be subject to environmental review to ensure that any proposed tree removal will not have a significant adverse impact on the environment.

- c. **Be adjacent to or include a habitat food source, water source, nesting place or breeding place for a Federal or State listed rare or endangered wildlife species?**

The County contains habitat food sources, water sources, nesting places and breeding places for some Federal- and/or State-listed rare or endangered wildlife species. The proposed ordinance prohibits locating new facilities in designated Sensitive Habitats, as explained in 1.a above. During the County's review of the discretionary use permit required for new telecommunication facilities, site-specific environmental review would be undertaken to ensure that no significant adverse environmental impacts on rare and endangered wildlife species will result.

- d. **Significantly affect fish, wildlife, reptiles, or plant life?**

The County contains fish, wildlife, reptiles and plant life. However, these are not likely to be significantly negatively impacted by the majority of new facilities, as location in Sensitive Habitats is prohibited, as explained in 1.a above, and location near other watercourses is unlikely for reasons explained in 1.j above. During the County's review of the discretionary use permit required for any new telecommunication facilities, site-specific environmental review would be undertaken to ensure that no significant adverse impacts to flora or fauna would result.

e. Be located inside or within 200 feet of a marine or wildlife reserve?

The County contains some marine and wildlife reserve areas. County regulations typically preclude location of facilities within 200 feet of such reserves, and the proposed ordinance prohibits locating new facilities in designated Sensitive Habitats, as explained in 1.a above. In addition, the ordinance includes restrictions on locating new telecommunication facilities along the immediate coastline. Any new telecommunication facility proposed near such areas would be required to comply with County regulations, including the Local Coastal Program, and would be evaluated on a site-specific basis to ensure that they will not have a significant adverse impact on such resources.

f. Infringe on any sensitive habitats?

The County contains some sensitive habitats. The proposed ordinance prohibits locating new facilities in designated Sensitive Habitats, as explained in 1.a above.

g. Involve clearing land that is 5,000 sq. ft. or greater (1,000 sq. ft. within a County Scenic Corridor), that has slopes greater than 20% or that is in a sensitive habitat or buffer zone?

Telecommunication projects could be proposed that involve clearing land of 5,000 sq. ft. or greater (1,000 sq. ft. within a County Scenic Corridor) or on slopes of 20% or greater. The proposed ordinance prohibits locating new facilities in designated Sensitive Habitats, as explained in 1.a above. The proposed ordinance and other existing regulations would minimize negative impacts of locating facilities on lands of 20% or greater slopes, as explained in 1.b above. During the County's review of the discretionary use permit required for any new telecommunication facilities, site-specific environmental review would be undertaken to ensure that no significant adverse environmental impacts would result.

3. PHYSICAL RESOURCES

b. Involve grading in excess of 150 cubic yards?

Construction of proposed telecommunication facilities could involve grading in excess of 150 yards. The County's Grading Ordinance and other regulations govern grading for new telecommunication facilities, and the application of these regulations will minimize the potential negative impacts associated with such construction. Proposals for new telecommunication projects would be evaluated on a project- and site-specific basis, and appropriate mitigation measures would be applied as necessary to prevent significant adverse impacts.

c. Involve lands currently protected under the Williamson Act (agricultural preserve) or an Open Space Easement?

The County contains lands protected under the Williamson Act and under Open Space Easements, and telecommunication projects could be proposed on such lands. Telecommunication facilities are typically considered to be compatible with agricultural uses and open space preservation provided that they are appropriately sited and therefore may be allowed on lands with Williamson Act Contracts or Open Space Easements. Any proposals would be evaluated on a project- and site-specific basis, and appropriate mitigation measures would be applied to ensure that projects are consistent with the terms of contracts and easements as well as the County's agricultural protection policies.

d. Affect any existing or potential agricultural uses?

The County contains existing and potential agricultural uses, the most productive of which are typically found at lower elevations. New telecommunication facilities tend to be proposed at higher elevations as explained in 1.h above, and are therefore unlikely to impact productive agricultural lands. In addition, new telecommunication facilities would not necessarily negatively impact agricultural production, if they were appropriately sited, as explained in 3.c above. Any proposed telecommunication projects that might impact such uses would be evaluated on a project- and site-specific basis, and appropriate mitigation measures would be applied.

4. AIR QUALITY, WATER QUALITY, SONIC

d. Involve the application, use or disposal of potentially hazardous materials, including pesticides, herbicides, other toxic substances, or radioactive material?

Some telecommunication facilities might store diesel fuel for emergency generators, and herbicides might be used in conjunction with landscaping requirements. However, these impacts would not be significant due to access, maintenance, and erosion control requirements in the proposed ordinance and the application of other local rules and regulations regarding the storage and use of diesel generators. Any other potential impacts would be evaluated on a project-specific basis, and mitigated if necessary to reduce environmental impacts to less than significant levels.

g. Generate polluted or increased surface water runoff or affect groundwater resources?

Access improvements to telecommunication facilities and paving could potentially affect surface water runoff. However, such impacts would not be significant due to the access and erosion control requirements in the ordinance. Any other potential

impacts would be evaluated on a project-specific basis, and mitigated if necessary to reduce environmental impacts to less than significant levels.

5. TRANSPORTATION

d. Involve the use of off-road vehicles of any kind (such as trail bikes)?

It is possible that four-wheel drive trails would be used to construct facilities in remote locations. However, these impacts would not be significant due to the access, maintenance, and erosion control requirements in the ordinance. Any other potential impacts would be evaluated on a project-specific basis, and mitigated if necessary to reduce environmental impacts to less than significant levels.

e. Result in or increase traffic hazards?

Telecommunication facilities could be proposed that might increase traffic hazards, although such impacts are unlikely and would likely be insignificant. The greatest potential for impact is during the construction phase, and thus, temporary. Any proposed projects would be evaluated for such impacts, and if approved, appropriate mitigation measures would be applied.

6. LAND USE AND GENERAL PLANS

b. Result in the introduction of activities not currently found within the community?

As with the current regulations, the proposed ordinance would allow the introduction of new telecommunication facilities to a community. However, the proposed ordinance would require a Major Development Pre-Application Meeting if a new facility were proposed in a new location within a community. This meeting would allow the applicant and the community to discuss issues related to the introduction of the new facility to the community prior to the submittal of a formal application.

c. Employ equipment that could interfere with existing communication and/or defense systems?

Proposed telecommunication facilities must be evaluated, under existing Federal and State regulations, for impacts on existing communication and/or defense systems. During the review of proposed projects, these impacts would need to be avoided or appropriately mitigated in order for the project to be approved.

d. Result in any changes in land use, either on or off the project site?

Proposed telecommunication facilities could result in changes of land use, specifically on the project site. However, such changes are already possible under the existing regulations. The proposed ordinance supplements these existing regulations with additional standards intended to ensure land use compatibility, and will therefore have a beneficial impact in this regard.

f. Adversely affect the capacity of any public facilities (streets, highways, freeways, public transit, schools, parks, police, fire, hospitals), public utilities (electrical, water and gas supply lines, sewage and storm drain discharge lines, sanitary landfills) or public works serving the site?

It is unlikely but possible that proposed telecommunication facilities could adversely impact the capacity of public facilities, public utilities or public works serving a telecommunication facility project site. As discussed in 5.c above, new facilities would be unlikely to generate significant amounts of vehicular traffic and would thus be unlikely to affect the capacity of roadways. The impact of new telecommunication facilities on other public facilities would be non-existent or insignificant. Any proposed projects would be evaluated on a project- and site-specific basis for such impacts, and appropriate mitigation measures would be applied.

h. Be adjacent to or within 500 feet of an existing or planned public facility?

Telecommunication facilities could be proposed adjacent to or within 500 feet of an existing or planned facility. However, the proposed regulations include a requirement for a Radio Frequency (RF) report that would verify that emissions levels are within acceptable health standards and would not impact a public facility. In addition, the regulations include siting and design standards and project review procedures intended to ensure that telecommunication facilities are compatible with public facilities and uses.

i. Involve a change of zoning?

The proposed ordinance involves an amendment to the text of the zoning regulations. However, it does not alter the zoning of any specific piece of property, does not allow the creation of telecommunication facilities in areas where such facilities were previously prohibited, and does not change the requirement that telecommunication facilities projects comply with existing zoning regulations.

o. Result in possible interference with an emergency response plan or emergency evacuation plan?

The impact of the ordinance is likely to be beneficial in this regard, since faster review of collocation facilities should lead to increased cell service coverage and thereby enhance emergency response and evacuation capabilities.

p. Result in creation of or exposure to a potential health hazard?

The proposed ordinance (and current practice) requires the submission of an RF report, as explained in 6.h above. This report evaluates possible health impacts from radio-frequency emissions. No projects can be approved that exceed the RF standards set by the Federal Communications Commission (FCC) which have been established for the project.

7. AESTHETIC, CULTURAL AND HISTORIC

a. Be adjacent to a designated Scenic Highway or within a State or County Scenic Corridor?

The County contains designated Scenic Highways and State and County Scenic Corridors, and telecommunication facilities could be proposed adjacent to or within these areas. Such facilities must be sited outside of public view where feasible pursuant to the proposed ordinance and must otherwise comply with County regulations pertaining to State and County Scenic Corridors, such as screening and/or landscaping. Location and impacts of new facilities would be evaluated on a project- and site-specific basis, and any impacts would be addressed during the use permit review and environmental evaluation of such projects.

b. Obstruct scenic views from existing residential areas, public lands, public water body, or roads?

Telecommunication facilities could be proposed that would obstruct scenic views from existing residential areas, public lands, public water body, or roads. However, the proposed ordinance requires such facilities to comply with County General Plan policies regarding minimizing the adverse visual impacts of utility structures. For example, such projects and their impacts would be evaluated on a project- and site-specific basis, and if such projects were approved, impacts would be avoided or mitigated through appropriate measures, such as re-siting, screening or landscaping.

- c. Involve the construction of buildings or structures in excess of three stories or 36 feet in height?**

Telecommunication facilities could be proposed that would exceed three stories or 36 feet in height. The proposed ordinance does not alter the allowed heights of any existing or future structures in the County but does include standards to ensure that the visual impacts of telecommunication towers are avoided or reduced to an insignificant level.

- d. Directly or indirectly affect historical or archaeological resources on or near the site?**

Future proposed telecommunication facilities could be proposed in areas that would directly or indirectly affect historical or archaeological resources on or near the facility site. During the County's review of the discretionary use permit required for any new telecommunication facilities, site-specific environmental review would be undertaken to ensure that the project complies with existing County policies and regulations protecting such resources, and that no significant adverse impacts to historical or archaeological resources would result from new telecommunication projects.

- e. Visually intrude into an area having natural scenic qualities?**

The County has areas with natural scenic qualities, and telecommunication facilities could be proposed that would visually intrude on such areas. However, the proposed ordinance requires such facilities to comply with County General Plan policies regarding minimizing the adverse visual impacts of utility structures. Such potential visual intrusion would be evaluated on a project- and site-specific basis, and if such projects were approved, visual intrusion would be mitigated through appropriate measures, such as re-siting, landscaping or screening.

COUNTY OF SAN MATEO, PLANNING AND BUILDING DEPARTMENT

**NOTICE OF INTENT TO ADOPT
NEGATIVE DECLARATION**

A notice, pursuant to the California Environmental Quality Act of 1970, as amended (Public Resources Code 21,000, et seq.), that the following project: Telecommunication Facilities Ordinance, when adopted and implemented, will not have a significant impact on the environment.

FILE NO.: PLN 2008-00048

APPLICANT: San Mateo County Planning and Building Department

ASSESSOR'S PARCEL NO.: N/A

PROJECT LOCATION: Countywide

PROJECT DESCRIPTION

Zoning text amendment adding Chapter 24.5 of Division VI, Part One, of the San Mateo County Ordinance Code (Zoning Regulations) to establish specific regulations for telecommunication facilities.

FINDINGS AND BASIS FOR A NEGATIVE DECLARATION

The Planning Department has reviewed the initial study for the project and, based upon substantial evidence in the record, finds that:

1. The project will not adversely affect water or air quality or increase noise levels substantially.
2. The project will not have adverse impacts on the flora or fauna of the area.
3. The project will not degrade the aesthetic quality of the area.
4. The project will not have adverse impacts on traffic or land use.
5. In addition, the project will not:
 - a. Create impacts which have the potential to degrade the quality of the environment.
 - b. Create impacts which achieve short-term to the disadvantage of long-term environmental goals.
 - c. Create impacts for a project which are individually limited, but cumulatively considerable.

- d. Create environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly.

The County of San Mateo has, therefore, determined that the environmental impact of the project is insignificant.

RESPONSIBLE AGENCY CONSULTATION

California Coastal Commission

INITIAL STUDY

The San Mateo Planning Department has reviewed the Environmental Evaluation of this project and has found that the probable environmental impacts are insignificant. A copy of the initial study is attached.

REVIEW PERIOD: April 21, 2008 to May 21, 2008

All comments regarding the correctness, completeness, or adequacy of this Negative Declaration must be received by the County Planning and Building Department, 455 County Center, Second Floor, Redwood City, no later than **5:00 p.m.**, May 21, 2008.

CONTACT PERSON

Matt Seubert
Project Planner, 650/363-1829


Matt Seubert, Project Planner

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ATTACHMENT I

Senate Bill No. 1627

CHAPTER 676

An act to add Sections 65850.6 and 65964 to the Government Code, relating to telecommunications.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1627, Kehoe. Wireless telecommunications facilities.

(1) The Planning and Zoning Law authorizes the legislative body of any county or city to adopt ordinances that, among other things, regulate the use of buildings, structures, and land as between industry, business, residences, and open space.

This bill would require a city, including a charter city, or county to administratively approve an application for a collocation facility on or immediately adjacent to a wireless telecommunications collocation facility, as defined, through the issuance of a building permit or a nondiscretionary permit, as specified.

(2) The Permit Streamlining Act defines the term "development project" to include projects involving the issuance of a permit for construction or reconstruction but not a permit to operate.

This bill would prohibit a city or county from taking certain actions as a condition of approval of an application for a permit for construction or reconstruction for a development project for a wireless telecommunications facility, and would specify that a development project for a wireless telecommunications facility is not subject to a permit to operate.

By imposing new duties on local agencies, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 65850.6 is added to the Government Code, to read:

65850.6. (a) A collocation facility shall be a permitted use not subject to a city or county discretionary permit if it satisfies the following requirements:

(1) The collocation facility is consistent with requirements for the wireless telecommunications collocation facility pursuant to subdivision (b) on which the collocation facility is proposed.

(2) The wireless telecommunications collocation facility on which the collocation facility is proposed was subject to a discretionary permit by the city or county and an environmental impact report was certified, or a negative declaration or mitigated negative declaration was adopted for the wireless telecommunications collocation facility in compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), the requirements of Section 21166 do not apply, and the collocation facility incorporates required mitigation measures specified in that environmental impact report, negative declaration, or mitigated negative declaration.

(b) A wireless telecommunications collocation facility, where a subsequent collocation facility is a permitted use not subject to a city or county discretionary permit pursuant to subdivision (a), shall be subject to a city or county discretionary permit issued on or after January 1, 2007, and shall comply with all of the following:

(1) City or county requirements for a wireless telecommunications collocation facility that specifies types of wireless telecommunications facilities that are allowed to include a collocation facility, or types of wireless telecommunications facilities that are allowed to include certain types of collocation facilities; height, location, bulk, and size of the wireless telecommunications collocation facility; percentage of the wireless telecommunications collocation facility that may be occupied by collocation facilities; and aesthetic or design requirements for the wireless telecommunications collocation facility.

(2) City or county requirements for a proposed collocation facility, including any types of collocation facilities that may be allowed on a wireless telecommunications collocation facility; height, location, bulk, and size of allowed collocation facilities; and aesthetic or design requirements for a collocation facility.

(3) State and local requirements, including the general plan, any applicable community plan or specific plan, and zoning ordinance.

(4) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) through certification of an environmental impact report, or adoption of a negative declaration or mitigated negative declaration.

(c) The city or county shall hold at least one public hearing on the discretionary permit required pursuant to subdivision (b) and notice shall be given pursuant to Section 65091, unless otherwise required by this division.

(d) For purposes of this section, the following definitions apply:

(1) "Collocation facility" means the placement or installation of wireless facilities, including antennas, and related equipment, on, or immediately adjacent to, a wireless telecommunications collocation facility.

(2) "Wireless telecommunications facility" means equipment and network components such as towers, utility poles, transmitters, base stations, and emergency power systems that are integral to providing wireless telecommunications services.

(3) "Wireless telecommunications collocation facility" means a wireless telecommunications facility that includes collocation facilities.

(e) The Legislature finds and declares that a collocation facility, as defined in this section, has a significant economic impact in California and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution, but is a matter of statewide concern.

(f) With respect to the consideration of the environmental effects of radio frequency emissions, the review by the city or county shall be limited to that authorized by Section 332(c)(7) of Title 47 of the United States Code, or as that section may be hereafter amended.

SEC. 2. Section 65964 is added to the Government Code, to read:

65964. As a condition of approval of an application for a permit for construction or reconstruction for a development project for a wireless telecommunications facility, as defined in Section 65850.6, a city or county shall not do any of the following:

(a) Require an escrow deposit for removal of a wireless telecommunications facility or any component thereof. However, a performance bond or other surety or another form of security may be required, so long as the amount of the bond security is rationally related to the cost of removal. In establishing the amount of the security, the city or county shall take into consideration information provided by the permit applicant regarding the cost of removal.

(b) Unreasonably limit the duration of any permit for a wireless telecommunications facility. Limits of less than 10 years are presumed to be unreasonable absent public safety reasons or substantial land use reasons. However, cities and counties may establish a build-out period for a site.

(c) Require that all wireless telecommunications facilities be limited to sites owned by particular parties within the jurisdiction of the city or county.

SEC. 3. It is the intent of the Legislature that a permit to operate a wireless telecommunications facility is not intended to preclude compliance by an applicant or city or county with the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code) or any other applicable state or federal statutes or regulations.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or

assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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From the U.S. Code Online via GPO Access
[wais.access.gpo.gov]
[Laws in effect as of January 3, 2006]
[CITE: 47USC332]

ATTACHMENT J

TITLE 47--TELEGRAPHS, TELEPHONES, AND RADIOTELEGRAPHS

CHAPTER 5--WIRE OR RADIO COMMUNICATION

SUBCHAPTER III--SPECIAL PROVISIONS RELATING TO RADIO

Part I--General Provisions

Sec. 332. Mobile services

(a) Factors which Commission must consider

In taking actions to manage the spectrum to be made available for use by the private mobile services, the Commission shall consider, consistent with section 151 of this title, whether such actions will--

- (1) promote the safety of life and property;
- (2) improve the efficiency of spectrum use and reduce the regulatory burden upon spectrum users, based upon sound engineering principles, user operational requirements, and marketplace demands;
- (3) encourage competition and provide services to the largest feasible number of users; or
- (4) increase interservice sharing opportunities between private mobile services and other services.

(b) Advisory coordinating committees

(1) The Commission, in coordinating the assignment of frequencies to stations in the private mobile services and in the fixed services (as defined by the Commission by rule), shall have authority to utilize assistance furnished by advisory coordinating committees consisting of individuals who are not officers or employees of the Federal Government.

(2) The authority of the Commission established in this subsection shall not be subject to or affected by the provisions of part III of title 5 or section 1342 of title 31.

(3) Any person who provides assistance to the Commission under this subsection shall not be considered, by reason of having provided such assistance, a Federal employee.

(4) Any advisory coordinating committee which furnishes assistance to the Commission under this subsection shall not be subject to the provisions of the Federal Advisory Committee Act.

(c) Regulatory treatment of mobile services

(1) Common carrier treatment of commercial mobile services

(A) A person engaged in the provision of a service that is a commercial mobile service shall, insofar as such person is so engaged, be treated as a common carrier for purposes of this chapter, except for such provisions of subchapter II of this chapter as the Commission may specify by regulation as inapplicable to that service or person. In prescribing or amending any such regulation, the Commission may not specify any provision of section 201, 202, or 208 of this title, and may specify any other provision only if the

Commission determines that--

- (i) enforcement of such provision is not necessary in order to ensure that the charges, practices, classifications, or regulations for or in connection with that service are just and reasonable and are not unjustly or unreasonably discriminatory;
- (ii) enforcement of such provision is not necessary for the protection of consumers; and
- (iii) specifying such provision is consistent with the public interest.

(B) Upon reasonable request of any person providing commercial mobile service, the Commission shall order a common carrier to establish physical connections with such service pursuant to the provisions of section 201 of this title. Except to the extent that the Commission is required to respond to such a request, this subparagraph shall not be construed as a limitation or expansion of the Commission's authority to order interconnection pursuant to this chapter.

(C) The Commission shall review competitive market conditions with respect to commercial mobile services and shall include in its annual report an analysis of those conditions. Such analysis shall include an identification of the number of competitors in various commercial mobile services, an analysis of whether or not there is effective competition, an analysis of whether any of such competitors have a dominant share of the market for such services, and a statement of whether additional providers or classes of providers in those services would be likely to enhance competition. As a part of making a determination with respect to the public interest under subparagraph (A)(iii), the Commission shall consider whether the proposed regulation (or amendment thereof) will promote competitive market conditions, including the extent to which such regulation (or amendment) will enhance competition among providers of commercial mobile services. If the Commission determines that such regulation (or amendment) will promote competition among providers of commercial mobile services, such determination may be the basis for a Commission finding that such regulation (or amendment) is in the public interest.

(D) The Commission shall, not later than 180 days after August 10, 1993, complete a rulemaking required to implement this paragraph with respect to the licensing of personal communications services, including making any determinations required by subparagraph (C).

(2) Non-common carrier treatment of private mobile services

A person engaged in the provision of a service that is a private mobile service shall not, insofar as such person is so engaged, be treated as a common carrier for any purpose under this chapter. A common carrier (other than a person that was treated as a provider of a private land mobile service prior to August 10, 1993) shall not provide any dispatch service on any frequency allocated for common carrier service, except to the extent such dispatch service is provided on stations licensed in the domestic public land mobile radio service before January 1, 1982. The Commission may by regulation terminate, in whole or in part, the prohibition contained in the preceding sentence if the Commission determines that such termination will serve the public interest.

(3) State preemption

(A) Notwithstanding sections 152(b) and 221(b) of this title, no.

State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services. Nothing in this subparagraph shall exempt providers of commercial mobile services (where such services are a substitute for land line telephone exchange service for a substantial portion of the communications within such State) from requirements imposed by a State commission on all providers of telecommunications services necessary to ensure the universal availability of telecommunications service at affordable rates. Notwithstanding the first sentence of this subparagraph, a State may petition the Commission for authority to regulate the rates for any commercial mobile service and the Commission shall grant such petition if such State demonstrates that--

- (i) market conditions with respect to such services fail to protect subscribers adequately from unjust and unreasonable rates or rates that are unjustly or unreasonably discriminatory; or
- (ii) such market conditions exist and such service is a replacement for land line telephone exchange service for a substantial portion of the telephone land line exchange service within such State.

The Commission shall provide reasonable opportunity for public comment in response to such petition, and shall, within 9 months after the date of its submission, grant or deny such petition. If the Commission grants such petition, the Commission shall authorize the State to exercise under State law such authority over rates, for such periods of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory.

(B) If a State has in effect on June 1, 1993, any regulation concerning the rates for any commercial mobile service offered in such State on such date, such State may, no later than 1 year after August 10, 1993, petition the Commission requesting that the State be authorized to continue exercising authority over such rates. If a State files such a petition, the State's existing regulation shall, notwithstanding subparagraph (A), remain in effect until the Commission completes all action (including any reconsideration) on such petition. The Commission shall review such petition in accordance with the procedures established in such subparagraph, shall complete all action (including any reconsideration) within 12 months after such petition is filed, and shall grant such petition if the State satisfies the showing required under subparagraph (A) (i) or (A) (ii). If the Commission grants such petition, the Commission shall authorize the State to exercise under State law such authority over rates, for such period of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory. After a reasonable period of time, as determined by the Commission, has elapsed from the issuance of an order under subparagraph (A) or this subparagraph, any interested party may petition the Commission for an order that the exercise of authority by a State pursuant to such subparagraph is no longer necessary to ensure that the rates for commercial mobile services are just and reasonable and not unjustly or unreasonably discriminatory. The Commission shall provide reasonable opportunity for public comment in response to such petition, and shall, within 9 months after the date of its submission, grant or deny such petition in whole or in part.

(4) Regulatory treatment of communications satellite corporation

Nothing in this subsection shall be construed to alter or affect the regulatory treatment required by title IV of the Communications Satellite Act of 1962 [47 U.S.C. 741 et seq.] of the corporation authorized by title III of such Act [47 U.S.C. 731 et seq.].

(5) Space segment capacity

Nothing in this section shall prohibit the Commission from continuing to determine whether the provision of space segment capacity by satellite systems to providers of commercial mobile services shall be treated as common carriage.

(6) Foreign ownership

The Commission, upon a petition for waiver filed within 6 months after August 10, 1993, may waive the application of section 310(b) of this title to any foreign ownership that lawfully existed before May 24, 1993, of any provider of a private land mobile service that will be treated as a common carrier as a result of the enactment of the Omnibus Budget Reconciliation Act of 1993, but only upon the following conditions:

(A) The extent of foreign ownership interest shall not be increased above the extent which existed on May 24, 1993.

(B) Such waiver shall not permit the subsequent transfer of ownership to any other person in violation of section 310(b) of this title.

(7) Preservation of local zoning authority

(A) General authority

Except as provided in this paragraph, nothing in this chapter shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

(B) Limitations

(i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof--

(I) shall not unreasonably discriminate among providers of functionally equivalent services; and

(II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

(ii) A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.

(iii) Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in

writing and supported by substantial evidence contained in a written record.

(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.

(v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. Any person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (iv) may petition the Commission for relief.

(C) Definitions

For purposes of this paragraph--

(i) the term ``personal wireless services'' means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

(ii) the term ``personal wireless service facilities'' means facilities for the provision of personal wireless services; and

(iii) the term ``unlicensed wireless service'' means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined in section 303(v) of this title).

(8) Mobile services access

A person engaged in the provision of commercial mobile services, insofar as such person is so engaged, shall not be required to provide equal access to common carriers for the provision of telephone toll services. If the Commission determines that subscribers to such services are denied access to the provider of telephone toll services of the subscribers' choice, and that such denial is contrary to the public interest, convenience, and necessity, then the Commission shall prescribe regulations to afford subscribers unblocked access to the provider of telephone toll services of the subscribers' choice through the use of a carrier identification code assigned to such provider or other mechanism. The requirements for unblocking shall not apply to mobile satellite services unless the Commission finds it to be in the public interest to apply such requirements to such services.

(d) Definitions

For purposes of this section--

(1) the term ``commercial mobile service'' means any mobile service (as defined in section 153 of this title) that is provided for profit and makes interconnected service available (A) to the public or (B) to such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by regulation by the Commission;

(2) the term ``interconnected service'' means service that is interconnected with the public switched network (as such terms are defined by regulation by the Commission) or service for which a request for interconnection is pending pursuant to subsection (c)(1)(B) of this section; and

(3) the term ``private mobile service'' means any mobile service (as defined in section 153 of this title) that is not a commercial mobile service or the functional equivalent of a commercial mobile service, as specified by regulation by the Commission.

(June 19, 1934, ch. 652, title III, Sec. 332, formerly Sec. 331, as added Pub. L. 97-259, title I, Sec. 120(a), Sept. 13, 1982, 96 Stat. 1096; renumbered Sec. 332, Pub. L. 102-385, Sec. 25(b), Oct. 5, 1992, 106 Stat. 1502; amended Pub. L. 103-66, title VI, Sec. 6002(b)(2)(A), Aug. 10, 1993, 107 Stat. 392; Pub. L. 104-104, Sec. 3(d)(2), title VII, Secs. 704(a), 705, Feb. 8, 1996, 110 Stat. 61, 151, 153.)

References in Text

Provisions of part III of title 5, referred to in subsec. (b)(2), are classified to section 2101 et seq. of Title 5, Government Organization and Employees.

The Federal Advisory Committee Act, referred to in subsec. (b)(4), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5.

The Communications Satellite Act of 1962, referred to in subsec. (c)(4), is Pub. L. 87-624, Aug. 31, 1962, 76 Stat. 419, as amended. Titles III and IV of the Act are classified generally to subchapters III (Sec. 731 et seq.) and IV (Sec. 741 et seq.), respectively, of chapter 6 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

The Omnibus Budget Reconciliation Act of 1993, referred to in subsec. (c)(6), is Pub. L. 103-66, Aug. 10, 1993, 107 Stat. 312, as amended. For complete classification of this Act to the Code, see Tables.

Codification

In subsec. (b)(2), ``section 1342 of title 31'' substituted for ``section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))'' on authority of Pub. L. 97-258, Sec. 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Amendments

1996--Subsec. (c)(7). Pub. L. 104-104, Sec. 704(a), added par. (7).

Subsec. (c)(8). Pub. L. 104-104, Sec. 705, added par. (8).

Subsec. (d)(1), (3). Pub. L. 104-104, Sec. 3(d)(2), substituted ``section 153'' for ``section 153(n)''.

1993--Pub. L. 103-66 struck out ``Private land'' before ``mobile services'' in section catchline, struck out ``land'' before ``mobile services'' wherever appearing in subsecs. (a) and (b), added subsecs. (c) and (d), and struck out former subsec. (c) which related to service provided by specialized mobile radio, multiple licensed radio dispatch systems, and other radio dispatch systems; common carriers; and rate or entry regulations.

Effective Date of 1993 Amendment

Section 6002(c) of Pub. L. 103-66 provided that:

“(1) In general.--Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 152, 153, and 309 of this title] are effective on the date of enactment of this Act [Aug. 10, 1993].

“(2) Effective dates of mobile service amendments.--The amendments made by subsection (b) (2) [amending this section and sections 152 and 153 of this title] shall be effective on the date of enactment of this Act [Aug. 10, 1993], except that--

“(A) section 332(c) (3) (A) of the Communications Act of 1934 [subsec. (c) (3) (A) of this section], as amended by such subsection, shall take effect 1 year after such date of enactment; and

“(B) any private land mobile service provided by any person before such date of enactment, and any paging service utilizing frequencies allocated as of January 1, 1993, for private land mobile services, shall, except for purposes of section 332(c) (6) of such Act [subsec. (c) (6) of this section], be treated as a private mobile service until 3 years after such date of enactment.”

Availability of Property

Section 704(c) of Pub. L. 104-104 provided that: “Within 180 days of the enactment of this Act [Feb. 8, 1996], the President or his designee shall prescribe procedures by which Federal departments and agencies may make available on a fair, reasonable, and nondiscriminatory basis, property, rights-of-way, and easements under their control for the placement of new telecommunications services that are dependent, in whole or in part, upon the utilization of Federal spectrum rights for the transmission or reception of such services. These procedures may establish a presumption that requests for the use of property, rights-of-way, and easements by duly authorized providers should be granted absent unavoidable direct conflict with the department or agency's mission, or the current or planned use of the property, rights-of-way, and easements in question. Reasonable fees may be charged to providers of such telecommunications services for use of property, rights-of-way, and easements. The Commission shall provide technical support to States to encourage them to make property, rights-of-way, and easements under their jurisdiction available for such purposes.”

Transitional Rulemaking for Mobile Service Providers

Section 6002(d) (3) of Pub. L. 103-66 provided that: “Within 1 year after the date of enactment of this Act [Aug. 10, 1993], the Federal Communications Commission--

“(A) shall issue such modifications or terminations of the regulations applicable (before the date of enactment of this Act) to private land mobile services as are necessary to implement the amendments made by subsection (b) (2) [amending this section and sections 152 and 153 of this title];

“(B) in the regulations that will, after such date of enactment, apply to a service that was a private land mobile service and that becomes a commercial mobile service (as a consequence of such amendments), shall make such other modifications or terminations as may be necessary and practical to assure that licensees in such service are subjected to technical requirements that are comparable to the technical requirements that apply to licensees that are providers of substantially similar common carrier

services;

“(C) shall issue such other regulations as are necessary to implement the amendments made by subsection (b) (2); and

“(D) shall include, in such regulations, modifications, and terminations, such provisions as are necessary to provide for an orderly transition.”

ATTACHMENT K

Alicia Torre and Jonathan Nimer
1354 Pebble Drive
San Carlos, CA 94070
January 22, 2007

Commissioner David Bomberger
Commissioner Gail Slocum
Commissioner William Wong
Commissioner Steve Dworetzky
Commissioner Jon Silver
San Mateo County Planning Commission
400 County Center
Redwood City, CA 94063

HAND DELIVERED AT THE COMMISSION MEETING 1/24/07

RE: Conditional Use Permits for Wireless Communication Facilities

Dear Sirs and Madams,

My name is Jonathan Nimer and I live at 1354 Pebble Drive in San Carlos. My property used to be part of Palomar Park and was only annexed to San Carlos in the mid-90s by a former owner.

I am here today to urge you to develop a general policy specifically for the permitting of wireless communication facilities in the county and to put a moratorium on the permitting of such facilities in the vicinity of residences until the policy is established.

Technology and community practices change over time. A few years ago cellular service companies were competing for a mainly business market; users used their cell phones when traveling and away from the office, principally in commercial areas and highways. Now there are users, especially among the young, who use principally cell phones and may not even have land line service at their residence. My niece has lived in Washington DC, San Rafael, Davis and now New York City in the past 4 years, all the while keeping the same cell phone number.

Cell phone companies are increasingly seeking to site antennas and transmitting equipment in residential neighborhoods. In a recent hearing company representatives stated that they had to have antennas in residential neighborhoods to satisfy their customers' desires for service. In 2006 and January 2007 the Zoning Hearing Agendas list 31 different cases for conditional use permits for wireless facilities, 9 of which were in residential neighborhoods on residential property or public rights-of-way beside residential property. (18 applications were at non-residential sites and 4 were not clear from the agenda listing.) Several of these cases include the placement of multiple antennas and transmitting equipment at the same residential location. And several of them are being vehemently opposed by residents and neighborhood associations who think that it is a use which is inappropriate in a residential neighborhood.

ATTACHMENT

I urge you to study this issue and establish regulations specifically for wireless facilities and to put a moratorium on wireless facility permits next to residences until that has been accomplished. Although that will require time and effort, it will save time and money for both the county and the cellular companies in the long run. And you will not have to hear and settle numerous appeals from outraged neighbors and neighborhood associations.

In our case in Palomar Park, I and several neighbors and the Palomar Park Association are opposing three applications by Sprint/Nextel, Metro PCS and Verizon. The first is a renewal of a Conditional Use Permit and the next two are new applications. The property in question has two existing wireless communication facility equipment enclosures, 3 antennas (one of which has been on the wrong property for 5 years), and 4 transmitters. Were all the pending applications approved, the property would have 4 equipment enclosures, 7 antennas and 16 transmitters. More than 25% of the subject property, about 6,000 square feet, would be given over to these enclosures, antennas and the buried underground cables between the enclosures and antennas. Essentially this is an antenna farm, a money-making commercial use in the back yard of a residence.

I am aware that neighbors in West Menlo Park are opposing a proposal to put antennas and transmitters on the roof of an apartment building in a residential neighborhood. The apartment building already has one wireless facility. This application has already been continued six times.

I do not think that cellular communications facilities should be sited in residential neighborhoods on properties next door to residences. Although the General Plan does not speak specifically about cellular facilities, it does state that the urban area design concept should “ensure that new development in urban areas is designed and constructed to contribute to the orderly and harmonious development of the locality” (4.35b); that land use designations should be distributed “in order to achieve orderly, understandable, coherent, and workable land use patterns” (7.7); and that land use compatibility should “protect and enhance the character of existing single-family areas” and “protect existing single-family areas from adjacent incompatible land use designations which would degrade the environmental quality and economic stability of the area.” (8.14) These facilities are money-making ventures for the property owners who earn annual fees for allowing this use of their property, unlike electrical and gas lines. They lower the property value of neighboring properties due to public concerns about exposure to radio frequency and unsightliness. They simply do not belong in residential areas.

These facilities are obtaining conditional use permits under section 6500 (b) of the Zoning Regulations, which I quote in its entirety:

Location of electric power, gas, water and oil lines, public utility or public service uses or public buildings in any district when found to be necessary for the public health, safety, convenience or welfare, except that a use permit shall not be required for local distribution lines.

It is clear from all the examples given that the section was intended mainly to apply to linear public utility uses. An antenna is not a linear facility, and it can be located in more than one place. Wireless facilities are not called out anywhere within the code. So this very general language is being used to justify the permitting of a new and rather different facility.

The chapter on use permits also states that "the findings of the Planning Commission must include that the establishment, maintenance and/or conducting of the use will not, under the circumstances of the particular case, result in a significant adverse impact to coastal resources or be detrimental to the public welfare or injurious to property or improvements in said neighborhood." In the case I am most familiar with, the two contiguous landowners have both presented evidence of property sales that were not consummated due to prospective buyers' concerns about the wireless facilities. This is evidence of direct injury to property, but this evidence has so far been completely ignored in the staff reports and the proposed findings.

The Planning Commission and Board of Supervisors will be hearing an increasing number of appeals and deciding cases on a piecemeal basis unless a general policy appropriate for wireless facilities is developed. Some neighboring jurisdictions have been proactive in addressing this technology change, and I bring to your attention the Woodside Code. Woodside's code section on Wireless Communication Facilities acknowledges their value, establishes priority for siting which favors town owned property, and only allows such facilities on residential property where the carrier demonstrates it has investigated all alternative sites and found them technologically not feasible. There are additional provisions which provide food for thought, so I am appending it to this letter for your consideration.

In sum, I respectfully request that the Planning Commission establish a moratorium on permitting wireless communication facilities near residences until it has established new regulations suitable for this specific technology. It will save time and money in the long run. Most importantly it will make good on the General Plan commitment to protect existing single family areas from adjacent incompatible uses.

Thank you very much for your attention.

Sincerely yours,



Alicia Torre



Jonathan Nimer

Encl: Woodside Code Section 153.400 to 153.999 on Wireless Communications Facilities

WOODSIDE CODE

WIRELESS COMMUNICATIONS FACILITIES

§ 153.400 PURPOSE.

The purpose of this subchapter is to regulate **wireless** communications facilities consistent with the intent of the Town of Woodside General Plan as follows:

- (A) Establish development standards to regulate the placement and design of **wireless** communications facilities in order to preserve the unique rural character of the Town.
- (B) Utilize the best available technology and development standards to enable adequate coverage in a manner which will assure the health and safety of residents, protect the physical environment, and minimize adverse visual impact.
- (C) Acknowledge the community benefits associated with the provision of **wireless** communications services within the Town, particularly the provision of emergency services such as police and fire.
- (D) Encourage location of **wireless** communications facilities on public or institutional sites existing within the Town.
- (E) Discourage the location of such facilities on residential property and in visually sensitive areas.

(Ord. 2001-510, effective 6-7-01)

§ 153.401 DEFINITIONS.

In this subchapter:

ANTENNA. A device used in communications which transmits or receives radio signals.

APPLICANT. Owner(s) or the owner's agent of property upon which **wireless** communications facilities are to be located.

CO-LOCATION. The location of two or more **wireless** communications facilities on a single support structure, or otherwise sharing a common location. Co-location shall also include the location of **wireless** communications facilities with other utility facilities and structures such as, but not limited to, water tanks, transmission towers and light standards.

CARRIER. A **wireless** communications service provider licensed by the FCC and/or by the Public Utilities Commission.

FACADE-MOUNTED ANTENNA. An antenna that is directly attached or affixed to any facade of a building or other structure.

FCC. Federal Communications Commission.

GROUND-MOUNTED ANTENNA. An antenna with its support structure placed directly in the ground.

MONOPOLE. A single free standing pole post, or similar structure used to support equipment associated with a **wireless** communications facility.

RELATED EQUIPMENT. All equipment ancillary to the transmission and reception of voice and data in radio frequencies. Such equipment may include, but is not limited to, cable, conduit and connectors, equipment enclosures and structures used to house equipment associated with a **wireless** communications facility.

WIRELESS COMMUNICATIONS FACILITY. Facilities that transmit and/or receive electromagnetic signals for the following technologies: cellular technology, personal communications services (PCS), enhanced specialized mobile radio services and paging systems. It includes antennas, monopoles, ground or facade mounted antenna and all other types of related equipment used in the transmission or receipt of such signals; structures designed or placed specifically to support this equipment; associated equipment cabinets and/or buildings; and all other accessory development. It does not include radio towers, television towers and specialized public safety networks.

(Ord. 2001-510, effective 6-7-01)

§ 153.402 CONDITIONAL USE PERMIT REQUIRED FOR **WIRELESS COMMUNICATIONS FACILITIES.**

No **wireless** communications facility shall be located, placed or constructed within the Town without first obtaining a conditional use permit under the provisions of this subchapter.

(Ord. 2001-510, effective 6-7-01)

§ 153.403 REVIEW STANDARDS.

The following general standards shall be considered by the Planning Commission in its review of a conditional use permit for **wireless** communications facilities:

(A) *Priorities for siting.* **Wireless** communications facilities shall generally be located on properties not used for residential purposes, with priority as follows:

- (1) Town owned properties;
- (2) Canada College;
- (3) Other public or quasi-public facilities, such as fire stations, schools or churches;

- (4) Poles in the public right-of-way; and
- (5) Commercially zoned properties.

(B) *Siting on residential parcels.* **Wireless** communications facilities shall not be permitted on properties zoned and used for residential purposes or undeveloped parcels intended for residential use, unless the residential property owner provides written consent and:

- (1) The carrier demonstrates that all alternative non-residential sites (including co-location) have been explored and are not technologically feasible for use; and
- (2) No significant visual impacts would result from the proposed facility location.

(C) *Co-location.* Co-location of **wireless** communications facilities with other facilities is encouraged to the maximum extent feasible, as long as the co-location is technologically compatible and does not substantially increase visual impacts. The Town will generally require as a condition of approval for any conditional use permit that the applicant permit co-location of other facilities, subject to technological constraints and Town review.

(D) *Landscape screening, size and color.* Landscape screening shall be required by the Town to minimize the visual impacts of **wireless** communications facilities. Landscape screening must be maintained in good condition at all times. The Town may require financial security to assure proper landscape maintenance. **Wireless** communications facilities shall be of the minimum height and size necessary to perform their function. No monopole or antenna shall exceed the maximum height for structures in the zoning district of the site location. Poles, antennas and equipment buildings and other **wireless** communications facilities should be painted to blend with the surrounding environment and/or buildings to further minimize visual impacts.

(E) *Environmental review.* An environmental impact analysis under the California Environmental Quality Act (CEQA) will be required for review of proposed **wireless** communications facilities, with special attention to the visual impacts of the facilities. Categorical exemptions may be used where facilities are co-located with or would be minimal additions to existing structures, with negligible additional visual impact.

(F) *Antenna Master Plans.* Any applicant for a **wireless** communications facility site shall submit an application showing, to the best of the applicant's knowledge, all sites anticipated to be required by the carrier for a five year period, and the requests shall be reviewed by the Planning Commission as a Master Plan application.

(G) *Term of permits and abandonment of sites.* Conditional use permits for **wireless** communications facilities shall be established for a period not to exceed five years, at which time renewal of the permit must be requested by the applicant. Reapproval after five years shall be administratively performed by the Planning Director using the conditional use permit process under the provisions of this chapter. More frequent review of the operation of the permit may be made a condition of approval. Approval will also require a written agreement from the applicant

that, should the use be discontinued by the carrier, all facilities will be removed not later than 90 days after discontinuance of the use or abandonment.

(H) *Public notice.* In addition to the required form of public notice for a conditional use permit, carriers shall, at the time of application for conditional use permits, demonstrate efforts which have been made to inform neighboring residents of the proposed wireless communications facilities, such as conducting meetings, or mailing fact sheets and/or letters, etc., to neighbors.

(I) *Compliance with FCC regulations.* All wireless communications facilities shall be required to comply with present and future regulations for said facilities, and for radio frequency radiation emission of the FCC.

(Ord. 2001-510, effective 6-7-01)

§ 153.404 TERMINATION AND REVOCATION OF A PERMIT.

(A) *Violation of permit.* If the terms and conditions of a permit for wireless communications facilities are violated, the permit may be revoked pursuant to the conditional use permit revocation procedures specified in the Woodside Municipal Code.

(B) *Emissions violation.* In the event that total emissions for a wireless communications facility site exceed FCC standards, the applicant shall immediately cease operation of the wireless communications facility, and permit revocation procedures shall be commenced.

(C) *Termination.* If the use of the permitted wireless communications facility is discontinued for any reason for a period of one year, the permit shall be void, and the use shall not be resumed, consistent with the conditional use permit provisions of the Woodside Municipal Code.

(D) *Removal.* If the applicable discretionary permit(s) are revoked or otherwise become void, the wireless communications facility shall be removed from the site, and the site shall be restored to its original, pre-construction condition.

(Ord. 2001-510, effective 6-7-01)

§ 153.405 APPLICATION REQUIREMENTS.

In addition to general application submittal requirements, all applications for wireless communications facilities shall include the following:

(A) A five year Wireless Communications Facilities Master Plan for the Town and the surrounding area (or, if the carrier has previously submitted a full Master Plan, an Updated Master Plan must be submitted). The Master Plan shall consist of the following components:

(1) A written description of the type of technology each company/carrier will provide to its customers over the next five years (cellular, PCS, etc.);

- (2) A description of the radio frequencies to be used for each technology;
- (3) A description of the type of consumer services (voice, video, data transmissions) and consumer products (mobile phones, laptop PCs, modems) to be offered;
- (4) A written list of all existing, existing to be upgraded or replaced, and proposed **wireless** communications facilities sites within the Town for these services by the company making the application;
- (5) A presentation size map of the Town which shows the five year plan **wireless** communications facilities sites, or if individual properties are not known, the geographic service areas of the **wireless** communications facilities sites;
- (6) The written list of **wireless** communications facilities sites shall include all anticipated **wireless** communications facilities sites over a five year period, and shall include the following information:
 - (a) List of each **wireless** communications facilities site first by address then by Assessor's Parcel Number;
 - (b) List the Zoning District in which each **wireless** communications facilities site is to be located;
 - (c) List the other land use or uses on each site at which each facility would be located, and include a detailed description of the existing structure or structures on each of those sites;
 - (d) List the square footage or acreage of each site and describe the topography of each site;
 - (e) If any of the sites is governed by certain easement restrictions, or other restrictions on location imposed by the property owner or easement holder, describe those restrictions as they relate to the placement of **wireless** communications facilities on the site;
 - (f) List the number of antennae and base transceiver stations proposed per site, and if there are other installations on a site, list the number by each carrier;
 - (g) Describe the location and type of antennae installation(s) (facade mount, roof mount, ground mount, freestanding monopole) and location of the base transceiver installations) for each site;
- (B) Visual representations which accurately depict the appearance of the proposed facility within the context of the site proposed for development (i.e., photo-simulations).

(C) Mock-up structures and/or story poles which replicate the proposed wireless communications facility shall be provided in the field, and shall be removed within 30 days after the application process is completed.

(D) Documentation demonstrating that use of the site will not result in levels of radio frequency (RF) emissions which will exceed Federal Communication Commission standards.

(E) A description of any proposed noise-generating equipment, including the times and decibel levels of the noise which would be produced.

(F) Plans specifying any proposed access roads, parking areas and/or new utilities service connections that would be necessary to either construct or maintain the proposed wireless communications facility, including submittal of documents, agreements, etc., that show the right by the wireless communications facility company to access the selected site.

(G) Plans specifying the placement and design of any proposed equipment enclosure.

(H) A map indicating the geographic area in which the site must be located to provide adequate coverage.

(I) A map showing the area to be serviced by the site.

(J) A letter explaining the site selection process, including information about alternate sites and why they were not selected.

(K) Such other information as may be requested by the Town to make the determinations required by this subchapter.

(Ord. 2001-510, effective 6-7-01)

§ 153.406 FEES, TECHNICAL EVALUATION.

The Planning Commission or the Planning Director may require technical evaluations and other technical assistance for the purpose of making any determination required by this subchapter, including but not limited to, confirming the electromagnetic frequency needs of the applicant and identifying alternative solutions and sites that better meet the criteria and legislative intent of this subchapter. The cost of these technical services shall be borne by the applicant.

(Ord. 2001-510, effective 6-7-01)

§ 153.999 PENALTY.

Any person, firm, or corporation, whether as principal, agent, employee, or otherwise, violating or causing the violation of any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punishable by a fine of not more than \$1,000 or by

imprisonment for a term not exceeding six months, or by both such fine and imprisonment. Such person, firm, or corporation shall be deemed guilty of a separate offense for each and every day during and portion of which any violation of any provision of this chapter is committed or continued by such person, firm, or corporation and shall be punishable as prescribed by this chapter.

('75 Code, § 9-2.1503) (Ord. 1980-291, effective 9-11-80; Am. Ord. 1984-321, effective 1-11-85; Am. Ord. 1999-494, effective 3-25-99)