

PLANNING COMMISSION

Agenda Item No.: G.3
Date: December 10, 2019

PROJECT NUMBER / NAME: AZ 19-0001 / Personal Wireless Service Facilities Regulations

REQUEST: A proposed amendment to Article 34 (Communication Antennas Ordinance) of the Escondido Zoning Code to update the requirements for wireless communication facilities within the right-of-way. The amendment includes an update to the entitlement process to streamline deployment of wireless networks, and simplified language to be consistent with Federal Communications Commission Order. The proposal also includes new guidelines for wireless communications facilities in the right-of-way, as well as the environmental determination prepared for the project. No development project is proposed.

LOCATION: Citywide

APPLICANT: City of Escondido

APN / APNS: N/A

PRIMARY

REPRESENTATIVE: Planning Division

GENERAL PLAN / ZONING: N/A

DISCRETIONARY ACTIONS REQUESTED: Zoning Code Amendment and adoption of guidelines

PREVIOUS ACTIONS: Planning Case No. AZ 19-0001

PROJECT PLANNERS: Adam Finestone, Principal Planner
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Jay Paul, Senior Planner
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CEQA RECOMMENDATION: Exempt (CEQA Guidelines Section 15061(b)(3) – General Rule).

STAFF RECOMMENDATION: Provide a recommendation to City Council to approve the Project

REQUESTED ACTION: Approve Planning Commission Resolution No. 2019-13

CITY COUNCIL HEARING REQUIRED: YES NO

REPORT APPROVALS:

Bill Martin, Community Development Director

Mike Strong, Assistant Planning Director

A. BACKGROUND:

On June 14, 2017, the City Council adopted Ordinance No. 2017-10RR to amend Article 34 (Communication Antennas) of the Escondido Zoning Code to modify the regulation of small wireless facilities in the public right-of-way (also called “micro cell” or “small cell” facilities). As part of the process to adopt the ordinance, the Planning Commission was provided a comprehensive report covering the Federal Telecommunications Act of 1996 and the Spectrum Act of 2012, which detailed certain ways by which cities are preempted from regulating various aspects of wireless communication facility siting. Subsequent to the adoption of Ordinance No. 2017-10RR, Article 34 of the Escondido Zoning Code has served as a measure for evaluating wireless communication facility applications. Since then, federal law regulating wireless communication facilities has continued to evolve. On September 26, 2018, the Federal Communications Commission (FCC) adopted a Declaratory Ruling and Third Report and Order (the “Order”) geared toward speeding up the deployment of small wireless facilities in the public right-of-way. The FCC ruling established limitations on state and local government regulation of these facilities that are placed on existing or new utility poles and street light standards located in the public right-of-way and private property. As a result, the City of Escondido needs modify several sections of its code to update definitions, application submittal requirements, and overall review process.

On February 12, 2019, the Planning Commission held a public hearing to consider an amendment to Article 34 of the Escondido Zoning Code, specifically related to revising some of the policy language on small wireless facilities in the public right-of-way. Guidelines related to said facilities were also intended to be considered by the Planning Commission, but were not yet fully developed. At that hearing, the Planning Commission approved Resolution No. 2019-02, recommending City Council adoption of the proposed Zoning Code Amendment, with the understanding that staff would bring the guidelines back for consideration prior to presenting the proposed documents to City Council for consideration. Further information on the proposed Zoning Code Amendment language considered by the Planning Commission on February 12, 2019, can be found in the staff report prepared for that meeting, which is attached to this report along with the meeting minutes. Said Resolution No. 2019-02 includes the Zoning Code Amendment language proposed at that time.

Since the February 12, 2019, Planning Commission meeting, Planning Division staff has worked with the City Attorney to complete the drafting of the guidelines and procedures. Following public outreach efforts and consultation with industry stakeholders, this work effort is complete. During the development of the guidelines, staff identified several additional revisions to the Escondido Zoning Code which are necessary to adequately and efficiently address the deployment of small wireless facilities in the public right-of-way throughout the city. The proposed Zoning Code Amendment and draft guidelines are provided as exhibits to draft Planning Commission Resolution No. 2019-13. The proposed changes to Article 34 contained in said draft Resolution reflect proposed amendments to the Escondido Zoning Code as currently codified and would supersede those recommended for approval by the Planning Commission on February 12, 2019.

Changes to the proposed amendments since the February 12, 2019, Planning Commission meeting are described below.

B. PROJECT ANALYSIS:

The growth in demand for personal wireless services and advancements in technology has generated a lot of interest in the media and telecom circles. 5G is the fifth generation of mobile wireless systems, a term used to describe the next generation of mobile networks beyond the networks commonly used today. 5G will include a combination of range and variety of frequencies and modulations. Although there are some clear advantages of this newer technology, such as faster data speeds, more reliable connectivity, improved data access, etc.; there are also some concerns about its deployment, including potential risks to humans and the environment. However, 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 FCC regulations concerning such emissions.

1. Zoning Code Amendment

Additional revisions to the draft Zoning Code Amendment presented to the Planning Commission on February 12, 2019, have been proposed in order to address concerns that have been identified as staff's familiarity with the processing of permits for small wireless facilities has grown, and to ensure consistency with the proposed guidelines. The following additional revisions have been incorporated into the proposed Zoning Code Amendment language:

- Removed definitions for terms that do not appear in the ordinance (existing or proposed) or guidelines, and added definitions for terms that are necessary;
- Specified that certain provisions of Article 34 are not applicable to small wireless facilities in the public right-of-way;
- Deferred design and development specifications to the guidelines;
- Revised required findings for approval of permits;
- Maintained provisions to allow exceedance of quantitative standards through a minor conditional use permit process; and
- Other minor revisions to maintain consistency, both within the ordinance and with the guidelines.

The proposed Zoning Code Amendment would still be consistent with the goals and policies identified in the General Plan, as specified in Exhibit "A" to draft Planning Commission Resolution 2019-13.

2. Guidelines

Per the draft Zoning Code Amendment, guidelines for small wireless facilities in the public right-of-way have been developed to supplement and expand upon the information contained in the

Escondido Zoning Code. Establishing guidelines as a separate document allows staff to provide more specific information than could be included in the ordinance relating to the permitting, processing, and design of small wireless facilities. The guidelines are intended to be adopted by resolution of the City Council as a companion to the ordinance approving the Zoning Code Amendment, and could be revised by future resolution of the City Council. This process would allow staff to react in an efficient manner as necessary updates to the guidelines are identified.

The guidelines have been drafted to provide comprehensive information to all parties involved in the processing of applications for small wireless facilities proposed in the public right-of-way. They include the following sections:

- Introduction – Provides general information on the purpose, intent, and use of the document.
- Applicability – Identifies which facilities would be subject to the guidelines.
- Application Processing – Describes the types of permits and agreements necessary to install small wireless facilities in the public right-of-way, and the process through which an applicant would obtain them.
- Design and Development Standards – Provides specific criteria relating to the design of proposed facilities. Said criteria include size, location, separation, and antenna and accessory equipment specifications, among others.
- Standard Conditions of Approval – Creates conditions of approval that would be placed on all facilities that are subject to these guidelines. (Additional site-specific conditions of approval could still be applied to individual facilities.)

C. PUBLIC OUTREACH AND CONSULTATION

Since the February 12, 2019 Planning Commission meeting, Planning Division staff has met with representatives from the industry and discussed their concerns. The carriers provided comments and concerns with the regulation of small cell technology, which is summarized in the next section of this staff report.

In addition, a public information meeting was held on November 25, 2019, in order to provide the public with an opportunity to obtain information on the proposed Zoning Code Amendment and guidelines. The meeting was advertised in the San Diego Union Tribune, and through an email blast to a list of individuals (including wireless communication industry representatives) who had either signed up for public notifications of planning projects on the City's website or expressed interest in the topic of wireless infrastructure deployment. The meeting was sparsely attended (two community members and five wireless communication industry representatives), which staff acknowledges may have been a result of the short notice provided (seven days) and the fact that it was held on the Monday immediately preceding Thanksgiving.

At the meeting, staff provided an overview of the proposed Zoning Code Amendment and guidelines, and distributed copies of the draft documents. Staff also fielded questions regarding the information contained in proposed documents. Concerns raised by community members were

primarily related to potential health impacts associated with radio frequency emissions generated by wireless communication facilities. Staff was aware of those concerns prior to the meeting, however the Federal Communications Act of 1996 preempts consideration by a permitting authority of health-related impacts posed by wireless communication facilities when reviewing applications for such facilities. This preemption was reaffirmed by the FCC's Order in 2018.

Information regarding the proposed Zoning Code Amendment and guidelines has been available on the City's website (accessible directly from the homepage) since the middle of November, and copies of the draft documents were posted on December 2, 2019. All public correspondence received prior to 5 p.m. on December 3, 2019, has been attached to this staff report, and any information received between that time and the date of the public hearing will be provided on the dais prior to said hearing.

D. CONSULTATION WITH THE WIRELESS INDUSTRY

The City has been processing applications for small wireless facilities in the public right-of-way for the past two-to-three years. Throughout that time, staff has been engaged in discussions with representatives of the wireless communication industry regarding the need for updates to current City policies and regulations.

Working drafts of the proposed guidelines were provided to the wireless communication industry representatives on June 14, 2019, and July 11, 2019. Staff received comments from the industry representatives following the release of both drafts. Modifications determined by staff to be appropriate and in the best interest of the City were made to the draft Zoning Code Amendment language and proposed guidelines in response to those comments.

On August 14, 2019, City staff met with the wireless communication industry representatives to continue the dialogue regarding the proposed Zoning Code Amendment and guidelines. Information provided at that meeting was taken into consideration as the documents were further refined. An additional working draft of the proposed Zoning Code Amendment language and guidelines was provided at a public information session held on November 25, 2019 (described in the "Public Outreach and Consultation" section above), and additional comments provided by industry representatives, which again were taken into consideration prior to finalizing the Zoning Code Amendment language and proposed guidelines.

All comments provided by the wireless industry on the various iterations of the draft documents have been attached to this staff report. The proposed Zoning Code Amendment language and guidelines attached to draft Planning Commission Resolution No. 2019-13 (Exhibits "B" and "C," respectively) represent the cumulative result of all modifications made in response to all comments received. A brief summary of the more significant issues raised by the industry representatives, and the City's response to them, are described below.

- Applicability of various zoning code provisions
Certain language in the working drafts of the Zoning Code Amendment addressed personal wireless service facilities in general, and may be in conflict with provisions that are specific to small wireless facilities in the public right-of-way. The proposed code language has been revised to clarify which provisions are not applicable to small wireless facilities in the public right-of-way.
- Process to allow consideration of small wireless facilities that do not comply with standards contained in the guidelines
The first working draft of the Zoning Code Amendment specified that proposed small wireless facilities which do not comply with the standards contained in the guidelines were strictly prohibited, and did not allow for consideration of said facilities through a minor conditional use permit or other mechanism. The proposed code language has been revised to allow small wireless facilities that exceed the quantitative standards contained in the guidelines to be considered through a minor conditional use permit process. Additionally, the guidelines also provide the ability for wireless service providers to seek pre-approval of specific facility designs that exceed the quantitative standards contained in the guidelines. Such pre-approved designs would be appended to the guidelines.
- Application processing
The first working draft of the guidelines stated that wireless facilities that did not conform to the development standards contained therein would automatically be denied. They also allowed for only one resubmittal of the application to address technical issues identified during the plan review by the Engineering Service Department. The guidelines have since been revised to allow revisions to the plans in order to demonstrate conformance with development standards, and will also allow two resubmittals rather than just one.
- Batched applications
Working drafts of the guidelines had set a limit of five small wireless facilities that could be batched together as a single application, and had stated that all facilities in a batch would be denied if any individual facility was denied. The guidelines as currently proposed do not limit the number of facilities that can be submitted in a batch, but do require facilities submitted as batched applications to utilize the same design and equipment as each other. The guidelines further stipulate that any individual facility within a batch that utilizes a design which is not consistent with the rest of the batch will be removed from the batch and must be processed as a separate application.
- Subjective standards
Certain language in the proposed guidelines relating to aesthetic standards was perceived to be subjective. The term “least intrusive” was pointed to as such a standard. Staff has revised the guidelines to include an objective definition for that term.

There remain several issues identified by industry representatives on which City staff does not believe that modifications are warranted. The most significant of those issues are as follows:

- Quantitative standards
Industry representatives have stated that the quantitative standards (dimensions, height, volume, separation from residential structures, etc.) contained in the draft guidelines would

have the effect of prohibiting deployment of small wireless facilities in the public right-of-way. However, considering that City staff based the quantitative criteria on a review of small wireless facilities that have already been approved or are currently being processed by the City, staff respectfully disagrees with this assertion. A vast majority of the small wireless facilities that the City has reviewed or is in the process of reviewing, meet the quantitative standards included in the guidelines. Additionally, staff has provided a mechanism by which small wireless facilities that do not meet the quantitative standards in the guidelines could be accommodated.

- Support structures

The guidelines identify support structures on which small wireless facilities can be placed, presented in a list from most-preferred to least-preferred. Industry representatives have stated that the list has the effect of steering all wireless facilities to be placed on City-owned structures, in violation of state law. Staff acknowledges that street lights are the most-preferred support structure, however that preference is because staff believes that facilities placed on street lights are more compatible with the goal of protecting the City's visual character. The guidelines also identify a number of support structures on which facilities cannot be placed, which industry representatives believe will limit their ability to meet their service objectives in the least intrusive way. Staff believes that the prohibitions are necessary due to public safety considerations (traffic signals), and serve to maintain the visual character of the City (for example, on archways).

E. ENVIRONMENTAL STATUS:

The proposed project is categorically exempt from environmental review in conformance with CEQA Section 15061(b)(3). The activity is covered by the general rule that exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. Approval of the proposed amendment to the Escondido Zoning Code and the associated guidelines would not individually or cumulatively result in the possibility of creating significant effects on the environment because the proposed amendment to the Zoning Code (Article 34) and adoption of associated guidelines only updates and expands upon established criteria that in turn would be utilized to assess and process applications for the development of personal wireless service facilities within the public right-of-way. The proposed Zoning Code Amendment and associated guidelines are not a "physical condition" that will impact the environment for the purposes of CEQA. Therefore, the proposed Zoning Code Amendment is not subject to CEQA under the General Rule and no further environmental review is necessary.

F. CONCLUSIONS:

The Planning Commission has the authority under Section 33-1262 of Article 61 of the Escondido Zoning Code (Administration and Enforcement Ordinance) to review and consider amendments to the Zoning Code, which requires a Planning Commission recommendation to City Council. The Planning Commission is also being requested to provide a recommendation on the draft guidelines that will supplement Article 34 of the Escondido Zoning Code, specifically relating to small wireless facilities in the public right-of-way. No other discretionary permits are requested or required.

The proposed project is consistent with the General Plan and helps position Escondido to establish a clear process to plan for, develop processes around, and manage the deployment of small wireless facilities in the best interest of the City. As City staff becomes more familiar with processing applications for small wireless facilities, the procedures and regulations presented in the draft ordinance and guidelines may need to be amended to ensure an effective review process and standards. If changes are necessary, staff will likely return to the Planning Commission with an update and possible amendments to the ordinance that address any challenges experienced in the review process that will be established as part of the adopted policy.

ATTACHMENTS:

1. February 12, 2019, Planning Commission staff report
2. February 12, 2019, Planning Commission meeting minutes
3. Draft Planning Commission Resolution No. 2019-13, with Exhibits "A," "B," and "C"
4. Communications received from members of the public
5. Communications received from wireless communication industry representatives

ATTACHMENT 1
PLANNING COMMISSION STAFF REPORT
AZ 19-0001
(December 10, 2019)

Due to the number of pages of Attachment 1, the following link has been provided to review the document electronically on the City's web site:

<https://www.escondido.org/small-cell-wireless-service-facilities.aspx>

A hardcopy of the Attachment is available for review in the Office of the Planning Division during normal business hours. To obtain a copy, please contact the City Clerk at (760) 839-4617 or Planning Division at (760) 839-4671.

ATTACHMENT 2
PLANNING COMMISSION STAFF REPORT
AZ 19-0001
(December 10, 2019)

Due to the number of pages of Attachment 2, the following link has been provided to review the document electronically on the City's web site:

<https://www.escondido.org/small-cell-wireless-service-facilities.aspx>

A hardcopy of the Attachment is available for review in the Office of the Planning Division during normal business hours. To obtain a copy, please contact the City Clerk at (760) 839-4617 or Planning Division at (760) 839-4671.

ATTACHMENT 3

Planning Commission

Hearing Date: December 10, 2019

Effective Date: December 11, 2019

PLANNING COMMISSION RESOLUTION NO. 2019-13

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ESCONDIDO, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE AN AMENDMENT TO ARTICLE 34 OF THE ESCONDIDO ZONING CODE TO UPDATE THE REQUIREMENTS FOR WIRELESS COMMUNICATION FACILITIES IN THE PUBLIC RIGHT-OF-WAY AND ADOPT ASSOCIATED GUIDELINES FOR DEPLOYMENT OF SMALL WIRELESS FACILITIES IN THE PUBLIC RIGHT-OF-WAY.

APPLICANT: City of Escondido

CASE NO: AZ 19-0001

WHEREAS, the Planning Commission of the City of Escondido did, on December 10, 2019, hold a Public Hearing to consider a request to amend Article 34 of the Escondido Zoning Code related to small wireless facilities in the public right-of-way, and adopt associated guidelines for deployment of small wireless facilities in the public right-of-way; and

WHEREAS, the following determinations were made:

1. That a notice was published and mailed as required by the Escondido Zoning Code and applicable State law.

2. That the application was assessed in conformance with the California Environmental Quality Act and that the proposed amendment to the Escondido Zoning Code is exempt from environmental review pursuant to General Rule, Section

15061(b)(3) of the CEQA Guidelines since there would be no possibility of a significant effect on the environment.

3. That a staff report was presented discussing the issues in the matter.

4. That a Public Hearing was held and that all persons desiring to speak did so.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Escondido:

1. That the above recitations are true and correct.

2. That the Planning Commission, in its independent judgement, finds that the proposed amendment to the Escondido Zoning Code is exempt from environmental review pursuant to General Rule, Section 15061(b)(3) of the California Environmental Quality Act Guidelines.

3. That the Factors to be Considered/Findings of Fact, attached as Exhibit "A" and incorporated herein as though fully set forth, were made by said Commission and issued as facts found to be true and supported by evidence.

4. That, considering the request to amend the Escondido Zoning Code and adopt guidelines related to small wireless facilities in the public right-of-way, and applicable law, the Planning Commission hereby makes a motion to RECOMMEND CITY COUNCIL APPROVAL of said Zoning Code Amendment, attached as Exhibit "B," and adoption of associated guidelines, attached as Exhibit "C."

PASSED, ADOPTED AND APPROVED by a majority vote of the Planning Commission of the City of Escondido, California, at a regular meeting held on the 10th day of December, 2019, by the following vote, to wit:

AYES:	COMMISSIONERS:
NOES:	COMMISSIONERS:
ABSTAINED:	COMMISSIONERS:
ABSENT:	COMMISSIONERS:

JAMES SPANN, Chairman
Escondido Planning Commission

ATTEST:

MIKE STRONG, Secretary of the
Escondido Planning Commission

I hereby certify that the foregoing Resolution was passed at the time and by the vote above stated.

KIRSTEN PERAINO, Minutes Clerk
Escondido Planning Commission

EXHIBIT “A”

FACTORS TO BE CONSIDERED/FINDINGS OF FACT AZ 19-0001

Zoning Code Amendment and Associated Guidelines

1. Approval of the amendment to Article 34 (Communication Antennas) and adoption of associated guidelines will not be detrimental to the public health, safety, or welfare or injurious to the property or improvements in the zone or vicinity in which the property is located because Personal Wireless Service Facilities are currently allowed within the public right-of-way in all zones throughout the City. The City Council adopted Ordinance No. 2017-10R on June 21, 2017, approving an amendment to Article 34 (Communication Antennas Ordinance) of the Escondido Zoning Code. The June 14, 2017 City Council Staff Report, which introduced the ordinance for adoption, suggested monitoring the effectiveness of the Communications Antennas Ordinance and returning to City Council in two (2) years to address any modifications that may be necessary to keep up with the changing industry and small wireless facility technology. The proposed amendment re-examines the efficiency and efficacy of the existing Ordinance, and proposes changes to said Ordinance in order to comply with federal regulations in a manner which is in the best interest of the City. The associated guidelines expand upon the information contained in the proposed amendment to provide clarity and detail related to the permitting process, and design and development standards. No development project is proposed as part of this amendment.
2. The properties/zones involved are suitable for the uses permitted and would not be detrimental to surrounding properties because the public right-of-way can adequately accommodate small wireless facilities. The amendment and associated guidelines only include appropriate development standards and processing requirements to evaluate the appropriateness of a proposed small wireless facilities within the public right-of-way in the best interest of the City. The purpose of the project is to implement the zoning, land use and other laws, rules, regulations, and policies and procedures, applicable to the siting of small wireless facilities by small wireless facilities infrastructure owners, operators, and service providers in Escondido. The project accommodates new wireless technologies and continued improvements to existing small wireless facilities while minimizing their adverse visual and structural health and safety impacts. Consistent with that purpose, the provisions included in the Zoning Code Amendment and associated guidelines are to be construed in a manner that is consistent with (1) the interest of consumers in receiving the benefits of the deployment of ultra-high-speed and capacity broadband wireless communication facilities technology and innovations, (2) the interest in safeguarding and addressing aesthetics and other local values, and (3) the interest in promoting the public health, safety and welfare in Escondido.
3. Recently, the Federal Communication Commission promulgated new rules designed to remove regulatory barriers to the deployment of infrastructure necessary to support 5G and

other advanced wireless services and further limiting local discretion. These rules apply to a subset of wireless communication facilities defined as “small wireless facilities,” which are commonly deployed on streetlights and utility poles in the public right-of-way. Under the Federal Communication Commission Declaratory Ruling and Order, cities are required to adopt reasonable and objective aesthetic standards for small wireless facilities. The project does not materially limit or inhibit the ability of any small wireless facility competitor or potential competitor to compete in a fair and balanced legal and regulatory environment. Rather, the proposed Zoning Code Amendment and associated guidelines incorporate clearly-defined and ascertainable standards, which would be applied in a principled manner, while at the same time reflecting and supporting a marketplace in which a provider can engage in any of a variety of activities related to its provision of a covered service, densifying a wireless network, introducing new services, or otherwise improving service capabilities.

4. Escondido’s economy relies on innovation and providing job opportunities for the City’s residents. Ubiquitous, high speed mobile broadband is proven to have a significant impact on economic competitiveness and social prosperity. The proposed Zoning Code Amendment and associated guidelines would be consistent with General Plan Goals and Policies that call for a “Diverse and Economically Prosperous Economy” that address the need to provide broad economic prosperity and support for businesses of all sizes. General Plan Mobility and Infrastructure Goals (Goal 7, page I-19 and Telecommunication Goal 7, page III-51) call for providing quality communication systems that enhance economic viability, governmental efficiency and equitable access for all. The proposed amendment also is consistent with General Plan Economic Prosperity Goals (Goal 9, page I-21) to provide adequate infrastructure to support and maintain the economic vitality of Escondido businesses. Telecommunication Policy 17.8 requires compatible collocation of telecommunication facilities that are designed in a manner to minimize visual impacts on surrounding uses, and Telecommunication Policy 17.9 encourages the City to work with utility companies to provide opportunities for siting telecommunication facilities on city-owned property and in the public right-of-ways.
5. The proposed Zoning Code Amendment and associated guidelines are exempt from environmental review in conformance with CEQA Guideline Section 15061(b)(3). The activity is covered by the general rule that exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment.
6. The proposed Zoning Code Amendment and associated guidelines would be applicable to the public right-of-way in all zones in the City, including the public right-of-way in areas covered by specific plans.

EXHIBIT "B"
ARTICLE 34 - COMMUNICATION ANTENNAS
Proposed Zoning Code Amendment

Sec. 33-700. Purpose.

The purpose of this article is to provide standards and design guidelines for satellite dish antennas and other personal wireless service facilities. It is intended that such antennas and facilities be installed and operated in a manner consistent with all of the articulated health, safety, visual and aesthetic objectives of this article, while preserving the viability of these antennas and facilities as communication systems.

Sec. 33-701. Objectives.

The objectives of this article are:

- (a) To provide reasonable opportunities for installations of satellite dish antennas and personal wireless service facilities;
- (b) To ensure secure installations to prevent possible injury to persons or damage to property;
- (c) To permit locations which do not obstruct or interfere with the provision of emergency services and communications;
- (d) To preserve the city's authority over the placement, construction, modification, and design of facilities addressed by this article.

Sec. 33-702. Definitions.

(a) For the purposes of this article and any guidelines adopted pursuant to it, the following words, terms, phrases, and their derivations have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, and words in the singular number include the plural number.

Accessory Equipment means any non-antenna portion of a personal wireless service facility, except concealment features, including, but is not limited to, remote radio units, surge protectors, diplexers, triplexers, battery racks, generators, air conditioners, wires, cables, and cabinets.

ANSI means the American National Standards Institute.

Antenna means the same as defined in 47 C.F.R. § 1.6002(b), as may be amended.

Antenna shroud means a solid barrier that screens an antenna (or antennas) and any accessory equipment attached thereto, including, but not limited to, radio units, wires, cables, and brackets, entirely from view.

Camouflaged or Stealthy means a personal wireless service that is disguised, hidden, integrated into the architecture of an existing or proposed structure or placed within an existing or proposed structure, and designed to be compatible with the existing scale and pattern of development and/or characteristics of the site, as determined by the director of community development.

Co-Location means the use of a single mount on the ground by more than one carrier and/or personal wireless service facility (vertical co-location) and/or several mounts on an existing building, structure or site (horizontal co-location) by more than one carrier and/or personal wireless service facility.

Collocation means the same as defined in 47 C.F.R. § 1.6002(g), as may be amended.

Concealed or Concealment means camouflaging techniques that integrate the transmission equipment into the surrounding natural and/or built environment such that the average, untrained observer cannot directly view the equipment but would likely recognize the existence of the wireless facility or concealment technique.

~~EMF~~ means ~~electromagnetic fields, or the formation of electric and magnetic fields whenever electromagnetic energy moves from one point to another through electrical wires.~~

FCC means the Federal Communications Commission.

Fixed Wireless Service means a local wireless operation providing services such as local and long distance telephone, high-speed internet, and digital television to residential and business customers by means of a small equipment installation of less than thirty (30) inches in diameter (the "Remote Unit") on the exterior of each home or business that elects to use this service.

IEEE means the Institute of Electrical and Electronics Engineers.

NCRP means the National Council on Radiation Protection and Measurements.

~~Personal Wireless Service~~ means ~~any personal wireless service as defined by the Telecommunications Act, including but not limited to, commercial mobile radio services, unlicensed wireless services, common carrier wireless exchange access services, cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, ground based repeaters for satellite radio services, micro-cell antennae and similar systems which exhibit similar technological characteristics, the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended.~~

~~Personal Wireless Service Facility~~ means ~~any component for the provision of personal wireless service including all related equipment, buildings, structures, and improvements, the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended.~~

~~Power Density~~ means the measures of a wave's total energy as a function of its distance from its source (generally measured in milliwatts per square centimeter or mW/cm²) as defined by the FCC.

Radome means a cylindrical antenna shroud.

RF means radiofrequency or electromagnetic waves.

RFR means radiofrequency radiation, or the formation of radiofrequency radiation generated by the movement of electromagnetic energy through space, including radio and microwaves, which is used for providing telecommunications, broadcast and other services.

Satellite Dish Antennas means circular or saucer shaped antennas using parabolic or spherical reflecting surfaces, or similar antennas which are designed to transmit and/or receive communication signals from satellites.

Shot Clock means the presumptively reasonable time frame within which a local jurisdiction must act on a wireless application, as defined by the FCC and as may be amended from time to time.

Small Wireless Facility means a Personal Wireless Service Facility which:

- (1) is mounted on a structure 50 feet or less in height including their antennas, mounted on a structure which is no more than ten (10) percent taller than other adjacent structures, or does not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater; and
- (2) has antennas no larger than three (3) cubic feet; and
- (3) has associated wireless equipment which is cumulatively no larger than 28 square feet, including any pre-existing equipment; and
- (4) does not require antenna structure registration; and
- (5) is not located on tribal lands; and
- (6) does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards.

Structure means the same as defined by the FCC in 47 C.F.R. § 1.6002(m), as may be amended.

Technically feasible means that the siting, location, and equipment proposed for a Personal Wireless Service Facility are available and known to be able meet the service objectives of that facility.

Telecommunications Act means the Telecommunications Act of 1996.

Sec. 33-703. Personal wireless service facilities guidelines—Five general principles.

The following principles shall serve as general guidelines for the city's consideration of applications for personal wireless service facilities which are not small wireless facilities located in the public right-of-way:

- (a) Height guidelines—Utilize lowest profile technology.
 - (1) Discourage further consideration of high-profile antenna installations (such as non-camouflaged towers and monopoles) ~~on visually prominent sites~~. Personal wireless service facilities should be designed to be in scale with surrounding buildings and tree heights.
 - (2) Use existing structures as opposed to introducing new ones.
 - (3) Encourage facilities that meet the zone's height standards.
 - (4) Use landscaping (such as dense tree growth) or other measures to minimize visual impacts and screen the facility.
- (b) Location guidelines—Avoid proliferations that create or compound undesirable visual impacts, but also encourage co-location, where appropriate.
 - (1) Encourage the use of commercial, and industrial, and public right-of-way sites whenever possible, and discourage the use of residential zones. Wireless communication facilities proposed to be located within residential zones/areas shall consider the following and submit a feasibility study to implement the following options before proposing a wireless facility on a residentially developed property:

(A) Residential zoned properties developed with nonresidential uses (i.e., schools, churches, parks, etc.);

(B) Public right-of-way (such as existing or new light pole or other utility structures).

(2) Encourage single sites utilizing stealth designs and latest technologies.

(3) Ensure full aesthetic integration of new facilities into the proposed locations.

(4) Ensure that the area covered by wireless facilities which are screened and landscaped to minimize visual impacts is large enough to incorporate appropriate visual screening methods.

(5) Ensure that proposed landscaping has permanent proper irrigation and maintenance.

(6) Require amended co-location language for facility leases on city-owned properties to include:

(A) Modification requirements as technology advances.

(B) Square foot minimums for leased lots to ensure proper buffering areas.

(7) Encourage co-location on existing sites where it is possible to avoid obtrusiveness, up to the point where a structure or site has too many antennae/structures and becomes visually cluttered.

(8) Ensure that the mass and scale of proposed facilities are not excessive in order to meet the carrier's reasonable coverage objectives.

(c) Stealth technology guideline - Encourage creative, unobtrusive stealth technology.

(1) Encourage personal wireless service facilities to be camouflaged or integrated into or onto existing structures, wherever possible. When a personal wireless service facility extends above the roof height of a building on which it is mounted, the facility should be concealed within or behind architectural features to limit its visibility from public ways. Facilities mounted on a roof should be stepped back from the façade in order to limit their impact on the building's silhouette and reduce visibility from adjacent public ways. Existing visual obstructions or clutter on the roof or along the roof line should, in a commercially practical matter, be removed or screened (such as a parapet or architectural element that serves as a rooftop screen) as a precursor to the new wireless installation. Facilities which are façade-mounted should blend with the existing building's architecture, materials and colors.

(2) Require designs that are in scale and context with their surroundings.

(3) Encourage creative designs with the least visual impact and the use of microtechnology where possible.

(4) Encourage designs that mimic natural elements, and that are natural in appearance, by including:

(A) Natural colors applied in a natural-looking way.

(B) Inclusion of related forms and textures as they commonly would be found in nature.

(C) Antenna or facility elements formed in, clad by, or screened by natural-looking features.

(5) If a stealthy design is not feasible, proposed facilities shall be surrounded by buffers of dense landscaping including tree growth of sufficient width, height and understory vegetation to create an effective year-round visual buffer. Permanent irrigation shall also be provided.

(d) Older facility guidelines—Encourage older facilities to upgrade using less obtrusive technology.

(1) Require facility upgrade when leases on City-owned property are up for renewal.

(2) Facility modifications should incorporate the latest technology consistent with this article.

(e) Emissions guidelines—Ensure that emissions do not exceed federal thresholds.

(1) Require that every installation meets all Federal Radiation Standards to ensure public health, including NCRP, ANSI/IEEE and FCC standards and guidelines.

(2) Require that each facility owner adhere to all Federal (FCC) emission testing stipulations and timetables.

Sec. 33-704. Personal wireless service facilities—Development and operating standards.

The following operating standards shall apply to all personal wireless service facilities:

(a) Interference. The operation of personal wireless service facilities shall be in conformance with all applicable Federal Communications Commission regulations regarding interference with other equipment.

(b) Screening. All personal wireless utility equipment (i.e., antennas, support structures, mounts, equipment, etc.) shall be screened from view of adjacent properties or public rights-of-way to the maximum extent possible. Screening may include integrating architectural elements, color and texture of the antenna structure, fencing, landscaping, or other method appropriate to the specific situation. Screening may be waived by the director of community development if the available methods of screening create a greater visual impact, or call greater attention to the facility than if otherwise left unscreened.

(c) Equipment. With the exception of small wireless facilities located in the public right-of-way, associated equipment shall be placed within an existing building whenever possible. Locational standards for equipment associated with small wireless facilities in the public right-of-way shall comply with development standards contained in any guidelines adopted pursuant to Section 33-704(k).

(d) Setbacks and height. With the exception of small wireless facilities located in the public right-of-way, antennas, poles, mounts and all utility equipment shall not be

located in required front, rear, side and street side-yard setback areas. All façade-mounted and roof-mounted facilities and screening materials shall not project above the height limit of the zoning district within which the facility is located, unless otherwise permitted in conformance with section 33-8 (building height) and section 33-1075 (permitted structures in excess of height limits) of the zoning code. Facilities installed on residential uses in residential zones shall meet the underlying zone's height standards for principal structures. Height limitations for small wireless facilities in the public right-of-way shall comply with development standards contained in any guidelines adopted pursuant to Section 33-704(k).

(e) RFR emissions. Ninety (90) days after installation of any facility, under full operating conditions, the applicant shall measure the radio frequency(ies) emitted by the facility and submit an operational radio frequency study to the planning division to verify conformance of the facility with the theoretical study and applicable ANSI/IEEE and FCC standards for radiofrequency radiation exposure.

(f) Noise. Noise levels generated by wireless equipment shall not exceed the noise level limits of the underlying zone and receiving land use, whichever is less. Appropriate siting and building measures shall be incorporated into the facility to comply with the city's noise requirements. An acoustical study may be required, as determined by the director of community development.

(g) Lighting. Personal wireless service facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other on-site facilities for maintenance purposes shall be shielded from abutting properties.

(h) Signage. Signs shall be limited to those needed to identify the property and the owner and to warn of any danger; shall provide one (1) or more twenty-four (24) hour emergency telephone numbers; and shall be subject to the approval of the planning division.

(i) Maintenance. All facilities, landscaping and related equipment shall be maintained in good working condition and free from trash, debris, graffiti and designed to discourage vandalism. Any damaged equipment shall be repaired or replaced within thirty (30) calendar days. Damaged, dead or decaying plant materials shall be removed and replaced within thirty (30) calendar days.

(j) Hillside and ridgeline overlay district. Personal wireless service facilities located within close proximity to a skyline ridge or intermediate ridgeline shall be subject to the provisions of the hillside and ridgeline overlay district.

(k) Public right-of-way. Unless expressly stated otherwise, All requirements of this article shall apply to the placement, construction, modification or reconstruction of any personal wireless service facilities proposed within the public right-of-way, except to the extent precluded by state or federal law. The following ~~general~~ additional requirements also shall apply:

(1) All personal wireless service facilities must comply with the city's requirements for an encroachment permit as set forth in Chapter 23 of this code and any guidelines adopted pursuant to this article. All applicants shall enter into a license agreement as provided by the city to the extent the facility is proposed to be located on city facilities.

(2) All personal wireless service facilities in the public right-of-way that are not small wireless service facilities shall require a major conditional use permit.

~~(23) Personal wireless service facilities in the right-of-way shall be installed on existing street light poles or substantially similar replacement poles in the same location. Where it has been demonstrated that it is not feasible to locate on an existing street light or similar replacement pole, a wireless facility may install a new streetlight to supplement existing lighting. New or replacement street light poles shall be designed to resemble the appearance and dimensions of a street light typical of the surrounding neighborhood, including size, height, color, materials and style, whenever feasible. Where it has been demonstrated that it is not feasible to locate on a new streetlight, a wireless facility may locate on an existing traffic signal, utility pole, bus stop, or other appropriate vertical structure within the right-of-way. The installation of a new structure, that is not a street light, may be permitted by minor conditional use permit. The installation of a new wooden pole is not permitted. Small wireless facilities in the public right-of-way. All small wireless facilities installed in the public right-of-way shall comply with the development standards included in any guidelines adopted pursuant to this section. Development standards in the adopted guidelines may address various design, use of right of way, and aesthetic aspects including, but not limited to, size, spacing, quantity, location, color, method of mounting, orientation, concealment of cables, wires, and conduit, and other physical aspects of the antennas, equipment, and structures on which the facilities are mounted.~~

~~(3) All personal wireless service facilities in the right of way shall be sited in order to minimize potential visual and compatibility impacts with adjacent properties. Placing wireless facilities along non-classified residential streets and/or along the front yard of single family residential properties should be avoided. Wireless facilities must be designed to be visually unobtrusive with design elements and techniques that mimic or blend with the underlying support structure, surrounding environment and adjacent uses. The equipment must be painted or textured to match the color or surface of the structure on which they are attached, or otherwise screened to reduce their visibility.~~

~~(4) No more than two (2) panel antennas may be mounted on a single pole or structure. No antenna may exceed three (3) feet in length. Antennas shall be vertically mounted to a pole or support structure (excluding strand mounts) in compliance with any applicable separation requirements. An antenna enclosure attached to the top of a utility pole or street light shall be cylindrical in shape and shall not exceed four (4) feet in height. New street lights or replacement poles must match the height and design of the existing street light in the same neighborhood. In no case shall a new wireless facility exceed thirty five (35) feet in height. The antennas and other related equipment shall be mounted as close to the pole as possible, with no more than a four (4) inch gap, to minimize impacts to the visual profile. Pole-mounted equipment, exclusive of antennas, shall not exceed seven (7) cubic feet in dimension. Pole-mounted equipment shall not exceed a dimension of twelve (12) inches in~~

width and twelve (12) inches in depth. All conduits, conduit attachments, cables, wires and other connectors must be concealed from public view to the extent feasible.

~~—(5) The spacing between existing poles and new personal wireless service facilities must avoid visual clutter and maintain the existing character of the surrounding neighborhood. In residential areas, an individual wireless carrier must provide a minimum separation of three hundred (300) feet from any of their other wireless facilities within the right-of-way.~~

~~—(6) No personal wireless service facility may be located within the right-of-way where there are no overhead utility facilities or streetlight poles unless permitted pursuant to a minor conditional use permit. No new overhead wires shall be allowed in areas where undergrounding of utilities has occurred.~~

~~—(7) All other non-antenna equipment associated with the personal wireless service facility shall be placed underground, except any required electric meter or disconnect switch associated with an installation on an existing utility pole. Equipment shelters shall not be allowed in the public right-of-way where their presence would interfere with existing uses or infrastructure, and shall be located as to minimize impacts to neighborhood aesthetics, pedestrian access, and vehicular site distance and safety.~~

~~(84) Small Wireless facility permits. All new personal small wireless service facilities proposed within the public right-of-way, and any collocations or modifications to existing small wireless facilities within the public right-of-way shall require the issuance of a small wireless facility permit. The director may establish the forms and submittal requirements to implement the requirements of this article section and any guidelines adopted pursuant to it. The director may refer any application for a wireless facility permit to the planning commission for consideration at a noticed public hearing.~~

~~(A) Administrative permit. All proposed small wireless facilities which meet all the requirements in this article and any adopted guidelines adopted pursuant to it, may be processed through an administrative small wireless facility permit. The director shall determine whether an application meets the requirements of this article and any adopted guidelines. The permit will be approved if the regulations are met, or denied if the regulations are not met. The application process shall follow the procedures and fees for a plot plan and design review set forth in any guidelines adopted pursuant to this article.~~

~~(B) Minor conditional use permit. Any small wireless facility proposed on a new vertical structure that is not a street light, any facilities that project from a support structure by use of an arm or other horizontal bracket/brace, and any facility that exceeds the quantitative limitations described in this article and any guidelines adopted pursuant to it, shall require a minor conditional use permit, pursuant to Article 61 of this code. All other proposed facilities that the director determines do not meet the requirements of this article or any adopted guidelines must be processed through a minor conditional use permit. The applicant must pay any necessary application fees in accordance with a minor conditional use permit application.~~

~~— (C) Zoning administrator findings. In addition to the findings in section 33-1203, the zoning administrator must also make the following findings in approving a minor conditional use permit for a personal wireless service facility:~~

~~— (i) That the applicant has demonstrated that the site is necessary to close a significant gap in service;~~

~~— (ii) That the location proposed conforms to the requirements of this article and any adopted guidelines to the maximum extent possible;~~

~~— (iii) That the design proposed conforms to the requirements of this article and any adopted guidelines to the maximum extent possible; and~~

~~— (iv) That the applicant has demonstrated a good faith effort to identify and evaluate more preferred locations and that alternative locations are not feasible or potentially available.~~

~~(C) Findings. Applications for small wireless facility permits shall demonstrate complete conformance with the development standards established by this section any guidelines adopted pursuant to it.~~

~~(i) Administrative permit. In order to determine conformance with development standards, the director shall make all of the following findings when issuing an administrative permit:~~

~~a. That the applicant has demonstrated that the small wireless facility is being placed on the most-preferred support structure that is technically feasible;~~

~~b. That the location of the proposed small wireless facility conforms to the requirements of this article and any adopted guidelines; and~~

~~c. That the design of the proposed small wireless facility conforms to the requirements of this article and any adopted guidelines;~~

~~(ii) Minor conditional use permit. In addition to the findings in section 33-1203, the zoning administrator must also make the same findings required under Section 33-704(k)(4)(C)(i). If the decision of the Zoning Administrator is not satisfactory to the applicant, the applicant may appeal the decision to the Planning Commission in accordance with procedures set forth in Article 61.~~

~~(D) Appeals. Decisions of the director and zoning administrator may be appealed pursuant to Section 33-1303 of the Escondido Zoning Code.~~

(95) The city council may, by resolution, establish additional criteria, clarifications and guidelines for the location, operation, design and review of ~~personal~~ small wireless service facilities in the public right-of-way.

(l) Installation of remote units (less than thirty (30) inches in diameter) required for private, fixed wireless service on private property or installed by the City are not subject to the provisions of this Article ~~34~~ and are exempt from review by the zoning administrator, planning commission or the city council.

(m) Residential locations. The following development standards shall apply to any wireless communication facility located on land developed with residential as the primary use. This excludes the public right-of-way adjacent to such land.

(1) A wireless facility ~~should~~ shall not be located on a parcel less than ten thousand (10,000) square feet, with no more than one (1) wireless facility located on a parcel less than one (1) acre in size.

(2) Freestanding wireless antenna facilities/structures (not incorporated into the architecture of the main residence) ~~should~~ shall be set back from the adjacent property boundary a minimum distance of one and one-half (1.5) times the height of the wireless facility.

(3) Wireless antenna facilities ~~should~~ shall not encroach into the minimum setbacks required of the main residence.

(4) Freestanding equipment structures may be located anywhere on the site as provided for accessory structures. The equipment structures ~~should~~ shall be designed to be architecturally compatible with the main residence/residential structure.

(5) The planning commission may modify development requirements: (1) and (2) of this subsection (m) upon the findings the proposed wireless facility will not result in any adverse compatibility, noise or visual impacts to surrounding properties; and the project design and location modifications represents the most appropriate alternatives for the subject property.

Sec. 33-705. Personal wireless service facilities—Application requirements.

(a) The following shall be included with an application for all personal wireless service facilities except for small wireless facilities in the public right-of-way:

(1) A city-wide map showing the provider's other existing facilities and the general area of currently anticipated future personal wireless service facilities in the city and outside the city, within one (1) mile of its corporate limits.

(2) The qualifications of the person who prepared the required RFR study, including such information as his or her education and professional qualifications, experience preparing studies, history demonstrating compliance with FCC guidelines, etc.

(3) Existing before photographs and after visual simulations. A sight line representation drawn to scale) may also be required (as determined by the director of community development) which shall be drawn from adjacent public roads and the adjacent properties (viewpoint) to the highest point (visible point) of the personal wireless service facility. Each sight line shall be depicted in profile and show all intervening trees and buildings, and be accompanied by photographs of what currently can be seen from the specific site and a visual simulation of the proposed facility. An on-site mock-up or balloon simulation also might be required for highly visible or sensitive sites to adequately assess the potential visual impact of the proposed facility.

(4) A description of proposed materials and colors of the proposed facility specific by type and treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.).

(5) Preliminary landscape and irrigation plan, if required.

(b) The city reserves the right to employ experts, at the applicant's expense, to evaluate information submitted with the application to ensure compliance with local regulations for land use, and to verify compliance with the Federal Communications Commission's standards for RFR emissions.

(c) Applicants shall submit a theoretical radiofrequency radiation study (prepared by a person qualified to prepare such studies) with the application which quantifies the proposed project's radiofrequency emissions, demonstrating compliance of the proposed facility with applicable NCRP and ANSI/IEEE and FCC policies, standards, and guidelines for maximum permissible exposure (MPE) to radiofrequency radiation emissions. The study shall also include a combined (cumulative) analysis of all the wireless operators/facilities located on and/or adjacent to the project site, identifying total exposure from all facilities and demonstrating compliance with FCC guidelines. An updated radiofrequency study shall be submitted for any modification to a facility.

(d) Application materials required for small wireless facilities proposed in the public right-of-way pursuant to Section 33-704(k) shall comply with any guidelines adopted pursuant to that section.

Sec. 33-706. Personal wireless service facilities—Land use approval.

(a) City staff shall review plans for planning, siting, architecture, zoning compliance, landscaping, engineering, building requirements, safety, and conformance with the wireless facilities guidelines. After such review, staff may approve, conditionally approve, or deny the proposed facility, or refer it to the planning commission for approval, conditional approval, or denial. As a component of the project review, the applicant must include details regarding the ability to provide the necessary utilities (i.e., telco and power) and appropriate access to the site. All new utility service runs shall be placed underground.

(b) Land use approval requirements for small wireless facilities located in the public right-of-way are provided in Section 33-704(k).

(ac) Except for small wireless facilities in the public right-of-way, a plot plan application shall be required for all personal wireless service facilities/antennas and facilities which are permitted in the zone and which do not require a conditional use permit.

~~(b) City staff shall review plans for planning, siting, architecture, zoning compliance, landscaping, engineering, building requirements, safety, and conformance with the wireless facilities guidelines. After such review, staff may approve, conditionally approve, or deny the proposed plan, or refer it to the planning commission for approval, conditional approval, or denial. As a component of the project review, the applicant must include details regarding the ability to provide the necessary utilities (i.e., telco and power) and appropriate access to the site. All new utility service runs shall be placed underground.~~

(ed) Residential and open space zones. Personal wireless service facilities in these zones shall require a conditional use permit issued by the planning commission pursuant to Division 1 of Article 61 in all residential and open space zones. Personal wireless service facilities located within the public right-of-way within or adjacent to residential zones or open space zones shall require the issuance of a conditional use permit.

(de) Commercial and industrial zones. Plot plan approval or a conditional use permit shall be required in commercial and industrial zones according to the following chart:

	CG	CN	CP	HPI-O	M-1	M-2	I-P
Personal Wireless Communication Facilities							
Roof-mounted or building-mounted incorporating stealthy designs and/or screened from public ways or significant views	P	P	P	P	P	P	P
Pole-mounted or ground-mounted that incorporate stealthy designs and do not exceed 35' in height	P	P	P	P	P	P	P
Pole-mounted or ground-mounted that exceed 35' in height, or roof or building mounted designs which project above the roofline and are not completely screened or considered stealthy	C	C	C	C	P	P	C

P = Permitted subject to plot plan review.

C = Conditionally permitted subject to a conditional use permit (CUP).

(ef) Co-Location. Co-location of personal wireless service facilities is encouraged to the extent it is technically feasible, up to the point where a structure or site has too many antennae and becomes visually cluttered, subject to the following siting criteria and chart:

	CG	CN	CP	<u>HPI-O</u>	M-1	M-2	I-P
Personal Wireless Communication Facilities							
Co-location on existing buildings or structures, or adding an additional facility on a site	P	P	P	P	P	P	C
Co-location including new pole-mounted or ground-mounted structures that exceed 35' in height, or roof-mounted or building-mounted designs which project above the roofline and are not completely screened or considered stealthy	C	C	C	C	P	P	C

RA	RE	R-1	R-2	R-3	R-4	RT	OS
C	C	C	C	C	C	C	C

P = Permitted subject to plot plan review.

C = Conditionally permitted subject to a conditional use permit (CUP).

(fg) Planned Development and Specific Plans. Unless specifically permitted or conditionally permitted as part of the planned development or specific plan, any wireless communication facility shall not be permitted within these zones unless a modification to the master development plan or specific plan is approved by the planning commission or city council, as may be required. This provision does not apply to small wireless facilities in the public right-of-way.

Sec. 33-707. Personal wireless service facilities—Modifications and upgrades.

Except for small wireless facilities in the public right-of-way identified in section 33-704(k), the A modification of a personal wireless service facility which was not specified in the original design/approval (including, as examples, an increase in height, the number of antennas/panels, an increase in mass and scale, etc.) may be considered equivalent to an application for a new personal wireless service facility, and will be subject to the requirements of this article. However, upgrades to existing facilities to incorporate new technology which, in the discretion of the director, do not increase the existing mass and scale, increase the height or visibility of the structures, or decrease the overall height of the facility, may be approved by the director, and/or may be referred to the planning commission. Modifications and upgrades to small wireless facilities installed in the public right-of-way pursuant to section 33-704(k) shall be reviewed as described in said section and in any guidelines adopted pursuant to it.

Sec. 33-708. Personal wireless service facilities—Abandonment or discontinuation of use.

(a) At such time that a licensed carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier shall notify the city in writing of the proposed date of abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operations.

(b) Upon abandonment or discontinuation of use, the carrier shall physically remove the personal wireless service facility within ninety (90) days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

(1) Removal of antennas, mount, equipment shelters and security barriers from the subject property;

(2) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal programs;

(3) Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.

(c) For small wireless facilities installed in the public right-of-way, the city shall reserve the right to require a bond to ensure removal of such facilities, and the replacement of any structures removed as part of the installation, upon abandonment or discontinued use. The city may, at its sole discretion, require any structure installed in the public right-of-way for the purpose of installation of a small wireless facility to be left in place, and such structure shall become the possession of the city upon abandonment or discontinuance of use by the carrier. The city may also require the carrier to replace any structure that was removed in order to install the small wireless facility

Guidelines for Deployment of Small Wireless Facilities in the Public Right-of-Way

I. INTRODUCTION

The following processing and design guidelines (the "Guidelines") have been developed to supplement and clarify the requirements of Subsection 33-704(k) of the Escondido Zoning Code, specifically related to small wireless facilities in the public right-of-way. These requirements are meant to provide a general overview of the procedures and requirements for installation of small wireless facilities. They also outline the City's permitting process for small wireless facilities, and provide detailed development standards and design requirements which the City will use to review proposed facilities.

The Guidelines provide comprehensive information to all parties involved in the processing of applications for small wireless facilities proposed in the public right-of-way in the City of Escondido. Specifically, they are intended to help achieve the following goals:

- Protect the health, safety, and welfare of the public;
- Accommodate and support deployment of personal wireless service facilities to provide robust coverage and capacity throughout the city;
- Protect the City's visual character from potential adverse impacts or visual blight created or exacerbated by personal wireless service facilities and related communications infrastructure;
- Create a clear set of development standards, siting criteria, design preferences, and other information for new facilities, additions and modifications to existing facilities to ensure that wireless service facilities are well-maintained and do not significantly detract from city streetscapes; and
- Provide definitions that are quantifiable and measurable.

These Guidelines have been adopted, and may be amended, by resolution of the City Council, as specified in Section 33-704(k) of the Escondido Zoning Code. Revisions to address clerical errors may be made administratively by the Director of Community Development.

II. APPLICABILITY

- A. Except as expressly provided otherwise, these Guidelines shall be applicable to all applications and requests for authorization to construct, install, attach, operate, collocate, modify, reconstruct, replace, relocate or otherwise deploy small wireless facilities in the public right-of-way, inclusive of applications which affect existing facilities.

- B. The provisions contained in these Guidelines do not apply to existing and proposed personal wireless service facilities which are:
1. Not in the public right-of-way; or
 2. Not small wireless facilities.

III. APPLICATION PROCESSING

A. Voluntary Pre-Application Meeting

Federal laws and policies establish time limitations (referred to as a "shot clock") related to processing of all types of wireless communication facilities. The City must take action on a project within the established shot clock timeframes. As such, applicants should ensure that the appropriate amount of research is done prior to submittal. Failure to do so may result in application materials that do not provide adequate or accurate information, which in-turn may result in denial of an application.

Pre-application meetings are strongly encouraged in order to ensure that proposed small wireless facilities comply with the requirements of Subsection 33-704(k) of the Escondido Zoning Code and these Guidelines, and that application materials include adequate and accurate information. Please contact the Planning Division, Community Development Department, at (760) 839-4671, and Land Development Division, Engineering Services Department, at (760) 839-4651, if you would like to schedule a voluntary pre-application meeting with either division. Alternately, preliminary plans can be emailed to the City for a courtesy review.¹ Contact the Planning Division or Land Development Division at the numbers above to obtain the email addresses for the staff members best suited to assist you.

B. Required Permits

Prior to commencement of any work required for the installation of a small wireless facility in the public right-of-way, appropriate permits must be secured by the applicant. Two permits from the City of Escondido are necessary, as described below. A master license agreement is also required for any provider wishing to place a small wireless facility on any structure in the right-of-way owned by the City of Escondido.²

In addition to the small wireless facility itself, the permits described below allow up to 50 feet of trenching for electrical/fiber connections to existing infrastructure. Any large infrastructure projects that are not small wireless facilities shall be processed in accordance with the Engineering Services Department's standard procedures.³

¹ Plans which are emailed to City staff for a courtesy review are not considered a duly filed application with the City and therefore are not subject to FCC imposed time limits. The courtesy review is not exhaustive, and the City accepts no liability if it is determined, upon formal submittal, that the plans do not comply with these Guidelines.

² Additional permits from other government agencies may be required.

³ Encroachment permits for trenching in excess of 50-feet will be reviewed on a cost recovery basis in accordance with the City's standard improvement plan review process. The owner of the proposed underground facilities will be required to execute a one-time Right-of-Way and Maintenance Agreement with the City or provide evidence of prior Franchise Agreement rights. A boiler plate version of this Agreement is available on the City website.

1. *Small Wireless Facility Permit*

A small wireless facility permit must be obtained by an applicant prior to commencement of any work required for the installation of a small wireless facility in the public right-of-way. Application packets are available at the Planning Division and Engineering Services Department public counters, or on the Planning Division's webpage at <https://www.escondido.org/applications-for-processing-development-requests.aspx>.

a. *Administrative Permit*

The administrative permit process is intended to provide a simple and efficient way to expedite the permitting process for a large majority of proposed facilities. As such, administrative permits are available for all small wireless facilities that comply with these Guidelines and do not require a Minor Conditional Use Permit, as outlined in Section 33-704(k) of the Escondido Zoning Code. Applications for administrative permits shall include all items necessary for the City to make a determination regarding compliance with the established design and development standards⁴, and applicants will be required to certify that their plans and other application materials conform to said standards. If it is determined, after review of applications for administrative permits in the manner described in the Processing of Applications section below, that the plans or other application materials do not demonstrate conformance with the standards, or the applicant does not certify such conformance, the permit will be denied.

b. *Minor Conditional Use Permit*

A Minor Conditional Use Permit is required for certain small wireless facilities as identified in Section 33-704(k) of the Escondido Zoning Code. Applications for Minor Conditional Use Permits will be processed and reviewed pursuant to Article 61, Division 1, of the Escondido Zoning Code.

2. *Encroachment Permit*

An encroachment permit is required for any small wireless facility placed in the City of Escondido's public right-of-way. An encroachment permit application, including all submittal requirements identified on said application form and all required fees and deposits, shall be submitted concurrently with the small wireless facility permit application unless the applicant voluntarily agrees in writing to defer said submittal, as described in the tolling agreement section later in these Guidelines.

3. *Master License Agreement*

Wireless service providers proposing to install small wireless facilities on existing, replacement, or new City-owned structures in the public right-of-way are required to enter into a master license agreement with the City prior to installation of said facility. If a master license agreement has not yet been secured by the provider, it must be submitted concurrently with the small wireless facility and encroachment permit applications, unless the applicant voluntarily agrees in writing to defer said submittal,

⁴ Submittal requirements are discussed later in these Guidelines.

as described in the tolling agreement section later in these Guidelines. If a master license agreement has already been secured by the provider, a master license agreement site addendum for each additional site shall accompany the small wireless facility and encroachment permit applications. Additional information related to master license agreements can be obtained by contacting the Real Property Division, Engineering Services Department, at (760) 839-4597.

C. Acceptance of Applications

Applications for small wireless facility and encroachment permits, and any master license agreements or addenda, including all items and fees required as part of an application package, shall be submitted concurrently to the Planning Division. The City requires a whole application in order to review a project in the timeline established by the FCC shot clock. Applications which do not include all required submittal materials for all applicable permits/agreements, including all applicable fees, will not be accepted and are not considered submitted and duly filed with the City. Alternately, an applicant may voluntarily defer submittal of a small wireless facility permit application, encroachment permit application, or master license agreement, through the execution of a tolling agreement, as described in the submittal requirements section below.

The City will establish set hours during which applications may be submitted. A minimum of eight (8) hours each week will be available for application submittal, and said hours will be posted on the Planning Division's website and at the Planning Division counter.⁵ Submittals may also be made by appointment outside of these posted hours for intake through the Planning Division. An appointment is not required to submit an application, however it is strongly encouraged, especially if an applicant intends to submit a batched application or individual applications for multiple facilities at one time.

Applications must be submitted in-person. Application materials delivered by U.S. mail or other delivery service will not be processed and do not constitute a submitted and duly filed application. An application is not considered duly filed and submitted unless it contains all items necessary to comprise a whole application, and is provided in-person to a representative of the Planning Division and assigned a planning case number.

D. Batched Applications

Applicants may submit multiple applications for small wireless facilities as a single, batched application, as long as all facilities included in the batch utilize the same size and type of equipment, and are mounted in the same configuration on the same type of support structure. If the equipment, configuration, and support structure used for any facility that is submitted as part of a batched application is not consistent with the other facilities in that batch, all applications that are inconsistent will be removed from the batch and must be processed as separate applications. Each application in a batch must meet all the requirements for a whole application.

⁵ Fewer hours will available if the posted hours fall on a city holiday.

E. Submittal Requirements

Small wireless facility permit application packets are available at the Planning Division public counter and on the Planning Division website at <https://www.escondido.org/applications-for-processing-development-requests.aspx>. In absence of a voluntary tolling agreement, said packets contain a detailed list of items that must be provided in order for the application to be duly filed and accepted by staff for review. The applicant will be required to certify that the submittal materials contained in the application packet demonstrate conformance with these Guidelines.

Encroachment permit application packets are available at the Engineering Services Department's public counter and on the Field Engineering Division's website at <https://www.escondido.org/field-engineering.aspx>. In absence of a voluntary tolling agreement, said application packet contains a detailed list of items that must be provided, in order to duly file an application for review.

1. *Tolling Agreement*

The City recognizes that concurrent submittal and review of a small wireless facility permit, an encroachment permit, and a master license agreement may be problematic for a wireless service provider due to the nature of permitting and issuance of said permits and agreements. As such, an applicant may voluntarily elect to defer submittal of any permit or agreement which is otherwise required as part of a whole application. The voluntary deferral of any such permit or agreement shall toll the shot clock on that item. Once the voluntarily deferred item is received, the City will provide comments on any deferred submittal in the same manner as if it was a new application. The City will continue to process all other permits and agreements that are not deferred.

F. Authority Granted to the Director of Community Development

The City Council authorizes the Director to establish other reasonable rules and regulations to efficiently and effectively administer Section 33-704(k) of the Escondido Zoning Code and these Guidelines. All such rules and regulations must be in written form and publicly available.

G. Fees

Small wireless facility permit fees (administrative and minor conditional use permit), encroachment permit fees, master license agreement fees, and site administration fees for small wireless facilities shall be as established by resolution of the City Council. All fees shall be paid at time of application submittal.

H. Processing of Applications

Upon submission of a whole application for a small wireless facility permit, encroachment permit, and master license agreement meeting the requirements identified in these Guidelines (unless voluntarily deferred by the applicant, as described in the Submittal Requirements section above), the Director will verify conformance of the proposed facility with all applicable design and development standards and forward a copy of the application materials to the Engineering Services Department for review of technical information.

Upon completion of the review of an administrative permit application, the Director will either approve the application, conditionally approve the application, or inform the applicant that the application is considered incomplete. Upon completion of the review of a minor conditional use permit application, the Director will either forward the application on to the Zoning Administrator with a recommendation to approve the application, conditionally approve the application, or deny the application; or inform the applicant that the application is considered incomplete. If the application is deemed to not be complete, the City will provide comments in the form of written correspondence or markups on the plans and other submittal materials identifying missing, incomplete, erroneous, or inaccurate information. The required corrections shall be made by the applicant and resubmitted to the Planning Division. The applicant will be required to certify that all corrections have been addressed and that the size, dimensions, location, etc., of the antennas and equipment have not changed, unless such changes are in response to comments provided by the City. Resubmitted materials shall include a response to any written correspondence, identifying where the revisions and modifications can be found on the plans and other submittal materials. If marked-up plans/documents were provided to the applicant, they must be returned with the resubmittal. Applications that are resubmitted without revisions identified or not accompanied by any marked-up plans and documents provided by the city, will be denied.

Upon review of the resubmitted materials for an administrative permit application, the Director will either approve or conditionally approve the application, or will inform the applicant that the application is still considered incomplete in the same manner as described above. Upon review of the resubmitted materials for a minor conditional use permit application, the Director will either forward the application on to the Zoning Administrator with a recommendation to approve the application, conditionally approve the application, or deny the application; or will inform the applicant that the application is still considered incomplete in the same manner as described above. After a second resubmittal for an administrative permit application, the application will either be approved, conditionally approved, or denied. After a second resubmittal for a minor conditional use permit, the Director will forward the application on to the Zoning Administrator with a recommendation to approve the application, conditionally approve the application, or deny the application. No further resubmittal of application materials will be accepted. Denied administrative permit applications will include a written determination identifying the reason(s) for denial. Actions of the Zoning Administrator shall follow the procedures identified in Article 61, Division 1 of the Escondido Zoning Code.

If a permit is approved, one set of approved plans will be provided to the applicant. If a master license agreement has not yet been entered in to by the applicant, said agreement shall be entered into prior to issuance of an encroachment permit. If an encroachment permit has not yet been secured, the applicant will be required to secure one prior to installation of the facility.

Applications for facilities that were denied may be submitted to the Planning Division as new applications at any time, without prejudice. Said new application will be processed as

a completely separate application, with new submittal materials and fees required, and shall demonstrate compliance with these Guidelines.

I. Determinative Action

The approval or denial of a small wireless facility permit by the director (for administrative permits) or Zoning Administrator (for minor conditional use permits) of a duly filed application is the City's action in response to the request for authorization to place, construct, or modify personal wireless service facilities. Any denial of a permit must be in writing and supported by substantial evidence.

IV. DESIGN AND DEVELOPMENT STANDARDS

A. Introduction and Review

The general intent of these design and development standards is to preserve the character of the City's neighborhoods and corridors by requiring small wireless facilities to utilize the least intrusive design available with regard to appearance, size, and location, and to blend into the existing streetscape as much as possible. They also seek to prevent conflict with existing and planned roadway, utility, and storm drain improvements.

The Director shall determine whether an application for a small wireless facility utilizes the least intrusive design available. For purposes of these guidelines, least intrusive design available means the most preferred design or development standard as provided in these guidelines that is technically feasible. For individual antennas, shrouds/radomes, accessory equipment, mounting brackets/attachments and any other physical aspect of a facility, least intrusive shall mean the smallest such item that is technically feasible. Any application for a permit that does not use the least intrusive design available shall include a technical feasibility report in the form and with the information as provided by the Director.

If an application is made for a minor conditional use permit, the Zoning Administrator shall determine whether an application for a small wireless facility utilizes the least intrusive design available. Any application for a minor conditional use permit shall include a technical feasibility report in the form and with the information as provided by the Director.

B. Support Structures

Antennas shall be placed according to the following preferences, ordered from most to least preferred:

1. Existing or replacement street lights – top of pole
2. Existing or replacement street lights – flush-mount on pole
3. Strand-mounted on existing overhead utility lines
4. New street lights – top of pole
5. New street lights – flush-mount on pole
6. Existing wooden utility poles – top of pole
7. Existing wooden utility poles – flush-mount on pole
8. Other existing vertical structures

9. Existing, replacement or new street lights – projecting from pole
10. Existing wooden utility poles – projecting from pole
11. New vertical structures that are not street lights

Antennas associated with any new small wireless facility, or any addition or modification to an existing facility shall be placed on the most preferred support structure, unless the applicant demonstrates that a review has been conducted, and no more-preferred support structure, or combination of structures, is available which would meet the service objectives of the proposed facility. This review shall include, but is not limited to, identification of technically feasible alternative site(s) within 150 feet, reasonably directed to avoiding or remedying the intangible public harm of unsightly or out-of-character deployments.

C. Accessory Equipment

All accessory equipment (e.g., remote radio units, disconnect switch, converters, fuse box, etc.) required for small wireless facilities shall be installed utilizing the most-preferred placement that is technically feasible to serve the associated antenna(s). Ground-mounted equipment must be placed in the least conspicuous location available within a reasonable distance from the pole or support structure. If possible, one piece of accessory equipment that can support antennas in multiple locations (such as strand-mount facilities) shall be utilized. The list below prioritizes the preferred placement of accessory equipment from most desirable to least desirable.

1. Underground
2. Mounted on the same pole or support structure as the associated antenna
3. Above-ground equipment cabinet

Accessory equipment associated with any new small wireless facility, or addition or modification to an existing facility, shall follow this order, unless the applicant demonstrates that a review has been conducted which as determined that it is technically infeasible to achieve high-order preferences.

D. Prohibitions

Antennas and accessory equipment shall be prohibited on the following structures:

1. Traffic signals
2. Archways over roads or pedestrian plazas/walkways
3. Pieces of public art
4. Structures placed in the right-of-way through charitable donation(s)
5. Commemorative memorial structures
6. Utility poles and lines scheduled to be removed/undergrounded within 24 months of installation of the antenna or equipment, or required to be removed/undergrounded as a condition of approval of an existing entitlement.
7. New or replacement wooden utility poles

In addition to the prohibitions above, small wireless facilities (antennas and accessory equipment) shall not:

1. Compromise the purpose, performance, or integrity of any streetlight(s) or other support structures.
2. Be located closer than 40 feet to any residential unit unless said unit has no windows or doors on any wall facing the antenna. Proposed facilities which are less than 40 feet to any residential unit may be requested through the minor conditional use permit process.
3. Project from a support structure by use of an "arm" or other horizontal bracket/brace. Proposed facilities which project from a support structure by use of an "arm" or other horizontal bracket/brace may be requested through the minor conditional use permit process.
4. Be placed in a location which would damage or require the removal or trimming of any mature or protected tree(s).
5. Include ground-mounted equipment on blocks where a majority of equipment for other utility providers has been placed underground.
6. Encroach over any adjacent property line(s).
7. Be placed in a location or manner that negatively impacts Fire Department access and maneuverability.
8. Include any signage or advertisement(s), unless required by law.
9. Be placed in any fire lane.
10. Conflict with requirements of the Americans with Disabilities Act or other disabled access criteria established by federal, state, or local codes.
11. Be placed in a location or manner that negatively impacts the future planned installation or construction of public roadway, utility, or storm drain improvements.
12. Obstruct visibility of any traffic signals, stop signs, or other traffic control signage.

E. Design Standards

All proposed installations must be the least intrusive possible with regard to appearance, size, and location. If installations are available (e.g., have been installed in other jurisdictions) that are less intrusive than those allowed herein, applicants must utilize those installations unless the Director or permit decision-maker determines that those installations are not feasible.

If an applicant proposes to install a facility that exceeds the height, size, or other quantitative criteria described below, they may submit an application for a minor Conditional Use Permit, which will be processed pursuant to Article 61 of the Escondido Zoning Code. Alternately, an applicant may request pre-approval of a design that exceeds the quantitative criteria below. Designs proposed for pre-approval must be approved by the City Council and will become appendices to these Guidelines.

1. Height
 - a. No facility shall exceed 50 feet in height or four feet above the support structure on which it is placed, whichever is less.
 - b. Replacement support structures shall be the same height as the existing structure that is being replaced.

- c. New street lights shall be the same height as that identified for such structures in the City's standard drawings.
- d. Pole-mounted antennas and accessory equipment shall maintain a minimum clearance of ten feet above any pedestrian path of travel and 14 feet above any roadway or other vehicular access point.

2. Antennas

- a. All antennas and associated mounting equipment, hardware, cables or other connectors shall be concealed in a shroud or radome. The shroud/radome shall be painted a flat, non-reflective color to match the underlying support structure.
- b. All antennas must be placed within the same shroud/radome.
- c. Multiple facilities may be installed on one support structure as long as all antennas on that support structure are placed within the same shroud/radome.
- d. Antennas for any small wireless facility shall not exceed three cubic feet in volume, including the shroud or radome. If more than one antenna is provided on any support structure, the volume above shall be cumulative. Notwithstanding the foregoing, top-mount antennas and shrouds may have a maximum volume of six cubic feet if necessary to provide a tapered transition to the pole on which it is mounted.
- e. Top-mount antennas (including the shroud) shall be no more than 16 inches wide when placed on light poles, and shall not exceed the width of any wooden utility pole on which they are mounted.
- f. Any top-mounted antennas which are wider than the light pole on which they are mounted shall be tapered to match the width of the pole at the point of attachment to the pole.
- g. Side/flush mount antennas, including those with integrated radio units, shall not exceed 12 inches in width and nine inches in depth (measured from the face of the pole), including the shroud.

3. Accessory Equipment

- a. Underground equipment may be as large as allowed by the FCC for small wireless facilities.
- b. Pole-mounted accessory equipment shall not exceed a maximum cumulative volume of seven cubic feet for any facility. The maximum width of any piece of accessory equipment shall be 20 inches (except as specified below for wooden utility poles), and the maximum depth shall be 16 inches (measured from the face of the pole). These volume and dimensional limitations are inclusive of shrouds and cabinets.
- c. If multiple facilities are installed on one pole, the pole-mounted volume and dimensional criteria specified above shall be cumulative for all accessory equipment.
- d. Pole-mounted accessory equipment shall be painted a flat, non-reflective color to match the pole on which the equipment is mounted.
- e. All pole-mounted accessory equipment shall be installed within the same shroud.
- f. Ground-mounted equipment cabinets:
 - i. Shall fully screen the equipment inside them from view.

- ii. Shall not exceed six cubic feet in residential zones or adjacent to properties developed with residential uses, and 12 cubic feet in all other locations.
- iii. Shall not be placed in the front yard of residentially zoned properties, or in street-side yard of any single-family residentially zoned property where the front door of said property faces and takes access from that street-side yard.
- iv. Shall not exceed 36 inches in height in single-family residential zones.
- v. No more than one above-ground equipment cabinet shall be provided for any small wireless facility. The use of one above-ground equipment cabinet to serve multiple small wireless facility antennas is strongly encouraged (e.g., for stand-mount wireless facilities)
- vi. Shall be painted dark green or the same color as any existing equipment cabinet (for other utility providers) within 25 feet of the proposed equipment cabinet.
- vii. Shall not block or interfere with driveways, gates, entrances, sidewalks, and other points of vehicular and pedestrian access to adjacent properties and rights-of-way, nor interfere with sight distances.
- viii. Shall be lockable or otherwise designed to prevent unauthorized access.
- ix. Shall maintain a minimum separation from fire hydrants and other above-ground mechanical equipment as required by the public agency and utility providers.

4. Street Lights

- a. Small wireless facilities shall be placed on existing street lights as long as the existing street light has been designed and engineered to support the proposed facility in accordance with applicable health and safety regulations. If the existing street light cannot support the proposed facility, the applicant must remove and replace the existing street light with one substantially similar to the City's standards and specifications, but designed to accommodate the proposed facility.
- b. Any existing street light pole that does not have the ability to have all cables, conduit, fiber, etc., placed inside shall be replaced
- c. New and replacement poles shall be concrete, steel, or composite, and shall be designed to match the design, alignment, distribution, height and color/texture of the pole it replaced.
- d. No more than one top-mount shroud/radome and one side-mount antenna/radio/equipment cabinet, or two side-mount antenna/radio/equipment cabinets shall be allowed per pole.
- e. Any penetrations through the pole shall be screened behind the antenna or accessory equipment shroud/radome.
- f. A replacement pole shall be located as close to the removed pole as possible, but in no case more than ten (10) feet away. Replacement poles located more than 10 (ten) feet away from the removed pole shall be considered new poles.
- g. New (non-replacement) street lights shall be located no closer than 75 feet from any existing street light on the same side of the street.
- h. All luminaires shall be replaced with LED luminaires in accordance with the Escondido design standards and standard drawings.

- i. Disconnect switches are required. They must be located within the underground handhole or integrated into the pole-mounted equipment cabinets.
 - j. Lights must be shielded to prevent light-spillage onto adjacent properties.
5. Wooden Utility Poles
- a. Applicants that propose to install small wireless facilities on an existing wooden utility pole must install all antennas above the pole within a canister-type shroud painted to match the pole, unless the applicant demonstrates that mounting the antennas above the pole would be technically infeasible.
 - b. Antennas and equipment mounted onto the side of a pole shall not exceed the width of the pole.
 - c. All cables mounted onto the exterior of the wooden pole shall be sheathed (or enclosed) within a durable tubing material (e.g., conduit) of the smallest diameter and shortest length necessary to serve the facility. The conduit shall be flush mounted to the pole and painted to blend with the pole. No loose, exposed, or dangling wiring or cables shall be allowed.
6. New Support Structures
- Specifications for facilities proposed to be placed on new vertical structures that are not street lights will be reviewed as part of the Minor Conditional Use Permit process. In no case shall they exceed the most restrictive specifications for antennas and accessory equipment placed on other structures.
7. Orientation
- Pole-mounted antennas and equipment shall be oriented away from adjacent residential structures and shall be placed to minimize visibility from adjacent sidewalks and structures, in order to achieve concealment, as defined in Section 33-702 of the Escondido Zoning Code, to the extent technically feasible.
8. Obstructions – Public Safety
- All equipment located within the right-of-way shall be located such that it meets ADA requirements and does not obstruct, impede, or hinder usual pedestrian or vehicular travel. Small wireless facilities and any associated equipment or improvements shall not physically interfere with, block visibility of, or impede access to:
- a. Any above-ground or underground infrastructure for traffic control, streetlights or public transportation, including without limitation any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, barricade reflectors, etc.
 - b. Access to any public transportation vehicles, shelters, street furniture or other improvements at any public transportation stop
 - c. Worker access to above-ground or underground infrastructure owned or operated by any public or private utility agency
 - d. Fire hydrants and other fire-prevention equipment or water valves
 - e. Fire escapes
 - f. Sight distance requirements

9. Electric Meter

Small wireless facilities shall use a flat-rate electric service or other method that obviates the need for a separate above-grade electric meter. If flat-rate service is not available, applicant may install a shrouded smart meter. Separate ground-mounted electric meter pedestals are prohibited.

V. STANDARD CONDITONS OF APPROVAL

All small wireless facilities which are subject to these Guidelines, whether approved by the City of Escondido or deemed approved by law, shall be automatically subject to all standard conditions of approval set forth below, in addition to any specific conditions applied to the specific facility. For the purpose of these Conditions of Approval, the term "Applicant" shall also include the permittee, wireless carrier, or its successor(s) in interest in any small wireless facility, as may be applicable.

- A. Should the applicant fail to protest these conditions and/or file a timely and valid appeal of this Small Wireless Facility Permit, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - 1. Acceptance of the permit by the applicant; and
 - 2. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this Small Wireless Facility Permit or other approval(s) applicable to said permit.
- B. Compliance with all requirements contained in these Guidelines and Section 33-704(k) of the Escondido Zoning Code shall be strictly adhered to.
- C. The applicant shall remove any Notice of Public Hearing signage within 24 hours following a public hearing for any small wireless facility.
- D. All required permits and agreements must be in place prior to commencing installation of any facility.
- E. It shall be the responsibility of the applicant to secure any permits, approvals, agreements and authorizations from other agencies. Failure on behalf of the City of Escondido to ensure that said permits, approvals, agreements and authorizations have been secured shall not alleviate the applicant from this responsibility.
- F. All construction and operations shall comply with all applicable requirements of the Escondido Zoning Code, Escondido Municipal Code, and any other applicable policies and requirements of the City.
- G. The applicant shall pay all additional fees and deposits required by the City at the time of application for an encroachment permit, including those fees required by any master license agreement.
- H. All aspects of the facility shall strictly conform to the plans and other exhibits approved by the City and on-file with the Planning Division.
- I. As of the date of permit issuance, the applicant certifies that the facility utilizes the least intrusive design and that no less intrusive designs are available.
- J. Final inspections by the Planning and Field Engineering Divisions shall be required before commencement of operations of any facility. Any facility not installed in strict compliance with the approved permit(s) and these Guidelines shall be brought into compliance and subsequent inspection(s) shall be requested by the applicant. Operations shall not commence prior to the facility passing final inspection(s).
- K. Prior to commencement of operations, it shall be the applicant's responsibility to ensure that the facility has passed all inspections required by any other agencies with jurisdictional authority.
- L. Post-Installation Certification. Within 90 calendar days after the applicant commences full, unattended operations of a small wireless facility, the permittee shall provide

documentation demonstrating that the facility has been installed and constructed in compliance with the approved plans. Such documentation shall include without limitation as-built drawings, GIS data, and site photographs. Failure to provide such certification shall be cause for the City to rescind approval of the installation of the facility until such time as the certification has been provided.

- M. Build-Out Period. The small wireless facility permit and associated encroachment permit will automatically expire twelve (12) months from the approval date unless construction has commenced. Construction shall be completed within six (6) months of commencement.
- N. Site Maintenance. The applicant shall keep the site, which includes without limitation any and all improvements, equipment, structures, access routes, fences and landscape features, in a neat, clean, and safe condition. Any such equipment, structures, etc., that, in the opinion of the Director, has become worn, weathered, or otherwise degraded, shall be repaired or replaced by the permittee at the permittee's sole expense. The permittee, at no cost to the City, shall remove and remediate any graffiti or other vandalism at the site within 24 hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.
- O. Applicant hereby agrees to investigate complaints related to possible interference with electronic equipment in the surrounding area, to determine the cause of the interference. If the facility is determined to be the cause of the electronic interference, applicant shall resolve the issue in a timely manner, to the satisfaction of the Director.
- P. Any facility suspected of causing interference with Fire Department or public safety communications shall be immediately taken out of operation and said interference shall be investigated. Should the facility be found to be the cause of the interference, the issue must be resolved prior to recommencing operation of the facility, to the satisfaction of the City of Escondido.
- Q. The final location of any small wireless facility shall be verified in the field to not interfere with visibility of any traffic control device or signage, or reduce sight distance below City and ASSHTO requirements, to the satisfaction of the City of Escondido prior to commencing operation of the facility.
- R. Small wireless facilities installed on or as part of a new or replacement street light shall not be placed in locations subject to future public road widening or in conflict with future planned utility or storm drain infrastructure.
- S. No facility shall be expanded, relocated, or otherwise modified without approval of subsequent permits by the City of Escondido.
- T. Any application for the modification of an existing facility shall require replacement of any portion of the facility for which a less intrusive design has become available,
- U. Any trenching in excess of fifty (50) feet will require a separate encroachment permit including a construction drawings submittal to the Engineering Services Department, and the owner of the proposed underground facilities will be required to execute a one-time Right-of-Way and Maintenance Agreement with the City of Escondido or provide evidence of prior Franchise Agreement rights.
- V. Any City infrastructure removed in order to install a small wireless facility shall be so removed in a manner which does not damage said infrastructure, and said infrastructure shall be delivered to the City of Escondido public works yard, as directed by Field Engineering and Public Works staff.

- W. Installation of any facility shall be in full compliance with all applicable city, regional, and state design standards and standard drawings.
- X. The foundation of any removed street light shall be removed to a depth of at least two feet below finished grade.
- Y. All street light conduit and wiring splicing shall be reconnected in accordance with the City's standard drawings, to the satisfaction of the city engineer.
- Z. The applicant shall be responsible to repair or replace any driveway approach, curb and gutter, sidewalk, or other damages which have occurred as a result of construction activities for the facility, to the satisfaction of the city engineer. All curb, gutter, sidewalk and driveway repairs and replacements shall be in accordance with standard drawing G-6-E.
- AA. The applicant shall be responsible to repair and resurface all trenched roadways per City of Escondido Standard Drawing G-2-E, to the satisfaction of the City Engineer.
- BB. The applicant or contractor will be responsible to implement Best Management Practices (BMPs) to prevent storm water pollution in accordance with the approved Erosion Control Plan, CASQA Guidelines and City of Escondido Municipal Code during all phases of project construction to the satisfaction of the City Engineer.
- CC. Erosion and sediment controls, and other storm water pollution control measures, shall be provided to control sediment and silt from construction work areas. The applicant and contractor shall be responsible for maintaining all erosion and sediment controls throughout the construction work.
- DD. Compliance with Conditions and Laws. The applicant shall comply with all conditions specified. Failure to comply with any condition shall constitute grounds for revocation of the small wireless facility permit. The applicant shall also maintain compliance at all times with all federal, state and local regulations applicable to the permittee, the subject property, and the small wireless facility, which includes without limitation any laws applicable to human exposure to RF emissions. In the event that RF emissions for the site exceed FCC standards, the applicant will be required to immediately cease operation of the facility until such time that the violation is corrected to the satisfaction of the Director. The applicant expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve, or otherwise lessen the permittee's obligations to maintain compliance with all laws.
- EE. No small wireless facility may encroach into, over, or across any adjacent property line.
- FF. No encroachment onto adjacent private property shall be allowed during the construction of any small wireless facility without express written consent of the adjacent property owner. This shall include private property owned by the City of Escondido.
- GG. Small wireless facilities shall be maintained by the permittee(s) and subsequent owners in a manner that implements requirements of the Zoning Code, these Guidelines, and all other applicable standards and permit conditions. Landscaping, painting, and other concealment treatment for any facility shall be maintained as such over time.
- HH. The applicant shall use all reasonable efforts to avoid any and all unreasonable, undue or unnecessary adverse impacts on nearby properties that may arise from the permittee's or its authorized personnel's construction, installation, operation, modification, maintenance, repair, removal or other activities on or about the site. The permittee shall not perform or cause others to perform any construction, installation,

operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines except during normal construction work hours authorized by the Escondido Municipal Code. The restricted work hours in this condition will not prohibit any work required to prevent actual, immediate harm to property or persons, or any work during an emergency declared by the City or other state or federal government agency or official with authority to declare a state of emergency within the City. The Director may issue a stop work order for any activities that violate this condition in whole or in part.

- II. Applicant's Contact Information. The applicant shall furnish the city engineer with accurate and up-to-date contact information for the person responsible for the small wireless facility, which includes without limitation such person's full name, title, direct telephone number, facsimile number, mailing address and email address. The permittee shall keep such contact information up-to-date at all times and promptly provide the city engineer with updated contact information if either the responsible person or such person's contact information changes.
- JJ. Indemnification. The applicant, permittee, and any successor-in-interest thereof, shall defend, indemnify and hold harmless the City of Escondido, and its agent's officers or employees, from (1) any claim, action or proceeding against the City, its agents, officers or employees to attack, set aside, void or annul an approval of the City, arising out of or concerning the small cell wireless facility permit, and (2) other claims of any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the small cell wireless facility permit or the small cell wireless facility. In the event the City becomes aware of any claims, the City will use best efforts to promptly notify the permittee and shall reasonably cooperate in the defense. The permittee expressly acknowledges and agrees that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the permittee shall promptly reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. Within ten calendar days of the service of a claim, the permittee shall execute a letter of agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. The permittee expressly acknowledges and agrees that such indemnification obligations will survive the expiration, revocation or other termination of this small cell wireless facility permit.
- KK. Permit Revocation. Any permit granted under these Guidelines may be revoked by the Director if the facility is not operating in compliance with these conditions or any applicable federal, state, or local laws.
- LL. Abandoned Facilities. The small wireless facility authorized under this small wireless facility permit shall be deemed abandoned if not operated for any continuous six-month period. Within 90 days after a small cell wireless facility is abandoned or deemed abandoned, the applicant or support structure owner (if not on a City-owned support structure) shall completely remove the small wireless facility and all related improvements and shall restore all affected areas to a condition compliant with all applicable laws, which includes without limitation the Escondido Municipal Code and Escondido Zoning Code. In the event that neither the applicant or support structure owner (if not on City-owned infrastructure) complies with the removal and restoration obligations under this condition within said 90-day period, the City shall have the right (but not the obligation) to perform such removal and restoration with or without notice,

and the permittee and support structure owner (if not on City-owned infrastructure) shall be jointly and severally liable for all costs and expenses incurred by the City in connection with such removal and restoration activities.

- MM. Landscaping. The applicant shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the permittee or at the permittee's direction on or about the site. If any trees are damaged, destroyed or displaced, the permittee shall hire and pay for a licensed arborist to select, plant and maintain replacement landscaping in the nearest appropriate location for the species. Only International Society of Arboriculture certified workers under the supervision of a licensed arborist shall be used to install the replacement tree(s). Any replacement tree must be a minimum 24-inch box specimen tree or larger, as determined by the Director, and shall be the same species as the tree which was removed unless determined by the Director that a different species is appropriate for the location. The applicant shall, at all times, be responsible to maintain any replacement landscape features and maintain any new landscaping installed in conjunction with the small wireless facility.
- NN. Protected trees. Any protected trees damaged as a result of the installation of a small wireless facility shall be assessed by a licensed arborist. All recommendations of the licensed arborist intended to restore the tree shall be carried out by the applicant. Should any protected tree be destroyed or otherwise displaced as a result of the installation of any facility shall be replaced at a ratio recommended by the licensed arborist. This condition shall apply to any protected trees damaged, destroyed or otherwise displaced during construction, operation and removal of any facility if the facility is determined to be the cause of said damage, destruction or displacement.
- OO. Cooperation with RF Compliance Evaluations. At all times relevant to this permit, the applicant and the property owner (if not on City-owned infrastructure) shall reasonably cooperate with efforts by the City to evaluate whether the facility complies with all applicable FCC rules and regulations for human exposure to RF emissions. Such cooperation shall be at no cost to the City and may include, but not be limited to: (1) furnishing the City with a post-installation assessment report signed by an RF engineer certifying the wireless facility's compliance with applicable FCC rules and regulations; (2) providing technical data such as the frequencies in use, power output levels and antenna specifications, reasonably necessary to evaluate compliance with maximum permissible exposure levels set by the FCC; and (3) promptly responding to all requests by the City or its designee for information and cooperation with respect to any of the foregoing.
- PP. Future Undergrounding Programs. If other public utilities or communications providers in the public rights-of-way underground their facilities in the segment of the public right-of-way where the applicant's small wireless facility is located, the applicant must underground its equipment except the antennas, any electric meter and any other equipment that must be placed above ground in order to function. Accessory equipment that requires an environmentally controlled underground vault to function are not exempt from this condition. Such undergrounding shall occur at the applicant's sole cost and expense.
- QQ. Small wireless facilities which have been installed on utility poles which are removed as part of a utility undergrounding project, and any facilities that are strand-mounted

between such poles, shall be removed by the permittee with no compensation provided by the City or other entity carrying out the undergrounding project. The existence of small wireless facilities shall not prevent the City or other entity from carrying out an undergrounding project. Replacement of the facility shall be subject to a new small wireless facility permit. This condition includes utility poles and lines which are required to be placed underground as a condition of approval of a development project.

- RR. Small wireless facilities which are required to be removed or relocated as a result of a public works project shall be so removed or relocated at the sole expense of the permittee.
- SS. Any relocation of a small wireless facility required as a result of public works or utility undergrounding projects shall be processed in the same manner as a new small wireless facility.
- TT. Electric Meter Upgrades. If the commercial electric utility provider adopts or changes its rules obviating the need for a separate or ground-mounted electric meter and enclosure, the permittee on its own initiative and at its sole cost and expense shall remove the separate or ground-mounted electric meter and enclosure. Prior to removing the electric meter, the permittee shall apply for any encroachment and other ministerial permit(s) required to perform the removal. Upon removal, the permittee shall restore the affected area to its original condition that existed prior to installation of the equipment.
- UU. All conditions of approval shall be binding as to the applicant and all successors in interest to permittee.
- VV. Existing City-owned structures on which any small wireless facility is placed shall remain the property of the City. Any new or replacement structures in the right-of-way which are subject to a master license agreement shall become the property of the City of Escondido in the event that an applicant removes or abandons any small wireless facility installed on said structure(s).

ATTACHMENT 4
PLANNING COMMISSION STAFF REPORT
AZ 19-0001
(December 10, 2019)

Due to the number of pages of Attachment 4, the following link has been provided to review the document electronically on the City's web site:

<https://www.escondido.org/small-cell-wireless-service-facilities.aspx>

A hardcopy of the Attachment is available for review in the Office of the Planning Division during normal business hours. To obtain a copy, please contact the City Clerk at (760) 839-4617 or Planning Division at (760) 839-4671.

ATTACHMENT 5
PLANNING COMMISSION STAFF REPORT
AZ 19-0001
(December 10, 2019)

Due to the number of pages of Attachment 5, the following link has been provided to review the document electronically on the City's web site:

<https://www.escondido.org/small-cell-wireless-service-facilities.aspx>

A hardcopy of the Attachment is available for review in the Office of the Planning Division during normal business hours. To obtain a copy, please contact the City Clerk at (760) 839-4617 or Planning Division at (760) 839-4671.