

ORDINANCE 587

AN ORDINANCE OF THE TOWN OF LOS ALTOS HILLS REPEALING CHAPTER 5 (WIRELESS TELECOMMUNICATIONS FACILITIES) OF TITLE 7 (PUBLIC WORKS) OF THE LOS ALTOS HILLS MUNICIPAL CODE, AMENDING SECTION 10-1.202 (DEFINITION OF ANTENNA) AND ADDING ARTICLE 13 (WIRELESS TELECOMMUNICATIONS FACILITIES) TO CHAPTER 1 (ZONING) OF TITLE 10 (ZONING AND SITE DEVELOPMENT) OF THE LOS ALTOS HILLS MUNICIPAL CODE ESTABLISHING REGULATIONS FOR WIRELESS TELECOMMUNICATIONS FACILITIES

WHEREAS, technological developments and expanded usage in mobile telecommunication services have prompted wireless service providers to deploy various wireless telecommunication facilities, including towers, antennas, and “small cell” facilities in place of traditional macro towers and antennas; and

WHEREAS, wireless carriers are using small cell technology to augment and improve their wireless services and coverage area; and

WHEREAS, the Telecommunications Act of 1996 provides that local governments cannot enact regulations that would prohibit or effectively prohibit telecommunication services; and

WHEREAS, the Federal Communications Commission recently issued a Declaratory Ruling and Third Report and Order (“FCC Order”) on September 26, 2018, regarding small cell wireless facilities; and

WHEREAS, the Order interprets the “effective prohibition” provisions under the Act and sets forth the various restrictions on the exercise of local aesthetic, zoning, public works, and fee restrictions when local governments review and regulate wireless telecommunications facilities deployment applications, including on Town-owned poles in the public right of way; and

WHEREAS, the FCC Order requires that aesthetic requirements be (1) reasonable; (2) no more burdensome than those applied to other types of infrastructure deployments, and (3) objective and published in advance; and

WHEREAS, California Public Utilities Code section 7901 authorizes wireless telecommunication service providers to construct facilities in the public right-of-way in a manner as to not “incommode” the public’s use of the right of way; and

WHEREAS, on the other hand, California Public Utilities Code Section 7901.1 confirms the right of municipalities to exercise reasonable control as to the time, place, and manner in which roads, highways, and waterways are accessed, in an equally applied manner; and

WHEREAS, the California Supreme Court recently in *T-Mobile West LLC v. City and County of San Francisco* (2019) (S238001) interpreted the term “incommode” to mean not only physical

obstructions to the right of way but also long-term effects from telecommunication deployment that could disturb the use and quiet enjoyment of the public road; and

WHEREAS, the Town initially adopted a Wireless Communications Facilities Policy in 1996, amended in 2006, regarding certain policies for wireless facilities location and screening, which are not contained in the Municipal Code; and

WHEREAS, in response to the FCC Order, the Town adopted an Urgency Ordinance under Chapter 7-5 of the Municipal Code in March 2019 to generally address design, installation, operation and maintenance issues that arise in connection with wireless telecommunications facilities deployed in the public right-of-way; and

WHEREAS, the Town does not otherwise have a comprehensive set of regulations for the placement, installation, maintenance and operation of wireless telecommunications facilities; and

WHEREAS, the Town desires to amend the Municipal Code to adopt regulations regarding wireless facilities in order to reflect current telecommunications trends or necessary legal requirements, and to establish comprehensive requirements and standards for the development, siting, installation and operation of wireless facilities in a way that protects and promotes public safety, community welfare, and the Town's character and aesthetic quality; and

WHEREAS, the Town desires to adopt design requirements that further govern the aesthetics of wireless facilities; and

WHEREAS, this Ordinance is adopted based on the following facts:

(1) The purpose of this Ordinance is to amend the Town's Municipal Code to provide uniform standards, regulations and permit requirements for the installation of wireless telecommunications facilities within the Town limits.

(2) Providers within the wireless telecommunications industry have expressed interest in submitting applications, or have already submitted applications, for the installation of distributed antenna systems, also known as "small cell" wireless telecommunications facilities and other wireless telecommunications facilities in the Town's public rights-of-way and other areas. Other California cities have also received applications for small cells and wireless telecommunications facilities to be located within the public right-of-way.

(3) Installation of small cell and other wireless telecommunications facilities within the public right-of-way can pose a threat to the public health, safety and welfare, including disturbance to the right-of-way through the installation and maintenance of wireless facilities; traffic and pedestrian safety hazards due to the unsafe location of wireless facilities; impacts to trees where proximity conflicts may require unnecessary trimming of branches or require removal of roots due to related undergrounding of equipment or connection lines; creation of visual and aesthetic blights and potential safety concerns arising from excessive size, heights, noise or lack of camouflaging of wireless facilities including the associated pedestals, meters, equipment and power generators;

and the creation of unnecessary visual and aesthetic blight by failing to utilize alternative technologies or capitalizing on collocation opportunities.

(4) The public right-of-way in the Town is a uniquely valuable public resource, closely linked with the Town's natural beauty including the hills and views of the Bay, and significant residential communities. The reasonably regulated and orderly deployment of wireless telecommunications facilities in the public right-of-way is desirable, and unregulated or disorderly deployment represents an ever-increasing and true threat to the health, welfare and safety of the community.

(5) The regulation of wireless installations in the Town limits is necessary to protect and preserve the aesthetics in the community, as well as the values of properties within the Town, and to ensure that all wireless telecommunications facilities are installed using the least intrusive means possible.

(6) The Town recognizes its responsibilities under the Federal Telecommunications Act of 1996 and state law and believes that it is acting consistent with the current state of the law in ensuring that irreversible development activity does not occur that would harm the public health, safety, or welfare. The Town does not intend that this Ordinance prohibit or have the effect of prohibiting telecommunications service; rather, it includes appropriate regulations to ensure that the installation, augmentation and relocation of wireless telecommunications facilities in the public rights-of-ways are conducted in such a manner as to lawfully balance the legal rights of applicants under the Federal Telecommunications Act and the California Public Utilities Code while, at the same time, protect to the full extent feasible against the safety and land use concerns described herein.

WHEREAS, pursuant to Section 15001 of the California Environmental Quality Act (CEQA) Guidelines, this ordinance is exempt from CEQA based on the following:

(1) This Ordinance is not a project within the meaning of Section 15378 of the State CEQA Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately.

(2) This Ordinance is categorically exempt from CEQA under Section 15308 of the CEQA Guidelines as a regulatory action taken by the Town pursuant to its police power and in accordance with Government Code Section 65858 to assure maintenance and protection of the environment pending the evaluation and adoption of contemplated local legislation, regulation and policies.

(3) This Ordinance is not subject to CEQA under the general rule in CEQA Guidelines Section 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. For the reasons set forth in subparagraphs (1) and (2), above, it can be seen with certainty that there is no possibility that this ordinance will have a significant effect on the environment.

WHEREAS, the Planning Commission held duly noticed public hearings to consider the proposed amendments to the Zoning Code on October 3, 2019 and November 7, 2019, at which time all interested persons had the opportunity to be heard; and

WHEREAS, after close of the public hearing, the Planning Commission recommended approval of the proposed amendments to the Zoning Code; and

WHEREAS, the City Council held a duly noticed public hearing to consider the proposed amendments to the Zoning Code on December 4, 2019, at which time all interested persons had the opportunity to be heard; and

WHEREAS, after the close of the public hearing, the City Council considered all public comments received both before and during the public hearing, the presentation by Town staff, the staff report, and all other pertinent documents regarding the proposed zoning code amendment; and

WHEREAS, the City Council finds that the proposed amendments to the Zoning Code are consistent with and support the Los Altos Hills General Plan by helping to ensure the aesthetic quality of wireless telecommunication facilities in a manner consistent with Federal law and regulations; and

WHEREAS, the City Council finds that the proposed Zoning Code amendment is intended to establish comprehensive requirements and standards for the development, siting, installation and operation of wireless telecommunication facilities in a way that protects and promotes public safety, community welfare, and the Town's character and aesthetic quality.

WHEREAS, the City Council desires to adopt the proposed changes to the Zoning Code and repeal the prior Urgency Ordinance under Chapter 7-5 of the Municipal Code.

NOW, THEREFORE, the City Council of the Town of Los Altos Hills does hereby ordain as follows:

SECTION I. FINDINGS.

Based on the entirety of the record as described above, the City Council for the Town of Los Altos Hills hereby makes the following findings:

1. All of the facts and recitals above are true, corrected, incorporated herein and made a part hereof such that there exists a current and immediate threat to the public health, safety, and welfare requiring the adoption of an ordinance to implement wireless communications regulations for the Town of Los Altos Hills.

2. This project is exempt from California Environmental Quality Act (CEQA) pursuant to "general exemptions" described in Section 15061(b)(3) of the CEQA Guidelines, since the ordinance would not have any significant effects on the environment.

SECTION II. AMENDMENTS TO THE MUNICIPAL CODE.

1. Chapter 5, of Title 7, entitled “Wireless Telecommunications Facilities”, is hereby repealed in its entirety.

2. Section 10-1.202 “Designated, of Title 10, Chapter 1, Article 2, entitled “Definitions”, is amended to read as follows, with additions in double underline and deletions in ~~striketrough~~. All other provisions not explicitly amended by this ordinance shall remain in full force and effect.

10-1.202 Designated.

...

Antenna means any device used to transmit and/or receive electromagnetic waves, with the exception that antennas that are a part of a wireless telecommunications facility, as defined under Article 13 of Chapter 1, Title 10 of this code, that are designed to radiate or receive radio frequency signals or electromagnetic waves for the provision of services, shall be excluded from, and not be governed under, this chapter and article but shall be governed under Article 13 of Chapter 1, Title 10 of this code.

...

3. Article 13 entitled “Wireless Telecommunications Facilities” is hereby added to Chapter 1, Title 10 of the Los Altos Hills Municipal Code to read as set forth in Exhibit A to this Ordinance, which is hereby incorporated as though set forth in full herein.

SECTION III. SEVERABILITY.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional the remainder of this ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The City Council of the Town of Los Altos Hills hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION IV. EFFECTIVE DATE AND PUBLICATION.

This ordinance shall become effective 30 days from the date of its final passage. Within fifteen days after the passage of this ordinance, the City Clerk shall cause this ordinance or a summary thereof to be published once, with the names of those City Councilmembers voting for or against it in a newspaper of general circulation in the Town of Los Altos Hills, as required by law.

INTRODUCED: December 4, 2019

PASSED: December 19, 2019

AYES: Mayor Spreen, Vice Mayor Wu, Councilmember Corrigan
Councilmember Tankha, Councilmember Tyson

NOES: None

ABSTENTIONS: None

ABSENT: None

BY: 
Roger Spreen, Mayor

ATTEST:

City Clerk

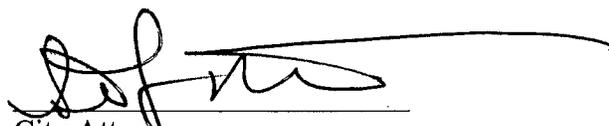
APPROVED AS TO FORM:

City Attorney

EXHIBIT A

Article 13

WIRELESS TELECOMMUNICATIONS FACILITIES

10-1.1301 Purpose.

The purpose and intent of this chapter is to provide a uniform and comprehensive set of regulations and standards for the permitting, development, siting, installation, design, operation and maintenance of wireless telecommunications facilities in the Town of Los Altos Hills. These regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with wireless telecommunications facilities. This chapter provides standards necessary to: (1) preserve and promote harmonious land uses and the public right-of-way in the Town; (2) promote and protect public health and safety, community welfare, visual resources, and the aesthetic quality of the Town consistent with the goals, objectives and policies of the General Plan; (3) provide for the orderly, managed, and efficient development of wireless telecommunications facilities in accordance with the state and federal laws, rules, and regulations; and (4) encourage new and more efficient technology in the provision of wireless telecommunications facilities.

This chapter is not intended to, nor shall it be interpreted or applied to: (1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services; (2) prohibit or effectively prohibit any entity's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulation for rights-of-way management; (3) unreasonably discriminate among providers of functionally equivalent services; (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions; (5) prohibit any collocation or modification that the Town may not deny under federal or state law; or (6) otherwise authorize the Town to preempt any applicable federal or state law.

10-1.1302 Definitions.

For the purposes of this chapter, the following defined terms shall have the meaning set forth in this section unless the context clearly indicates or requires a different meaning.

Accessory equipment means any equipment associated with the installation of a wireless telecommunications facility, including, but not limited to, cabling, generators, air conditioning units, electrical panels, equipment shelters, equipment cabinets, equipment buildings, pedestals, meters, vaults, splice boxes, and surface location markers.

Antenna means that part of a wireless telecommunications facility designed to radiate or receive radio frequency signals or electromagnetic waves for the provision of services, including, but not limited to, cellular, paging, personal communications services (PCS) and microwave communications. Such devices include, but are not limited to, directional antennas, such as panel antenna, microwave dishes, and satellite dishes; omnidirectional antennas; wireless access points (Wi-Fi); and strand-mounted wireless access points. This definition does not apply to broadcast

antennas, antennas designed for amateur radio use, or satellite dishes designed for residential or household purposes.

Base station means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(1), as may be amended, which defines that term as a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in 47 C.F.R. Section 1.6100(b)(9) or any equipment associated with a tower. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks). The term includes any structure other than a tower that, at the time the relevant application is filed with the State or local government under this section, supports or houses equipment described in 47 C.F.R. Section 1.6100(b)(1)(i) and (ii) that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support. The term does not include any structure that, at the time the relevant application is filed with the State or local government under this section, does not support or house equipment described in 47 C.F.R. Section 1.6100(b)(1)(i) and (ii).

Building-mounted means mounted to the side or façade, but not the roof, of a building or another structure such as a water tank, pump station, church steeple, freestanding sign, or similar structure.

Cellular means an analog or digital wireless telecommunications technology that is based on a system of interconnected neighboring cell sites.

Co-location means the mounting or installation of new transmission equipment on an existing tower or structure with existing transmission equipment.

Collocation means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(2), as may be amended, which defines that term as the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting or receiving radio frequency signals for communications purposes.

Eligible facilities request means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(3), as may be amended, which defines that term as any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (1) collocation of new transmission equipment; (2) removal of transmission equipment; or (3) replacement of transmission equipment.

Eligible support structure means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(4), as may be amended, which defines that term as any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the State or local government under this section.

Existing means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(4), as may be amended, which provides that a constructed tower or base station is existing for purposes of Section 6409(a) regulations if it has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, provided that a tower that

has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

FCC means the Federal Telecommunications Commission.

Habitable Floor Area means the heated and conditioned space in a single-family residence or accessory dwelling unit as defined by the California Building Code. For the purposes of this Article, existing habitable floor area includes unbuilt space meeting the above criteria that has an approved building permit that was issued prior to the submittal date of a wireless application.

Macro Cell Site means a facility within a cellular network that provides radio coverage to a large area of mobile network access. A macro cell differs from a microcell by offering a larger coverage area and high-efficiency output. Output power is usually in a range of tens of watts.

Micro/Small Cell Site means a facility that provides a small range of coverage for a cellular network and is a radio access point with a low radio frequency (RF) power output footprint and range. Specifically, a "small cell wireless facility" means a facility that meets all of the following conditions as defined by the FCC:

- A. The facility meets one of the following mounting height requirements:
 1. mounted on structures 50 feet or less in height, including antennas; or
 2. mounted on structures that are at most 10% taller than adjacent structures; or
 3. does not extend the height of the locating structures by more than 50 feet, or by more than 10%, whichever is greater;
- B. The volume of each antenna associated with the deployment is at most 3 cubic feet;
- C. The volume of all other wireless equipment associated with the structure is at most 28 cubic feet;
- D. The facility does not require antenna registration under federal regulations;
- E. The facility is not located on tribal lands; and
- F. The facility does not result in human exposure to radio frequency radiation in excess of the applicable federal safety standards.

Modification means any change to an existing wireless telecommunications facility that involves any of the following: collocation, expansion, modification, alteration, enlargement, intensification, reduction, augmentation, or aesthetics, including, but not limited to, a change in size, shape, color, visual design, noise or exterior material. Modification does not include repair, replacement, or maintenance if those actions do not involve a change to the existing facility involving any of the following: collocation, expansion, modification, alteration, enlargement, intensification, reduction, or augmentation.

Monopole means a structure consisting of a single pole used to support antennas or related equipment and includes a monopine or similar monopoles camouflaged to resemble trees or other objects.

Personal wireless services means the same as defined in 47 U.S.C. Section 332(c)(7)(C)(i), as may be amended, which defines the term as commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services.

Personal wireless service facilities mean the same as defined in 47 U.S.C. Section 332(c)(7)(C)(i), as may be amended, which defines the term as facilities that provide personal wireless services.

Pole means a single shaft of wood, steel, concrete, or other material capable of supporting the equipment mounted thereon in a safe and adequate manner and as required by provisions of the Los Altos Hills Municipal Code.

RF means radio frequency or electromagnetic waves between 30 kHz and 300 GHz in the electromagnetic spectrum range.

Right-of-Way or Public Right-of-Way means all public streets and utility easements, now and hereafter owned by the Town or other public entity, but only to the extent of the Town or public entity's right, title, interest or authority to grant a license to occupy and use such streets and easements for wireless communication facilities.

Roof-mounted means mounted directly on the roof of any building or structure, above the eave line of said building or structure.

Site means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(6), as may be amended, which provides that for towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

Section 6409(a) means section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, codified at 47 U.S.C. § 1455.

Substantial change means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(7), as may be amended, which defines that term differently based on the particular wireless facility type (tower or base station) and location (in or outside the public right-of-way). For clarity, this definition organizes the FCC's criteria and thresholds for a substantial change according to the wireless facility type and location.

- A. For towers outside the public right-of-way, a substantial change occurs when:
1. The proposed collocation or modification increases the overall height more than 10% or the height of one additional antenna array not to exceed 20 feet (whichever is greater); or
 2. The proposed collocation or modification increases the width more than 20 feet from the edge of the wireless tower or the width of the wireless tower at the level of the appurtenance (whichever is greater); or
 3. The proposed collocation or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four; or
 4. The proposed collocation or modification involves excavation outside the current boundaries of the leased or owned property surrounding the wireless tower, including any access or utility easements currently related to the site.
- B. For towers in the public rights-of-way and for all base stations, a substantial change occurs when:
1. The proposed collocation or modification increases the overall height more than 10% or 10 feet (whichever is greater); or
 2. The proposed collocation or modification increases the width more than six feet from the edge of the wireless tower or base station; or

3. The proposed collocation or modification involves the installation of any new equipment cabinets on the ground when there are no existing ground-mounted equipment cabinets; or
 4. The proposed collocation or modification involves the installation of any new ground-mounted equipment cabinets that are 10% larger in height or volume than any existing ground-mounted equipment cabinets; or
 5. The proposed collocation or modification involves excavation outside the area in proximity to the structure and other transmission equipment already deployed on the ground.
- C. In addition, for all towers and base stations wherever located, a substantial change occurs when:
1. The proposed collocation or modification would defeat the existing concealment elements of the support structure as determined by the Planning Director; or
 2. The proposed collocation or modification violates a prior condition of approval, provided however that the collocation need not comply with any prior condition of approval related to height, width, equipment cabinets or excavation that is inconsistent with the thresholds for a substantial change described in this section.

The thresholds for a substantial change outlined above are disjunctive. The failure to meet any one or more of the applicable thresholds means that a substantial change would occur. The thresholds for height increases are cumulative limits. For sites with horizontally separated deployments, the cumulative limit is measured from the originally-permitted support structure without regard to any increases in size due to wireless equipment not included in the original design. For sites with vertically separated deployments, the cumulative limit is measured from the permitted site dimensions as they existed on February 22, 2012—the date that Congress passed Section 6409(a).

Telecommunications tower or tower means a freestanding mast, pole, monopole, guyed tower, lattice tower, free standing tower or other structure designed and primarily used to support wireless telecommunications facility antennas.

Transmission equipment means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(8), as may be amended, which defines that term as equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Utility pole means a pole or tower owned by any utility company that is primarily used to support wires or cables necessary to the provision of electrical or other utility services regulated by the California Public Utilities Commission.

Wireless telecommunications facility means any facility constructed, installed, or operated for wireless service. Wireless telecommunications facility includes, but is not limited to, antennas or other types of equipment for the transmission or receipt of such signals, telecommunications towers or similar structures supporting such equipment, related accessory equipment, equipment buildings, parking areas, and other accessory development. Wireless telecommunications facility does not mean any of the following:

- A. A facility that qualifies as an amateur station as defined by the FCC, 47 C.F.R. Part 97, of the Commission's Rules, or its successor regulation.
- B. An antenna facility that is subject to the FCC Over-The-Air-Receiving Devices rule, 47 C.F.R. Section 1.4000, or any successor regulation, including, but not limited to, direct-to-home satellite dishes that are less than one meter in diameter, TV antennas used to receive television broadcast signals and wireless cable antennas.
- C. Portable radios and devices including, but not limited to, hand-held, vehicular, or other portable receivers, transmitters or transceivers, cellular phones, CB radios, emergency services radio, and other similar portable devices as determined by the Planning Director.
- D. Telecommunications facilities owned and operated by any government agency.
- E. Telecommunications facilities owned and operated by any emergency medical care provider.
- F. Mobile services providing public information coverage of news events of a temporary nature.
- G. Any wireless telecommunications facilities exempted from the Los Altos Hills Municipal Code by federal law or state law.

10-1.1303 Applicability.

This chapter applies to all wireless telecommunications facilities as follows:

1. All facilities, notwithstanding the date approved, shall be subject immediately to the provisions of this chapter governing the operation and maintenance, cessation of use and abandonment, removal and restoration of wireless telecommunications facilities and wireless telecommunications collocation facilities and the prohibition of dangerous conditions or obstructions by such facilities; provided, however, that in the event a condition of approval conflicts with a provision of this chapter, the condition of approval shall control unless and until the permit is amended or revoked.
2. Notwithstanding any provision of the Los Altos Hills Municipal Code to the contrary, provisions governing the installation of a public utility facility or accessory equipment shall not apply to wireless telecommunications facilities.

10-1.1304 Wireless telecommunications facility permit required.

Permit Required. No wireless telecommunications facility shall be located or modified within the Town on any property, including the public right-of-way, without the issuance of a Site Development permit or Conditional Use Permit as required by this chapter. Such permit shall be in addition to any other permit required pursuant to the Los Altos Hills Municipal Code.

<i>Description of Wireless Facility</i>	<i>Public/Private Property (not in public right-of-way)</i>	<i>Public Right-of-Way</i>
New Macro Cell Site Monopole, Roof-mounted facility, Building/structure-mounted facility, Co-location that results in a substantial change as defined in this article	Conditional Use Permit Planning Commission/ City Council	Conditional Use Permit/ Encroachment Permit Planning Commission/City Council
Existing Macro Cell Site Co-location Co-location on an existing macro cell site with no substantial change as defined by this article	Site Development Permit Administrative Review	Site Development Permit/ Encroachment Permit Administrative Review
New Micro/Small Cell Site Mounted on an existing utility pole, replacement utility pole, new pole, or other new or existing structure	Conditional Use Permit Planning Commission/ City Council	Site Development Permit/ Encroachment Permit Administrative Review
Existing Micro/Small Cell Site Co-location Co-location on an existing macro cell site, or on an existing utility pole or structure with an existing small cell wireless facility	Site Development Permit Administrative Review	Site Development Permit/ Encroachment Permit Administrative Review

10-1.1305 Application for permit.

A. Submittal requirements.

All applications for a permit required by this chapter must be made in writing on such form as the Planning Director prescribes, which shall include the following information, in addition to all other information determined necessary by the Planning Director as well as all other information required by the Town as part of an application for a conditional use permit:

1. Full name and contact information for the facility owner, facility operator, agent (if any), and property owner, and related letter(s) of authorization. If the facility (such as a street light pole, street signal pole, utility pole, utility cabinet, vault or cable conduit) is located on or in the property of a person or entity other than the owner of the facility, the applicant shall provide a duly executed written authorization from the property owner(s) authorizing the placement of the facility on the property.

2. The type of facility, including a full written description of the proposed facility, its purpose and specifications.
3. A detailed site and engineering plan of the proposed facility containing the exact proposed location of the facility or facilities, created by a qualified licensed engineer and in accordance with requirements set by the Planning Director.
4. Photographs of facility equipment and an accurate visual impact analysis with photo simulations.
5. If located at an existing wireless facility site, the applicant shall submit a technically sufficient written report, certified by a qualified radio frequency emissions engineer, certifying that the facility is in compliance with current FCC standards for RF emissions.
6. Completion of an RF exposure guidelines checklist and proof that the applicant has complied with and obtained all applicable licenses or other approvals required by the FCC.
7. A written description identifying the geographic service area for the subject installation, accompanied by a plan and maps showing anticipated future installations and modifications, if applicable.
8. A written report that analyzes acoustic levels for the proposed wireless telecommunications facility and all associated equipment including, without limitation, all environmental control units, sump pumps, temporary backup power generators, and permanent backup power generators in order to demonstrate compliance with the Town's noise regulations. In lieu of a written report, the applicant may submit evidence from the equipment manufacturer that the ambient noise emitted from all the proposed equipment will not, both individually and cumulatively, exceed the applicable limits.
9. An application and processing fee and deposit for a consultant review as set forth in the Independent Expert section that follows.
10. Any other studies or information determined necessary by the Planning Director may be required.

B. Independent Expert.

The Planning Director may retain, on behalf of the Town, an independent, qualified consultant to review any application for a permit for a wireless telecommunications facility to review the technical aspects of the application, including, but not limited to, the following matters:

1. The accuracy, adequacy, and completeness of submissions;
2. Compliance with applicable radio frequency emission standards;
3. Whether any requested exception is necessary to close a significant gap in coverage and is the least intrusive means of doing so;
4. Technical demonstration of the unavailability of alternative sites, facility designs or configurations, and coverage analysis; and
5. The validity of conclusions reached or claims made by applicant.

The cost of this review shall be paid by the applicant through a deposit pursuant to an adopted fee schedule resolution.

C. Noticing Requirement.

Within five (5) business days of submission of an application containing all the information required by this chapter and any applicable regulations, the applicant shall provide a notice by mail to all properties within a five hundred (500) foot radius of the location of the proposed facility. Such notice shall be of form and content specified by the Planning Director in a publicly stated format, as may be revised from time to time, but at a minimum must be clearly marked as a notification of a proposed wireless communications facility installation, identify the applicant and service provider(s) who will utilize the facility, and include a plain language description of the proposed facility, photo-simulations or illustrations depicting the proposed facility, and the address where comments may be sent to the Planning Director within fifteen (15) days of the date of the notice. Applicant shall provide proof of mailing of the required notices no less than five (5) days after mailing the notices.

10-1.1306 Location and configuration preferences.

The purpose of this section is to provide guidelines to applicants and the reviewing authority regarding the preferred locations and configurations for wireless telecommunication facilities in the Town. When a lower ranked alternative is proposed for either a wireless telecommunication facility or accessory equipment pursuant to the preferential orders provided herein, the application must include technical information demonstrating that a higher ranked option is not technically feasible in light of the provider's service objectives. If the location or configuration of a proposed facility qualifies for two or more categories of preferred locations or configurations, it shall be deemed to belong to the lower preferred category.

The Planning Director shall consider the extent to which a proposed wireless telecommunication facility or accessory equipment complies with these preferences and whether there are feasible alternative locations or configurations to the proposed facility that are more preferred under this section given the technical feasibility.

A. Wireless Telecommunications Facilities.

1. Order of Preference - Configurations. The order of preference for the configuration for wireless telecommunication facilities from most preferred to least preferred is:
 - a. Co-location with existing facilities;
 - b. Roof-mounted;
 - c. Building-mounted;
 - d. Mounted on an existing pole or utility pole;
 - e. Mounted on a new pole or utility pole that will replace an existing pole or utility pole;
 - f. Mounted on a new telecommunication tower.
2. Order of Preference - Location. The order of preference for the location of wireless telecommunications facilities from most preferred to least preferred is:

- a. Town-owned properties;
- b. Foothill College;
- c. Water tanks;
- d. Other public or quasi-public facilities, such as churches;
- e. Public right-of-way;
- f. Residential properties of at least 10 acres, provided that the applicant has submitted evidence satisfactory to the Town demonstrating the property owner's consent or other form of proof demonstrating applicant's legal right to use the property.

B. Accessory Equipment.

The order of preference for the location of accessory equipment for wireless telecommunication facilities including collocating facilities from most preferred to least preferred is:

1. Underground;
2. Within a building or structure;
3. Mounted on a screened rooftop area or structure;
4. Installed in a rear yard not readily visible from surrounding properties and the roadway.

10-1.1307 Design and development standards for all facilities.

The design and development standards set forth in this section apply to all wireless telecommunications facilities no matter where they are located. The intent of the Town is for wireless telecommunications facilities to be designed and maintained so as to minimize visual, noise, and other impacts on the surrounding community and shall be planned, designed, located, and erected in accordance with the design and development standards in this section. The requirements of this section apply to modifications of existing wireless telecommunication facilities as well as new installations.

A. Aesthetics.

1. The applicant shall employ screening and camouflage design techniques in the design and placement of wireless telecommunications facilities in order to ensure that the facility is screened by existing development, topography, or vegetation, to the extent feasible, and as is required for similar construction projects within the Town, whenever possible. Improvements which will be primarily viewed against soils, trees or grasslands shall be painted colors matching these landscapes while elements which rise above the horizon shall be painted a blue gray that matches the typical sky color at that location. Equipment mounted to existing utility poles shall be painted with low reflectivity paint to match the pole on which it is mounted.
2. Antenna elements shall be flush mounted, to the extent reasonably feasible. All antenna mounts shall be designed so as not to preclude possible future collocation by the same or other operators or carriers. Antennas shall be situated as to reduce visual impact without compromising their function. Whip antennas need not be screened.

3. Where appropriate, facilities shall be installed so as not to damage or destruct existing vegetation and landscape at the installation location, and shall maintain such existing landscaping on the site, including trees, foliage and shrubs, whether or not utilized for screening. If existing vegetation and landscape are damaged or destroyed in the process of installing the facility, the owner or applicant of the facility shall restore such damage or destruction to the condition that is substantially the same as that prior to installation. Further, additional landscaping shall be planted, irrigated, and maintained where such vegetation is deemed necessary by the Town to provide screening or to block the line of sight between facilities and adjacent uses.
4. The antennas shall be covered with socks matching the artificial foliage on the monopine and all cables, support structures and all other associated equipment on the monopine shall be painted to match the color of the new darker green foliage, to the satisfaction of the Planning Director, prior to final inspection of the facility (if applicable).

B. Minimum Setback.

1. The minimum setback from a wireless communications antenna to the nearest existing habitable floor area of an adjacent single-family residence or accessory dwelling unit shall be two hundred (200) feet.
2. The minimum setback from a wireless communications antenna to a public or private school property with any combination of students from pre-school through grade 12 shall be one thousand one hundred (1,100) feet.

C. Noise and Lighting.

1. No lighting or other illumination is permitted unless either specifically required by the Federal Aviation Administration or other government agency. Lightning arresters and beacon lights are not permitted unless required by the Federal Aviation Administration or other government agency.
2. Each wireless telecommunications facility and wireless telecommunications collocation facility shall be operated in such a manner so as to minimize any possible disruption caused by noise or maintenance.
3. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 5:00 p.m. and 7:00 a.m.
4. At no time shall equipment noise from any facility exceed an exterior noise level of 40 dBA at the facility's property line or at the edge of the right-of-way.
5. Any equipment, including, but not limited to, air conditioning units, that may emit noise that would be audible from beyond three feet from the facility in the case of a facility located in the right-of-way, or in the case of other facilities the facility's property line, shall be enclosed or equipped with noise attenuation devices to the extent necessary to ensure compliance with applicable noise limitations under the Los Altos Hills Municipal Code.

D. Public Safety and Other Requirements.

1. No signs or advertising devices other than certification, warning or other signage required by law is permitted.
2. All facilities shall be designed and located in such a manner as to not obstruct, block, or impede vehicular traffic nor impede pedestrian, bicycle or equestrian pathway users and shall not create dangers to traffic safety.
3. Each wireless telecommunications facility and wireless telecommunications collocation facility shall be designed to be resistant to, and minimize opportunities for, unauthorized access, climbing, vandalism, graffiti and other conditions that would result in hazardous situations, visual blight, or attractive nuisances. The reviewing authority may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when, because of their location or accessibility, a facility has the potential to become an attractive nuisance.

10-1.1308 Additional design and development standards for facilities outside the public right-of-way.

Facilities located outside the public right-of-way are subject to the design and development standards set forth in this section in addition to all design and development standards that apply to all facilities.

A. Aesthetics.

1. Roof-mounted facilities shall be designed and constructed to be fully concealed or screened, to the extent feasible, in a manner compatible with the existing architecture of the building onto which the facility is mounted by using the same or substantially similar color, texture, and type of material. However, to the extent feasible, screening shall not increase the bulk of the mounting structure nor alter the character of the structure as to being not compatible with the mounting building.
2. All cables, including, but not limited to, electrical and utility cables, shall run within the interior of the telecommunications tower to the greatest extent possible or shall be camouflaged or hidden to the fullest extent feasible without jeopardizing the physical integrity of the tower.
3. Monopole installations should be situated so as to utilize existing natural or man-made features including topography, vegetation, buildings, or other structures to be screened and blend with the existing natural or built surroundings, to the extent feasible and as is required for similar construction projects within the Town.
4. All antenna components and accessory wireless equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background or existing architectural elements so as to visually blend in with the surrounding development. Subdued colors and non-reflective materials that blend with surrounding materials and colors shall be used.
5. If a faux tree is proposed for the monopole installation, it shall be of a type of tree compatible with those existing in the immediate areas of the installation. If no trees

exist within the immediate areas, the applicant shall create a landscape setting that integrates the faux tree such as by adding species of trees that are of a similar height and type.

6. Accessory equipment for roof-mounted facilities shall be screened with materials that are painted the color of the building, roof, or surroundings. Accessory equipment for telecommunications towers shall be visually screened by locating the equipment either within a nearby building or in another type of enclosed structure, which shall comply with the development and design standards of the zoning district in which the accessory equipment is located. Such enclosed structure shall be architecturally treated and adequately screened from view by landscape plantings, decorative walls, fencing or other appropriate means, selected so that the resulting screening will be visually integrated with the architecture and landscaping of the surroundings.

B. Other Requirements.

1. Minimum setback from all property lines for structures and all equipment shall be 50 feet.
2. In no event shall the installation of facilities replace or interfere with parking spaces in such a way as to reduce the total number of parking spaces below the number that is required by the applicable zoning standard under this code.
3. Facilities mounted to a telecommunications tower, including, but not limited to, the attached antennas, shall be designed to be the minimum functional height and width required to adequately support the proposed facility under applicable State or local building codes and safety standards and meet FCC standards and regulations. The applicant shall provide documentation satisfactory to the Planning Director establishing compliance with this paragraph. In any event, facilities mounted to a telecommunications tower shall not exceed the applicable height limit for structures in the Zoning Code.

10-1.1309 Additional design and development standards for facilities in the public right-of-way.

Facilities located in the public right-of-way are subject to the design and development standards set forth in this section in addition to all design and development standards that apply to all facilities.

A. Aesthetics.

1. All wireless equipment mounted on a utility pole shall be painted to match, as much as possible, the color of the existing or proposed pole by using identical or similar color tone samples.
2. If an applicant proposes to replace a pole in order to accommodate the facility, the pole shall match the appearance of the original pole to the extent feasible, unless another design better accomplishes the objectives of this section. Such replacement pole shall not exceed the height of the pole it is replacing by more than seven feet. Any replacement pole shall have the capacity and structural integrity to accommodate any potential co-location of multiple providers.

3. New poles shall be designed to resemble existing poles in the right-of-way, including size, height, color, materials and style, with the exception of any existing pole designs that are scheduled to be removed and not replaced, unless another design better accomplishes the objectives of this section or is shown to be the only technically feasible alternative. Such new poles that are not replacement poles shall be located no closer than 100 feet to an existing pole. Any new pole shall have the capacity and structural integrity to accommodate any potential co-location of multiple providers.

B. Height and Structural Requirements.

1. General pole height and width limitations:
 - a. All poles shall be designed to be the minimum functional height and width required to support the proposed antenna installation and meet FCC standards and regulations. Poles and antennas and similar structures shall be no greater in diameter or other cross-sectional dimensions than is necessary for the proper functioning of the facility.
 - b. Notwithstanding the above, no facility shall be located on a new pole exceeding 35 feet in height, including, but not limited to, the pole and any antenna that protrudes above the pole.
 - c. Pole mounted accessory equipment shall not exceed 6 cubic feet in volume.
 - d. Pole mounted antennas shall not exceed 3 cubic feet in volume.
 - e. Accessory equipment located above ground at the base of the pole shall not exceed 10 cubic feet in volume. Equipment placed in an underground vault may not exceed 28 cubic feet.
2. Pole mounted antennas shall be located a minimum of 10 feet from all pedestrian paths and a minimum of 15 feet above the ground.
3. Utility Poles. The maximum height of any antenna mounted to an existing utility pole shall not exceed 10 feet above the high voltage lines at the top of the utility pole nor an overall height of 40 feet from the ground to the top of the antenna. All installations on utility poles shall fully comply with the California Public Utilities Commission general orders, including, but not limited to, General Order 95, as revised.
4. Street Light Poles. The maximum height of any antenna mounted to a street light pole shall not exceed three feet above the existing height of a street light pole. Any portion of the antenna or equipment mounted on such a pole shall be no less than 18 feet above any drivable road surface.
5. All pole mounted wireless facilities shall utilize wireless metering.
6. All cables, including, but not limited to, electrical and utility cables, between the poles and to any accessory equipment shall be placed underground, if feasible. The conduit installed for all undergrounded cables shall provide sufficient space to accommodate potential additional providers and/or users to use the same conduit.
7. All new wires needed to service the wireless telecommunications facility must be installed within the width of the existing utility pole so as to not exceed the diameter and height of the existing utility pole, to the extent feasible.

8. Accessory equipment located at the base of the pole shall not exceed two (2) feet in height. Equipment shall be screened and camouflaged to the fullest extent possible, including the use of landscaping or alternate screening, to blend with the existing natural or built surroundings.

C. Distance and Public Safety Requirements.

1. Each component part of a facility shall be located so as not to cause any physical or visual obstruction to pedestrian, bicycle, equestrian or vehicular traffic, obstruction or disturbance to the public's use of the right-of-way, such as noise and public nuisances, or safety hazards to pedestrians and motorists.
2. A facility shall not be located within any portion of the public right-of-way interfering with access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital public health and safety facility.
3. Small cell facilities for each carrier shall be separated by at least 1,500 feet from other existing and proposed wireless facilities of that same carrier. All other pole mounted wireless telecommunications facilities must be separated by at least one thousand (1,000) feet from other existing and proposed wireless facilities of that same carrier.

D. Encroachment Permit Required.

An encroachment permit must be obtained for any construction, installation, encroachment or any such related work in the public right-of-way, pursuant to Chapter 2, "Street and Sidewalk Excavations," of Title 7 of the Los Altos Hills Municipal Code.

10-1.1310 Conditions of approval for all facilities.

In addition to compliance with the requirements of this chapter, upon approval, all facilities shall be subject to each of the following conditions of approval, as well as any modification of these conditions or additional conditions of approval deemed necessary by the reviewing authority. However, this section shall not be construed as a basis to deny eligible facilities request made pursuant to applicable provisions of the Middle Class Tax Relief and Job Creation Act of 2012.

- A. Any changes or revisions to the telecommunications facility or its use shall require an amendment to the applicable permit(s). Additionally, the Planning Director may schedule a review or revocation hearing before the Planning Commission regarding any Conditional Use Permit, if any condition of approval is not being met or the facility is being used inconsistent with the approved use or in violation of Town development codes.
- B. No modifications to the approved plans are allowed except as otherwise first reviewed and approved in writing by the Planning Director or by action of the Planning Commission, depending on the scope of the changes, and consistent with the requirements of Section 6409(a) as applicable.
- C. Upon completion of project construction, the applicant shall conduct testing of the equipment and any applicable emergency communications antennas to ensure satisfactory operations of the facility, identify any interference requiring mitigation, and implement mitigation measures if needed. The applicant shall be strictly liable for interference caused by the wireless communications facilities with the Town's emergency communications systems. The operator shall be responsible for all labor and equipment costs for

determining the source of the interference and all costs associated with eliminating the interference (including but not limited to engineering analysis, filtering and installing directional antennas).

- D. As is required for other construction projects within the Town, the applicant shall defend, indemnify, and hold harmless the Town of Los Altos Hills and its agents, officers, and employees from any claim, action, or proceeding against the Town of Los Altos Hills or its agents, officers, or employees to attack, set aside, void, or annul an approval of the project to the extent such actions are brought within the time period required by Government Code Section 66499.37 or other applicable law; provided, however, that the Applicant's duty to so defend, indemnify, and hold harmless shall be subject to the Town's promptly notifying the Applicant of any said claim, action, or proceeding and the Town's full cooperation in the defense of such actions or proceedings.
- E. The facility shall comply with the recommendations outlined in the project's reports. Not later than thirty (30) days after installation and initial operation of the antenna facility, and on or prior to January 1st of each year thereafter, testing of radio frequency emissions shall be conducted by qualified professionals for the purposes of determining compliance with applicable FCC radio frequency emission standards. Reports of such testing shall be provided in writing to the Planning Department, with comparison to applicable federal emission standards. If at any time the emission levels are shown not to comply with Federal standards, the Conditional Use Permit shall be scheduled for a revocation hearing before the Planning Commission.
- F. The operator of the site shall be responsible for repair or repainting of the proposed facilities in case of vandalism or wear and must do so within 72 hours of notice by the Town that a complaint has been received.
- G. The communications facility shall comply with the Town's noise ordinance at all times. If the Town receives a complaint of excessive noise at the facility, then the applicant shall perform an acoustical analysis of the ground equipment to demonstrate that noise emissions from the equipment is at or below 40db at the property line.
- H. The applicant shall not cause interference in the frequencies allocated as primary to the amateur radio service and may be required to correct any and all future interference problems experienced by other licensed services.
- I. The applicant shall not place any facilities that will deny access to, or otherwise interfere with, any public utility, easement, or right-of-way located on the site. The applicant shall allow the Town reasonable access to, and maintenance of, all utilities and existing public improvements within or adjacent to the site, including, but not limited to, pavement, trees, public utilities, lighting and public signage.
- J. At all times, all required notices and signs shall be posted on the site as required by the FCC and California Public Utilities Commission, and as approved by the Town. The location and dimensions of a sign bearing the emergency contact name and telephone number shall be posted pursuant to the approved plans.
- K. All conditions of approval shall be binding as to the applicant and all successors in interest to applicant.

- L. A condition setting forth the permit expiration date shall be included in the conditions of approval for all permits.

10-1.1311 Conditions of approval for facilities in the public right-of-way.

In addition to compliance with the requirements of this article, upon approval all facilities in the public right-of-way shall be subject to each of the conditions of approval set forth in Section 10-1.1310, each of the following conditions of approval, and any modification of these conditions or additional conditions of approval deemed necessary by the reviewing authority. However, this section shall not be construed as a basis to deny eligible facilities request made pursuant to applicable provisions of the Middle Class Tax Relief and Job Creation Act of 2012.

- A. The wireless telecommunications facility shall be subject to such conditions, changes or limitations as are from time to time deemed necessary by the Town engineer for the purpose of: (a) protecting the public health, safety, and welfare; (b) preventing interference with pedestrian and vehicular traffic; and (c) preventing damage to the public right-of-way or any property adjacent to it. The Town may modify the permit to reflect such conditions, changes or limitations by following the same notice and public hearing procedures as are applicable to the grant of a wireless telecommunications facility permit for similarly located facilities, except the applicant shall be given notice by personal service or by registered or certified mail at the last address provided to the Town by the applicant.
- B. The applicant shall not move, alter, temporarily relocate, change, or interfere with any existing structure, improvement or property without the prior consent of the owner of that structure, improvement or property. No structure, improvement or property owned by the Town shall be moved to accommodate a wireless telecommunications facility unless the Town determines that such movement will not adversely affect the Town or any surrounding businesses or residents, and the applicant pays all costs and expenses related to the relocation of the Town's structure, improvement or property. Prior to commencement of any work pursuant to an encroachment permit issued for any facility within the public right-of-way, the applicant shall provide the Town with documentation establishing to the Town's satisfaction that the applicant has the legal right to use or interfere with any other structure, improvement or property within the public right-of-way to be affected by applicant's facilities.
- C. The applicant shall assume full liability for damage or injury caused to any property or person by the facility.
- D. The applicant shall repair, at its sole cost and expense, any damage including, but not limited to, subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to Town streets, sidewalks, walks, curbs, gutters, trees, parkways, street lights, traffic signals, improvements of any kind or nature, or utility lines and systems, underground utility line and systems, or sewer systems and sewer lines that result from any activities performed in connection with the installation or maintenance of a wireless telecommunications facility in the public right-of-way. The applicant shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. In the event the applicant fails to complete such repair within the number of days stated on a written notice by the Planning Director, the Planning Director shall cause such repair to be completed at applicant's sole cost and expense.

- E. Prior to issuance of a building permit and before commencing any construction, the applicant shall obtain the Planning Director's approval of a tree protection plan prepared by a certified arborist if the installation of the wireless telecommunication facility will be located within the canopy of a street tree, or a protected tree on private property, or within a 10-foot radius of the base of such a tree. Depending on site specific criteria (e.g., location of tree, size, and type of tree, etc.), a radius greater than 10 feet may be required by the Planning Director.
- F. The applicant shall modify, remove, or relocate its facility, or portion thereof, without cost or expense to the Town, if and when made necessary by:
 - 1. Any public improvement project, including, but not limited to, the construction, maintenance, or operation of any underground or aboveground facilities including, but not limited to, sewers, storm drains, conduits, gas, water, electric or other utility systems, or pipes owned by the Town or any other public agency;
 - 2. Any abandonment of any street, sidewalk, or other public facility;
 - 3. Any change of grade, alignment or width of any street, sidewalk or other public facility;
or
 - 4. A determination by the Planning Director that the wireless telecommunications facility has become incompatible with public health, safety or welfare or the public's use of the public right-of-way.
- G. Any modification, removal, or relocation of the facility shall be completed within 90 days of written notification by the Town unless exigencies dictate a shorter period for removal or relocation. Modification or relocation of the facility shall require submittal, review and approval of a permit amendment pursuant to the Los Altos Hills Municipal Code. The permittee shall be entitled, on permittee's election, to either a pro-rata refund of fees paid for the original permit or to a new permit, without additional fee, at a location as close to the original location as the standards set forth in the Los Altos Hills Municipal Code allow. In the event the facility is not modified, removed, or relocated within said period of time, the Town may cause the same to be done at the sole cost and expense of permittee. Further, due to exigent circumstances as provided in the Los Altos Hills Municipal Code, the Town may modify, remove, or relocate wireless telecommunications facilities without prior notice to permittee provided permittee is notified within a reasonable period thereafter.

10-1.1312 Findings.

Where a wireless telecommunication facility requires a conditional use permit under this chapter, the reviewing authority shall not approve any application unless, in addition to the findings generally applicable to all conditional use permits, all of the following additional findings are made:

- A. The proposed facility complies with all applicable provisions of this chapter.
- B. The proposed facility has been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.
- C. The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.

- D. Noise generated by equipment will not be excessive, annoying nor be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in this chapter.

10-1.1313 Emergency deployment.

In the event of a declared federal, state, or local emergency, or when otherwise warranted by conditions that the Planning Director deems to constitute an emergency, the Planning Director may approve the installation and operation of a temporary wireless telecommunications facility (e.g., a cell-on-wheels or "COW"), which is subject to such reasonable conditions that the Planning Director deems necessary.

10-1.1314 Operation and maintenance standards.

All wireless telecommunications facilities must comply at all times with the following operation and maintenance standards.

- A. All necessary repairs, restoration and graffiti removal shall be completed by the applicant, owner, or operator within 72 hours after discovery of the need by the applicant, owner, operator or any designated maintenance agent or after notification is received from the Planning Director.
- B. All facilities, including, but not limited to, telecommunication towers, poles, accessory equipment, fire protection equipment, lighting, fences, walls, shields, cabinets, artificial foliage or camouflage, and the facility site shall be maintained in good condition, including ensuring the facilities are reasonably free of:
1. General dirt and grease;
 2. Chipped, faded, peeling, and cracked paint;
 3. Rust and corrosion;
 4. Cracks, dents, and discoloration;
 5. Missing, discolored, or damaged artificial foliage or other camouflage;
 6. Graffiti, bills, stickers, advertisements, litter and debris;
 7. Broken and misshapen structural parts; and
 8. Any damage from any cause.
- C. All trees, foliage or other landscaping elements approved as part of the facility shall be maintained in good condition at all times, and the applicant, owner and operator of the facility shall be responsible for replacing any damaged, dead or decayed landscaping. No amendment to any approved landscaping plan may be made until it is submitted to and approved by the Planning Director.
- D. The applicant shall replace its facilities, after obtaining all required permits, if maintenance or repair is not sufficient to return the facility to the condition it was in at the time of installation.
- E. Each facility shall be operated and maintained at all times in compliance with applicable federal regulations, including FCC radio frequency emissions standards.
- F. Each facility shall be operated and maintained to comply at all times with the noise regulations of this chapter and shall be operated and maintained in a manner that will

minimize noise impacts to surrounding residents. Except for emergency repairs, any testing and maintenance activities that will be audible beyond the property line shall only occur between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays, unless alternative hours are approved by the Planning Director. Backup generators, if permitted, shall only be operated during periods of power outages or for testing.

- G. If a flagpole is used for camouflaging a wireless telecommunications facility, flags shall be flown and shall be properly maintained at all times.
- H. Each owner or operator of a facility shall routinely inspect each site to ensure compliance with the standards set forth in this section and the conditions of approval.
- I. State or Federal Requirements. All wireless facilities, including ancillary equipment, must meet or exceed current standards and regulations of the Federal Communications Commission (FCC), the Federal Aviation Administration (FAA), and any other agency of the State or Federal government with the authority to regulate wireless facilities. If such standards and regulations are changed, then the operators of the wireless facility governed by this article shall bring such facilities into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling State or Federal agency. Failure to bring permitted facilities into compliance with such revised standards and regulations shall constitute grounds for the revocation of Town permit and require removal of the small cell facility at the service provider's expense. This section shall not be construed as a basis to deny eligible facilities request made pursuant to applicable provisions of the Middle Class Tax Relief and Job Creation Act of 2012.

10-1.1315 No dangerous conditions or obstructions allowed.

No person shall install, use or maintain any wireless telecommunications facility which in whole or in part rests upon, in or over any public sidewalk, roadside pathway or off-road pathway, when such installation, use or maintenance endangers or is reasonably likely to endanger the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such facility unreasonably interferes with or impedes the flow of pedestrian, bicycle, equestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes, artwork other objects permitted at or near said location.

10-1.1316 Permit expiration.

A Permit for any wireless telecommunications facility shall be valid for a period of 10 years, unless the Planning Commission authorizes a longer period or pursuant to another provision of the Los Altos Hills Municipal Code the permit lapses sooner or is revoked. At the end of such period, the permit shall expire.

An applicant may apply for extensions of its permit in increments of no more than 10 years and no sooner than 12 months prior to expiration of the permit. If a permit has not expired at the time an application is made for an extension, the Planning Director may administratively extend the term of the permit for subsequent 10-year terms upon verification of continued compliance with the findings and conditions of approval under which the application was originally approved, as

well as any other applicable provisions of the Los Altos Hills Municipal Code that are in effect at the time the permit extension is granted.

At the Planning Director's discretion, additional studies and information may be required of the applicant. If the Planning Director determines that the facility is nonconforming or that additional conditions of approval are necessary to bring the facility into compliance with the provisions of the Los Altos Hills Municipal Code in effect at the time of permit expiration, the Planning Director shall refer the extension request to the Planning Commission.

The request for an extension shall be decided by the Planning Commission if the permit expired before the application is made for an extension or if the Planning Director refers the matter to the Planning Commission. After notice and a public hearing, the Planning Commission may approve, conditionally approve, or deny the extension.

10-1.1317 Cessation of use or abandonment.

A wireless telecommunications facility is considered abandoned and shall be promptly removed as provided herein if it ceases to provide wireless telecommunications services for 90 or more consecutive days. If there are two or more users of a single facility, then this provision shall not become effective until all users cease using the facility.

The operator of a facility shall notify the Town in writing of its intent to abandon or cease use of a permitted site or a nonconforming site (including unpermitted sites) within 10 days of ceasing or abandoning use. Notwithstanding any other provision herein, the operator of the facility shall provide written notice to the Planning Director of any discontinuation of operations of 30 days or more.

10-1.1318 Removal and restoration, permit expiration, revocation or abandonment.

Upon the expiration date of the permit, including any extensions, earlier termination or revocation of the permit or abandonment of the facility, the applicant, owner or operator shall remove its wireless telecommunications facility and restore the site to its natural condition except for retaining the landscaping improvements and any other improvements at the discretion of the Town. The facility shall be removed from the property within 30 days.

Failure of the applicant, owner, or operator to promptly remove its facility and restore the property within 30 days after expiration, earlier termination, or revocation of the permit, or abandonment of the facility, shall be a violation of the Los Altos Hills Municipal Code.

In the event the Planning Director or Public Works Director determines that the condition or placement of a wireless telecommunications facility located in the public right-of-way constitutes a dangerous condition, obstruction of the public right-of-way, or an imminent threat to public safety, or determines other exigent circumstances require immediate corrective action (collectively, "exigent circumstances"), the Planning Director or Public Works Director may cause the facility to be removed summarily and immediately without advance notice or a hearing. Written notice of the removal shall be served upon the person who owns the facility within five business days of removal and all property removed shall be preserved for the owner's pick-up as feasible. If the owner cannot be identified following reasonable effort or if the owner fails to pick-up the property within 60 days, the facility shall be treated as abandoned property.

In the event the Town removes a facility in accordance with nuisance abatement procedures or summary removal, any such removal shall be without any liability to the Town for any damage to such facility that may result from reasonable efforts of removal. In addition to the procedures for recovering costs of nuisance abatement, the Town may collect such costs from the performance bond posted and to the extent such costs exceed the amount of the performance bond, collect those excess costs in accordance with the Los Altos Hills Municipal Code. Unless otherwise provided herein, the Town has no obligation to store such facility. Neither the applicant nor the owner nor operator shall have any claim if the Town destroys any such facility not timely removed by the applicant, owner, or operator after notice, or removed by the Town due to exigent circumstances.

10-1.1319 Effect on other ordinances.

Compliance with the provisions of this chapter shall not relieve a person from complying with any other applicable provision of the Los Altos Hills Municipal Code, including, but not limited to, obtaining any necessary encroachment or building permits. In the event of a conflict between any provision of this chapter and other provisions of the Los Altos Hills Municipal Code, this chapter shall control.