



CITY OF STANTON
STANTON CITY HALL, 7800 KATELLA AVE., STANTON, CA
PLANNING COMMISSION REGULAR MEETING
WEDNESDAY, AUGUST 7, 2019, 6:30 P.M.

AGENDA

Supportive and descriptive documentation for agenda items, including staff reports, is available for review in the Planning Secretary's Office.

In compliance with the American Disabilities Act, if you need special assistance to participate in this meeting, you should contact the Community Development Department at (714) 379-9222, extension 210. Notification by noon on the Monday prior to the Commission meeting will enable the City to make the reasonable arrangements to assure accessibility to this meeting.

Please turn off all cellular phones and pagers while the Planning Commission meeting is in session.

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**

Chairperson Ash
Vice Chairman Frazier
Commissioner Marques
Commissioner Moua
Commissioner Grand

4. SPECIAL PRESENTATION

None.

5. APPROVAL OF MINUTES

None.

6. PUBLIC COMMENTS

At this time members of the public may address the Planning Commission regarding any items within the subject matter jurisdiction of the Planning Commission, for a maximum of three (3) minutes, provided that **NO** action may be taken on non-agenda items.

7. PUBLIC HEARINGS

7A. PROPOSED ORDINANCE TO AMEND THE CITY'S ZONING CODE TO MODIFY REGULATIONS RELATING TO WIRELESS FACILITIES IN PUBLIC RIGHT-OF-WAY

RECOMMENDED ACTION

That the Planning Commission:

- Conduct public hearing;
- Declare that the project is exempt from CEQA under Sections 15060(c)(2): the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment; and 15060(c)(3): the activity is not a project as defined in Section 15378 of the CEQA Guidelines;
- Adopt Resolution No. 2506 recommending the City Council adopt Ordinance No. 1093; and
- Adopt Resolution No. 2507 recommending the City Council adopt design and development standards for wireless communication facilities in the public right-of-way.

8. NEW BUSINESS

None.

9. OLD BUSINESS

None.

10. PLANNING COMMISSION COMMENTS

At this time Commissioners may report on items not specifically described in the agenda which are of interest to the Commission provided no discussion or action may be taken except to provide staff direction to report back or to place the item on a future agenda.

11. DIRECTOR'S REPORT

12. ADJOURNMENT

I hereby certify under penalty of perjury under the laws of the State of California, the foregoing agenda was posted at the Post Office, Stanton Community Services Center and City Hall, not less than 72 hours prior to the meeting. Dated this 1st day of August, 2019.

s/ Jarad L. Hildenbrand, City Manager/Interim Community Development Director



CITY OF STANTON REPORT TO THE PLANNING COMMISSION

TO: Chairperson and Members of the Planning Commission

DATE: August 7, 2019

**SUBJECT: PROPOSED ORDINANCE TO AMEND THE CITY'S ZONING CODE TO
MODIFY REGULATIONS RELATING TO WIRELESS FACILITIES IN
PUBLIC RIGHT-OF-WAY**

RECOMMENDED ACTION

That the Planning Commission:

- Conduct public hearing; and
- Declare that the project is exempt from CEQA under Sections 15060(c)(2): the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment; and 15060(c)(3): the activity is not a project as defined in Section 15378 of the CEQA Guidelines; and
- Adopt Resolution No. 2506 recommending the City Council adopt Ordinance No. 1093; and
- Adopt Resolution No. 2507 recommending the City Council adopt design and development standards for wireless communication facilities in the public right-of-way.

BACKGROUND

Traditionally, wireless antennas and equipment were primarily installed on large towers

on private land and on the rooftops of buildings. These deployments are subject to land use review under the zoning code.

In recent years, wireless service providers increasingly have sought to install WCFs on utility poles, streetlights, and new poles in the public right-of-way (ROW). Current predictions indicate that the next wave of wireless facility deployment—"5G"—will involve \$275 billion in investment over the next decade, with the vast majority of these new facilities anticipated to be placed in ROW. Historically, telecommunications installations in the ROW have been addressed through encroachment permits. However, these permits contain minimal standards or regulations designed to address the unique aesthetic, safety, operational, and locational issues in connection with the installation of WCFs in the ROW.

In addition, recent changes in federal law place shortened time frames or "shot clocks" and other requirements on local review of WCF installations in the ROW. Adopted in September 2018, an FCC declaratory order and regulations ("September 2018 Order") provide that, if a city fails to render a decision on a "small wire-less facility" application within a specified time period (60 days for installations on existing structures, and 90 days for new structures), then this failure will be presumed to violate federal law (both a failure to act within a reasonable period of time and an effective prohibition of personal wireless services).

In the September 2018 Order, the FCC also declared that all fees (including permit fees and rental fees for use of government-owned infrastructure, such as streetlights) must be based on a reasonable approximation of the local government's costs. Only objectively reasonable costs may be factored into fees, and fees may be no higher than the fees charged to similarly situated competitors in similar situations. The FCC created "safe harbors" of presumptively reasonable fee levels that include: non-recurring fees equal to \$500 for a single application for up to five co-locations (e.g., a facility installed on an existing structure), plus \$100 for each additional co-location facility, and \$1,000 for each new pole. Recurring fees are presumed reasonable if equal to \$270 per facility/per year, including the fee for attachment to municipal infrastructure and use of ROW. The FCC provided these safe harbor amounts for use in the absence of a cost justification. These portions of the FCC small cell order went into effect on January 14, 2019.

Additional FCC rules contained in the September 2018 Order went into effect on April 15, 2019. These rules address aesthetics standards, including undergrounding. The FCC declared that local aesthetic requirements on small wireless facilities will be preempted by federal law unless the requirements are reasonable, no more burdensome than those applied to other types of infrastructure deployments, and objective and published in advance. Further, another FCC order that was released in August 2018 prohibits cities from imposing a moratorium on wireless installations, which means that there can be no pause in accepting or processing applications to allow a city to study and address potential issues.

While the legal validity of both FCC orders is being litigated, both the FCC and the Tenth Circuit have denied requests to stay the effectiveness of the small cell order pending the resolution of the litigation. Staff, therefore, is taking the steps discussed below to address wireless deployments in the ROW consistent with the new federal regulations, and among them, recommends Council adopt an ordinance and a resolution on design and development standards.

ANALYSIS/JUSTIFICATION

To address wireless facilities applications in the ROW, staff recommends that the Planning Commission recommend that the City Council approve the following:

1. Attachment 1: Resolution 2506 recommending the City Council approve Zoning Amendment AZC19-02 adding Chapter 20.445 to the Stanton Municipal Code regarding wireless facilities; and
2. Attachment 2: Resolution 2507 recommending the City Council approve Design and Development Standards.

The ordinance and resolutions work in concert:

- Ordinance. The Ordinance would add Chapter 20-445 to the Code and would impact applications for WCFs in the ROW. For all wireless facility installations in the ROW, the code amendments provide for permit and review procedures that will allow the City to meet the FCC shot clock deadlines and operation and maintenance standards.
- Design and Development Standards Resolution. The Ordinance amending the Municipal Code provides that design and development standards will be established by resolution of the City Council and that minor amendments may be approved by the Planning Commission. The Design and Development Standards Resolution provides these standards. Given the frequent and often important changes to the law and technology of wireless installations and the pending litigation surrounding the FCC Order, design standards-by-resolution affords the City flexibility to readily adapt and tailor its regulations to these changes and the concerns of the City.

In addition to the Ordinance and the Design and Development Resolution for City Council approval, City Staff is developing a standard application for WCF installations in the ROW, all of which together will serve as the City's framework for addressing applications for such WCF installations.

ENVIRONMENTAL IMPACT

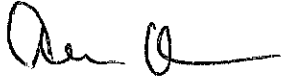
The project is exempt from CEQA under Sections 15060(c)(2): the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment; and

15060(c)(3): the activity is not a project as defined in Section 15378 of the CEQA Guidelines.

PUBLIC NOTIFICATION

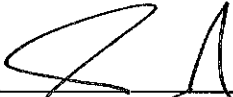
Posted at three public places, and made public through the agenda-posting process.

Prepared by,



Allan Rigg
Director of Public Works

Approved by,



Jared L. Hildebrand
City Manager

ATTACHMENTS

- A. Planning Commission Resolution No. 2506
- B. Planning Commission Resolution No. 2507

RESOLUTION NO. 2506

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF STANTON, CALIFORNIA RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONING CODE AMENDMENT AZC19-02 AND ADOPT ORDINANCE NO. 1093, ADDING CHAPTER 20.445 TO THE STANTON MUNICIPAL CODE RELATING TO WIRELESS COMMUNICATION FACILITIES IN THE PUBLIC RIGHT-OF-WAY

WHEREAS, the City of Stanton, California ("City") is a municipal corporation, duly organized under the California Constitution and laws of the State of California: and

WHEREAS, by virtue of the police powers delegated to it by the California Constitution, the City has the authority to enact laws which promote the public health, safety, and general welfare of its citizens, including public right-of-ways: and

WHEREAS, recent significant changes in federal laws that affect local authority over wireless communication facilities and other related infrastructure deployments have occurred, including, but not limited to, the following:

- On August 2, 2018, the Federal Communications Commission ("FCC") adopted Third Report & Order and Declaratory ruling in the rulemaking proceeding titled Accelerating Wireline and Wireless Broadband Deployment by removing Barriers to Infrastructure Investment, 33 FCC Rcd. 7705(rel. Aug. 3, 2018) (the "August Order"), that, among other things, contained a declaratory ruling prohibiting express and de facto moratoria on all personal wireless services, telecommunication services and their related facilities under 47 U.S.C. § 253(a) and directed the Wireless Telecommunications Bureau and Wireline Competition Bureau to hear and resolve all complaints on an expedited basis. The declaratory ruling in the August Order was made effective upon release of the August Order which occurred on August 3, 2018: and
- On September 26, 2018, the FCC adopted a Declaratory ruling and Third Report and order in the same rulemaking proceeding, 33FCC Rcd. 9088 (rel. Sep. 27, 2018) (the "September Order"), which, among many other things created new shorter "shot clocks" for small wireless facilities (as defined in the September Order), altered existing "shot clock" regulations to require local public agencies to do more in less time, established a national standard for an effective prohibition related to small wireless facilities that replaced the existing "significant gap" test adopted by the United States Court of Appeals for the Ninth circuit and provide that a failure to act within the applicable timeframe presumptively constitutes and effective prohibition. The September Order was made effective 90 days after publication in the federal register, that is, on January 14, 2019; and

WHEREAS, in light of the FCC Orders, the City deems it to be necessary and appropriate to provide for certain standards and regulations relating to the location, placement, design, construction, and maintenance of telecommunications antennas and infrastructure within the City's public-right-of-ways and on private streets, and providing for the enforcement of said standards and regulations, consistent with federal and state law limitations on that authority; and

WHEREAS, the City's public-right-of-ways are a valuable resource, and the regulation of wireless installations in the public right-of-ways is necessary to protect and preserve aesthetics in the community; and

WHEREAS, if not adequately regulated, the installation of small wireless facilities within the public right-of-ways can pose a threat to the public health, safety, and welfare, including disturbance to the public right-of-way through the installation and maintenance of wireless facilities; traffic and pedestrian safety hazard due to the unsafe location of wireless facilities; impacts to trees where proximity conflicts may require unnecessary trimming of branched or require removal of roots due to related underground of equipment or connection lines; land use conflicts and incompatibilities including excessive height or poles and towers; creation of visual and aesthetic blights and potential safety concerns arising from excessive size, height, noise, or lack of camouflaging of wireless facilities, including the associated pedestals, meters, equipment and power generators, all which may negatively impact the city and its citizens; and

WHEREAS, consistent with the City Council direction, staff requested input from representatives from the wireless communications industry on potential amendments to the city's current wireless communications regulations and design standards; and

WHEREAS, the Director of Public Works prepared an exhibit (Attachment "A" attached hereto and incorporated herein by reference) of the proposed amended ordinance and additional information and documents deemed necessary for the Planning commission to take action on its recommendations; and

WHEREAS, the City gave public notice of the proposed ordinance and public hearing at which the ordinance would be considered by the Planning commission by publication in a newspaper of general circulation; and

WHEREAS, the Planning Commission held a duly-noticed public hearing and considered the staff report, recommendations by staff, and public testimony concerning amendment to the Stanton Municipal Code.

NOW THEREFORE, THE PLANNING COMMISSION OF THE CITY OF STANTON DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1: The Planning Commission hereby finds that the fact, findings and conclusions set forth above are true and correct.

SECTION 2: The Planning Commission hereby finds that this amendment is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

SECTION 3: Findings for Zoning Code Amendments. The Planning Commission of the City of Stanton hereby makes the following findings in support of the Zoning Code Amendments proposed herein:

- A. The proposed amendment is consistent with the General Plan and any applicable Specific Plan. The proposed Zoning Code Amendments are consistent with the goals, policies and general land uses and programs specified in the General Plan. The Zoning Code Amendment promotes these policies by updating the City's regulations to achieve consistency with federal and state law. Therefore, the Zoning Code Amendment is consistent with General Plan.

SECTION 4: The documents and materials associated with this Resolution that constitute the record of proceedings on which these findings are based are located at Stanton City Hall, 7800 Katella Avenue, Stanton, California 90680. The Community Development Director is the custodian of the record of proceedings.

SECTION 5: The Planning Commission's recommendation is made upon review of the Staff Report, all oral and written comments, and all documentary evidence presented on the Amendment.

SECTION 6: Based on the foregoing, the Planning Commission hereby recommends that the City Council adopt AZC19-02 and Ordinance No. 1093 (set forth in Attachment "A", to the staff report accompanying this Resolution).

SECTION 7: The Planning Commission Secretary shall certify to the adoption of this Resolution and cause a copy to be transmitted to the City Clerk.

[Signatures on following page]

SIGNATURE PAGE FOR PLANNING COMMISSION RESOLUTION NO. 2506

ADOPTED, SIGNED AND APPROVED by the Planning Commission of the City of Stanton at a regular meeting held on August 7, 2019 by the following vote, to wit:

AYES:	COMMISSIONERS:	_____
NOES:	COMMISSIONERS:	_____
ABSENT:	COMMISSIONERS:	_____
ABSTAIN:	COMMISSIONERS:	_____

Elizabeth Ash, Chairperson
Stanton Planning Commission

Rose Rivera
Planning Commission Secretary

ORDINANCE NO. 1093**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF STANTON TO AMEND THE CITY OF STANTON MUNICIPAL CODE TITLE 20, ARTICLE 4, TO ADD CHAPTER 20.455, "WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY"**

WHEREAS, pursuant to the California State Constitution, the City of Stanton ("City") has the authority to adopt such ordinances as it deems necessary and appropriate to assure good government in the City, to protect and preserve the City's rights, property and privileges, and to preserve peace, safety and good order; and

WHEREAS, the City deems it to be necessary and appropriate to provide for certain standards and regulations relating to the location, placement, design, construction and maintenance of telecommunications towers, antennas and other structures within the City's public rights-of-way, and providing for the enforcement of said standards and regulations, consistent with federal and state law limitations on that authority.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the City Council of the City of Stanton:

SECTION 1: The foregoing Recitals are adopted as findings of the City Council as though set forth in fully within the body of this ordinance.

SECTION 2: Amendment. Amend Section 20.450.020 to add subsection 4, which shall read as follows:

"WCFs located in the public right-of-way, which are regulated by Chapter 20.455 of the Code."

SECTION 3: Title 12 of the Code for the City ("Code") shall be amended to add a new Chapter 20.455, entitled "Wireless Facilities in Public Rights-Of-Way" as follows:

"CHAPTER 20.455 - WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY**20.455.010. Purpose.**

The purpose of this Chapter is to establish a process for managing, and uniform standards for acting upon, requests for the placement of wireless facilities within the public rights-of-way of the City consistent with the City's obligation to promote the public health, safety, and welfare, to manage the public rights-of-way, and to ensure that the public is not incommoded by the use of the public rights-of-way for the placement of wireless facilities. The City recognizes the importance of wireless facilities to provide high-quality communications service to the residents and businesses within the City, and the City also recognizes its obligation to comply with applicable Federal and State law regarding the placement of personal wireless services facilities in its public rights-of-way. This ordinance shall be interpreted consistent with those provisions.

20.455.020. Definitions.

For purposes of this Chapter, the following definitions apply:

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

Applicant: A person filing an application for placement or modification of a wireless facility in the public right-of-way.

Base Station: shall have the meaning as set forth in 47 C.F.R. Section 1.6100(b)(1), or any successor provision.

Eligible Facilities Request: shall have the meaning as set forth in 47 C.F.R. Section 1.6100(b)(3), or any successor provision.

FCC: The Federal Communications Commission or its lawful successor.

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

Permittee: any person or entity granted a wireless encroachment permit pursuant to this Chapter.

Personal Wireless Services: shall have the same meaning as set forth in 47 U.S.C. Section 332(c)(7)(C)(i).

Personal Wireless Services Facility: means a wireless facility used for the provision of personal wireless services.

Public Right-of-Way, or ROW: shall have the same meaning as in Section 12.32.020, but shall also include any portion of any road or public way which the City has the responsibility to maintain or manage.

Small Cell Facility: shall have the same meaning as "small wireless facility" in 47 C.F.R. 1.6002(l), or any successor provision (which is a personal wireless services facility that meets the following conditions that, solely for convenience, have been set forth below):

(1) The facility—

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

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

- (iii) does not extend an existing structure on which it are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
- (2) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in 47 C.F.R. Section 1.1320(d)), is no more than three cubic feet in volume;
- (3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
- (4) The facility does not require antenna structure registration under 47 C.F.R. Part 17;
- (5) The facility is not located on Tribal lands, as defined under 36 C.F.R. Section 800.16(x); and
- (6) The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 C.F.R. Section 1.1307(b).

Support Structure: Any structure capable of supporting a base station.

Tower: Any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for personal wireless 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, and the associated site. This definition does not include utility poles.

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

Utility Pole: A structure in the ROW designed to support electric, telephone and similar utility lines. A tower is not a utility pole.

Wireless Encroachment Permit: A permit issued pursuant to this Chapter authorizing the placement or modification of a wireless facility of a design specified in the permit at a particular location within the ROW; and the modification of any existing support structure to which the wireless facility is proposed to be attached.

Wireless Facility, or Facility: The transmitters, antenna structures and other types of installations used for the provision of wireless services at a fixed location, including, without limitation, any associated tower(s), support structure(s), and base station(s).

Wireless Infrastructure Provider: A person that owns, controls, operates or manages a wireless facility or portion thereof within the ROW.

Wireless Regulations: Those regulations adopted pursuant to Section 5 and implementing the provisions of this Chapter.

Wireless Service Provider: An entity that provides personal wireless services to end users.

20.455.030. Scope.

(a) **In general.** Unless exempted, every person who desires to place a wireless facility in the public rights-of-way or modify an existing wireless facility in the public rights-of-way must obtain a Minor Use Permit authorizing the placement or modification in accordance with this Chapter. Except for small cell facilities, facilities qualifying as eligible facilities requests, or any other type of facility expressly allowed in the public right-of-way by state or federal law, no other wireless facilities shall be permitted pursuant to this Chapter.

(b) **Exemptions.** This Chapter does not apply to:

- (1) The placement or modification of facilities by the City or by any other agency of the state solely for public safety purposes.
- (2) Installation of a "cell on wheels," "cell on truck" or a similar structure for a temporary period in connection with an emergency or event, but no longer than required for the emergency or event, provided that installation does not involve excavation, movement, or removal of existing facilities.
- (3) Installation of a wireless facility on the strand between two utility poles, provided that the cumulative volume of all wireless facilities on the strand shall not exceed 1 cubic foot and provided further that the installation does not require replacement of the strand, or excavation, modification or replacement of the utility poles.

(c) **Other applicable requirements.** In addition to the Minor Use Permit required herein, the placement of a wireless facility in the ROW requires the persons who will own or control those facilities to obtain all permits required by applicable law, and to comply with applicable law, including, but not limited, applicable law governing radio frequency (RF) emissions.

(d) **Pre-existing Facilities in the ROW.** Any wireless facility already existing in the ROW as of the date of this Chapter's adoption shall remain subject to the provisions of the City Code in effect prior to this Chapter, unless and until an extension of such facility's then-existing permit is granted, at which time the provisions of this Chapter shall apply in full force going forward as to such facility. The review of any request for a renewal of a permit for such pre-existing facilities shall be conducted pursuant to this Chapter, rather than the portion(s) of the City Code that it was previously reviewed under.

(e) **Public use.** Except as otherwise provided by California law, any use of the public right-of-way authorized pursuant to this Chapter will be subordinate to the City's use and use by the public.

20.455.040. Administration.

(a) **Reviewing Authority.** The Director of Community Development (Director) or his or her designee is responsible for administering this Chapter. As part of the administration of this Chapter, the Director may:

- (1) Interpret the provisions of this Chapter;
- (2) Develop and implement standards governing the placement and modification of wireless facilities consistent with the requirements of this Chapter, including regulations governing collocation and resolution of conflicting applications for placement of wireless facilities;
- (3) Develop and implement acceptable designs and development standards for wireless facilities in the public rights-of-way, taking into account the zoning districts bounding the public rights-of-way;
- (4) Develop forms and procedures for submission of applications for placement or modification of wireless facilities, and proposed changes to any support structure consistent with this Chapter;
- (5) Develop and implement an expedited, over-the-counter permit process for pre-approved wireless facility designs;
- (6) Determine the amount of and collect, as a condition of the completeness of any application, any fee established by this Chapter;
- (7) Establish deadlines for submission of information related to an application, and extend or shorten deadlines where appropriate and consistent with state and federal laws and regulations;
- (8) Issue any notices of incompleteness, requests for information, or conduct or commission such studies as may be required to determine whether a permit should be issued;
- (9) Require, as part of, and as a condition of completeness of any application, notice to members of the public that may be affected by the placement or modification of the wireless facility and proposed changes to any support structure;
- (10) Subject to appeal as provided herein, determine whether to approve, approve subject to conditions, or deny an application; and
- (11) Take such other steps as may be required to timely act upon applications for placement of wireless facilities, including issuing written decisions and entering into agreements to mutually extend the time for action on an application.

(b) **Appeal.**

- (1) Any person adversely affected by the decision of the Director pursuant to this Chapter may appeal the Director's decision to the City Manager, who may decide the issues *de novo*, and whose written decision will be the final decision of the City. An appeal by a wireless infrastructure provider must be taken jointly with the wireless service provider that intends to use the personal wireless services facility.
- (2) All appeals must be filed within two (2) business days of the written decision of the Director, unless the Director extends the time therefore. An extension

may not be granted where extension would result in approval of the application by operation of law.

- (3) Any appeal shall be conducted so that a timely written decision may be issued in accordance with applicable law.
- (4) Where the Director grants an application based on a finding that denial would result in a prohibition or effective prohibition under applicable federal law, the decision shall be automatically appealed to the City Manager.

20.455.050. General Standards for Wireless Facilities in the Public Rights-of-Way.

(a) **Generally.** Wireless facilities in the ROW shall meet the minimum requirements set forth in this ordinance and the wireless regulations, in addition to the requirements of any other applicable law.

(b) **Regulations.** The wireless regulations and decisions on applications for placement of wireless facilities in the ROW shall, at a minimum, ensure that the requirements of this section are satisfied, unless it is determined that applicant has established that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations. If that determination is made, the requirements of this Chapter may be waived, but only to the minimum extent required to avoid the prohibition or violation.

(c) **Minimum Standards.** Wireless facilities shall be installed and modified in a manner that minimizes risks to public safety, avoids placement of aboveground facilities in underground areas, avoids installation of new support structures or equipment cabinets in the public rights-of-way, and otherwise maintains the integrity and character of the neighborhoods and corridors in which the facilities are located; ensures that installations are subject to periodic review to minimize the intrusion on the rights of way; and ensures that the City bears no risk or liability as a result of the installations, and that such use does not inconvenience the public, interfere with the primary uses of the rights-of-way, or hinder the ability of the City or other government agencies to improve, modify, relocate, abandon, or vacate the public rights of way or any portion thereof, or to cause the improvement, modification, relocation, vacation, or abandonment of facilities in the rights of way.

(d) **Design and Location Preferences.** Wireless facilities in the public right-of-way shall conform to the design and development standards set through a resolution adopted by the City Council and updated from time to time. The Planning Commission is authorized to adopt minor changes to the Council-approved design and development standards through a resolution. For purposes of this section, "minor changes" include amendments of no significant effect that comply with the spirit and intent of the original Council action. The Planning Commission is also authorized to adopt the "pre-approved" designs that will qualify for the expedited approval process in Section 20.455.060(d).

20.455.060. Applications.

(a) **Submission.** Unless the wireless regulations provide otherwise, applicant shall submit a paper copy and an electronic copy of any application, amendments, or supplements to an application, or responses to requests for information regarding an application to: Director, at 7800 Katella Ave., Stanton, CA 90680.

(b) **Pre-application meeting.** Prior to filing an application for a wireless encroachment permit, an applicant is encouraged to schedule a pre-application meeting with the Director to discuss the proposed facility, the requirements of this Chapter, and any potential impacts of the proposed facility.

(c) **Content.** An application must contain:

- (1) Any information required pursuant to the wireless regulations;
- (2) The name of the applicant, its telephone number and contact information, and if the applicant is a wireless infrastructure provider, the name and contact information for the wireless service provider that will be using the personal wireless services facility;
- (3) A complete description of the proposed wireless facility and the work that will be required to install or modify it, including, but not limited to, detail regarding proposed excavations, if any; detailed site plans showing the location of the wireless facility, and specifications for each element of the wireless facility, clearly describing the site and all structures and facilities at the site before and after installation or modification; and describing the distance to the nearest residential dwelling unit and any historical structure within 500 feet of the facility. Before and after 360 degree photosimulations must be provided.
- (4) Documentation sufficient to show that the proposed facility will comply with generally-applicable health and safety provisions of the City Code and the FCC's radio frequency emissions standards.
- (5) A copy of the lease or other agreement between the applicant and the owner of the property to which the proposed facility will be attached.
- (6) If the application is for a small cell facility, the application shall state as such and shall explain why the proposed facility meets the definition of small cell facility in this Chapter.
- (7) If the application is for an eligible facilities request, the application shall state as such and must contain information sufficient to show that the application qualifies as an eligible facilities request, which information must show that there is an existing wireless facility that was approved by the City. Before and after 360 degree photosimulations must be provided, as well as documentation sufficient to show that the proposed facility will comply with generally-applicable health and safety provisions of the City Code and the FCC's radio frequency emissions standards.
- (8) Proof that notice has been mailed to owners of all property owners, and the resident manager for any multi-family dwelling unit that includes ten (10) or more units, within 300 feet of the proposed personal wireless services facility.

- (9) If applicant contends that denial of the application would prohibit or effectively prohibit the provision of service in violation of federal law, or otherwise violate applicable law, the application must provide all information on which the applicant relies on in support of that claim. Applicants are not permitted to supplement this showing if doing so would prevent City from complying with any deadline for action on an application.
- (10) The electronic version of an application must be in a standard format that can be easily uploaded on a web page for review by the public.
- (11) Any required fees.
- (d) **Expedited Process.** If an applicant wishes to receive an expedited, over-the-counter approval for installing a wireless facility in the right-of-way, then it must submit the application materials listed above in Section 22.455.060(c) and show that the proposed wireless facility meets the specific pre-approved designs listed in the City's wireless facility design and development standards. The expedited process allows for an over-the-counter approval, rather than requiring Director review and findings. Approvals issued under this expedited process will still be subject to the permit Conditions of Approval. Further, this expedited process may be amended by the Director from time to time.
- (e) **Fees.** Application fee(s) shall be required to be submitted with any application for a wireless encroachment permit. The City Council is hereby authorized to determine, or cause to be determined, the amount, type, and other terms of such fee(s) from time to time by means of resolution. Notwithstanding the foregoing, no application fee shall be refundable, in whole or in part, to an applicant for a wireless encroachment permit unless paid as a refundable deposit.
- (f) **Waivers.** Requests for waivers from any requirement of this section shall be made in writing to the Director or his or her designee. The Director may grant or deny a request for a waiver pursuant to this subsection. The Director may grant a request for waiver if it is demonstrated that, notwithstanding the issuance of a waiver, the City will be provided all information necessary to understand the nature of the construction or other activity to be conducted pursuant to the permit sought. All waivers approved pursuant to this subsection shall be (1) granted only on a case-by-case basis, and (2) narrowly-tailored to minimize deviation from the requirements of the City Code.
- (g) **Incompleteness.** For personal wireless facilities and eligible facilities requests, applications will be processed, and notices of incompleteness provided, in conformity with state, local, and federal law. If such an application is incomplete, the Director may notify the applicant in writing, and specifying the material omitted from the application.

20.455.070. Findings; Decisions; Consultants.

(a) Findings Required for Approval.

- (1) Except for eligible facilities requests, the Director or the City Manager, as the case may be, shall approve an application if, on the basis of the application and other materials or evidence provided in review thereof, it finds the following:
 - (i) The facility is not detrimental to the public health, safety, and welfare;

- (ii) The facility complies with this Chapter and all applicable design and development standards;
 - (iii) The facility meets applicable requirements and standards of state and federal law; and
- (2) For eligible facilities requests, the Director or the City Manager, as the case may be, shall approve an application if, on the basis of the application and other materials or evidence provided in review thereof, it finds the following:
 - (i) That the application qualifies as an eligible facilities request; and
 - (ii) That the proposed facility will comply with all generally-applicable laws.
- (b) **Decisions.** Decisions on an application by the Director or the City Manager shall be in writing and include the reasons for the decision.
- (c) **Independent Consultants.** The Director or the City Manager, as the case may be, is authorized, in its discretion, to select and retain independent consultant(s) with expertise in telecommunications in connection with the review of any application under this Chapter. Such independent consultant review may be retained on any issue that involves specialized or expert knowledge in connection with an application, including, but not limited to, application completeness or accuracy, structural engineering analysis, or compliance with FCC radio frequency emissions standards.

20.455.080. Conditions of Approval.

- (a) **Generally.** In addition to any supplemental conditions imposed by the Director or the City Manager, as the case may be, all permits granted pursuant to this Chapter shall be subject to the following conditions, unless modified by the approving authority:
 - (1) *Code Compliance.* The permittee shall at all times maintain compliance with all applicable federal, state and local laws, regulations and other rules, including, without limitation, those applying to use of public rights-of-way.
 - (2) *Permit Duration.* A wireless encroachment permit shall be valid for a period of ten (10) years, unless pursuant to another provision of the Code or these conditions, it expires sooner or is terminated. At the end of ten (10) years from the date of issuance, such Permit shall automatically expire, unless an extension or renewal has been granted. A person holding a wireless encroachment permit must either (1) remove the facility within thirty (30) days following the permit's expiration (provided that removal of support structure owned by City, a utility, or another entity authorized to maintain a support structure in the right of way need not be removed, but must be restored to its prior condition, except as specifically permitted by the City); or (2) at least ninety (90) days prior to expiration, submit an application to renew the permit, which application must, among all other requirements, demonstrate that the impact of the wireless facility cannot be reduced. The wireless facility must remain in place until it is acted upon by the City and all appeals from the City's decision exhausted.
 - (3) *Timing of Installation.* The installation and construction authorized by a wireless encroachment permit shall begin within one (1) year after its approval, or it will expire without further action by the City. The installation

and construction authorized by a wireless encroachment permit shall conclude, including any necessary post-installation repairs and/or restoration to the ROW, within thirty (30) days following the day construction commenced.

- (4) *Commencement of Operations.* The operation of the approved facility shall commence no later than one (1) month after the completion of installation, or the wireless encroachment permit will expire without further action by the City.
- (5) *As-Built Drawings.* The Permittee shall submit an as-built drawing within ninety (90) days after installation of the facility. As-builts shall be in an electronic format acceptable to the City.
- (6) *Inspections; Emergencies.* The City or its designee may enter onto the facility area to inspect the facility upon 48 hours prior notice to the permittee. The permittee shall cooperate with all inspections and may be present for any inspection of its facility by the City. The City reserves the right to enter or direct its designee to enter the facility and support, repair, disable, or remove any elements of the facility in emergencies or when the facility threatens imminent harm to persons or property. The city shall make an effort to contact the permittee prior to disabling or removing any facility elements, but in any case shall notify permittee within 24 hours of doing so.
- (7) *Contact.* The permittee shall at all times maintain accurate contact information for all parties responsible for the facility, which shall include a phone number, street mailing address and email address for at least one natural person.
- (8) *Insurance.* Permittee shall obtain and maintain throughout the term of the permit: commercial general liability insurance with a limit of \$1,000,000 per occurrence for bodily injury and property damage and \$2,000,000 general aggregate including premises operations, contractual liability, personal injury, and products completed operations. The relevant policy(ies) shall name the City, its elected/appointed officials, commission members, officers, representatives, agents, and employees as additional insureds. Permittee shall provide thirty (30) days' prior notice to the City of to the cancellation or material modification of any applicable insurance policy.
- (9) *Indemnities.* The permittee and, if applicable, the owner of the property upon which the wireless facility is installed shall defend, indemnify and hold harmless the City, its agents, officers, officials, and employees (i) from any and all damages, liabilities, injuries, losses, costs, and expenses, and from any and all claims, demands, law suits, writs of mandamus, and other actions or proceedings brought against the city or its agents, officers, officials, or employees to challenge, attack, seek to modify, set aside, void or annul the city's approval of the permit, and (ii) from any and all damages, liabilities, injuries, losses, costs, and expenses, and any and all claims, demands, law suits, or causes of action and other actions or proceedings of any kind or form, whether for personal injury, death or property damage, arising out of or in connection with the activities or performance of the permittee or, if applicable, the property owner or any of each one's agents,

employees, licensees, contractors, subcontractors, or independent contractors. In the event the city becomes aware of any such actions or claims the city shall promptly notify the permittee and, if applicable, the property owner and shall reasonably cooperate in the defense. 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 property owner and/or permittee (as applicable) shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense.

- (10) *Performance Bond.* Prior to issuance of a wireless encroachment permit, the permittee shall file with the city, and shall maintain in good standing throughout the term of the approval, a performance bond or other surety or another form of security for the removal of the facility in the event that the use is abandoned or the permit expires, or is revoked, or is otherwise terminated. The security shall be in the amount equal to 100% of the cost of physically removing the facility and all related facilities and equipment on the site, based on the higher of two contractor's quotes for removal that are provided by the permittee. The permittee shall reimburse the city for staff time associated with the processing and tracking of the bond, based on the hourly rate adopted by the City Council. Reimbursement shall be paid when the security is posted and during each administrative review.
- (11) *Adverse Impacts on Adjacent Properties.* Permittee shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, and removal of the facility.
- (12) *Noninterference.* Permittee shall not move, alter, temporarily relocate, change, or interfere with any existing structure, improvement, or property without the prior consent of the owner of that structure, improvement, or property. No structure, improvement, or property owned by the City shall be moved to accommodate a permitted activity or encroachment, unless the City determines that such movement will not adversely affect the City or any surrounding businesses or residents, and the Permittee pays all costs and expenses related to the relocation of the City's structure, improvement, or property. Prior to commencement of any work pursuant to a wireless encroachment permit, the Permittee shall provide the City with documentation establishing to the city's satisfaction that the Permittee has the legal right to use or interfere with any other structure, improvement, or property within the public right-of-way or city utility easement to be affected by Permittee's facilities.
- (13) *No Right, Title, or Interest.* The permission granted by a wireless encroachment permit shall not in any event constitute an easement on or an encumbrance against the public right-of-way. No right, title, or interest (including franchise interest) in the public right-of-way, or any part thereof, shall vest or accrue in Permittee by reason of a wireless encroachment permit or the issuance of any other permit or exercise of any privilege given thereby.

- (14) *No Possessory Interest.* No possessory interest is created by a wireless encroachment permit. However, to the extent that a possessory interest is deemed created by a governmental entity with taxation authority, Permittee acknowledges that City has given to Permittee notice pursuant to California Revenue and Taxation Code Section 107.6 that the use or occupancy of any public property pursuant to a wireless encroachment permit may create a possessory interest which may be subject to the payment of property taxes levied upon such interest. Permittee shall be solely liable for, and shall pay and discharge prior to delinquency, any and all possessory interact taxes or other taxes, fees, and assessments levied against Permittee's right to possession, occupancy, or use of any public property pursuant to any right of possession, occupancy, or use created by this permit.
- (15) *General Maintenance.* The site and the facility, including, but not limited to, all landscaping, fencing, and related transmission equipment, must be maintained in a neat and clean manner and in accordance with all approved plans. All graffiti on facilities must be removed at the sole expense of the permittee within forty eight (48) hours after notification from the City.
- (16) *RF Exposure Compliance.* All facilities must comply with all standards and regulations of the FCC and any other state or federal government agency with the authority to regulate RF exposure standards. After transmitter and antenna system optimization, but prior to unattended operations of the facility, permittee or its representative must conduct on-site post-installation RF emissions testing to demonstrate actual compliance with the FCC OET Bulletin 65 RF emissions safety rules for general population/uncontrolled RF exposure in all sectors. For this testing, the transmitter shall be operating at maximum operating power, and the testing shall occur outwards to a distance where the RF emissions no longer exceed the uncontrolled/general population limit.
- (17) *Testing.* Testing of any equipment shall take place on weekdays only, and only between the hours of 8:30 a.m. and 4:30 p.m., except that testing is prohibited on holidays that fall on a weekday. In addition, testing is prohibited on weekend days.
- (18) *Modifications.* No changes shall be made to the approved plans without review and approval in accordance with this Chapter.
- (19) *Agreement with City.* If not already completed, permittee shall enter into the appropriate agreement with the City, as determined by the City, prior to constructing, attaching, or operating a facility on Municipal Infrastructure. This permit is not a substitute for such agreement.
- (20) *Conflicts with Improvements.* For all facilities located within the ROW, the permittee shall remove or relocate, at its expense and without expense to the city, any or all of its facilities when such removal or relocation is deemed necessary by the city by reason of any change of grade, alignment, or width of any right-of-way, for installation of services, water pipes, drains, storm drains, power or signal lines, traffic control devices, right-of-way improvements, or for any other construction, repair, or improvement to the right-of-way.

- (21) *Abandonment.* If a facility is not operated for a continuous period of six (6) months, the wireless encroachment permit and any other permit or approval therefor shall be deemed abandoned and terminated automatically, unless before the end of the six (6) month period (i) the Director has determined that the facility has resumed operations, or (ii) the City has received an application to transfer the permit to another service provider. No later than ninety (90) days from the date the facility is determined to have ceased operation or the permittee has notified the Director of its intent to vacate the site, the permittee shall remove all equipment and improvements associated with the use and shall restore the site to its original condition to the satisfaction of the Director. The permittee shall provide written verification of the removal of the facilities within thirty (30) days of the date the removal is completed. If the facility is not removed within thirty (30) days after the permit has been discontinued pursuant to this subsection, the site shall be deemed to be a nuisance, and the City may cause the facility to be removed at permittee's expense or by calling any bond or other financial assurance to pay for removal. If there are two (2) or more users of a single facility or support structure, then this provision shall apply to the specific elements or parts thereof that were abandoned, but will not be effective for the entirety thereof until all users cease use thereof.
- (22) *Encourage Co-location.* Where the facility site is capable of accommodating a co-located facility upon the same site in a manner consistent with the permit conditions for the existing facility, the owner and operator of the existing facility shall allow co-location of third party facilities, provided the parties can mutually agree upon reasonable terms and conditions.
- (23) *Records.* The permittee must maintain complete and accurate copies of all permits and other regulatory approvals issued in connection with the facility, which includes without limitation this approval, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval and any ministerial permits or approvals issued in connection with this approval. In the event that the permittee does not maintain such records as required in this condition or fails to produce true and complete copies of such records within a reasonable time after a written request from the city, any ambiguities or uncertainties that would be resolved through an inspection of the missing records will be construed against the permittee.
- (24) *Attorney's Fees.* In the event the City determines that it is necessary to take legal action to enforce any of these conditions, or to revoke a permit, and such legal action is taken, the Permittee shall be required to pay any and all costs of such legal action, including reasonable attorney's fees, incurred by the City, even if the matter is not prosecuted to a final judgment or is amicably resolved, unless the City should otherwise agree with Permittee to waive said fees or any part thereof. The foregoing shall not apply if the Permittee prevails in the enforcement proceeding.
- (b) **Eligible Facilities Requests.** In addition to the conditions provided in Section 9(a) of this Chapter and any supplemental conditions imposed by the Director or the

City Manager, as the case may be, all permits for an eligible facility requests granted pursuant to this Chapter shall be subject to the following additional conditions, unless modified by the approving authority:

- (1) *Permit subject to conditions of underlying permit.* Any permit granted in response to an application qualifying as an eligible facilities request shall be subject to the terms and conditions of the underlying permit.
 - (2) *No permit term extension.* The city's grant or grant by operation of law of an eligible facilities request permit constitutes a federally-mandated modification to the underlying permit or approval for the subject tower or base station. Notwithstanding any permit duration established in another permit condition, the city's grant or grant by operation of law of a eligible facilities request permit will not extend the permit term for the underlying permit or any other underlying regulatory approval, and its term shall be coterminous with the underlying permit or other regulatory approval for the subject tower or base station.
 - (3) *No waiver of standing.* The city's grant or grant by operation of law of an eligible facilities request does not waive, and shall not be construed to waive, any standing by the city to challenge Section 6409(a) of the Spectrum Act, any FCC rules that interpret Section 6409(a) of the Spectrum Act, or any modification to Section 6409(a) of the Spectrum Act.
- (c) **Small Cell Facilities Requests.** In addition to the conditions provided in Section 9(a) of this Chapter and any supplemental conditions imposed by the Director or the City Manager, as the case may be, all permits for a small cell facility granted pursuant to this Chapter shall be subject to the following condition, unless modified by the approving authority:
- (1) *No waiver of standing.* The City's grant of a permit for a small cell facility request does not waive, and shall not be construed to waive, any standing by the city to challenge any FCC orders or rules related to small cell facilities, or any modification to those FCC orders or rules.

20.455.090. Breach; Termination of Permit.

(a) **For breach.** A wireless encroachment permit may be revoked for failure to comply with the conditions of the permit or applicable law. Upon revocation, the wireless facility must be removed; provided that removal of a support structure owned by City, a utility, or another entity authorized to maintain a support structure in the right-of-way need not be removed, but must be restored to its prior condition, except as specifically permitted by the City. All costs incurred by the City in connection with the revocation and removal shall be paid by entities who own or control any part of the wireless facility.

(b) **For installation without a permit.** An wireless facility installed without a wireless encroachment permit (except for those exempted by this Chapter) must be removed; provided that removal of support structure owned by City, a utility, or another entity authorized to maintain a support structure in the right of way need not be removed, but must be restored to its prior condition, except as specifically permitted by the City. All costs incurred by the City in connection with the revocation

and removal shall be paid by entities who own or control any part of the wireless facility.

(c) **Enforcement.** Any violation of this Chapter will be subject to the same penalties provided in Chapter 1.10 and/or administrative fines provided in Chapter 1.12.

20.455.100. Infrastructure Controlled By City. The City, as a matter of policy, will negotiate agreements for use of Municipal Infrastructure. The placement of wireless facilities on those structures shall be subject to the agreement. The agreement shall specify the compensation to the City for use of the structures. The person seeking the agreement shall additionally reimburse the City for all costs the City incurs in connection with its review of, and action upon the person's request for, an agreement.

20.455.110. Nondiscrimination. In establishing the rights, obligations and conditions set forth in this Chapter, it is the intent of the City to treat each applicant or public right-of-way user in a competitively neutral and nondiscriminatory manner, to the extent required by law, and with considerations that may be unique to the technologies, situation and legal status of each particular applicant or request for use of the public rights-of-way."

SECTION 4: The City Manager, or his or her delegate, is directed to execute all documents and to perform all other necessary City acts to implement effect this Ordinance.

SECTION 5: CEQA. This Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The Ordinance does not authorize any specific development or installation on any specific piece of property within the City's boundaries. Moreover, when and if an application for installation is submitted, the City will at that time conduct preliminary review of the application in accordance with CEQA. Alternatively, even if the Ordinance is a "project" within the meaning of State CEQA Guidelines section 15378, the Ordinance is exempt from CEQA on multiple grounds. First, the Ordinance is exempt CEQA because the City Council's adoption of the Ordinance is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. (State CEQA Guidelines, § 15061(b)(3)). That is, approval of the Ordinance will not result in the actual installation of any facilities in the City. In order to install a facility in accordance with this Ordinance, the wireless provider would have to submit an application for installation of the wireless facility. At that time, the City will have specific and definite information regarding the facility to review in accordance with CEQA. And, in fact, the City will conduct preliminary review under CEQA at that time. Moreover, in the event that the Ordinance is interpreted so as to permit installation of wireless facilities on a particular site, the installation would be exempt from CEQA review in accordance with either State CEQA Guidelines section 15302 (replacement or reconstruction), State CEQA Guidelines section 15303 (new construction or conversion of small structures), and/or State CEQA Guidelines section 15304 (minor alterations to land). The City Council,

therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Orange within five working days of the passage and adoption of the Ordinance.

SECTION 6: Severability. If any section, subsection, provision, sentence, clause, phrase or word of this Ordinance is for any reason held to be illegal or otherwise invalid by any court of competent jurisdiction, such invalidity shall be severable, and shall not affect or impair any remaining section, subsection, provision, sentence, clause, phrase or word included within this Ordinance, it being the intent of the City that the remainder of the Ordinance shall be and shall remain in full force and effect, valid, and enforceable.

SECTION 7: Effective Date. This Ordinance No. 1093 shall be effective 30 days after its adoption.

SECTION 8: Publication. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within fifteen (15) days of the adoption and shall post a Certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED AND ADOPTED this 24th day of September, 2019.

DAVID J. SHAWVER, MAYOR

ATTEST:

PATRICIA A. VAZQUEZ, CITY CLERK

APPROVED AS TO FORM:

MATTHEW E. RICHARDSON, CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF STANTON)

I, Patricia A. Vazquez, City Clerk of the City of Stanton, California, do hereby certify that the foregoing Ordinance No. 1093 was introduced at a regular meeting of the City Council of the City of Stanton, California, held on the 10th day of September, 2019 and was duly adopted at a regular meeting of the City Council held on the 24th day of September, 2019, by the following roll-call vote, to wit:

AYES: COUNCILMEMBERS: _____

NOES: COUNCILMEMBERS: _____

ABSENT: COUNCILMEMBERS: _____

ABSTAIN: COUNCILMEMBERS: _____

CITY CLERK, CITY OF STANTON

RESOLUTION NO. 2507

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF STANTON, CALIFORNIA RECOMMENDING THAT THE CITY COUNCIL APPROVE THE DESIGN AND DEVELOPMENT STANDARDS FOR WIRELESS COMMUNICATION FACILITIES IN THE PUBLIC RIGHT-OF-WAY

WHEREAS, the City has determined it necessary to govern the permitting, installation, and regulations of wireless communications facilities ("WCF") including in the City's right-of-way ("ROW"); and

WHEREAS, the City has determined it necessary that design and development standards for WCFs in public street right-of-ways be set through a resolution adopted by the City Council; and

WHEREAS, the City's right-of-ways are a uniquely valuable public resource, closely linked with the City's character, making the regulation of wireless installations in the right-of-way necessary to protect and preserve the aesthetics in the community; and

WHEREAS, being authorized to do so, the city wishes to establish design and development standards applicable to wireless installation in the right-of-way; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW THEREFORE, THE PLANNING COMMISSION OF THE CITY OF STANTON DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1: The Planning Commission hereby finds that the fact, findings and conclusions set forth above are true and correct.

SECTION 2: The project is exempt from CEQA under Sections 15060(c)(2): the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment; and 15060(c)(3): the activity is not a project as defined in Section 15378 of the CEQA Guidelines.

SECTION 3: The documents and materials associated with this Resolution that constitute the record of proceedings on which these findings are based are located at Stanton City Hall, 7800 Katella Ave., Stanton, California 90680. The Community Development Director is the custodian of the record of proceedings.

SECTION 4: The Planning Commission's recommendation is made upon review of the Staff Report, all oral and written comments, and all documentary evidence presented on the Amendment.

SECTION 5: Based on the foregoing, the Planning Commission hereby recommends that the City Council adopt the Design and Development Standards for Wireless Communication Facilities in the Public Right-of-Way (set forth in Attachment "A").

ADOPTED, SIGNED AND APPROVED by the Planning Commission of the City of Stanton at a regular meeting held on August 7, 2019 by the following vote, to wit:

AYES:	COMMISSIONERS:	_____
NOES:	COMMISSIONERS:	_____
ABSENT:	COMMISSIONERS:	_____
ABSTAIN:	COMMISSIONERS:	_____

Elizabeth Ash, Chairperson
Stanton Planning Commission

Rose Rivera
Planning Commission Secretary



**CITY OF STANTON
Wireless Communication Facilities
In The Public Right-of-Way
and on Private Streets
-Design and Development Standards-**

Effective:

INTRODUCTION

The purpose of these City of Stanton ("City") Design Standards is to establish aesthetic requirements for all wireless communication facilities (WCFs) installed within the public right-of-way ("P-ROW"). These standards are published on the City's Community Development Department section of the City webpage (<http://www.ci.stanton.ca.us/Departments/Community-Development>) and are subject to amendment from time to time. Applicants are encouraged to check the website regularly for updates and to consult with City staff prior to formally submitting an application.

For questions regarding this document, please contact the Community Development Department, Planning Division at (714) 379-9222. Note: These Standards shall be enforced to the extent permitted under the current regulations in effect. In the event of conflict between these Standards and Municipal Code, the Municipal Code shall prevail.

DESIGN AND DEVELOPMENT STANDARDS FOR ALL FACILITIES

The City desires to minimize the amount of new infrastructure placed in the P-ROW. The Director of Community Development may approve an exemption from these standards to prevent a prohibition or an effective prohibition of wireless services. City staff is available to meet with applicants or their representatives to discuss their designs and the application of these Standards.

1. Visual Criteria.
 - a. Generally, WCFs shall be designed in the least visible means possible and to be compatible with support structures/surrounding, such as color, materials, size, and scale. Further, the smallest elements (including, without limitation, antennas, cabinets, shrouds, and electric meters) available shall be used.
2. Location.
 - a. In locations where streetlight or other utility poles are not present, or are not capable of supporting new equipment, a wireless communication service provider may request to:
 - i. Remove an existing pole and replace it with a new pole, as set forth in these Standards; or
 - ii. Install a new pole, pursuant to criteria for new single-purpose poles set forth in these Standards. A single-purpose pole is a pole installed for the sole purpose of providing wireless communication with no secondary purpose, such as a streetlight.
 - b. Pole-mounted WCFs shall be located such that they do not: impede, obstruct, or hinder the usual pedestrian or vehicular travel; adversely affect public safety; obstruct the legal access to or use of the P-ROW; violate applicable law; violate or conflict with P-ROW design standards, specifications, or zoning district requirements; or in any way create a risk to public health, safety, or welfare.

- c. WCFs shall be co-located on existing infrastructure wherever feasible.
 - d. The placement of new poles adjacent to parks and historical landmarks shall be avoided whenever possible.
3. **Safety.** WCFs may not adversely affect public safety, interfere with use of the P-ROW or private street, or violate Americans with Disabilities Act (ADA) requirements. All installations shall meet or exceed all applicable structural standards, clearance standards, and provisions of the latest California Building Code and City construction standards. In case of conflict, the most stringent requirements shall prevail.
 4. **Strand-Mounted Facilities.** Due to the limited existence of overhead utility wires in the City and the general requirement for undergrounding of new utilities City-wide, strand-mounted WCFs are prohibited. If strand-mounted installations are required for technical reasons, an applicant may submit a waiver request pursuant to Chapter 20.445 of the Stanton Municipal Code.
 5. **Lighting.** WCFs shall not be illuminated (internally or externally), except as incidentally illuminated by an unrelated light source, or as specifically required by the Federal Aviation Administration (FAA) or other government agency. Any required lighting shall be shielded to eliminate, to the maximum extent possible, impacts on the surrounding neighborhood. Unless otherwise required under FAA or FCC regulations, applicants may install only timed or motion-sensitive light controllers and must install lights so as to avoid illumination impacts to adjacent properties to the maximum extent feasible.
 6. **Signs.** No logos, decals, or advertising of any type shall be affixed to any element of the WCFs or support structures, except: (1) as required by federal or state law; and (2) a decal or placard measuring no more than 4" x 6" in size, which lists the facility owner's name and emergency contact telephone number shall be installed. The decal or placard shall be placed in an inconspicuous manner on the equipment or on the pole immediately below the antenna.
 7. **Landscaping.** In addition to any landscaping used for concealment or screening purposes, the applicant shall propose, install, and maintain additional landscaping to replace any existing landscaping displaced during construction or installation of the applicant's facility in the right-of-way. The applicant's landscaping plan shall be subject to the City's review and approval but shall, at a minimum, match the existing landscaping and foliage surrounding the installation site.
 8. **Ground-mounted Equipment.** Ground-mounted equipment is discouraged unless undergrounded. If ground-mounted equipment is necessary for technical reasons, equipment shall be enclosed in cabinets, sized as small as possible for necessary equipment. Any cabinets shall be painted to achieve compatibility with other utility cabinets in the vicinity and P-ROW. In addition, concealment efforts such as camouflaging and landscape screening should be incorporated whenever and to the extent feasible.

DESIGN STANDARD FOR PARTICULAR TYPES OF FACILITIES

In addition to the generally applicable standards set forth in the section above, the design and development standards for specific types of facilities in the P-ROW and on private streets are listed below. WCFs may be allowed as attachments to existing wood utility poles (with or without streetlights); attachments to metal, concrete, or wood streetlight poles; or attachments to new, non-wooden single-purpose poles located within the P-ROW and on private streets.

1. Definition of Pole-Mounted WCF: For purposes of these Standards, the term “pole-mounted WCF” means a WCF that is, or is proposed to be, attached to, contained in or on, or otherwise mounted to, in, or on a pole.
2. Pole-Mounted WCFs, Generally. For WCFs installed on any pole:
 - a. WCF antennas shall be top-mounted whenever technically feasible. A top-mounted WCF antenna is installed on a pole such that it extends vertically from the top of the pole.
 - b. Side-mounted WCF antennas. In instances in which top-mounted antennas are technically infeasible, side-mounted antennas may be permitted subject to the following standards:
 - i. Maximum projection from the face of the pole: thirty (30) inches;
 - ii. Maximum antenna length: six (6) feet;
 - iii. Maximum antenna shroud diameter: fifteen (15) inches;
 - iv. Permitted only in combination with a maximum of one side-mounted equipment box.
 - c. All elements of a WCF shall be painted or otherwise finished to match the color of the existing support pole/structure to which they are attached to the greatest extent possible. Further, all elements of a WCF shall be concealed by a shroud or other enclosure that meets the requirements of these Standards. The shrouds shall be generally cylindrical or match the shape of the pole on which they are installed.
 - d. A maximum of three pole-mounted screening shrouds/equipment boxes (including the antenna shroud) may be used per pole.
 - e. WCFs, including antennas, shrouds and associated apparatuses, shall not extend the height of the new or existing support pole on which they are mounted by more than six (6) feet.
 - f. The diameter of antenna shrouds shall not exceed fifteen (15) inches or the diameter of the support pole, whichever is greater.
 - g. The minimum vertical clearance for any pole-mounted equipment shall be twelve (12) feet above the sidewalk/finished grade.
 - h. Pole-mounted equipment affixed to the side of a pole shall be permitted subject to the following requirements:
 - i. Equipment box dimensions when only a single equipment box is used:

- Maximum height: 48"
 - Maximum width: 16"
 - Maximum depth: 12" (measured from the pole face to the outer extremity of the shroud; the depth of any standoff brackets shall be excluded in the calculation of total depth, provided however that equipment boxes shall be mounted as close to the face of the pole as technically feasible).
- ii. Each equipment box when two equipment boxes are used:
- Maximum height: 24"
 - Maximum width: 16"
 - Maximum depth: 12" (measured from the pole face to the outer extremity of the shroud; the depth of any standoff brackets shall be excluded in the calculation of total depth, provided however that equipment boxes shall be mounted as close to the face of the pole as technically feasible).
- ii. The equipment/shrouds shall be mounted in the 3 o'clock, 6 o'clock, or 9 o'clock positions on the pole where the side of the pole facing the street shall be considered the 12 o'clock position.
- iii. Exposed banding is prohibited.
- i. Horizontal protrusions from the outer circumference, including any wires or cables, of a wireless communication facility support pole shall not exceed thirty (30) inches in any direction.
- j. Cables and Wiring. No loose, exposed, or dangling wiring or cables shall be allowed. All external cables or wiring shall be sheathed (or enclosed) within durable conduit of the smallest diameter necessary to protect and provide the shortest direct route between elements of the facility.
- k. Electric Service. The City strongly encourages site operators to use flat-rate electric service when it would eliminate the need for a meter. Where meters are required, use the narrowest electric meter and disconnect available.
- l. Prohibition of Generators. Generators are prohibited in the P-ROW and on private streets.
- m. Vaults and pull boxes shall be installed flush to grade.
3. Streetlight Poles.
- a. WCFs shall not compromise the performance of any streetlight.
4. Utility Poles. All installations on utility poles shall fully comply with the California Public Utilities Commission (CPUC) general orders (GOs), including, but not limited to, GO 95. None of the Design Standards are meant to conflict with or cause a violation of GO 95, including, but not limited to, its standards for a safe installation on a utility pole. In the event of a conflict, the GO standard will prevail, but only to the minimum extent necessary for compliance.

5. Traffic Signal/Control Poles. Installations of WCFs on traffic signal/control poles are prohibited.
6. Replacement Poles.
 - a. A replacement pole, and fixtures affixed thereto, for WCFs shall match the predominate design, including but not limited to shape, colors, materials, finish, height, taper, diameter, configuration, and alignment of the pole that it is replacing. Matched features, where applicable, shall include mast arms, pole bases, luminaires, and other visible components.
 - b. A replacement pole must match the setback of the pole that it is replacing. Further, a replacement pole must be in the same location as the pole that it is replacing or as close to the original location as possible, taking into account pole owner safety-related requirements and all applicable location and placement standards herein.
 - c. All wires, cables, and conduit associated with a WCF shall be routed inside the pole, and all points of connection for power and data shall be underground.
7. New Poles.
 - a. In locations where WCF installations on existing streetlight or utility poles within the P-ROW or on private streets are not technically feasible, a new pole may be installed for the purpose of supporting a WCF. The new pole and any associated equipment shall be owned and maintained by the wireless communication service provider.
 - b. A new pole, and fixtures affixed thereto, for WCFs shall match the predominate design, including but not limited to shape, colors, materials, finish, height, taper, diameter, configuration, and alignment of any existing streetlight or utility poles in the same P-ROW or private street corridor/neighborhood. Matched features, where applicable, shall include mast arms, pole bases, and other visible components.
 - c. A new pole shall match the predominant alignment/setback (relative to the street centerline, curb, sidewalk), arrangement, and spacing of any existing streetlights and/or utility poles in the vicinity.
 - d. New single-purpose WCF poles shall be metal or concrete.
 - e. New single-purpose wooden poles are prohibited.

ACCEPTABLE (IN CONTEXT) FACILITY DESIGN EXAMPLES

