



**AGENDA  
CITY OF CITRUS HEIGHTS  
PLANNING COMMISSION MEETING  
OCTOBER 28, 2020 7:00 PM**

PLEASE NOTE: In order to minimize the spread of the COVID 19 virus, Governor Newsom has issued Executive Orders that temporarily suspend some requirements of the Brown Act. Please be advised that the Council Chambers are closed to the public and that some, or all, Planning Commissioners may attend Planning Commission meetings telephonically or otherwise electronically. The meeting will be held via webcast with **NO PHYSICAL LOCATION FOR PUBLIC ATTENDANCE**. If you would like to watch the meeting webcast, please contact the Planning Division at (916) 727-4740 or by email at [planning@citrusheights.net](mailto:planning@citrusheights.net) to obtain information on if a webcast will be available for this meeting. If you wish to make a public comment, please submit your comment via email to [planning@citrusheights.net](mailto:planning@citrusheights.net) or by completion of an online Speaker Card at <https://www.citrusheights.net/FormCenter/City-Council-Meetings-Speaker-Card-30>. Public comments shall be limited to 250 words or less. Each comment will be read aloud by the Secretary. Alternatively, members of the public can view the Planning Commission meeting live webcast at: <http://citrusheights.net/305/Planning-Commission> The Agenda for this meeting of the Planning Commission was posted at Citrus Heights City Hall, 6360 Fountain Square Drive, Citrus Heights, CA before the close of business at 5:00 p.m. On the Friday preceding the meeting. If you need a disability-related modification or accommodation, to participate in this meeting, please contact the Planning division 916-725-2448, [planning@citrusheights.net](mailto:planning@citrusheights.net), or City Hall 6360 Fountain Square Drive at least 48 hours prior to the meeting. TDD: California Relay Service 7-1-1.

1. CALL MEETING TO ORDER (7:00PM)

2. ROLL CALL

Commission Members: Flowers, Ingle, Lagomarsino, Van Duker, Vice- Chair Scheeler, Chair Schaefer,

3. FLAG SALUTE

4. PUBLIC COMMENT

Under Government Code Section 54954.3, members of the audience may address the Commission on any item within the jurisdiction of the Commission or on any agenda item. If you wish to address the Commission, please fill out a speaker identification form and hand it to the Commission Secretary. When you are called upon to speak, step forward to the podium and state your name clearly for the record. Those wishing to speak on non-agenda items will be called upon at the beginning of the meeting. Those wishing to speak for or against an agenda item will be called upon after the presentation by the City Planning department and the Applicant for that agenda item.

5. CONSENT CALENDAR

a. Approval Of Meeting Minutes For September 23, 2020



Documents:

[M09-23-20 DRAFT.PDF](#)

6. PUBLIC HEARING

7. REGULAR CALENDAR

- a. VIRTUAL OPEN HOUSE TOUR
- b. TELECOMMUNICATIONS PRESENTATION

Documents:

[10.SR\\_MEMO\\_TELECOMMUNICATION.PDF](#)  
[11.ATTACHMENT 1.PDF](#)

8. PLANNING MANAGER COMMENTS

None

9. ADJOURNMENT

No additional items, meeting adjourned.

Any writings or documents provided to a majority of the City of Citrus Heights Planning Commission regarding any item on this agenda will be made available for public inspection at City Hall located at 6360 Fountain Square Drive, Citrus Heights, CA 95621.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact Stacy Hildebrand at (916) 727-4707. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. TTY/TDD users with questions or comments can call the California Relay Service by dialing 7-1-1.

*Pursuant to Sections 65009 (b) (2), of the State Government Code "If you challenge any of the above projects in court, you may be limited to raising only those issues you or someone else raised at the public hearing(s) described in this notice, or in written correspondence delivered to the city Planning Commission at or prior to, this public hearing".*

City of Citrus Heights  
Planning Commission Meeting Minutes  
September 23, 2020  
Draft

The meeting was held via webcast with no physical location for public attendance. Public comment was taken via email and any public comment received was read aloud by the Planning Commission Secretary.

**1. CALL MEETING TO ORDER**

Chair Schaefer called the meeting to order at 7:11PM.

**2. ROLL CALL**

**Commission Present:** Flowers, Lagomarsino, Schaefer, Van Duker

**Absent:** Ingel, Scheeler

**Staff Present:** Cotter, Hildebrand, Jones, Kempenaar, McDuffee, Piva, Poole, Singer

**3. FLAG SALUTE**

Planning Commissioner Flowers led the flag salute.

**4. PUBLIC COMMENT**

None

**5. CONSENT CALENDAR**

The meeting minutes for July 22, 2020 were approved as submitted

**AYES:** (4) Flowers, Lagomarsino, Schaefer, Van Duker

**NOES:** (0)

**Absent:** Ingle, Scheeler

**6. PUBLIC HEARING**

None

**7. REGULAR CALENDAR**

**A. DISPOSITION OF PROPERTY LOCATED AT 6550 MING WAY:** Adopt Resolution No. 2020-07, A Resolution of the Planning Commission of the City of Citrus Heights, California, Adopting its Report and Certain Findings Required Under California Government Code Section 65402 for the Disposition of the Property Located at 6550 Ming Way. Project Planner: Casey Kempenaar.

**Commission Comments**

Van Duker asked if money be exchanging hands with the transfer of the property

Lagomarsino questioned whether the park district aware of the transfer

Chair Schaefer asked what the yearly cost to maintain the property is

Resolution 2020-007 Disposition of Property located at 6550 Ming Way. The motion passed with the following vote:

**AYES:** (4) Flowers, Lagomarsino, Van Duker, Chair Schaefer

**NOES:** (0)

**Absent:** Ingle

**B. PRESENTATION FROM CITRUS HEIGHTS COLLABORATIVE**

**C. HOUSING ELEMENT OVERVIEW DISCUSSION**

**8. PLANNING MANAGER ITEMS**

None

**9. ADJOURNMENT**

The meeting was adjourned at 8:16 PM.

Respectfully Submitted,

Stacy Hildebrand  
Planning Commission Secretary



Solid roots. New growth.

# STAFF REPORT

Community Development Department  
Planning Division  
6360 Fountain Square Dr.  
Citrus Heights, CA 95621  
[www.citrusheights.net](http://www.citrusheights.net)  
(916) 727-4740

Hearing Date: October 28, 2020

File Number: INFORMATION ONLY

Application Type: N/A

Assessor's Parcel Number(s): Citywide

Prepared by: Alison Bermudez, Associate Planner [abermudez@citrusheights.net](mailto:abermudez@citrusheights.net)

Project Name: Telecommunications Application Processing—INFORMATION ONLY

Project Address: N/A

Gross Acreage: N/A

Net Acreage: N/A

Net Density: N/A

Current Zoning: N/A

Proposed Zoning: N/A

Surrounding Zoning:

Surrounding Land Use Designation

Actual Use:

On-site:

North:

South:

West:

East:

Not Applicable  
Citywide

**Environmental Status:**

- Exempt Section 15282(h)
- Negative Declaration
- Mitigated Negative Declaration

- Previous Negative Declaration
- Environmental Impact Report
- Previous Environmental Impact Report

**Planning Department Recommendations:**

- Recommend approval and forward to City Council for final action
- Approve with conditions
- Denial

Applicant:

Property Owner:

## Introduction

With the evolution of cell phones becoming more like small computers, the need for more cell and data capacity is needed to meet the demands of these popular devices. Due to this growth, cellular companies are striving to meet the needs by seeking additional antenna locations within areas where service is lacking. It is expected that over the next few months the city will see an increase of these applications. Since this Commission has not reviewed this type of application, a brief primer about these regulations is provided below. Staff will present an overview of regulations related to telecommunication facilities to the Commission at the Planning Commission meeting.

## Local Regulations

The city regulates the placement of communication facilities (cellular antennas) through Section 106.44 of the Zoning Code. The Zoning Code requires applications for new antennas obtain a Design Review Permit, either approved by staff or by the Commission depending on the type of structure. The city's development standards provide a hierarchy of preferred methods for the placement of antennas and a streamlined review process for the preferred methods. Staff reviews colocations<sup>1</sup> and roof mounted facilities while new communication towers require approval by the Planning Commission. New antenna locations are reviewed to be in compliance with the required findings related to the antenna's design and aesthetic appearance.

## Federal Regulations

The Federal Communications Commission (FCC) is the governmental agency that oversees communications by radio, television, wire, satellite and cable throughout the US. The FCC also regulates cell tower zoning through the Communications Act of 1934 and the Telecommunications Act of 1996 (Act). When reviewing cellular applications, the city must comply with its own zoning laws as well as these other federal regulations. This memo will summarize the key points of the Act as it has been applied by the courts and FCC so as applications come forward, the Commission will have an understanding of the process and avoid violations of the Act.

While the Act preserves local zoning, it does impose procedural requirements for the processing of cellular applications. The Act instituted a "shot clock" requirement that requires decisions on an application occur in a timely fashion. In addition, the Act requires that there be "substantial evidence" supporting the zoning decision. As applications come forward to the Commission, staff will also provide the information necessary for the application to be processed in conformance with the required steps.

In addition, the Act prevents the city from denying or conditioning a cell tower application based upon the "environmental effects of radio frequency emissions" (also referred to as "radiation") from cell towers. The FCC has established the RF safety exposure standard and providers are required to submit application to the FCC that demonstrates that the proposed facility will not exceed these federal standards. The city may

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<sup>1</sup> Colocation is a location of two or more wireless, hard wire, cable communication facilities on a single support structure or otherwise sharing a common location. Colocation shall also include the location of communication facilities with other facilities (e.g. water tanks, light standards, and other utility facilities and structures)

review a tower's planned compliance with these rules but *may not* render a decision based upon health risks.

Past history has shown that most objections to the installation of these facilities has been due to the perceived health risks associated with the RF emissions. Public testimony against these towers can get emotional as the public voices their health concerns. Similar to all other public hearings, the public is provided time at the podium to address Commission on any concern regarding a project. However, unique to hearings related to cellular facilities, testimony regarding health risks should not be discussed.

It is suggested that at the beginning of a cellular antenna hearing, that the Chairperson begin the hearing by addressing the public and stating that comments or claims about adverse health effects regarding cell towers will not be allowed, because Federal Law prohibits it. It may be uncomfortable to restrict testimony but it is very important that if the speaker attempts to raise such issue they should be promptly stopped as that testimony provides the cell tower applicant clear grounds to appeal a denial in federal court.

The Act also prohibits the city from taking action against an application that would "prohibit or have an effect of" prohibiting personal wireless services. In 2017, the Zoning Code was updated to remove the "Use Permit" requirement which analyzed the proposed location and the service providers' ability to demonstrate the need for the facility. Facilities are now reviewed through the "Design Review Permit" process, which considers the aesthetics of the facility instead of its use.

Many courts have also required that the zoning decision on cellular antenna applications be written as a separate record, not just reflected in the meeting minutes. Therefore, zoning decisions on cellular towers will be handled through the approval of a resolution. This method will satisfy the requirement of the separate written record and help provide assurance the city's actions are complying with the laws.

### Conclusion

This report summarizes the key points to consider as new antennas come forward to the Commission. Pursuant to Federal Law, the city does not have the ability to render a decision against a telecommunication facility based on perceived health impacts, provided the proposed equipment is in conformance with the RF emissions limits established by the FCC.

Any decision to approve, approve with modifications, or deny a telecommunications facility must be based upon its conformance to the Zoning Code and the findings required by the Code. By adhering to the information provided, the Planning Commission can feel comfortable that decisions rendered comply with federal, state, and the local law and limit exposure of the city to legal actions.

Attachment 1: Zoning Code Section 106.44 *Telecommunication Facilities*

## CITY OF CITRUS HEIGHTS MUNICIPAL CODE - TITLE 106 - ZONING CODE

## Telecommunications Facilities

**CHAPTER 106.44 - TELECOMMUNICATIONS FACILITIES**

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**Sections:**

- 106.44.010 - Purpose
- 106.44.020 - Definitions
- 106.44.030 - Applicability
- 106.44.040 - Satellite TV and Dish Antenna Standards
- 106.44.050 - Wireless Telecommunications Facilities
- 106.44.060 - Amateur Radio Antennas

**106.44.010 - Purpose**

This Chapter establishes development standards consistent with Federal law to: regulate the placement and design of telecommunications facilities so as to preserve the unique visual character of the City, promote the aesthetic appearance of the City, and to ensure public safety and welfare; pursue additional benefits from the facilities to the public by encouraging the leasing of publicly owned properties where feasible for the development of telecommunications facilities; and to acknowledge and provide the community benefit associated with the provision of advanced telecommunications services within the City.

**106.44.020 - Definitions**

The technical terms and phrases used in this Chapter are defined in Article 8 (Glossary) under "Telecommunications Facilities." Technical terms and phrases in this Chapter relating to minor modifications will have the same meaning as defined in Federal Statute Section 6409(a), and any implementing regulations, including 47 C.F.R. § 1.40001.

**106.44.030 - Applicability**

The location, permit requirements, and other provisions of this Chapter shall apply to all telecommunications facilities within the City including new wireless telecommunications facilities and collocations or modifications to existing wireless telecommunications facilities whether on private property or in the public rights-of-way.

The following are exempt from this Chapter.

- A. Common skeletal-type radio and television antennas in standard configurations used to receive commercial broadcast UHF, VHF, AM, and FM signals.
- B. Dish-type antennas with a diameter of less than one meter, designed to receive signals directly from satellites.
- C. Telecommunications facilities for the purpose of public safety communications.

**106.44.040 - Satellite TV and Dish Antenna Standards**

- A. **Applicability.** The standards of this Section apply to dish antennas that are greater than one meter (approximately 39 inches) in diameter.
- B. **Non-residential satellite TV and dish antenna standards.**
  - 1. Dish antennas are permitted to send and/or receive signals to/from satellites if the power output of the associated transceiver does not exceed two watts of power and the dish is six feet in diameter or less. The signal intensity must be maintained below applicable ANSI standards.
  - 2. A dish antenna may be roof-mounted provided that it is screened from view.

3. A dish antenna installed directly on the ground shall not be located within a required setback. The maximum attainable height of the dish shall not exceed the diameter of the dish plus three feet to a maximum of 15 feet.
- C. Residential satellite TV and dish antenna standards.** Residential satellite television and dish antennas larger than one meter in diameter shall comply with the following requirements.
1. Roof-mounted antennas are not permitted.
  2. Dish antennas shall be installed directly on the ground. The maximum attainable height of the dish shall not exceed the diameter of the dish plus three feet, to a maximum of 15 feet.
  3. Dish antennas shall meet the setback requirements for accessory structures.
  4. Only one dish antenna is permitted on each lot.
  5. The distribution of signals to more than one dwelling unit is permitted, provided the distribution is limited to the same parcel or same project as the antenna site.
  6. In any situation where the above provisions do not allow reasonable access to satellite signals, a Use Permit shall be considered by the Commission with the objective of ascertaining the most aesthetically acceptable alternative siting solution. In no case may the final decision result in denial of reasonable access to satellite signals. The Commission shall consider the following:
    - a. The decision on the Use Permit application must provide for a reasonable quality of signal reception, taking into consideration the particular circumstances of the property and its surroundings.
    - b. The decision on the Use Permit application may take into consideration all the alternative site locations and reception solutions on the property and the use permit may be conditional for the purpose of reducing the visual impact of the dish antenna as seen from adjacent properties or for the purpose of reducing the potential safety or health impacts. The conditions may include partitions, screening, landscaping, mountings, fencing, height of antenna, and site location within the parcel.

### 106.44.050 - Wireless Telecommunications Facilities

- A. Permit or approval required.** Each telecommunications facility shall require Design Review Permit approval or minor modification approval in compliance with this Section.
1. **Design Review Permits or minor modifications requiring Director approval.** The following Design Review Permit applications or minor modification applications are subject to review and approval by the Director:
    - a. Antennas within the public right-of-way attached to an existing structure and without ground-mounted equipment;
    - b. Antennas placed on an existing building or on an existing monopole; and
    - c. Minor modifications to a previously approved tower or base station pursuant to Federal Statute Section 6409(a).
  2. **Design Review Permits requiring Commission approval.** All applications for new wireless telecommunications facilities, or collocations or modifications to existing wireless telecommunications facilities other than those listed in Subsection (A)(1) above are subject to review and approval by the Commission. In

addition, the Director may refer a Design Review Permit application under Subsection (A)(1)(a) or (A)(1)(b) to the Commission for hearing and decision.

3. **Other Permits and Regulatory Approvals.** Facilities approved under this Chapter are subject to all federal, state, and local laws, rules, regulations, conditions, and other lawful requirements, including, but not limited to, FCC rules and regulations, and approvals, licenses, and applicable conditions required by other City departments.
4. **Application requirements.** An application for the approval of a wireless telecommunications facility shall include the following information, in addition to all other information required by the City. Each application for Design Review shall be filed on a City application form, together with required fees and/or deposits, and all other information and materials required by the City's list of required application contents.
  - a. Written documentation demonstrating a good faith effort in locating facilities in accordance with the location requirements in Subsection (C) below. This may include a written statement and supporting information, as requested by the Director, regarding alternative site selection and collocation opportunities in the service area and why alternative sites were rejected. The Director may waive this requirement for applications for collocations or modifications to existing facilities.
  - b. Where required by the Director, visual simulations showing the proposed facility superimposed on photographs of the site and surroundings as viewed from residential properties, public rights-of-way, or other perspective points at varying distances, to be determined in consultation with the Director. Such visual simulations will assist the review authority and the public in assessing the visual impacts of the proposed facility and its compliance with the provisions of this Chapter. In addition, the Director may also require simulations analyzing stealth designs and/or on-site demonstration mock-ups for consideration by the review authority.
  - c. A diagram or map showing the viewshed of the proposed facility (all areas of the City from which the facility will be visible).
  - d. A map or description of the service area of the proposed wireless telecommunications facility and an explanation of the need for the facility.
  - e. A map showing the locations and service areas of other wireless telecommunications facility sites operated by the applicant and those that are proposed by the applicant that are close enough to affect service within the City.
  - f. Site plan including and identifying (i) all facility-related support and protection equipment; and (ii) a description of general project information, including the type of facility, number of antennas, height to top of antenna(s), radio frequency range, wattage output of equipment, and a statement of compliance with current FCC requirements.
  - g. Landscape plan showing existing vegetation, vegetation to be removed, and proposed plantings by type, size, and location. If deemed necessary, the Director may require a report by a licensed landscape architect to verify project impacts on existing vegetation. This report may recommend protective measures to be implemented during and after construction. Where deemed appropriate by the Director, a landscape plan may be required for the entire parcel or facility area.
  - h. Noise and acoustical information for base station(s), buildings, and associated equipment such as air conditioning units and back-up generators. Such information shall be provided by a qualified firm or individual, approved by the city, and paid for by the project applicant.
  - i. A radio frequency (RF) report acceptable to the city prepared and certified by an RF engineer that certifies that the proposed facility, as well as any collocated facilities, will comply with applicable federal

RF exposure standards and limits. The RF report shall include the actual frequency and power levels (in watts ERP) for all existing and proposed antennas at the site and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas with RF exposures in excess of FCC-determined limits. Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.

- j. Statement by the applicant of willingness to allow other carriers to collocate on their facilities wherever technically and economically feasible and aesthetically desirable.
  - k. An evidence-of-needs report detailing operational and capacity needs of the provider's system within the city and areas immediately adjacent to the city. The report shall detail how the proposed facility is technically necessary to address current demand and technical limitations of the current system, including technical evidence regarding significant gaps in the provider's coverage, if applicable, and that there are no less intrusive means to close that significant gap. Such report shall be evaluated by a qualified firm or individual reasonably acceptable to the city and paid for by the project applicant. The qualified firm or individual may request additional information from the applicant to sufficiently evaluate the proposed project.
5. **Communications consultant may be required.** In the event that the City needs assistance in understanding the technical aspects of a particular proposal, the services of a telecommunications consultant may be requested to determine the engineering or screening requirements of establishing or modifying a specific wireless telecommunications facility. This service will be provided at the applicant's expense.
6. **Pre-Application meeting required.** Prior to application submittal, applicants shall schedule and attend a pre-application meeting for all proposed new facilities, whether located on private property or within the public right-of-way.
7. **Deemed-Withdrawn Applications.** To promote efficient review and timely decisions, an application will be automatically deemed withdrawn when an applicant fails to tender a substantive response within ninety (90) days after the application is deemed incomplete in a written notice to the applicant. The Department may, in the Department's sole discretion, approve a written extension for up to an additional thirty (30) days upon a written request for an extension received prior to the 90th day. The Department may approve further written extension only for good cause, which includes circumstances outside the applicant's reasonable control.
- B. Required Findings.** The approval of a Design Review Permit for wireless telecommunications facilities shall require that the review authority first make all of the following findings, in addition to all other findings required for Design Review Permit approval.
- 1. The wireless telecommunications facility provides a high quality design that is compatible with the site surroundings and the community, and has been designed to minimize its visual and environmental impacts, including the utilization of stealth technology, where applicable;
  - 2. The wireless telecommunications facility is in harmony with proposed developments on land in the general area;
  - 3. The application conforms with the criteria set forth in any applicable city-adopted design guidelines and the visual compatibility standards; and
  - 4. The applicant demonstrated that it proposed the least intrusive means to achieve its technical objectives.
- C. Location requirements.** The placement of new facilities shall comply with the following.
- 1. **Prohibited locations.** No wireless telecommunications facility shall be established within a residential zoning district or on a parcel otherwise developed with a conforming residential use, except in an existing

park site, and/or collocated with an existing non-residential structure, telecommunications facilities, transmission line towers.

2. **Antenna placement on private property.** The methods preferred by the City for the placement of an antenna on private property are as follows, in order of preference:
  - a. On Sacramento Municipal Utility District property or other existing utility poles;
  - b. A stealth facility integrated into the architecture of an existing structure (e.g., within a building tower or steeple);
  - c. A stealth facility on an existing pole (for example, light standard in a parking lot);
  - d. On a roof top in a location set back from the roof edge the same distance as the height of the antenna;
  - e. On a collocated tower; or
  - f. On a new monopole.
3. **Antenna placement in public rights-of-way.** The methods preferred by the City for the placement of an antenna located within the right-of-way are as follows, in order of preference:
  - a. Existing light poles or other similar existing utility poles;
  - b. Other existing structures (for example, bus shelter); or
  - c. New facilities.
4. **Cooperation with other carriers.** A permittee shall cooperate with other wireless telecommunications facility providers in collocating, and allowing the collocation of additional antennas on approved support structures and/or on existing buildings. A permittee shall exercise good faith in collocating with other providers and sharing the permitted site, provided that the shared use does not cause substantial technical impairment of the permittee's ability to provide appropriate service (i.e., a significant interference in broadcast or reception capabilities as opposed to a competitive conflict or financial burden). Good faith shall include sharing technical information to evaluate the feasibility of collocation. If a dispute arises as to whether a permittee has exercised good faith in accommodating other users, the City may require a third party technical study at the expense of either or both the applicant and permittee. Each applicant shall demonstrate reasonable efforts in developing a collocation alternative for their proposal. Failure to comply with the collocation requirements of this Section may result in the denial of a permit request, or revocation of an existing permit.

**D. Site planning and development standards.**

1. **Height.** A monopole antenna shall not exceed a maximum height of 40 feet. A stealth or slim line antenna shall not exceed a maximum height of 60 feet. A wireless telecommunications facility antenna array that is attached to a structure for the purpose of collocation shall be permitted to be placed at any height on the attachment structure regardless of height requirements (e.g. City or SMUD poles/facilities).
2. **Setbacks.** The following standards are applicable to wireless telecommunications facilities on private property:
  - a. **Towers and support structures.** All wireless telecommunications facilities shall comply with the setback requirements of the applicable zoning district, including but not limited to, the support structure and ground-mounted equipment.



- h. Facilities should not be located on historically or architecturally significant structures unless visually and architecturally integrated with the structure, and should not interfere with prominent vistas or significant public view corridors.
- i. Each facility should be sited to avoid adverse impacts to existing views from surrounding residences.
- j. No advertising signage or identifying logos shall be displayed on any wireless telecommunications facility, except for small identification plates used for emergency notification.
- k. Each applicant shall demonstrate that a proposed facility has been designed to attain the minimum height required from a technological standpoint for the proposed site.
- l. Antennas and associated structures and equipment shall be painted to blend with the structures, vegetation, sky, or landscape against which they will be primarily viewed.

**4. Facilities in the Public Right-of-Way.** In addition to the generally applicable visual compatibility standards above, wireless telecommunications facilities in public rights-of-way shall conform to the following requirements:

- a. Antennas shall be mounted as close to the pole as technically feasible. Antennas shall be screened within a radome or other similar concealment feature that covers the entire antenna and all cables, connectors and hardware.
- b. All non-antenna equipment should be undergrounded to the extent technically feasible. This requirement does not apply to the facility's electric meter or emergency disconnect switch. The placement of non-antenna equipment above ground shall be the least preferred method as compared to undergrounded or concealed, pole-mounted equipment. Any ground-mounted equipment should be screened, where appropriate and feasible. Screening methods may include the installation and maintenance of landscaping, placement behind new or existing fences, or other method as approved by the review authority.

To minimize aesthetic impacts and the overall visual profile, all pole-mounted equipment shall be installed as close to the pole as technically feasible, concealed within a shroud or other appropriate enclosure and shall be painted using a flat non-reflective color to match the underlying pole. The pole mounted-equipment shall be oriented away from prominent views and placed behind existing signs or other pole attachments when possible. All required or permitted signage in the right-of-way shall face the street or otherwise placed to minimize visibility from adjacent sidewalk and structures. All conduits, conduit attachments, cables, wires and other connectors shall be placed within the pole when possible or otherwise concealed from public view.

- E. **Duration of approval; renewal.** Approval terminates upon the expiration of ten years from the approval. A permittee shall submit any application to renew any Design Review Permit or minor modification approved under this Chapter to the City between 365 days and 180 days prior to the expiration of the current permit or approval. The application shall include all information, materials, fees, and deposits required for a new application under this Chapter. The City shall review an application for renewal in accordance with then-current standards for new facilities. The City may, but is not obligated to, temporarily extend the permit term to allow sufficient time to review a timely submitted renewal application.
- F. **Deemed-approved notice.** No more than 30 days before the applicable timeframe for review expires, the applicant shall provide written notice to all persons entitled to notice in accordance with Chapter 106.76, as modified in this Section.

1. The notice shall contain the following statement: "Pursuant to California Government Code Section 65964.1, state law may deem the application approved in 30 days unless the City approves or denies the application, or the City and applicant reach a mutual tolling agreement."
  2. In addition to all persons entitled to notice in accordance with Chapter 106.76, the applicant shall deliver written notice to the City, which contains the same statement required in Subsection (F)(1) above. The applicant may tender such notice in person or by certified United States mail.
  3. The notice required under this Subsection (F) shall be automatically deemed "provided" on the 30th day after the City receives the notice required in this subsection.
- G. Notice of Decision.** Within five working days after a final decision on an application has been made, notice of the decision shall be mailed to the applicant at the address shown on the application and to all other person who have filed a written request for notice of the decision. The City shall provide the reasons for any denial either in the written decision or in some other written record available at the same time as the denial.
- H. Cessation of operations.** To promote public health, safety and welfare, the Department may declare a facility abandoned or discontinued when:
1. The permittee notifies the Department that it has abandoned or discontinued the use of the facility for a continuous period of 90 days;
  2. The permittee fails to respond within 30 days to a written notice sent by Certified U.S. Mail, Return Receipt Requested, from the Department that states the basis for the Department's belief that the facility has been abandoned or discontinued for a continuous period of 90 days; or
  3. The permit has expired, and the permittee failed to file a timely application for renewal in accordance with this Chapter.
  4. After the Department declares the facility abandoned or discontinued, the permittee shall have 90 days from the date of the declaration (or such longer time as the Department may approve in writing) to:
    - a. Reactivate the use of the abandoned or discontinued facility subject to the provisions of this Chapter and all conditions of approval;
    - b. Transfer its rights to use the facility, subject to the provisions of this Chapter and all conditions of approval, to another person or entity that commences use of the abandoned or discontinued facility within the 90-day period; or
    - c. Remove the facility and all improvements installed in connection with the facility, and restore the site to its original condition, compliant with all applicable codes, consistent with the then-existing surrounding area.
  5. If the permittee fails to act as required within the prescribed time period, the Commission may deem the facility abandoned at a noticed public meeting. The Department shall send written notice by Certified U.S. Mail, Return Receipt Requested, to the last-known permittee or real property owner, that provides at least 30 days from the notice date to:
    - a. Reactivate the use of the abandoned or discontinued facility subject to the provisions of this Chapter and all conditions of approval.
    - b. Transfer its rights to use the facility, subject to the provision of this Chapter and all conditions of approval, to another person or entity that commences use of the abandoned or discontinued facility within the 30-day period; or

- c. Remove the facility and all improvements installed in a connection with the facility, and restore the site to a condition compliant with all applicable codes and consistent with the then-existing surrounding area.
6. If the permittee fails to act as required within the prescribed time period, the City may remove the abandoned facility, restore the site to a condition compliant with all applicable codes and consistent with the then-existing surrounding area, and repair any and all damages that occurred in connection with such removal and restoration work. The City may, but shall not be obligated to, store the removed facility or any part thereof, and may use, sell or otherwise dispose of it in any manner the City deems appropriate. The last-known permittee or its successor-in-interest and, if on private property, the real property owner shall be jointly liable for all costs incurred by the City in connection with its removal, restoration, repair and storage, and shall reimburse the City within 30 days of receipt of a written demand. Such costs may include any interest on the balance owing at a maximum lawful rate. The City may, but shall not be obligated to, use any financial security required in connection with the approval of the facility permit to recover its costs and interest. Until the costs are paid in full, a lien may be placed on the facility, all related personal property in connection with the facility and, if applicable, the real private property on which the facility was located for the full amount of all costs and interest for removal, restoration, repair and storage. The City may record a lien with Sacramento County Recorder's Office. Within 60 days after the lien amount is fully satisfied including costs and interest, the City shall request the lien to be released with the Sacramento County Recorder's Office.
- I. **Minor Modifications Pursuant to Federal Statute Section 6409.** Except as expressly modified by this Subsection (I), an application for a minor modification pursuant to Federal Statute Section 6409(a) shall be submitted, reviewed, and approved or denied in accordance with, and subject to, the provisions of this Chapter.
  1. **Application Requirements for Minor Modifications.** Each application for the approval of a minor modification pursuant to Section 6409(a) shall be filed on a City application form, together with required fees and/or deposits, and all other information and materials required by the City's list of required application contents. An applicant submitting an application for a minor modification shall provide:
    - a. A detailed description of the proposed minor modifications to the existing tower or base station;
    - b. A photograph or description of the wireless tower or base station as originally constructed, if available, a photograph of the existing wireless tower or base station, and a graphic depiction of the wireless tower or base station after modification, showing all relevant dimensions;
    - d. A description of all construction that will be performed in connection with the proposed modification.
    - c. A written statement that explains in plain factual detail whether and how Section 6409(a) and applicable implementing regulations require approval of the proposed minor modification. A complete written narrative analysis shall state the applicable standard and all facts that would allow the city to conclude the standard has been met. Bare conclusions without factual support shall not constitute a complete written analysis. As part of the written statement the applicant shall include: (i) whether and how the support structure qualifies as an existing tower or existing base station; and (ii) whether and how the proposed minor modification does not cause a substantial change in height, width, excavation, equipment cabinets, concealment, or permit compliance.
    - e. True, correct and complete copies of all permits and other regulatory approvals, including without limitation any conditions of approval, issued in connection with the tower or base station to be collocated on or modified.
  2. **Review and Required Findings.** The Director may approve or deny a request for a minor modification to an existing tower or base station. The general site planning and development standards in Subsection (D) shall not apply to review of a minor modification application. The Director shall approve an application for a minor modification if he or she makes the following findings:

- a. The proposed minor modification qualifies as an eligible facilities request and does not cause a substantial change in the existing tower or base station;
- b. The existing tower or base station was permitted with all required regulatory approvals required at the time of construction; and
- c. The proposed minor modification does not violate any legally enforceable standard or permit condition reasonably related to public health and safety, including, but not limited to, building, structural, electrical, and safety codes.

A proposed modification to a wireless telecommunications facility that does not qualify as an eligible facilities request or that would constitute a substantial change shall be denied and will instead be subject to the requirements set forth in this Chapter for the specific type of wireless telecommunications facility proposed.

**Other.** Nothing in this Section prevents the city from imposing other lawful conditions on the approval of a minor modification including, but not limited to, such other conditions consistent with obligations imposed on the initial installation. The approval of a minor modification pursuant to this Section shall not extend the term of the initial permit approval. An applicant who wants to extend the underlying permit term must apply for a permit extension pursuant to this Chapter, as it may be amended from time to time. Nothing in this Section shall be construed to waive or limit the City's proprietary right to control the use of its real or personal property for telecommunications purposes.

#### **106.44.060 - Amateur Radio Antennas**

The following regulations apply to all antennas which are part of an amateur ("ham") radio system, to the extent permitted by Federal law.

- A. Ground-mounted antennas.** Ground mounted antennas shall comply with the following standards.
  - 1. Limitation on number.** A maximum of one antenna support structure of six feet or more in height shall be allowed per lot, except where additional antennas are authorized through Minor Use Permit approval. Antennas less than six feet high are not included in this limitation.
  - 2. Location and setback requirements.** Antennas and their supporting structures shall be located in a rear yard, or in a side yard at least 15 feet wide. The supporting structures of each antenna shall be set back at least five feet from any property line.
  - 3. Screening.** The antenna shall be screened by walls, fences, or landscaping at least six feet in height, obscuring visibility of the antenna from adjacent properties at the same elevation. Landscaping shall be of a type and variety and installed at sufficient size to be capable of growing within one year to a screen at least the first six feet of the antenna.
  - 4. Height limits.** No antenna and supporting structure shall be higher than the 65 feet, except dish-type satellite receiving antennas which shall not exceed 15 feet in height. An antenna exceeding 65 feet may be allowed with Minor Use Permit approval.
- B. Roof-mounted antennas.** Roof-mounted antennas shall comply with the following standards.
  - 1. Limitation on number.** A maximum of two antennas of four feet or more in height above the roof shall be allowed per lot. Antennas less than four feet in height above the roof are not included in this limitation.
  - 2. Location requirements.** Each antenna shall be located and screened to minimize visual impacts.

3. **Height limits.** Each antenna shall comply with the height limits of the applicable zoning district.
- C. **Findings required for exceptions.** Where provisions of this Section allow exceptions to the limitation on maximum number of antennas or the maximum height, the approval of a Minor Use Permit to authorize the exception shall require that the review authority first find that the additional antennas and/or height are necessary to provide reasonable accommodation for amateur radio operations.