

RESOLUTION 6894

A RESOLUTION OF THE SEAL BEACH CITY COUNCIL ESTABLISHING RULES AND GUIDELINES FOR SMALL WIRELESS COMMUNICATIONS FACILITIES AND ELIGIBLE FACILITIES IN THE PUBLIC RIGHTS-OF-WAY

WHEREAS, pursuant to Urgency Ordinance 1676-U, the Seal Beach City Council has enacted procedures and requirements for the approval of small wireless communications facilities and eligible facilities in the public rights-of-way, by amending Chapter 6.10 of Title 6 of the Seal Beach Municipal Code to amend Section 6.10.010 and Section 6.10.065, repealing Section 6.10.070 and adding new Sections 6.10.070 and 6.10.075 ; and

WHEREAS, Section 6.10.070 of the Seal Beach Municipal Code authorizes the City Council to adopt rules and guidelines by resolution to further implement and administer the provisions of Section 6.10.070 regarding applications for small wireless facilities in the public rights-of-way; and

WHEREAS, Section 6.10.075 of the Seal Beach Municipal Code authorizes the City Council to adopt rules and guidelines by resolution to implement and administer the provisions of Section 6.10.075 regarding applications for wireless communications facilities in the public rights-of-way that qualify as eligible facilities under Section 6409(a) of the Middle Class Tax Relief and Job Creation Act; and

WHEREAS, this Resolution has been reviewed with respect to the applicability of the California Environmental Quality Act of 1970 ("CEQA"), and the State CEQA Guidelines, and the City Council has determined that this Resolution does not constitute a "project" within the meaning of CEQA Guidelines Section 15060(c)(2) because there is no potential that it will result in a direct or reasonably foreseeable indirect physical change in the environment and CEQA Guidelines Section 15378 because it has no potential for either a direct physical change to the environment, or a reasonably foreseeable indirect physical change in the environment. Moreover, even if the proposed Ordinance comprises a project for CEQA analysis, it falls within the "common sense" CEQA exemption set forth in CEQA Guidelines Section 15061(b)(3), excluding projects 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." Adoption of this Resolution will also enact only minor changes in land use regulations, and it can be seen with certainty that its adoption will not have a significant effect on the environment because it will not allow for the development of any new or expanded wireless telecommunication facilities anywhere other than where they were previously allowed under existing federal, state and local regulations. It is therefore not subject to the environmental review pursuant to CEQA Guidelines Section 15305, minor alterations to land use.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEAL BEACH DOES HEREBY RESOLVE:

SECTION 1. The foregoing recitals are hereby adopted as findings of the City Council.

SECTION 2. The Rules and Guidelines for Small Wireless Communications Facilities and Eligible Facilities in the Public Rights-of-Way ("Rules") as set forth in Exhibit "1", attached hereto and incorporated herein by this reference, are hereby adopted.

SECTION 3. Savings Clause. Neither the adoption of this Resolution nor the repeal or amendment by this Resolution of any resolution or part or portion of any resolution previously in effect in the City, or within the territory comprising the City, shall in any manner affect the prosecution for the violation of any ordinance, which violation was committed prior to the effective date of this Resolution, nor be construed as a waiver of any license, fee or penalty or the penal provisions applicable to any violation of such resolutions.

SECTION 4. Severability. If any sentence, clause, or phrase of this Resolution is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this Resolution. The City Council hereby declares that it would have passed this Resolution and each sentence, clause or phrase thereof irrespective of the fact that any one or more sentence, clauses or phrases be declared unconstitutional or otherwise invalid.

SECTION 5. Effective Date. This Resolution shall be effective upon the effective date of Ordinance 1676-U.

SECTION 6. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED and ADOPTED by the Seal Beach City Council at a regular meeting held on the 28th day of January, 2019 by the following vote:

AYES: Council Members: Deaton, Massa-Lavitt, Varipapa, Sustarsic
NOES: Council Members: None
ABSENT: Council Members: Moore
ABSTAIN: Council Members: None

Thomas Moore
Thomas Moore, Mayor

ATTEST:

Gloria D. Harper
Gloria D. Harper, City Clerk



STATE OF CALIFORNIA }
COUNTY OF ORANGE } SS
CITY OF SEAL BEACH }

I, Gloria D. Harper, City Clerk of the City of Seal Beach, do hereby certify that the foregoing resolution is the original copy of Resolution 6894 on file in the office of the City Clerk, passed, approved, and adopted by the City Council at a regular meeting held on the 28th day of January, 2019.

Gloria D. Harper
Gloria D. Harper, City Clerk

EXHIBIT "1" TO CITY OF SEAL BEACH RESOLUTION 6894

CITY COUNCIL RULES AND GUIDELINES FOR SMALL WIRELESS COMMUNICATIONS FACILITIES AND ELIGIBLE FACILITIES IN THE PUBLIC RIGHTS-OF-WAY

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**RULES AND GUIDELINES FOR SMALL WIRELESS COMMUNICATIONS
FACILITIES AND ELIGIBLE FACILITIES IN THE PUBLIC RIGHTS-OF-
WAY**

CHAPTER 1 -- POLICY

Rule 1.1 Purpose. The Seal Beach City Council has enacted procedures and requirements for the approval of small wireless communications facilities and eligible facilities in the public rights-of-way, by amending Chapter 6.10 of Title 6 of the Seal Beach Municipal Code to amend Section 6.10.010 and Section 6.10.065, repealing Section 6.10.070 and adding new Sections 6.10.070 and 6.10.075. It is the purpose of these rules and guidelines ("Rules") to establish application requirements and procedures, development standards and conditions for wireless communications facilities in the public right-of-way to further implement Sections 6.10.070 and 6.10.075 of the Seal Beach Municipal Code (collectively the "Ordinances"), as may be amended from time to time.

Rule 1.2 Construction and Intent.

A. The Rules are not intended to, nor shall they be interpreted or applied to:

1. Prohibit or effectively prohibit any wireless communications service provider's ability to provide wireless communications services;

2. Prohibit or effectively prohibit any wireless communications service provider's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulations;

3. Unreasonably discriminate among providers of functionally equivalent services;

4. Deny any request for authorization to place, construct or modify wireless communications service facilities on the basis of environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission's regulations concerning such emissions;

5. Prohibit any collocation or modification that the City may not deny under federal or California state law; or

6. Otherwise authorize the City to preempt any applicable federal or California state law or regulation.

B. The Rules set forth herein shall be construed in a manner consistent with the Ordinances, all other applicable provisions of the Seal Beach Municipal Code, and with the requirements of Federal and State laws, regulations, orders and rulings pertaining to wireless communications facilities in the public rights-of-way.

CHAPTER 2 -- DEFINITIONS

Except as otherwise expressly defined herein, terms and phrases used in these Rules shall have the meaning ascribed to them in Sections 6.10.010, 6.10.070 and 6.10.075 of Chapter

6.10 of Title 6 of the Seal Beach Municipal Code, unless the context in which they are used clearly requires otherwise.

City: means the City of Seal Beach.

Code: means the Seal Beach Municipal Code.

Day: means a calendar day, except as otherwise expressly provided in these Rules.

Department: means the Public Works Department.

EFP: means an Eligible Facility Permit as defined in Section 6.10.010 and subject to the requirements of Section 6.10.075 of Chapter 6.10 of Title 6 of the Seal Beach Municipal Code and Section 6409(a).

Governing Laws: means all local, federal and state laws, regulations, orders and rulings applicable to the specific existing or proposed wireless communications facility or wireless communications facility permit at issue, federal or state statutes, regulations, FCC rulings and/or orders, and PUC rulings and/or general orders.

Section 6.10.010: means Section 6.10.010 of Chapter 6.10 of Title 6 of the Seal Beach Municipal, as may be amended.

Section 6.10.070: means Section 6.10.070 of Chapter 6.10 of Title 6 of the Seal Beach Municipal Code, as may be amended.

Section 6.10.075: means Section 6.10.075 of Chapter 6.10 of Title 6 of the Seal Beach Municipal Code, as may be amended.

Section 6409(a): means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. Section 1455(a) (the "Spectrum Act"), as may be amended.

SWFP: means a Small Wireless Facilities Permit as defined in Section 6.10.010 and subject to the requirements of Section 6.10.070 of Chapter 6.10 of Title 6 of the Seal Beach Municipal Code.

Substantial change: means a substantial change as defined in Section 6409(a) and Section 6.10.075 of the Seal Beach Municipal Code.

WCFF: means a Wireless Communications Facility Permit as defined in Section 6.10.010 and subject to the requirements of Section and 6.10.070 of Chapter 6.10 of Title 6 of the Seal Beach Municipal Code and including the following categories: SWFP and EFP.

WCF(s): means wireless communications facility(ies) defined in and subject to the requirements of Section 6.10.010, 6.10.070 and 6.10.075 of Chapter 6.10 of Title 6 of the Seal Beach Municipal Code.

CHAPTER 3. -- SMALL WIRELESS COMMUNICATIONS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY (SEAL BEACH MUNICIPAL CODE SECTION 6.10.070)

Rule 3.1 Scope.

3.1.1 *Small Wireless Facilities*. This Chapter further implements the requirements for the proposed installation or construction, and modification or collocation, of small wireless facilities (SWFs) in the PROW pursuant to Section 6.10.070.

3.1.2 *Eligible Facilities*. Deployment of eligible facilities, as defined in Section 6.10.010 and 6.10.075, shall be subject to Chapter 4 of these Rules.

3.1.3 *Governing Laws*. This Chapter, and all applications and permits processed pursuant to the Ordinances and these Rules shall be interpreted in a manner to be consistent with the requirements of Section 6.10.070 and the provisions of any applicable Governing Laws.

Rule 3.2 SWFP Applications.

3.2.1 *Application Procedures*. An application for a SWFP shall be filed and reviewed in accordance with the following provisions, except as otherwise specified in Section 6.10.070.

A. *Voluntary Pre-submittal Conference*. An applicant may request a pre-submittal conference with the Director or designee to take place prior to formal application submittal under Section 6.10.070.E.3. The pre-submittal conference shall be voluntary and at the applicant's sole option. All requests for pre-submittal conferences shall be in writing; and the applicant shall be required to sign an acknowledgment that participation in a voluntary pre-submittal conference shall not trigger the application of any shot clocks (timing deadlines) under Section 6.10.070.E.6. Department staff will endeavor to provide applicants with an appointment within approximately five business days after receipt of a written request. The voluntary pre-submittal conference will include informal discussion that addresses, without limitation, the appropriate project classification and review process, including whether the project qualifies for approval as a small wireless facility or other wireless communications facility; any latent issues in connection with the existing wireless tower or base station, compliance with generally applicable rules for public health and safety; potential concealment issues or concerns; coordination with other city departments responsible for application review; and application completeness issues. To mitigate unnecessary delays due to application incompleteness upon submittal of an application, applicants are encouraged (but not required) to bring any draft applications or other materials to the pre-submittal conference so that City staff may provide informal feedback and guidance to assist the applicant in preparing the application.

B. *Application Appointments*. All applications must be submitted in person to the City. The Director may require that applications be submitted at pre-scheduled appointments with the Director or designee. The requirement for application appointments shall be posted in a publicly accessible location at City Hall and published on the City's website. Applicants may generally submit one application per appointment but may schedule successive appointments for multiple applications whenever feasible and not prejudicial to other applicants. Applicants may also submit batched applications, covering multiple WCFs, at the same time; and the Director may develop alternative rules that allow for these concurrently filed multiple applications. Any application received without an appointment or the required application fee, whether delivered in person, by mail or through any other means, will not be considered duly filed unless the applicant received a written exemption from the Director at a voluntary pre-submittal conference.

B. Shot Clocks. An application shall be reviewed in accordance with the shot clock (timeline for review) set forth in Section 6.10.070E.6, as applicable based on the type of facility at issue.

3.2.2. *Application Submittal Requirements.* An application for a SWFP shall be made in writing on such forms as the Director prescribes, and shall comply with the following minimum requirements, in addition to all other information, material and documentation determined to be necessary by the Director to effectuate the purpose and intent of this section. The application form shall specify the number, size and format of the project plans and application information, materials and documentation to be provided, including but not limited to electronic format. The Director may waive certain submittal requirements or require additional information based on specific project factors. Unless an exemption or waiver applies, all applications shall include all of the following and will not be accepted if any material form, information or documentation is missing or not fully completed. **An application shall not be deemed complete by the City unless all required forms, information and documentation, as set forth herein, have been submitted to the City.**

A. Complete Application. A fully completed and executed City application form for the type of approval sought, and all information, materials, documents, pre-addressed mailing labels and envelopes, and fees specified in the City-approved application form, Section 6.10.010 and this Chapter.

B. Penalty of Perjury. All applications shall be signed by an authorized representative of the applicant and shall be signed under penalty of perjury under the laws of the state of California.

C. Applicant Information. Complete legal name and contact information for the facility owner, facility operator, agent (if any), and property owner (for any collocation facility on any existing WCF), and related letter(s) of authorization.

D. Type of Facility. The type of WCF proposed under Section 6.10.070 (small wireless facility), and a full written description of the proposed facility, its purpose, and specifications.

1. Distributed Antenna System. Applications for a DAS SWF shall be submitted as a single SWFP application for the entire project. Each individual location within the system shall be processed and considered for approval separately. Permitting fees will be applied to each site. Each location will be evaluated and must comply with the all design, aesthetic and development standards as defined by this section.

2. Fiber only. Applicants seeking to install a SWF shall not seek a SWFP to install fiber only and subsequently seek to install antennas and accessory equipment pursuant to a SWFP. The applications for all installations in the PROW shall simultaneously request fiber installation or other cable installation when applying for a SWFP permit.

E. Public Notice; Proof of Service: A proposed public notice on the applicant's letterhead, and a proposed affidavit or mailing or other proof of service. The public notice and affidavit of mailing must be consistent with the text and format of the City-approved forms as adopted by the Director and consistent with the requirements of Rule 3.2.3. City staff

will review the proposed public notice and affidavit to ensure that each form meets City requirements. The applicant shall modify the forms as requested by the City.

F. Inventory. An inventory list and map of the applicant's existing WCFs, including but not limited to collocations, operated by the applicant within two miles of the proposed site ("service area"), and conceptual plans for a period of five years shall also be provided, if available. The inventory list must include specific information as to location, height, and design of each facility. The City may share such information with other applicants seeking to locate WCFs within the service area, in order to encourage collocation.

G. Geographic Service Area. A written description identifying the geographic service area for the subject installation, accompanied by a two-year master plan of anticipated future installations and/or modifications, including maps.

H. Report or Alternatives; Report on Technical Infeasibility of Collocation.

1. A report explaining why the SWF is needed at the requested location, including a written statement explaining the rationale for selecting the proposed site; and how the proposed SWF is the least intrusive means for the applicant to provide wireless service in the proposed service. Said statement shall include all existing structures and/or alternative sites evaluated for potential installation of the proposed SWF and why said alternatives are not a viable option.

2. If the applicant is seeking to construct a new monopole, the applicant shall explain why collocation or location on another kind of support structure is not technically feasible, including efforts made to develop such an alternative. If the City has requested that the applicant collocate its SWF on a site, the applicant shall explain why collocation is not technically feasible, including efforts made to develop such an alternative.

I. Small Wireless Facility Plans. Detailed engineering plans of the proposed of the proposed SWF and antennas, including height, shape, size and nature of construction in accordance with Section 6.10.070 and any additional requirements established by the Director. The plans shall include, but are not limited to, a fully dimensioned diagram of the proposed SWF and antennas, including height, diameter, design, shape, size, structural integrity, power output and frequency, power generators (if any), cabinets and other equipment shelters, nature of construction, and purpose of the facility, and technical engineering specifications, economic and other pertinent factors governing selection of the proposed design, together with evidence that demonstrates that the proposed facility has been designed to the minimum height and diameter required from a technological standpoint for the proposed site. The plans for a monopole must provide sufficient detail to demonstrate that the structure will be able to accommodate at least one other similar telecommunications provider in addition to the applicant. The plans should include a diagram showing the separation between the proposed SWF and any existing facility or facilities on the same support structure or site, if collocation is planned.

J. Site Plans. A fully-dimensioned site/landscaping plan that includes, at a minimum, the following information: specific placement of the proposed tower, equipment shelters, and any other WCF on the site; setbacks from adjacent property lines; the location of existing structures, trees, and other significant site features identifying those features proposed

to be removed; the type and locations of plant materials proposed to screen SWF antenna and other components; the proposed materials and color(s) for the SWF, and all other information required by the Director.

K. Photographs and Visual Analysis. Photographs of the SWF and all antenna, equipment and components; accurate and scaled photo-simulations showing views of the proposed SWF from surrounding residential properties and public rights-of-way at varying distances and angles with a map indicating the locations used for the analysis and their distances from the site.

L. Documentation of Federal and State Compliance. Copies of all applicable licenses, permits and/or other approvals required by any federal and/or state agency with authority to regulate WCFs, and documentation of compliance with all conditions imposed in conjunction with such licenses, permits or approvals. The required documentation shall include, but is expressly not limited to, the following:

1. Engineering calculations demonstrating that the proposed SWF will comply with all applicable FCC rules, regulations, and/or specifications.

2. Completion of the radio frequency (RF) emissions exposure guidelines checklist contained in Appendix A to the Federal Communications Commission's (FCC) "Local Government Official's Guide to Transmitting Antenna RF Emission Safety", or any successor regulations, to determine whether the SWF will be "categorically excluded" as that term is used by the FCC.

3. For a SWF that is not categorically excluded under the FCC regulations for RF emissions, the applicant shall submit an RF exposure compliance report prepared and certified by an RF engineer acceptable to the City that certifies that the proposed SWF, as well as any WCFs that contribute to the cumulative exposure in the subject area, will comply with applicable federal RF exposure standards, exposure limits and emission levels. The RF report must include the actual frequency and power levels (in watts effective radio power "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 the uncontrolled/general population limit (as that term is defined by the FCC) and also the boundaries of areas with RF exposures in excess of the controlled/occupational limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.

M. Proof of all applicable licenses, permits or other approvals from the FAA, JFTB Los Alamitos, Naval Weapons Station, and/or any other federal, state, or local airport authority or airport, if such approval is required, including but expressly not limited to copies of any documents that the applicant is required to file pursuant to FAA, U.S. Army and/or airport authority ordinances, statutes, and/or regulations for the facility.

N. Coastal Commission. A coastal development permit or exemption therefrom.

O. Any environmental documentation required to obtain such federal and/or state license, permit or other approval.

P. CPUC. A copy of the certificate of public convenience and necessity issued by the CPUC to the applicant, and a copy of the CPUC decision that authorizes the applicant to provide the wireless telecommunications service for which the facilities are proposed to be constructed in the PROW. Any applicant that, prior to 1996, provided telecommunications service under administratively equivalent documentation issued by the CPUC may submit copies of that documentation in lieu of a certificate of public convenience and necessity.

Q. Franchise or Agreement. If the applicant has been granted the right to enter the PROW pursuant to state or federal law, or who have entered into a franchise or lease, license or other agreement with the City permitting them to use the PROW for the proposed SWF, the application shall contain a copy of the relevant franchise or agreement and/or all other documentation necessary to demonstrate the applicant's right to enter the PROW.

R. Environmental compliance. A completed environmental assessment and documentation establishing that all applicable environmental mitigation measures imposed by the City and any other federal or state environmental determination (i) have been met, (ii) will be met as part of the proposed WCF, or (iii) are not applicable.

S. Noise Study. A noise study prepared by a qualified acoustic engineer documenting that the level of noise to be emitted by the proposed SWF will comply with this code including but not limited to Chapter 7.15: Noise.

T. Traffic Control Plan. A traffic control plan when the proposed installation is on any street adjacent to a non-residential zone. The City shall have the discretion to require a traffic control plan when the applicant seeks to use large equipment (e.g. crane).

U. Utility Pole Attachments. For any SWF proposed to be collocated on a pole or structure owned by a public utility such as Southern California Edison, the application shall include written evidence of the utility's approval of applicant's proposed attachment including any and all applicable terms and conditions, and detailed description and detailed plans of the approved SWF. A SWF authorized by law and approved by the utility company for attachment to a utility owned pole or structure, shall be subject to all provisions of Section 6.10.070 and these Rules except to the extent any such provisions are preempted by State or federal law related to utility pole attachments by wireless providers ("Pole Attachment Rules"). Such documentation shall include but is not limited to, the following:

1. Southern California Edison (SCE) Documentation. For any SWF proposed to be collocated on an existing or replacement pole owned by Southern California Edison (SCE), the applicant shall provide all of the following:

- (a) SCE Letter of Authorization;
- (b) A completed SCE Streetlight Authorization form reflecting the recommendations of the lighting study;
- (c) SCE Consent Letter;
- (d) SCE Disconnect Letter;

(e) A lighting study for the proposed SCE streetlight replacement that meets the Lighting Study Requirements established and published by the Director.

(f) Any other documents required by SCE.

2. Wooden utility poles. For any wooden utility pole subject to any Pole Attachment Rules, including but not limited to the Southern California Joint Pole Committee, any and all information and documents demonstrating that such pole is subject to those rules, all applicable requirements, and the manner in which the proposed SWF complies with the applicable Pole Attachment Rules, and detailed plans for the utility-approved SWF.

X. Exception. If the applicant requests an exception from any of these requirements pursuant to Section 6.10.070.J, the applicant shall provide all information, studies and other documentation necessary for the City to evaluate that request as part of the SWFP application.

Y. Any other additional information, studies and/or other documentation determined necessary by the Director.

3.2.3. *Public Notice of SWFP Application.* The SWFP application shall include a public notice of filing of the application and proof of service that comply with the City-approved templates. The following provisions apply:

A. Method of Providing Notice. The USPS will not send a mail piece via Certified Mail if it is addressed to a generic recipient, such as "Occupant," "Resident," or "Business." Therefore, the following noticing methods shall satisfy the noticing requirements:

1. Notices shall be mailed to all residents, businesses, and property owners within a 150-foot radius of the proposed wireless communications service facility location or site.

2. Notices to property owners shall be sent via USPS Certified Mail to the named property owner of record with the Orange Angeles County Assessor at the mailing address listed with the County Assessor.

3. Notices to generic recipients ("Occupant," "Resident," "Business," etc.) shall be sent via USPS Firm Book/Accountable Mail.

4. If a property owner's mailing address listed with the County Assessor is the same as the property address itself, a notice shall be sent to the named property owner and to a generic recipient ("Occupant," "Resident," "Business," etc.) at the property address.

B. Noticing Process.

1. Once the City determines that the notice and proof of service are in compliance with the City-required form and content, the applicant shall mail the approved

notice and proof of service to all residents and businesses within a 150-foot radius of the proposed site or location in accordance with the Department's instructions.

2. Concurrently with service of the notice on the businesses and residents as outlined in Rule 3.2.3.A, the applicant shall submit a copy of the public notice to the Department along with proof of service of the notices on the residents and businesses as required by this Rule.

3.2.4. *Design, Aesthetic and Development Standards for Small Wireless Facilities.* In addition to the requirements of Section 6.10.070.G of the Code, all small wireless facilities in the PROW shall comply with the following standards unless the Director approves an exception pursuant to Subsection J: Exceptions of Section 6.10.070.

A. *Application of Federal and State Design, Aesthetic and Development Standards.* All small wireless facilities shall be subject to and comply with any Governing Law(s) regulating to the design, aesthetics, or development of the proposed facility which is the subject of the SWFP application. Notwithstanding any other provision of this Rule 3.2.4, in the event that any Governing Law(s) for the small wireless facility conflicts with any requirement of this Chapter, the Governing Law(s) shall take precedence.

B. *Height and Volume Standards.* Small wireless facilities shall comply with the following height and volume standards.

1. Height. A small wireless facility (a) shall be mounted on structures 50 feet or less in height (including its antennas); or (b) shall be mounted on structures no more than 10 percent taller than other adjacent structures; or (c) shall not extend existing structures on which it is located to a height of more than 50 feet or by more than 10 percent, whichever is greater.

2. Volume.

(a) Each antenna associated with the small wireless facility deployment (excluding associated antenna equipment) shall not exceed three cubic feet in volume.

(b) 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, shall not exceed 28 cubic feet in volume.

C. All WCFs shall comply with Chapter 7.15: Noise, of the Code.

D. Concealment, Screening and Blending.

1. The applicant shall employ concealment, screening and camouflage techniques and elements in the design and placement of a WCF in order to ensure that the WCF is as visually inconspicuous as possible, to prevent the facility from dominating the surrounding area and to hide the WCF from predominant views from surrounding properties, all in a manner that achieves compatibility with the community.

2. Screening shall be designed to be architecturally compatible with surrounding structures using appropriate techniques to camouflage, disguise, and/or blend into the environment, including landscaping, color, and other techniques to minimize the WCF or wireless collocations communications facility's visual impact as well as be compatible with the architectural character of the surrounding buildings or structures in terms of color, size, proportion, style, and quality.

3. All WCFs shall have subdued colors and non-reflective materials that blend with the materials and colors of the surrounding area and structures.

4. The WCF shall be of the least intrusive design possible and occupy the least amount of space in the right-of-way possible. In no event shall a SWF exceed the limits prescribed in the design, aesthetic and development standards set forth in Section 6.10.070 and this Chapter.

E. Equipment

1. Subject to Section 6.10.070.G.4, or as required by any provision of the Governing Law(s), above-ground electrical meter facilities are prohibited. Applicants shall execute a contract with Southern California Edison for service under the Wireless Technology Rate (WTR) Schedule. WTR equipment shall be installed below grade. All other accessory equipment shall be located underground; but not located in any parkway within the PROW. The Director may grant an exception to undergrounding pursuant to Section 6.10.070.J under any of the circumstances set forth in Section 6.10.070.G.4 or under any of the following circumstances:

(a) If Director determines that there is no room in the PROW for undergrounding or that undergrounding is not technically feasible, approval of an exception by the Director shall be required in order to place accessory equipment above-ground and concealed with natural or manmade features to the maximum extent possible.

(b) When above-ground is the only technically feasible location for a particular type of accessory equipment and will be ground-mounted, such accessory equipment shall be enclosed within a structure, shall not exceed a height of five feet and a total footprint of nine square feet, and shall be fully integrated into the base of the pole unless not technically feasible, and shall be screened and/or camouflaged, including by the use of landscaping, architectural treatment, or other acceptable alternate screening. Required electrical meter cabinets shall be screened and/or camouflaged.

(c) In locations where homes are only along one side of a street, above-ground accessory equipment shall not be installed directly in front of a residence. Such above-ground accessory equipment shall be installed along the side of the street with no homes. If said location is located within the coastal setback, then such location shall be referred to the City's geotechnical staff for review and recommendations.

(d) Equipment for which there is a legal or technical requirement to be installed in a specific manner and/or at a specific location may be exempted from the design standards upon written justification from the applicant acceptable to the City in its sole discretion.

2. With the exception of streetlight pole base shrouds as described in these design standards, equipment installed at grade is prohibited.

F. A WCF shall not be located within any portion of the public right-of-way that interferes or may interfere with City and emergency operations, or pedestrian or vehicular access, including but not limited to, disability access, vehicular travel, sign or signals, or parking, as required by the Governing Laws.

G. Vaults, including required vents, and pull boxes shall be installed flush to grade.

H. No WCF shall bear any signs or advertising devices other than certification, warning or other signage required by Governing Laws. Signage that serves a public/occupational safety function shall be exempt from the design standards but shall comply with all applicable requirements of the Governing Laws. All signs shall require prior City approval.

I. Lighting

1. No facility may be illuminated unless specifically required by the FAA or other government agency. Beacon lights are not permitted unless required by the FAA or other government agency.

2. Legally-required lightning arresters and beacons shall be included when calculating the height of facilities.

3. Any required lighting shall be shielded to eliminate, to the maximum extent possible, impacts on the surrounding neighborhoods. The applicant shall submit a lighting study which shall be prepared by a qualified lighting professional to evaluate potential impacts to adjacent properties.

4. 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 technically feasible. The City may, in its discretion, exempt an applicant from the foregoing requirement when the applicant demonstrates a substantial public safety need.

J. Antennas Mounted on Existing Poles. The applicant shall use the least visible antennas possible, including application of concealment elements. Antenna elements shall be flush mounted, to the extent technically feasible. All antenna mounts shall be designed so as not to preclude possible future collocation by the same or other operators or carriers. Unless otherwise provided in this Rule, antennas shall be situated as close to the ground as possible.

K. Utility poles. Except as otherwise may be allowed pursuant to an eligible facilities request under Section 6.10.075 of the code and Chapter 4 of these Rules, any applicable pole attachment rules, or any other provision of Governing Law(s), the height of any antenna shall comply with all of the following requirements:

1. No portion of the antenna or equipment mounted on a pole shall be less than twenty-four feet above any drivable road surface; and

2. All installations on utility poles shall fully comply with all applicable PUC general orders, including, but not limited to, General Order 95, as may be revised or superseded.

L. *Wind Loads.* Each WCF shall be properly engineered to withstand wind loads as required by this Code or any duly adopted or incorporated code. An evaluation of high wind load capacity shall include the impact of modification of an existing WCF.

M. *Obstructions.* Each component part of a WCF shall be located so as to maintain a corner cutoff area at the intersection of any two streets, a street and alley, or two alleys. The corner cutoff area shall be measured from a point not less than thirty feet from the intersection of the two property lines. Nothing in excess of three feet in height, with the exception of buildings, may be located within the corner cutoff. This includes utilities, fences, walls, monument signs, hedges and other landscaping.

N. *Landscaping.* Where appropriate, each WCF shall be installed so as to maintain and enhance existing landscaping on the site, including trees, foliage and shrubs. Additional landscaping shall be planted and irrigated by the applicant to replace any landscaping damaged or destroyed during the WCF installation, or in such other locations within the PROW that the City determines to be necessary to provide screening of or to conceal the WCF.

O. *Security Features.* All WCFs shall be designed to minimize opportunities for, unauthorized access, climbing, vandalism, graffiti and other conditions that would result in hazardous situations, visual blight or attractive nuisances.

1. Security fencing, if any, shall not exceed 6 feet to 10 feet in height, consistent with fencing in the area. Fencing shall be no less than the above grade height of the equipment cabinet. Fencing shall be effectively screened from view through the use of landscaping. No chain link fences shall be visible from public view.

2. Anti-climbing features shall be incorporated into each WCF as needed, to reduce potential for trespass and injury.

3. The permittee shall be responsible for maintaining the site and facilities free from graffiti.

4. The Director may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when, because of their location and/or accessibility, a WCF has the potential to become an attractive nuisance.

5. No lethal devices or elements shall be installed as a security device.

P. *Fire Prevention.* All WCFs shall be designed and operated in a manner that will minimize the risk of igniting a fire or intensifying one that otherwise occurs. At a minimum, such facilities shall comply with the following requirements:

1. At least one-hour fire resistant interior surfaces shall be used in the construction of all buildings.

2. The exterior walls and roof covering of all above-ground equipment shelters and cabinets shall be constructed of materials rated as non-flammable in the California Building Code.

3. Monitored automatic fire extinguishing systems approved by the Orange County Fire Authority shall be installed in all equipment buildings and enclosures.

4. Openings in all above-ground equipment shelters and cabinets shall be protected against penetration by fire and wind-blown embers to the extent technically feasible.

3.2.5 *Southern California Edison (SCE) Streetlights.* Except as otherwise required under any applicable pole attachment rules or other provisions of Governing Laws, the following design standards shall apply to all WCFs deployed on Southern California Edison Streetlights.

A. A WCF may only be installed on an SCE streetlight if the proposed facility is approved by SCE in writing.

B. Equipment shall be installed on top of the streetlight pole subject to the limitations described below.

1. The streetlight shall be equipped with a mounting bracket to which the wireless communications facility will be attached. The mounting bracket shall not be attached to the streetlight via stainless steel banding or similar.

2. Exposed wiring is prohibited on all streetlights.

3. Conduit is prohibited on concrete or steel street lights, but may be allowed on existing JPA wood poles.

4. Equipment must be enclosed in a single tubular concealment shroud colored to match the pole.

(a) Exception: Cannister antennas ("cantennas") may be exempted from this requirement upon approval from City staff if it can be demonstrated that the cantenna can achieve the tubular design intended by this design standard. The cantenna shall be colored to match the pole.

5. The concealment for all equipment shall have the appearance of creating one tubular-like mass.

6.. Base shrouds are prohibited.

C. Equipment that exceeds the limitations set forth above shall be installed below grade.

D. All ventilation must be via flush vents located on the pole top concealment elements. Vents must be designed to maximally blend with the overall streetlight structure. Vents along the length of the pole are prohibited.

E. All cabling, wires, and conduit shall be concealed completely within the pole and the concealment shroud. Cabling and wires shall enter/exit the streetlight pole through conduit sweeps within the streetlight footing.

F. Exceptions may be granted by the Director on the findings set forth in Section 6.10.070.J or as otherwise required by the Governing Law(s).

3.2.6. *City-Owned Streetlights.* If the City agrees to allow the deployment of a WCF on a City-owned streetlight in the PROW, the following minimum requirements shall apply.

A. The decision to allow the deployment of a WCF on a City-owned streetlight in the PROW shall be in the City's sole discretion. The City may require that approval of a WCF shall be conditioned upon execution of a lease, license or other agreement between the City and the applicant.

B. If an applicant proposes to replace an existing streetlight pole with a new streetlight pole in order to accommodate the proposed WCF, the replacement streetlight pole shall be designed to resemble existing poles in the PROW near that location, including size, height, color, materials, and style, with the exception of any existing pole designs that are proposed to be removed and not replaced.

1. The replacement streetlight shall be a minimum of 18 inches from the face of the curb.

2. The replacement streetlight shall be offset at the minimum distance technically possible from the existing streetlight.

3. The replacement streetlight mast arm and luminaire shall match the color, design, and materials of the existing streetlight mast arm and luminaire.

C. If a new City streetlight pole that will not replace an existing streetlight is proposed, the new streetlight pole shall be designed to resemble existing poles in the PROW near that location, including size, height, color, materials, and style, with the exception of any existing pole designs that are proposed to be removed and not replaced.

1. The new streetlight shall be a minimum of 18 inches from the face of the curb.

2. The new streetlight mast arm and luminaire shall be approved by the Director.

D. Equipment shall be installed on top of the streetlight pole and/or in a base shroud subject to the limitations described below.

1. The streetlight shall be equipped with a top-of-pole mounting bracket to which the wireless communications facility will be attached. The mounting bracket shall not be attached to the streetlight via stainless steel banding or similar.

2. Equipment must be enclosed in a single tubular concealment shroud colored to match the pole.

(a) Exception: Cannister antennas ("cantennas") may be exempted from this requirement upon approval from City staff if it can be demonstrated that the cantenna can achieve the tubular design intended by this design standard. The cantenna shall be colored to match the pole.

3. The top-of-pole concealment for all equipment shall have the appearance of creating one tubular-like mass.

4. The top-of-pole concealment for all equipment shall not exceed an overall diameter of 16 inches or a height of 84 inches.

E. Base shrouds are permitted subject to the following requirements:

1. Base shrouds must either be square with chamfered sides or round. Final selection of base shroud design is subject to City approval.

2. Square base shrouds shall have a maximum dimension of 20" square.

3. Round base shrouds shall have a maximum diameter of 20".

4. Base shrouds shall not exceed 60" in height.

(a) In no case shall base shrouds be located within 18 inches of the face of the curb.

5. All ventilation must be via flush vents located on the pole top and/or base shroud concealment elements. Vents must be designed to maximally blend with the overall streetlight structure. Vents along the length of the pole are prohibited.

6. Equipment that exceeds the limitations set forth above shall be installed below grade.

7. All cabling, wires, and conduit shall be concealed completely within the pole, concealment shroud, and base shroud. Cabling and wires shall enter/exit the streetlight pole through conduit sweeps within the streetlight footing.

8. To maintain consistent design aesthetics, the addition of antennas to existing decorative and ornamental pedestrian and park lighting is prohibited.

3.2.7 Wooden Utility Poles Regulated by the Southern California Joint Pole Committee.
The following requirements shall apply to all proposed WCFs on wooden utility poles regulated by the Southern California Joint Pole Committee.

A. If top-of-pole mounting is not expressly prohibited by the PUC, the applicable Pole Attachment Rules, or other authority having jurisdiction, equipment shall be installed on top of the wooden utility pole subject to the limitations described below.

1. The wooden utility pole shall be equipped with a top-of-pole mounting bracket to which the personal wireless service facility will be attached. The mounting bracket shall be colored to match the pole.

2. All wiring running along the length of the pole shall be enclosed in appropriate conduit colored to match the pole and installed tight against the pole to the maximum extent technically possible.

3. Equipment must be enclosed in a single tubular concealment shroud colored to match the pole.

(a) Exception: Cannister antennas ("cantennas") may be exempted from this requirement upon approval from City staff if it can be demonstrated that the cantenna can achieve the tubular design intended by this design standard. The cantenna shall be colored to match the pole.

4. The concealment for all equipment shall have the appearance of creating one tubular-like mass.

5. The concealment for all equipment shall not exceed a diameter of 12 inches or the pole diameter at the height of installation, whichever is greater, or a height of 84 inches.

B. If top-of-pole mounting is expressly prohibited by the PUC, the applicable Pole Attachment Rules, or other authority having jurisdiction, equipment shall be installed at the legally-permissible location subject to the limitations described below.

1. Above grade equipment shall be installed a minimum of 16 feet above grade.

2. All wiring running along the length of the pole shall be enclosed in appropriate conduit colored to match the pole and installed tight against the pole to the maximum extent technically possible.

3. Equipment shall be installed in an integrated bracket arm colored to match the pole subject to the following dimension limits:

(a) Maximum projection from pole face: 60 inches

(b) Maximum width when viewed from the ground: pole diameter at height of installation or 10 inches, whichever is greater.

(i) Exception: Antenna diameter may be up to 12 inches or the pole diameter at the height of installation, whichever is greater.

(c) Maximum height: 60 inches.

4. The bracket arm shall project from the utility pole in a direction approved by the City subject to the limits of any PUC general orders.

C. Equipment that exceeds the limitations set forth above shall be installed below grade.

D. All installations on utility poles shall fully comply with applicable PUC general orders, including, but not limited to, General Order 95.

3.2.8 *Conditions of Approval.* In addition to compliance with the design, aesthetic and development standards outlined in Section 6.10.070.H. and these Rules, all SWFs shall be subject to time, place and manner conditions, including but not limited to the following conditions of approval (approval may be by operation of law), as well as any modification of these conditions or additional conditions of approval deemed necessary by the Director:

A. The permittee shall submit an as built drawing within ninety (90) days after installation of the facility. The as-built drawing shall be in an electronic format acceptable to the City.

B. Where feasible and authorized by law, as new technology becomes available, the permittee shall:

1. Place above-ground SWFs below ground, including, but not limited to, accessory equipment that has been mounted to a telecommunications tower or mounted on the ground, subject to Section 6.10.070.G.4.e and Rule 3.2.6.C, any exception pursuant to Section 6.10.070.J, or as otherwise required by the Governing Laws; and

2. Replace larger, more visually intrusive SWFs with smaller, less visually intrusive facilities, after receiving all necessary permits and approvals required pursuant to the code.

C. The permittee shall submit and maintain current at all times basic contact and site information on a form to be supplied by the City. The permittee shall notify the City of any changes to the information submitted within thirty days of any change, including change of the name or legal status of the owner or operator. This information shall include, but is not limited to, the following:

1. Identity, including the name, address and 24-hour local or toll-free contact phone number of the permittee, the owner, the operator, and the agent or person responsible for the maintenance of the SWF; and

2. The legal status of the owner of the SWF.

D. The permittee shall not transfer or assign the SWFP to any person prior to the completion of the construction of the SWF covered by the permit, unless and until the transferee or assignee of SWFP has submitted the security instrument required by Section 6.10.070 and the conditions of approval.

E. The permittee shall notify the City in writing at least ninety (90) days prior to any transfer or assignment of the SWFP. The written notice required in this section must include: (1) the transferee's legal name; (2) the transferee's full contact information, including a primary contact person, mailing address, telephone number and email address; and (3) a statement signed by the transferee that the transferee shall accept all permit terms and conditions. The Director may require the transferor and/or the transferee to submit any materials or documentation necessary to determine that the proposed transfer complies with the existing permit and all its conditions of approval, if any. Such materials or documentation may include, but shall not be limited to: federal, state and/or local approvals, licenses, certificates or franchise agreements; statements; photographs; site plans and/or as-built drawings; and/or an analysis and certification by a qualified radio frequency engineer demonstrating compliance with all applicable regulations and standards of the FCC, including but not limited to all emission

levels. Noncompliance with the permit and all its conditions of approval, if any, or failure to submit the materials required by the Director shall be a cause for the City to revoke all applicable permits pursuant to and following the procedure set out in Section 6.10.070.T.

F. At all times, all required notices and/or signs shall be posted on the site as required by the FCC, CPUC, any applicable licenses and/or Governing Laws, and as approved by the City. The location and dimensions of a sign bearing the emergency contact name and telephone number shall be posted pursuant to the approved plans.

G. If a nearby property owner or resident registers a noise complaint, the City shall forward the same to the permittee. The complaint shall be reviewed and evaluated by the applicant. The permittee shall have ten business days to file a written response with the City regarding the complaint which shall include any applicable remedial measures. If the City determines the complaint is valid and the permittee has not taken any steps to minimize the noise, the City may hire a consultant to study, examine and evaluate the noise complaint and the permittee shall pay the fee for the consultant if the site is found in violation of this section. The matter shall be reviewed by the Director. If the Director determines sound-proofing or other sound attenuation measures should be required to bring the project into compliance with the code, the Director may impose conditions on the project to achieve said objective.

H. A condition setting forth the SWFP expiration date shall be included in the conditions of approval.

I. The SWFP shall be subject to such conditions, changes or limitations as are from time to time deemed necessary by the Director or City Council for the purpose of: (a) protecting the public health, safety, and welfare; (b) preventing interference with pedestrian and vehicular traffic; and/or (c) preventing damage to the PROW or any adjacent property. The City may modify the permit to reflect such conditions, changes or limitations by following the same notice and public hearing procedures as are applicable to the underlying permit for similarly located facilities, except the permittee shall be given notice by personal service or by registered or certified mail at the last address provided to the City by the permittee.

J. The 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 WCF 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 ministerial permit, issued for any SWF within the PROW, 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 PROW to be affected by applicant's WCF.

K. The permittee shall assume full liability for damage or injury caused to any property or person by the SWF.

L. The permittee shall repair, at its sole cost and expense, any damage including, but not limited to subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to City streets, sidewalks, walks, curbs, gutters, trees, parkways, street lights, traffic

signals, improvements of any kind or nature, or utility lines and systems, underground utility line and systems, or sewer systems and sewer lines that result from any activities performed in connection with the installation and/or maintenance of a SWF in the PROW. The permittee shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. In the event the permitted fails to complete such repair within the number of days stated on a written notice by the City Engineer. Such time period for correction shall be based on the facts and circumstances, danger to the community and severity of the disrepair. Should the permittee not make said correction within the time period allotted, the Director shall cause such repair to be completed at permittee's sole cost and expense.

M. No SWF shall be permitted to be installed in the drip line of any tree in the PROW.

N. The permittee shall obtain, pay for and maintain, in full force and effect until the SWF approved by the permit is removed in its entirety from the PROW, an insurance policy or policies of public liability insurance. Such insurance shall be in the form and substance satisfactory to the City and shall be maintained until the term of the permit ended and the SWF is removed from the PROW. The insurance shall comply with the minimum limits and coverages and provisions set forth in this Subsection, and as otherwise established from time to time by the City, and which fully protect the City from claims and suits for bodily injury, death, and property damage.

1. Commercial general liability insurance to cover liability bodily injury, property damage and personal liability. Exposures to be covered are premises, operations, products/completed operations, and certain contracts. Property damage liability insurance shall include coverage for the following hazards: explosion, collapse and underground. Coverage must be written on an occurrence basis, with the following limits of liability: \$2,000,000 per occurrence for bodily injury, personal injury, and property damage and \$4,000,000 aggregate for bodily injury, personal injury, and property damage.

2. Automobile Liability. \$2,000,000 combined single limit per accident for bodily injury and property damage, including non-owned and hired vehicles.

3. Workers' Compensation. Workers' Compensation, in accordance with the Workers' Compensation Act of the State of California for a minimum of \$1,000,000 or such minimum limits as required by the State, whichever is greater.

4. Professional Liability (or Errors and Omissions Liability): Professional Liability: \$1,000,000 per claim/aggregate.

5. Sub-permittees, Consultants, and Contractor Liability. All sub-permittees, consultants, contractors and subcontractors shall be required to provide the same insurance as required of the permittee herein. The permittee shall be responsible for collecting and maintaining all insurance from sub-permittees, consultants, contractors and subcontractors. The permittee shall ensure that all insurance received from all sub-permittees, consultants, contractors, and subcontractors meet and/or exceed the requirements this subdivision.

6. Except with regard to the professional liability policy(ies), the insurance must name the City and its elected and appointed council members, boards,

commissions, officers, officials, agents, consultants, employees, volunteers and independent contractors serving as City officials, as additional named insureds, be issued by an insurer admitted in the State of California with a rating of at least a A:VIII in the latest edition of A.M. Best's Insurance Guide, and include an endorsement providing that the policies cannot be canceled or reduced except with thirty days prior written notice to the City, except for cancellation due to nonpayment of premium. The insurance provided by permittee shall be primary to any coverage available to the City, and any insurance or self-insurance maintained by the City and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees, volunteers and independent contractors serving as City officials shall be excess of permittee's insurance and shall not contribute with it. The policies of insurance required by this permit shall include provisions for waiver of subrogation. In accepting the benefits of the permit, the permittee shall be required to waive all rights of subrogation against the City and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers. The insurance must afford coverage for the permittee's and the wireless provider's use, operation and activity, vehicles, equipment, facility, representatives, agents and employees, as determined by the City's risk manager.

7. Before issuance of any ministerial permit, for the SWF, the permittee shall furnish the City risk manager certificates of insurance and endorsements, in the form satisfactory to the risk manager and City Attorney's office, evidencing the coverages required by the City.

O. Should the utility company servicing the SWF with electrical service that does not require the use of an above-ground meter cabinet, the permittee shall at its sole cost and expense remove the meter cabinet and any related foundation within ninety (90) days of such service being offered and reasonably restore the area to its prior condition. An extension may be granted if circumstances arise outside of the control of the permittee.

P. The permittee shall modify, remove, or relocate its SWF, or portion thereof, without cost or expense to City, if and when made necessary by (i) any public improvement project, including, but not limited to, the construction, maintenance, or operation of any underground or above ground facilities including but not limited to sewers, storm drains, conduits, gas, water, electric or other utility systems, or pipes owned by City or any other public agency, (ii) any abandonment of any street, sidewalk or other public facility, (iii) any change of grade, alignment or width of any street, sidewalk or other public facility, or (iv) a determination by the Director that the WCF has become incompatible with public health, safety or welfare or the public's use of the PROW. Such modification, removal, or relocation of the facility shall be completed within ninety days of notification by City unless exigencies dictate a shorter period for removal or relocation. Modification or relocation of the SWF shall require submittal, review and approval of a modified SWFP pursuant to the code including applicable notice procedures. The permittee shall be entitled, on permittee's election, to either a pro-rata refund of fees paid for the original permit or to a new permit, without additional fee, at a location as close to the original location as the standards set forth in the code allow. In the event the SWF is not modified, removed, or relocated within said period of time, the City may cause the same to be done at the sole cost and expense of the permittee. Further, due to exigent circumstances including those of immediate or imminent threat to the public's health and safety, the City may modify, remove, or relocate a SWF without prior notice to permitted provided the permittee is notified within a reasonable period thereafter.

Q. The SWFP shall not become effective for any purpose unless/until a City "Acceptance of Conditions" form, in a form approved by the City Attorney's office, has been signed and notarized by the applicant/permittee before being returned to the Director; and until the ten (10) calendar day appeal period has elapsed. The permit shall be void and of no force or effect unless such written agreement is received by the City within said thirty-day period.

3.2.9. *Operation and Maintenance Standards.* In accordance with Section 6.10.070.O, all SWFs must comply at all times with the following operation and maintenance standards and such additional standards the Director deems necessary and appropriate based on the specific application as set forth in the decision approving the WCFP.

A. Unless otherwise provided herein, all necessary repairs and restoration shall be completed by the permittee, owner, operator or any designated maintenance agent within forty-eight (48) hours:

1. After discovery of the need by the permittee, owner, operator or any designated maintenance agent; or

2. After permittee, owner, operator or any designated maintenance agent receives notification from the City.

B. Prior to entering any PROW for the purpose of maintenance, repairs or restoration, the permittee, owner or operator shall provide written notice to the Director and obtain authorization. Under no circumstances shall maintenance, repairs, or restoration be undertaken in a manner that closes any PROW or impedes pedestrian or vehicular traffic except upon written authorization of the Director and in compliance with any conditions imposed by the Director.

C. Each permittee shall provide the Director with the name, address and twenty-four-hour local or toll-free contact phone number of the permittee, and (if different from the permittee) the owner, the operator and the agent responsible for the maintenance of the facility ("contact information"). Contact information shall be updated within seven days of any change.

D. All facilities, including, but not limited to, communication towers, poles, accessory equipment, lighting, fences, walls, shields, cabinets, artificial foliage or camouflage, and the facility site shall be maintained in good condition, including ensuring the facilities are reasonably free of:

1. General dirt and grease;
2. Chipped, faded, peeling, and cracked paint;
3. Rust and corrosion;
4. Cracks, dents, and discoloration;
5. Missing, discolored or damaged artificial foliage or other camouflage;
6. Graffiti, bills, stickers, advertisements, litter and debris;

7. Broken and misshapen structural parts; and
8. Any damage from any cause.

E. All trees, foliage or other landscaping elements approved as part of the WCF shall be maintained in good condition at all times, and the permitted, owner and operator of the WCF shall be responsible for replacing any damaged, dead or decayed landscaping. No amendment to any approved landscaping plan may be made until it is submitted to and approved by the Director.

F. The permittee shall replace its WCF, after obtaining all required permits, if maintenance or repair is not sufficient to return the WCF to the condition it was in at the time of installation.

G. Each WCF shall be operated and maintained to comply at all conditions of approval. Each owner or operator of a WCF shall routinely inspect each site to ensure compliance with the same and the standards set forth in this section.

CHAPTER 4 -- ELIGIBLE FACILITIES IN THE PUBLIC RIGHTS-OF-WAY (SEAL BEACH MUNICIPAL CODE SECTION 6.10.075)

Rule 4.1 Scope.

4.1.1 This Chapter further implements the requirements for the proposed modification or collocation of all proposed WCFs in the public right-of-way that qualify as Eligible Facilities under Section 6.10.075 of the Code and Section 6409(a).

4.1.2 This Chapter and all applications and permits processed pursuant to Section 6.10.075 and this Chapter shall be interpreted in a manner to be consistent with the requirements of Section 6.10.075 and the provisions of any Governing Laws.

Rule 4.2 EFP Applications.

4.2.1 *Application Procedures.* An EFP application shall be filed and reviewed in accordance with the following provisions, except as otherwise specified in Section 6.10.075.

A. *Voluntary Pre-submittal Conference.* An applicant may request a pre-submittal conference with the Director or designee to take place prior to formal EFP application submittal. The pre-submittal conference shall be voluntary and at the applicant's sole option. All requests for voluntary pre-submittal conferences shall be in writing, and the applicant shall be required to sign an acknowledgment that participation in a voluntary pre-submittal conference shall not trigger the application of the shot clock (timing deadline) under Section 6.10.075.E.6. The procedures set forth in Rule 3.2.1 shall apply to the scheduling of a voluntary pre-submittal conference, and shall include informal discussion that addresses whether or not the project qualifies for approval as an eligible facility pursuant to Section 6409(a), all matters set forth in Rule 3.2.1 and any other issues or concerns.

B. *Application Appointments.* All EFP applications must be submitted in person to the City. The Director may require that EFP applications be submitted at pre-scheduled appointments with the Director or designee. The requirement for application appointments shall be posted in a publicly accessible location at City Hall and published on the

City's website. Appointments shall be scheduled in accordance with the procedures set forth in Rule 3.2.1.B of these Rules.

C. Shot Clock; timeline for review. An EFP application shall be reviewed in accordance with the shot clock (timeline for review) set forth in Section 6.10.075.E.

4.2.2 *Application Submittal Requirements.* An application for an EFP shall be made in writing on such forms as the Director prescribes, and shall comply with the following minimum requirements, in addition to all other information, materials and documentation determined to be necessary by the Director to effectuate the purpose and intent of this section. The application form shall specify the number, size and format of the project plans and application information, materials and documentation to be provided, including but not limited to electronic format. The Director may waive certain submittal requirements or require additional information based on specific project factors. Unless an exemption or waiver applies, an EFP application must include all information, documentation and materials required pursuant to Section 6.10.075 and this Rule. Submittal of an incomplete application shall result in issuance of a notice of incompleteness to the applicant and the tolling of the applicable timeframe for review (shot clock) under Section 6.10.075.E.6. **An application shall not be deemed complete by the City unless all required information, materials and documentation, as set forth herein, have been submitted to the City. Failure to submit a complete application shall also constitute grounds for the City to deny the application.**

A. Complete Application. A fully completed and executed City application form for the proposed eligible facility, and all information, materials, documentation, pre-addressed mailing labels and envelopes, and fees specified in the City-approved application form.

B. Penalty of Perjury. All EFP applications shall be signed by an authorized representative of the applicant and shall be signed under penalty of perjury under the laws of the state of California.

C. Applicant Information. Complete legal name and contact information for the facility owner, facility operator, agent (if any), and property owner (for any collocation facility on any existing WCF), and related letter(s) of authorization.

D. Identification of Eligible Facilities Request: An applicant who contends that the proposed WCF constitutes an eligible facility under Section 6409(a) shall clearly indicate in the application that the applicant is claiming eligible facilities status under Section 6409(a), in accordance with the City-approved form.

E. Section 6409(a) Justification Analysis. The application shall include a written statement that explains in factual detail the basis for the applicant's claim that the proposed facility is an eligible facility and whether and why Section 6409(a) and the related FCC regulations at 47 C.F.R. Section 1.6100 et seq., or any successor regulation, require approval for the specific proposed eligible facility. The applicant's written statement shall include the following:

1. The applicable standard and all the facts that allow the City to conclude the standard and qualification as an eligible facility has been met;

2. An explanation and analysis setting forth whether and why the support structure qualifies as an existing tower or existing base station; and

3. An explanation and analysis setting forth whether and why the proposed collocation or modification does not cause a substantial change in height, width, excavation, equipment cabinets, concealment or permit compliance.

F. Public Notice; Proof of Service: A proposed public notice on the applicant's letterhead, and a proposed affidavit or mailing or other proof of service. The public notice and affidavit of mailing must be consistent with Section 6.10.075.E.1.a. and this Chapter, and the text and format of the City-approved forms as adopted by the Director. City staff will review the proposed public notice and affidavit to ensure that each form meets City requirements. The applicant shall modify the forms as requested by the City.

G. Eligible Facility Plans. Detailed engineering plans of the proposed of the proposed eligible facility, including height, shape, size and nature of construction in accordance with the requirements established by the Director. The plans shall include, but are not limited to, a fully dimensioned diagram of the proposed eligible and antennas, including height, diameter, design, shape, size, structural integrity, power output and frequency, power generators (if any), nature of construction, and purpose of the facility, and technical engineering specifications, *economic and other pertinent factors governing selection of the proposed design*, together with evidence that demonstrates that the proposed facility has been designed to the minimum height and diameter required from a technological standpoint for the proposed site. The plans for a monopole must provide sufficient detail to demonstrate that the structure will be able to accommodate at least one other similar telecommunications provider in addition to the applicant. The plans should include a diagram showing the separation between the proposed eligible facility and any existing facility or facilities on the same support structure or site.

H. Site Plans. A fully-dimensioned site/landscaping plan that includes, at a minimum, the following information: specific placement of the proposed tower, equipment shelters, and any other WCF on the site; setbacks from adjacent property lines; the location of existing structures, trees, and other significant site features identifying those features proposed to be removed; the type and locations of plant materials proposed to screen antenna and other components; the proposed materials and color(s) for the eligible facility, and all other information required by the Director.

I. Photographs and Visual Analysis. Photographs of the eligible facility and all antenna, equipment and components; accurate and scaled photo-simulations showing views of the proposed eligible facility from surrounding residential properties and public rights-of-way at varying distances and angles with a map indicating the locations used for the analysis and their distances from the site.

J. Documentation of Federal and State Compliance. Copies of all applicable licenses, permits and/or other approvals required by any federal, state, and/or local agency with authority to regulate eligible facilities and documentation of compliance with all conditions imposed in conjunction with such licenses, permits or approvals. The required documentation shall include, but is expressly not limited to; the following:

1. Engineering calculations demonstrating that the proposed eligible facility will comply with all applicable FCC rules, regulations, and/or specifications.

2. Completion of the radio frequency (RF) emissions exposure guidelines checklist contained in Appendix A to the Federal Communications Commission's (FCC) "Local Government Official's Guide to Transmitting Antenna RF Emission Safety", or any successor regulations, to determine whether the WCF will be "categorically excluded" as that term is used by the FCC.

3. For an eligible facility that is not categorically excluded under the FCC regulations for RF emissions, the applicant shall submit an RF exposure compliance report prepared and certified by an RF engineer acceptable to the City that certifies that the proposed eligible facility, as well as any other WCFs that contribute to the cumulative exposure in the subject area, will comply with applicable federal RF exposure standards, exposure limits and emission levels. The RF report must include the actual frequency and power levels (in watts effective radio power "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 the uncontrolled/general population limit (as that term is defined by the FCC) and also the boundaries of areas with RF exposures in excess of the controlled/occupational limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.

K. Licenses, Permits and Other Approvals. Proof of all applicable licenses, permits or other approvals from the FAA, JFTB Los Alamitos, Naval Weapons Station, and/or any other federal, state, or local airport authority or airport, if such approval is required, including but expressly not limited to copies of any documents that the applicant is required to file pursuant to FAA, U.S. Army and/or airport authority ordinances, statutes, and/or regulations for the facility.

L. Coastal Commission. A coastal development permit or exemption therefrom.

M. Environmental Documentation. Any environmental documentation required to obtain such federal and/or state license, permit or other approval.

N CPUC. A copy of the certificate of public convenience and necessity issued by the CPUC to the applicant, and a copy of the CPUC decision that authorizes the applicant to provide the wireless telecommunications service for which the eligible facility is proposed to be deployed in the PROW. Any applicant that, prior to 1996, provided telecommunications service under administratively equivalent documentation issued by the CPUC may submit copies of that documentation in lieu of a certificate of public convenience and necessity.

O. Franchise or Agreement. If the applicant has been granted the right to enter the PROW pursuant to state or federal law, or who have entered into a franchise or lease, license or other agreement with the City permitting them to use the PROW for the proposed eligible facility, the application shall contain a copy of the relevant franchise or agreement and/or all other documentation necessary to demonstrate the applicant's right to enter the PROW.

P. Environmental Compliance. A completed environmental assessment and documentation establishing that all applicable environmental mitigation measures imposed by the City and any other federal or state environmental determination (i) have been met, (ii) will be met as part of the proposed eligible facility, or (iii) are not applicable.

Q. Noise Study. A noise study prepared by a qualified acoustic engineer documenting that the level of noise to be emitted by the proposed eligible facility will comply with this code including but not limited to Chapter 7.15: Noise.

R. Traffic Control Plan. A traffic control plan when the proposed installation is on any street adjacent to a non-residential zone. The City shall have the discretion to require a traffic control plan when the applicant seeks to use large equipment (e.g. crane).

S. Utility

1. Southern California Edison (SCE) Documentation. For any eligible facility proposed to be collocated on an existing pole owned by SCE, the applicant shall provide all of the following:

(a) SCE Letter of Authorization;

2. A completed SCE Streetlight Authorization form reflecting the recommendations of the lighting study;

3. SCE Consent Letter;

4. SCE Disconnect Letter;

5. A lighting study for the proposed collocation that meets the Lighting Study Requirements established by the Director.

6. Any other documents required by SCE.

T. Wooden utility poles. For any proposed eligible facility on a wooden utility pole subject to any pole attachment rules, including but not limited to the Southern California Joint Pole Committee, any and all documents demonstrating that such pole is subject to those rules, all applicable requirements, and the manner in which the proposed eligible facility complies with the applicable pole attachment rules.

U. Exception. If the applicant requests an exception pursuant to Section 6.10.070.J, the applicant shall provide all information, studies and other documentation necessary for the City to evaluate that request as part of the EFP application.

V. Any other additional information, studies and/or other documentation determined necessary by the Director to determine whether the proposed facility qualifies as an eligible facility under Section 6.10.075 and Section 6409(a).

4.2.3 *Application Submittal and Processing.* All applications for EFP approval shall be subject to and comply with the requirements of Section 6.10.075.E, including but not limited to the timelines set forth in Section 6.10.075.E.6, and the requirements of Rule 4.2.1 herein.

4.2.4 *Public Notice of EFP Application.* An EFP application shall include a notice of filing of the eligible facilities application that complies with the City-approved template, and the applicant shall mail the notice in accordance with the procedures set forth in Section 6.10.075.F.1 and Rule 3.2.3 of these Rules. Upon City's approval of the form and content of

the notice, the applicant shall mail the approved notice to all residents and businesses within a 150-foot radius of the proposed site or location and provide proof of service to the City, in accordance with the Department's instructions.

Rule 4.3 Design, Aesthetic and Development Standards for Eligible Facilities. All proposed eligible facilities in the PROW shall comply with the following design, aesthetic and development standards unless the Director approves an exception pursuant to Subsection J: Exceptions of Section 6.10.070.

4.3.1 *Towers and Base Stations in the PROW.* Towers and base stations proposed in the PROW shall be designed so that they do not constitute a substantial change as defined in Section 6.10.075.B(2) and (3) of the code.

4.3.2 *Application of Federal and State Design, Aesthetic and Development Standards.* All eligible facilities shall be subject to and comply with any applicable General Laws. In the event that any applicable General Law conflicts with any requirement of this Chapter, the applicable General Law shall take precedence.

Rule 4.4 Conditions of Approval. In addition to the conditions required by Section 6.10.075.G, the permittee shall comply with all generally applicable building, structural, electrical and safety codes, disability access statutes and regulations, and traffic codes and standards for the proposed eligible facility and other conditions imposed by the Director that are reasonably related to health and safety.

Rule 4.5. Operation and Maintenance Standards. The permittee shall comply with all operations and maintenance standards set forth in Section 6.10.070.0 and Rule 3.2.6.

CHAPTER 5 -- [RESERVED]

Rule 5.1 [Reserved]

CHAPTER 6 -- POLICIES, REGULATIONS AND FORMS

Rule 6.1 Director Responsibility.

6.1.1 Due to rapidly changing technology and regulatory requirements, pursuant to Sections 6.10.070 and 6.10.075, the City Council authorizes the Public Works Director to publish policies, rules, regulations and guidelines to serve as further regulatory guidance and clarification, and to issue updates at the discretion of the Director to adjust for new technologies and regulations, and compliance therewith is a condition of approval in every WCFP and EFP.

6.1.2 The Public Works Director is authorized to create all forms and notices required in order to administer the Ordinances and these Rules. All forms and notices shall be construed in a manner consistent with the Ordinance and these Rules, and the Governing Laws.

Rule 6.2 Publication. Any rules, regulations, guidelines and forms adopted by the Director to further implement the Ordinances and/or these Rules shall be published on the City's website, and made available for inspection at the City.