REGULAR CITY COUNCIL MEETING
WEDNESDAY, MAY 27, 2020

Closed Session – 6:00 PM
Regular Meeting - 6:30 PM

City Hall – Beryl P. Robinson, Jr. Conference Room
317 Broad Street, Nevada City, CA 95959

MISSION STATEMENT
The City of Nevada City is dedicated to preserving and enhancing its small town character and historical architecture while providing quality public services for our current and future residents, businesses and visitors.

Reinette Senum, Mayor
Duane Strawser, Council Member **Erin Minett, Vice Mayor**
David Parker, Council Member **Valerie Moberg, Council Member**

The City Council welcomes you to its meetings which are scheduled at 6:30 PM on the 2nd and 4th Wednesdays of each month. Your interest is encouraged and appreciated. This meeting is recorded on DVD and is televised on local public television Channel 17. Other special accommodations may be requested to the City Clerk 72 hours in advance of the meeting. Please turn off all cell phones or similar devices. Action may be taken on any agenda item. Agenda notices are available at City Hall. Materials related to an item on this Agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City Hall at 317 Broad Street, Nevada City, CA during normal business hours.

In order to minimize the spread of the COVID 19 virus Governor Newsom has issued Executive Orders that temporarily suspend requirements of the Brown Act. Please be advised that the Council Chambers are closed to the public and that some, or all, of the City of Nevada City, City Council Members may attend this meeting telephonically.

1. You are strongly encouraged to observe the City Council meetings live on PUBLIC TELEVISION CHANNEL 17, ONLINE AT THE CITY'S WEBSITE WWW.NEVADACITYCA.GOV. or Nevada City Public Meetings-YouTube Channel or at HTTP://NEVCO.GRANICUS.COM/PLAYER/CAMERA/2?PUBLISH_ID=7

2. If you wish to make a comment on a specific agenda item, please submit your comment via email to the City Manager at NEVADACITY.OLSON@GMAIL.COM. Comments will be accepted at the email provided until 2pm the day of the meeting PLEASE INCLUDE THE AGENDA ITEM NUMBER AND LETTER IN YOUR SUBJECT LINE. For comments during the meeting subscribe to the City's youtube channel Nevada City Public Meetings and submit your public live during the meeting. Please limit to 200 words or less. Every effort will be made to read your comment into the record, but some comments may not be read due to time constraints.

3. In compliance with the Americans with Disabilities Act of 1990, if you need special assistance to participate in this meeting, please contact the Deputy City Clerk at (530) 265-2496 x133. Notification at least 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102.35.104 ADA Title II]. Language translation services are available for this meeting by calling (714) 754-5225 at least 48 hours in advance.

The City of Nevada City thanks you in advance for taking all precautions to prevent spreading the COVID 19 virus.

ANY MEMBER OF THE PUBLIC DESIRING TO ADDRESS THE COUNCIL ON ANY ITEM ON THIS AGENDA: After receiving recognition from the Mayor, give your name and address, and then your comments or questions. Please direct your remarks to the Councilmembers. In order that all interested parties have an opportunity to speak, please limit your comments to the specific item under discussion. All citizens will be afforded an opportunity to speak, consistent with their Constitutional rights. Time limits shall be at the Mayor's discretion. **IF YOU CHALLENGE** the Council's decision on any matter in court, you will be limited to raising only those issues you or someone else raised at the meeting or Public Hearing described on this agenda, or in written correspondence delivered to the City Council at, or prior to, the meeting or Public Hearing.

CLOSED SESSION: 6:00 PM

Under Government Code Section 54950 members of the public are entitled to comment on the closed session agenda before the Council goes into closed session.

1. Pursuant to Government Code Section 54956.9, the City Manager, City Attorney and Consulting Employment Practices Attorney are requesting a closed session item to discuss the settlement regarding the Equal Employment Opportunity Commission (EEOC) claim of Charles Hurst against the City, EEOC charge 550-2019-01855.

REGULAR MEETING – 6:30 PM - Call to Order

Roll Call: Mayor Senum, Vice Mayor Minett, Council Members Moberg, Parker and Strawser

PLEDGE OF ALLEGIANCE

PROCLAMATIONS:

PRESENTATIONS:

BUSINESS FROM THE FLOOR

1. **PUBLIC COMMENT**
   Under Government Code Section 54954.3, members of the public are entitled to address the City Council concerning any item within the Nevada City Council's subject matter jurisdiction. Comments on items NOT ON THE AGENDA are welcome at this time. Normally, public comments are limited to no more than three minutes each. **Except for certain specific exceptions, the City Council is prohibited from discussing or taking action on any item not appearing on the posted agenda.**

2. **COUNCIL MEMBERS REQUESTED ITEMS, COMMITTEE REPORTS AND FUTURE AGENDA ITEMS:**

3. **CONSENT ITEMS:**
   All matters listed under the Consent Calendar are to be considered routine by the City Council and will be enacted by one motion in the form listed. There will be no separate discussion of these items unless, before the City Council votes on the motion to adopt, members of the Council, City staff or the public request specific items to be removed from the Consent Calendar for separate discussion and action.

   A. Subject: Fire Activity Report – April 2020
   Recommendation: Receive and file.

   B. Subject: Local Transportation Fund (LTF) Claim for Pedestrian and Bicycle Facilities Funds for Boulder Street Sidewalk and Railing Improvement Project

Recommendation: Pass Resolution No. 2020-XX, a Resolution requesting the Nevada County Transportation Commission (NCTC) Allocate $34,000 of Nevada City's Apportionment of Local Transportation Funds for Pedestrian and Bicycle Facilities for the Boulder Street Sidewalk and Railing Improvements Project.

C. Subject: Regional Surface Transportation Program (RSTP) Claim for Boulder Street Sidewalk and Railing Improvements Project
Recommendation: Pass Resolution No. 2020-XX, a Resolution requesting the Nevada County Transportation Commission (NCTC) Requesting that NCTC Allocate $86,000 of Nevada City's Apportionment of Regional Surface Transportation Program Funds for Boulder Street Sidewalk and Railing Improvements Project.

D. Subject: A Resolution for the Approval of the Regional Transportation Mitigation Fee Program Inflation Adjustment
Recommendation: Pass Resolution 2020-XX, a Resolution Approving the Regional Transportation Mitigation Fee (RTMF) Program Inflation Adjustment.

E. Subject: A Resolution for the Land Use Covenant and Agreement to Restrict Use of City Property, Deer Creek Environs Property
Recommendation: Pass Resolution 2020-XX, a Resolution of the City of Nevada City Approving and Authorizing Mayor to Sign the Land Use Covenant and Agreement to Restrict Use of Property – Environmental Restrictions and authorize the Mayor to sign.

F. Subject: Update on State and Local Eviction Moratoriums
Recommendation: Receive and file.

G. Subject: The 2019 Annual Housing Progress Report
Recommendation: Receive and File the 2019 Annual Progress Report (APR) and direct staff to submit the report to the Governor's Office of Planning and Research and the Housing Community Development Department in accordance with Government Code Section 65400(b)(1).

H. Subject: Action Minutes May 13, 2020 City Council Meeting
Recommendation: Review and approve City Council Meeting action minutes of May 13, 2020.

I. Subject: Action Minutes May 20, 2020 Special City Council Meeting, Budget Workshop
Recommendation: Review and approve Special City Council Meeting, Budget Workshop action minutes of May 20, 2020.

4. DEPARTMENT REQUESTED ACTION ITEMS AND UPDATE REPORTS:

A. Subject: Permanent Local Housing Allocation (PLHA) Program
Recommendation: Review the information regarding the Permanent Local Housing Allocation (PLHA) Program and the possibility of a multi-jurisdictional agreement for a joint application and funds administration to be submitted by Nevada County with funding to be managed by Nevada County with local direction for fund use. City Council to direct staff to then bring back a Resolution for adoption committing to the multi-jurisdictional agreement/approach to the PLHA Program.

B. Subject: Unenforced Smoking Areas Pilot Project Update
Recommendation: Pass Resolution 2020-XX, a Resolution of the City of Nevada City, City Council Approving the Implementation of the Unenforced Smoking Areas Program.

C. Subject: Relaxation of Outdoor Dining Regulations ,On-Site Parking Requirements, Signage Regulations and Wavier of Related Fees Related to Covid-19
Recommendation: It is recommended that the City Council direct the City Manager, acting as the Director of Defense and Disaster, to establish a program to assist restaurants and retail establishments in the following ways:

1. Outdoor Dining Outdoor Dining. For the purpose of allowing restaurants to request an increase in the allowable public and private space available for outdoor dining: relax outdoor dining regulations, development standards and conditions of approval, and to establish regulations which allow outdoor consumption of alcohol at restaurants where indoor consumption of alcohol was already allowed; and

2. Waive Fees. Waive the following fees until 11:59 p.m. on November 19, 2020:
    a. Use of public space for outdoor dining; and
    b. Applications for a relaxation of outdoor dining regulations.

3. Parking. Allow a reduction in mandatory on-site parking on private property for increased outdoor dining space, or for retail pick-up with a property owner's permission; and

4. Signage. To permit each restaurant and retail establishment the use of one temporary sign (including A-frame signage) not to exceed 12 square feet, in such a manner that signage does not impede accessible pedestrian access along the sidewalk or into the business; and

5. Administration. Allow staff to process these adjustments administratively. This includes making temporary administrative adjustments (i.e., reduction of enforcement on existing conditions of approval) to previously approved Conditional Use Permits and other entitlement mechanisms.

D. Subject: Update on Staff's Request for Broad Street Closures During Shelter in Place Orders
Recommendation:

1. Receive staff report and provide staff direction regarding Broad Street closures;

2. Review and approve Resolution 2020-XX, a Resolution of the City Council of the City of Nevada City Suspending the Imposition and Collection of Parking Fees at City Parking Meters During the Covid-19 Local Emergency.

5. PUBLIC HEARINGS:

A. Subject: Consideration of and First Reading of Ordinance Repealing and Readopting Chapter 17.150 of the Nevada City Municipal Code entitled "Wireless Telecommunication Facilities in the City"

Recommendation: Hold first reading, waive reading of Ordinance in its entirety, and read by title only, Ordinance 2020-XX Repealing and Readopting Chapter 17.150 of the Nevada City Municipal Code entitled "Wireless Telecommunication Facilities in the City".

6. OLD BUSINESS:

7. NEW BUSINESS:

8. CORRESPONDENCE:

9. ANNOUNCEMENTS:

10. CITY MANAGER'S REPORT:

11. ADJOURNMENT

Certification of Posting of Agenda

I, Gabrielle Christakes, Administrative Service Technician/Deputy City Clerk for the City of Nevada City, declare that the foregoing agenda for the May 27th , 2020 Regular Meeting of the Nevada City City Council was posted May 22nd, 2020 at the entrance of City Hall. The agenda is also posted on the City's website www.nevadacityca.gov.

Signed May 22nd, 2020, at Nevada City, California

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Gabrielle Christakes, Administrative Services Technician/Deputy City Clerk

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CITY OF NEVADA CITY
City Council
Long Range Calendar

May 27, 2020	Regular Council Meeting
June 10, 2020	Regular Council Meeting
June 24, 2020	Regular Council Meeting
July 3, 2020	Holiday
July 8, 2020	Regular Council Meeting
July 22, 2020	Regular Council Meeting
August 12, 2020	Regular Council Meeting
August 26, 2020	Regular Council Meeting
September 7, 2020	Holiday
September 9, 2020	Regular Council Meeting
September 23, 2020	Regular Council Meeting

NOTE: This list is for planning purposes; items may shift depending on timing and capacity of a meeting.

NOTICE: *As presiding officer, the Mayor has the authority to preserve order at all City Council meetings, to remove or cause the removal of any person from any such meeting for disorderly conduct, or for making personal, impertinent, or slanderous remarks, using profanity, or becoming boisterous, threatening or personally abusive while addressing said Council and to enforce the rules of the Council.*

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

May 27, 2020

TITLE: Fire Activity Report – April 2020

RECOMMENDATION: Receive and file.

CONTACT: Sam Goodspeed, Division Chief

BACKGROUND / DISCUSSION: The attached Fire Activity Report reviews the monthly responses including incident type, location and participation for Nevada City Fire Station 54.

ENVIRONMENTAL CONSIDERATIONS: Not applicable.

FISCAL IMPACT: Not applicable.

ATTACHMENTS:

- ✓ Station 54 Incident Responses
- ✓ Nevada City Incident Responses
- ✓ Station 54 Incident Type Summary
- ✓ Year to Date Incident Participation

Station 54 Incident Responses

Alarm Date Between {04/01/2020} And {04/30/2020}

Alm Date	Alm Time	Location	Incident Type
04/01/2020	21:55:13	125 PRESLEY WY #D /Grass	740 Unintentional transmission o
04/03/2020	11:35:49	11761 Ridge RD /Grass Val	735 Alarm system sounded due to
04/03/2020	12:12:09	SACRAMENTO ST AND VALLEY	
04/03/2020	12:14:00	Sacramento Street Bridge	622 No Incident found on arrival
04/05/2020	09:24:22	18883 HWY 20 /Nevada City	412 Gas leak (natural gas or LPG
04/05/2020	15:03:43	Scotts Valley Road 1/3 mi	324 Motor Vehicle Accident with
04/06/2020	03:55:41	14213 Loma Rica DR /Grass	320 Emergency medical service, o
04/06/2020	10:09:19	2033 NEVADA CITY HWY /Gra	320 Emergency medical service, o

Total Incident Count 8

Nevada County Consolidated Fire District

Nevada City Incident List

Alarm Date Between {04/01/2020} And {04/30/2020}

Alm Date	Alm Time	Location	Incident Type
04/02/2020	16:31:31	N Pine ST & Broad ST /Nevada	320 Emergency medical service, other
04/03/2020	12:14:00	Sacramento Street Bridge x	622 No Incident found on arrival at
04/08/2020	11:53:25	925 MAIDU AVE /Nevada City,	320 Emergency medical service, other
04/08/2020	13:03:30	702 W BROAD ST /B/Nevada	320 Emergency medical service, other
04/09/2020	14:14:49	300 SPRING ST /Nevada City,	320 Emergency medical service, other
04/10/2020	12:03:06	760 ZION ST /6/Nevada City,	320 Emergency medical service, other
04/11/2020	04:25:49	538 E BROAD ST /Nevada City,	320 Emergency medical service, other
04/14/2020	08:10:40	755 LINDLEY AV /Nevada City,	320 Emergency medical service, other
04/14/2020	13:15:34	122 Martin ST /Nevada City,	320 Emergency medical service, other
04/14/2020	16:40:25	702 Nevada ST /Nevada City,	743 Smoke detector activation, no
04/14/2020	20:39:20	475 Spring ST /2C/Nevada	320 Emergency medical service, other
04/14/2020	23:08:18	773 Nevada ST /Nevada City,	622 No Incident found on arrival at
04/15/2020	10:18:00	570 Charlene LANE /Nevada	320 Emergency medical service, other
04/15/2020	22:09:00	656 W BROAD ST /Nevada City,	320 Emergency medical service, other
04/17/2020	14:15:09	421 HOLLOW WAY /Nevada City,	600 Good intent call, Other
04/18/2020	17:41:40	328 BRIDGE WY /Nevada City,	321 EMS call, excluding vehicle
04/20/2020	10:03:11	752 LINDLEY AV /nevada city,	320 Emergency medical service, other
04/20/2020	23:39:38	760 ZION ST #4 /4/nevada	622 No Incident found on arrival at
04/21/2020	05:55:50	539 W Broad ST /Nevada City,	320 Emergency medical service, other
04/21/2020	16:54:41	702 W Broad ST /B/Nevada	320 Emergency medical service, other
04/22/2020	10:47:00	821 Zion ST /B5/Nevada City,	554 Assist invalid
04/24/2020	14:47:44	COYOTE ST AND HWY 49/Nevada	622 No Incident found on arrival at
04/25/2020	19:34:23	181 GROVE ST /Nevada City, CA	561 Unauthorized burning
04/26/2020	09:46:40	337 Clay ST /Nevada City, CA	320 Emergency medical service, other
04/27/2020	03:19:00	760 ZION ST #5 ST /5/Nevada	611 Dispatched & cancelled en route
04/27/2020	05:56:54	347 Nile ST /Nevada City, CA	320 Emergency medical service, other
04/27/2020	08:56:14	700 Nivens LN /2/Nevada City,	320 Emergency medical service, other
04/29/2020	13:43:31	211 BROAD ST /Nevada City, CA	
04/30/2020	04:18:00	251 WILLOW VALLEY RD #SP8	320 Emergency medical service, other

Total Incident Count 29

Nevada City Incident Type Summary

Alarm Date Between {04/01/2020} And {04/30/2020}

District	False	Fire	Good	Hazard	Overpressu	Rescue	Service	Special
02	1	0	0	0	0	1	0	0
1	1	0	0	0	0	0	0	0
54	0	0	1	0	0	3	0	0
NCCFD	0	0	0	1	0	1	0	0
	2	0	1	1	0	5	0	0

Nevada County Consolidated Fire District

NEV Year-to-date Incident Participation

Activity Date Between {07/01/2019} And {04/30/2020}

Staff Id/Name	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Percent
NEV-I026 Banks, Tristin	19	20	13	0	0	0	0	0	1	1	0	1	55	3.14
NEV-I016 Bunyan-Naulty, Coleton	0	1	0	0	0	0	0	0	0	0	0	0	1	0.05
NEV-I028 Carpenter, Walker	14	19	19	0	0	0	0	0	0	0	1	0	53	3.03
NEV-03 Cartzdafner, Kevin L	34	32	27	18	0	0	35	36	25	17	30	31	285	16.30
NEV-65 Chau, Michael	0	0	0	0	0	0	18	9	11	3	0	0	41	2.34
NEV-I023 Dambly, Trenton	35	63	25	0	0	0	28	31	22	33	24	26	287	16.41
NEV-019 Ellison, Connor	0	0	0	0	0	0	0	0	0	0	0	10	10	0.57
NEV-71 Ellison, Connor	64	55	25	48	0	0	0	1	8	45	39	55	340	19.45
NEV-72 Foster, Sean	58	37	55	45	0	0	0	0	11	56	56	43	361	20.65
NEV-09 Goodspeed, Samuel J	1	2	1	0	0	0	1	1	1	1	1	0	9	0.51
NEV-69 McDaniel, Jesse	0	0	0	0	0	0	40	25	17	9	0	0	91	5.20
NEV-70 Otani, Alex	0	0	0	0	0	0	28	29	15	0	0	0	72	4.11
NEV-15 Paulus, Daniel H	36	26	31	14	0	0	30	20	5	0	36	26	224	12.81
NEV-I024 Rodriguez, Ryan	0	0	0	0	0	0	22	38	48	37	18	20	183	10.46
NEV-I022 Rubinson, Jake	0	0	0	0	0	0	6	3	0	0	0	0	9	0.51
NEV-I027 Schaefer, Jack	31	17	18	0	0	0	0	0	0	0	0	0	66	3.77
NEV-74 Stark, Blake	53	41	63	53	0	0	0	1	0	1	56	54	322	18.42
NEV-I025 Tomlinson, Rodney	0	0	3	0	0	0	13	26	20	23	35	14	134	7.66

Total Runs by Month

Jan	241	**Feb**	187	**Mar**	217	**Apr**	165	**May**	0	**Jun**	0
Jul	98	**Aug**	100	**Sep**	109	**Oct**	189	**Nov**	218	**Dec**	224

Grand Total Runs: 1,748

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

May 27, 2020

TITLE: Local Transportation Fund (LTF) Claim for Pedestrian and Bicycle Facilities Funds for Boulder Street Sidewalk and Railing Improvement Project

RECOMMENDATION: Pass Resolution No. 2020-XX, a Resolution requesting the Nevada County Transportation Commission (NCTC) Allocate $34,000 of Nevada City's Apportionment of Local Transportation Funds for Pedestrian and Bicycle Facilities for the Boulder Street Sidewalk and Railing Improvements Project.

CONTACT: Bryan McAlister, City Engineer

BACKGROUND/DISCUSSION:
Nevada City is eligible for apportionments of Transportation Development Act (TDA) Local Transportation Fund (LTF) for Pedestrian and Bicycle Facilities, based upon NCTC's Revised Findings of Apportionment, most recently adopted on May 20, 2020. These funds are managed by the NCTC and are committed to support the improvement of pedestrian and bicycle facilities per a Joint Powers Agreement with Grass Valley and Nevada County.

The Boulder Street sidewalk and railing project was identified as a priority for improvement. City Council awarded a contract for these improvements in August 14, 2019. The project is expected to be complete in June 2020. City staff recommends that a claim be submitted to NCTC to request funds allocated for LTF Ped & Bike Facilities for this project. The Boulder Street project includes pedestrian improvements that are eligible for funding by LTF subject to approval by NCTC.

ENVIRONMENTAL CONSIDERATIONS: None.

FINANCIAL CONSIDERATIONS: Not applicable.

ATTACHMENTS:
- ✓ Resolution No. 2020-XX, a Resolution requesting the Nevada County Transportation Commission (NCTC) Allocate $34,000 of Nevada City's Apportionment of Local Transportation Funds for Pedestrian and Bicycle Facilities for the Boulder Street Sidewalk and Railing Improvements Project

RESOLUTION NO. 2020-XX

A RESOLUTION REQUESTING THE NEVADA COUNTY TRANSPORTATION COMMISSION (NCTC) ALLOCATE $34,000 OF THE CITY'S APPORTIONMENT OF LOCAL TRANSPORTATION FUNDS FOR PEDESTRIAN AND BICYCLE FACILITIES FOR BOULDER STREET SIDEWALK AND RAILING IMPROVEMENTS PROJECT

WHEREAS, the City of Nevada City has entered into a Joint Exercise of Powers Agreement with the City of Grass Valley and the County of Nevada for the purpose of establishing and funding a Public Transportation Program; and

WHEREAS, Transportation Development Act (TDA) Funds that are allocated annually to the City of Nevada City are available to support the Program; and

WHEREAS, the Nevada County Transportation Commission (NCTC) annually adopts by Resolution findings of apportionment of Local Transportation (LTF) Funds; and

WHEREAS, the City of Nevada City can file claims with NCTC for specific amounts and purposes, as defined in the TDA statutes and regulations, and under NCTC's administrative procedures.

NOW AND THEREFORE, BE IT RESOLVED the City Council requests NCTC allocate $34,000 of Nevada City's apportionment of Local Transportation Funds for Pedestrian and Bicycle Facilities for Boulder Street sidewalk and railing improvements project.

PASSED AND ADOPTED at a regular scheduled meeting of the City Council held on this 27th day of May, 2020, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

_____

Reinette Senum, Mayor

ATTEST:

_____

Neil Locke, City Clerk

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

May 27, 2020

TITLE: Regional Surface Transportation Program (RSTP) Claim for Boulder Street Sidewalk and Railing Improvements Project

RECOMMENDATION: Pass Resolution No. 2020-XX, a Resolution requesting the Nevada County Transportation Commission (NCTC) Requesting that NCTC Allocate $86,000 of Nevada City's Apportionment of Regional Surface Transportation Program Funds for Boulder Street Sidewalk and Railing Improvements Project.

CONTACT: Bryan McAlister, City Engineer

BACKGROUND/DISCUSSION:
The Regional Surface Transportation Program (RSTP) was established by the State of California to utilize federal Surface Transportation Program funds for a wide variety of transportation projects. The State allows NCTC to exchange these federal funds for state funds to maximize the ability of local public works departments to use the funds for transportation purposes including: planning, construction, improvement, maintenance, and operation of public streets and highways and pedestrian and bicycle projects. NCTC is responsible for distributing these exchanged funds to the local jurisdictions.

Each year Caltrans notifies NCTC of the amount of RSTP funds that will be available based on federal budget appropriations. NCTC then establishes bid targets for each jurisdiction based on its pro rata portion of the countywide population and notifies the jurisdictions of its share. However, NCTC has discretion in allocating RSTP funds and may award an agency more or less than its bid target in order to fund high priority regional projects.

The Boulder Street sidewalk and railing project was identified as a priority for City street improvements. City Council awarded a contract for these improvements in August 14, 2019. The project is expected to be complete in June 2020. City staff recommends that a claim be submitted to NCTC to request RSTP funds for this project. The Boulder Street project includes pedestrian and street improvements that are eligible for funding by RSTP subject to approval by NCTC.

ENVIRONMENTAL CONSIDERATIONS: None.

FINANCIAL CONSIDERATIONS: Not applicable.

ATTACHMENTS:
- ✓ Resolution No. 2020-XX, a Resolution Requesting the Nevada County Transportation Commission (NCTC) Requesting that NCTC Allocate $86,000 of Nevada City's Apportionment of Regional Surface Transportation Program funds for Boulder Street Sidewalk and Railing Improvements Project

RESOLUTION NO. 2020-XX

A RESOLUTION REQUESTING THE NEVADA COUNTY TRANSPORTATION COMMISSION (NCTC) ALLOCATE $86,000 OF THE CITY'S APPORTIONMENT OF REGIONAL SURFACE TRANSPORTATION FUNDS FOR BOULDER STREET IMPROVEMENTS PROJECT

WHEREAS, the City of Nevada City has entered into a Joint Exercise of Powers Agreement with the City of Grass Valley and the County of Nevada for the purpose of establishing and funding a Public Transportation Program; and

WHEREAS, the Nevada County Transportation Commission (NCTC) allocates Regional Surface Transportation Program (RSTP) funds to various transportation related projects within Nevada County to support the Program; and

WHEREAS, these funds are received by NCTC annually from the State of California and upon receipt of those funds, NCTC establishes bid targets for the jurisdictions; and

WHEREAS, the City of Nevada City can file claims with NCTC for specific amounts and purposes, as defined in the State statutes and regulations, and under NCTC's administrative procedures.

NOW AND THEREFORE, BE IT RESOLVED the City Council requests NCTC allocate $86,000 of Nevada City's apportionment of Regional Surface Transportation Program funds for Boulder Street Sidewalk and Railing Improvements project.

PASSED AND ADOPTED at a regular scheduled meeting of the City Council held on this 27th day of May, 2020, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

_____

Reinette Senum, Mayor

ATTEST:

_____

Neil Locke, City Clerk

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City CA 95959
www.nevadacityca.gov

May 27, 2020

TITLE: A Resolution for the Approval of the Regional Transportation Mitigation Fee Program Inflation Adjustment

RECOMMENDATION: Pass Resolution 2020-XX, a Resolution Approving the Regional Transportation Mitigation Fee (RTMF) Program Inflation Adjustment.

CONTACT: Bryan McAlister, City Engineer

BACKGROUND/DISCUSSION:
Nevada City and the Nevada County Transportation Commission (NCTC) are each empowered by law to conduct, participate in, and provide regional transportation planning activities and desire to cooperate in the exercise of those powers. The purpose of the Regional Transportation Mitigation Fee Program is to finance improvements to the regional network of streets and roads that are needed to mitigate the impact of increased traffic that will result from new development in western Nevada County. The Regional Transportation Mitigation Fee 2016 Administrative Plan, adopted by NCTC on November 16, 2016, serves as the guideline for implementation and administration of the RTMF Program. Staff is recommending the Council adopt a Resolution approving the Regional Transportation Mitigation Fee Program Inflation Adjustment in accordance NCTC adopted Resolution 20-15.

ENVIRONMENTAL CONSIDERATIONS: Not applicable.

FISCAL IMPACT: Not applicable.

ATTACHMENT:
- ✓ Resolution 2020-XX, a Resolution Approving the Regional Transporation Migigation Fee (RTMF) Program Inflation Adjustment
- ✓ NCTC Resolution 20-15 Approval of RTMF Inflation Adjustment

RESOLUTION NO. 2020-XX

RESOLUTION APPROVING THE REGIONAL TRANSPORTATION MITIGATION FEE (RTMF) PROGRAM INFLATION ADJUSTMENT

WHEREAS, Nevada City and the Nevada County Transportation Commission (NCTC) are each empowered by law to conduct, participate in and provide regional transportation planning activities and desire to cooperate in the exercise of those powers; and

WHEREAS, the purpose of the Regional Transportation Mitigation Fee Program is to finance improvements to the regional network of streets and roads that are needed to mitigate the impact of increased traffic that will result from new development in western Nevada County; and

WHEREAS, the Regional Transportation Mitigation Fee 2016 Administrative Plan, adopted by NCTC on November 16, 2016 and by the City of Nevada City on November 30, 2016, serves as the guideline for implementation and administration of the RTMF Program; and

WHEREAS, the RTMF Administrative Plan recommends that the RTMF be reviewed annually and that fee adjustments should be based on the San Francisco Construction Cost Index as reported in the Engineering News Record (ENR) "20-City Construction Cost Index" for the 12-month period ending December of the prior year; and

WHEREAS, City Council authorized the collection of the Regional Transportation Mitigation Fee (RTMF) on November 30, 2016.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Nevada City to approve the Regional Transportation Mitigation Fee (RTMF) Inflation Adjustment in accordance with NCTC adopted Resolution 20-15 attached hereto as Exhibit A.

PASSED AND ADOPTED at the regular meeting of the City Council of the City of Nevada City held on the 27th day of May, 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____

Reinette Senum, Mayor

ATTEST:

_____

Niel Locke, City Clerk

EXHIBIT A

JAN ARBUCKLE – Grass Valley City Council
ANDREW BURTON – Member-At-Large, Chair
CAROLYN WALLACE DEE – Town of Truckee
ANN GUERRA – Member-At-Large
SUSAN HOEK – Nevada County Board of Supervisors, Vice Chair
ED SCOFIELD – Nevada County Board of Supervisors
DUANE STRAWSER – Nevada City City Council

NEVADA • COUNTY • TRANSPORTATION
NCTC
COMMISSION

DANIEL LANDON, Executive Director
MICHAEL WOODMAN, Deputy Executive Director

Grass Valley • Nevada City **Nevada County • Truckee**

File: 1030.3.2.2

MEMORANDUM

TO: Nevada County Transportation Commission

FROM: Daniel B. Landon, Executive Director

SUBJECT: Regional Transportation Mitigation Fee Inflation Adjustment, Resolution 20-15

DATE: March 18, 2020

RECOMMENDATION: Adopt Resolution 20-15 approving the rates for the inflation adjustment to the Regional Transportation Mitigation Fee (RTMF).

BACKGROUND: The RTMF 2016 Administrative Plan provides for an annual review to consider adjusting the fees to account for inflation of project costs. The Administrative Plan states, "The RTMF may, at NCTC's discretion, be adjusted to account for the inflation of construction, right-of-way, acquisition, and design costs." The Administrative Plan recommends that the RTMF should be reviewed annually and fee adjustments should be made based on the San Francisco Construction Cost Index (CCI) as reported in the *Engineering News Record* (ENR) "20-City Construction Cost Index" for the 12-month period ending December of the prior year.

Staff has reviewed the San Francisco Construction Cost Index and recommends that NCTC approve the fee increase shown below:

ENR San Francisco CCI:	Dec-2018	12115.37
	Dec-2019	12764.52
	% Increase:	**5.4%**

	Residential Development	Non-Residential Development
2019 Fees:	$413.19	$72.97
	Residential Development	Non-Residential Development
2020 Recommended Fees: (with 5.4% increase)	**$435.50**	**$76.91**

101 Providence Mine Road, Suite 102, Nevada City, California 95959 • (530) 265-3202 • Fax (530) 265-3260
E-mail: nctc@nccn.net • Web Site: www.nctc.ca.gov

RESOLUTION 20-15
OF THE
NEVADA COUNTY TRANSPORTATION COMMISSION

APPROVAL OF REGIONAL TRANSPORTATION MITIGATION FEE (RTMF)
INFLATION ADJUSTMENT

WHEREAS, the *Regional Transportation Mitigation Fee 2016 Nexus Study Update Final Report*, and the *Regional Transportation Mitigation Fee 2016 Administrative Plan* were approved by Nevada County Transportation Commission on November 16, 2016; and

WHEREAS, the RTMF Administrative Plan states: "The RTMF may, at NCTC's discretion, be adjusted to account for the inflation of construction, right-of-way, acquisition, and design costs"; and

WHEREAS, the RTMF Administrative Plan recommends that the RTMF be reviewed annually and that fee adjustments should be based on the San Francisco Construction Cost Index as reported in the *Engineering News Record* (ENR) "20-City Construction Cost Index" for the 12-month period ending December of the prior year; and

NOW, THEREFORE, BE IT RESOLVED, that the Nevada County Transportation Commission approves the recommended RTMF increase presented below:

ENR San Francisco CCI:	Dec-2018	12115.37
	Dec-2019	12764.52
	% Increase:	**5.4%**

	Residential Development	Non-Residential Development
2019 Fees:	$413.19	$72.97

	Residential Development	Non-Residential Development
2020 Recommended Fees: (with 5.4% increase)	**$435.50**	**$76.91**

BE IT FURTHER RESOLVED, that the Executive Director of the Nevada County Transportation Commission is authorized to forward this recommended fee increase to Nevada County, City of Grass Valley, and City of Nevada City for their consideration and approval.

PASSED AND ADOPTED by the Nevada County Transportation Commission on April 15, 2020 by the following vote:

Ayes: Commissioner Arbuckle, Commissioner Burton, Commissioner Dee, Chair Guerra, Commissioner Hoek, Commissioner Scofield, Commissioner Strawser

Noes: None

Absent: None

Abstain: None

Andy Burton, Chair
Nevada County Transportation Commission

Attest:

Dale D. Sayles
Administrative Services Officer

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

May 27, 2020

TITLE: A Resolution for the Land Use Covenant and Agreement to Restrict Use of City Property, Deer Creek Environs Property

RECOMMENDATION: Pass Resolution 2020-XX**,** a Resolution of the City of Nevada City Approving and Authorizing Mayor to Sign the Land Use Covenant and Agreement to Restrict Use of Property – Environmental Restrictions and authorize the Mayor to sign.

CONTACT: Dawn Zydonis, Parks & Recreation Manager

BACKGROUND / DISCUSSION:
The City received funding for a Brownfields Clean-Up Grant administered through the Environmental Protection Agency (EPA). The grant allowed the City to work in partnership with Sierra Streams Institute (SSI) to complete clean-up of mine waste on the property that the City refers to as the Deer Creek Environs. This property is located Between Jordan St. and Providence Mine Rd., surrounding the City's Waste Water Treatment Plant.

There are two project sites on the Deer Creek Environs Property. The first is referred to as the Providence Mine Site. This clean-up project was completed in 2017. The second project site is referred to as the Providence Quartz Mill Site. This clean-up project was completed in 2019. The remediation of these project areas consisted of redistributing mine waste and covering the waste with a combination of angular rock, crushed aggregate or "fines" and clean fill dirt along with vegetation.

To complete the work on the project a Removal Action Work Plan (RAW) was submitted to the Department of Toxic Substances Control (DTSC) for approval of the processes that were planned for clean-up of the property. A condition of working with DTSC is that the City must commit to a Land Use Covenant Agreement (LUC) with DTSC. Through the LUC the City is committing to caring for the property in a way that will ensure that the work completed is not disturbed and will be properly maintained.

The LUC is attached for your review. City staff have reviewed the Agreement closely and recommend that the City Council authorize the mayor to sign the attached Covenant.

ENVIRONMENTAL CONSIDERATIONS:
Environmental concerns are addressed within the Agreement. The City is not able to do any work on the property that would disrupt the soil without completing a Soil Management Plan. The City must complete annual inspections to ensure that the work completed through the Brownfields Clean-up Grants remains intact and is not disturbed.

FISCAL IMPACT:
DTSC will require payment for their review of annual inspections that are submitted by the City. This is addressed in Article 3.5 of the LUC.

ATTACHMENTS:
- ✓ Resolution 2020-XX, a Resolution of the City of Nevada City Approving and Authorizing Mayor to Sign the Land Use Covenant and Agreement to Restrict Use of Property – Environmental Restrictions
- ✓ Land Use Covenant and Agreement to Restrict Use of Property – Environmental Restrictions

RESOLUTION 2020-XX

A RESOLUTION OF THE CITY OF NEVADA CITY APPROVING AND AUTHORIZING MAYOR TO SIGN THE LAND USE COVENANT AND AGREEMENT TO RESTRICT USE OF PROPERTY – ENVIRONMENTAL RESTRICTIONS

WHEREAS, the City has completed a Brownfields Clean-up Grant awarded by the Environmental Protection Agency with assistance from Sierra Streams Institute; and

WHEREAS, the Department of Toxic Substance Control oversaw the removal of contaminated materials from the Providence Mine Site; and

WHEREAS, the City intends to preserve the Providence Mine Site & Providence Quartz Mill Site as noted in the Land Use Covenant; and

WHEREAS, the City understands the importance of maintaining healthy outdoor spaces for our residents and visitors.

BE IT RESOLVED, the City Council of the City of Nevada City, approves and authorizes the Mayor to sign the Land Use Covenant and Agreement to Restrict Use of Property – Environmental Restrictions in substantially the same format as attached hereto.

PASSED AND ADOPTED at a regularly scheduled meeting of the Nevada City City Council held on this 27th day of May, 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____

Reinette Senum, Mayor

ATTEST:

_____

Niel Locke, City Clerk

RECORDING REQUESTED BY:

City of Nevada City
317 Broad Street
Nevada City, CA 95959

WHEN RECORDED MAIL TO:

Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, CA 95826
Attention: Steven R. Becker, P.G.
Senior Engineering Geologist
Brownfields and Environmental Restoration Program

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

LAND USE COVENANT AND AGREEMENT TO RESTRICT USE OF PROPERTY ENVIRONMENTAL RESTRICTIONS

County of Nevada Assessor Parcel Number 005-100-087
Providence Mine Site (including Mine Waste Area and Mine Features Area)
and Providence Quartz Mill Site
Department Site Codes: 102156 &102158

This Land Use Covenant and Agreement to Restrict Use of Property ("Covenant") is made by and between the Department of Toxic Substances Control (the "Department") and Nevada City (collectively, the "Covenantor"), the current owner of the property located on Providence Mine Road in Nevada City, Nevada County, California, Assessor's Parcel Number (APN) 005-100-087 (the "Property").

Pursuant to Civil Code section 1471, the Department has determined that this Covenant restricting use of the portions of the Property disturbed in the remediation is reasonably necessary to protect present and future human health or safety and/or the environment as a result of the remaining presence on the land of hazardous materials as defined in Health and Safety Code section 25260. The Covenantor and the Department, collectively referred to as the "Parties", hereby agree, pursuant to Civil Code section 1471 and Health and Safety Code section 25355.5 that the use of the Property be restricted as set forth in this Covenant and that the Covenant conforms with the requirements of California Code of Regulations, title 22, section 67391.1.

ARTICLE I
STATEMENT OF FACTS

1.1 Property Location. Out of the whole Property totaling approximately 38 acres, the properties that are subject to this Covenant are two portions thereof, together totaling approximately _XX__ acres, that were disturbed during the remediation of the property ("Disturbed Portions"). These Disturbed Portions designated "Providence Mine Site" and "Providence Quartz Mill Site" are adjacent to Providence Mine Road, west of Nevada City and south of Deer Creek, more particularly described in the attached exhibits: Exhibit A-1, "Providence Mine Site", depicted in the Exhibit B-1, "Providence Mine Site" map and Exhibit A-2, "Providence Quartz Mill Site", depicted in the Exhibit B-2, "Providence Quartz Mill Site" map.

1.2. Remediation of Property. The Property has been investigated and remediated under the Department's oversight. In accordance with Health and Safety Code, division 20, chapter 6.8, the Department approved a Remedial Action Workplan (RAW) submitted by the Covenantor in 2013. Hazardous substances, including arsenic, lead, mercury, and cadmium, were found on the site. Remediation consisted of redistributing mine waste on the Disturbed Portions of the Property and covering the waste with a combination of angular rock, crushed aggregate or "fines" and clean fill dirt along with vegetation but waste above levels acceptable for unrestricted land use may remain on the Disturbed Portions.

1.3. Basis for Environmental Restriction. As a result of the presence of the hazardous substances indicated above, which are also hazardous materials as defined in Health and Safety Code section 25260, at the Property, the Department has concluded that it is reasonably necessary to restrict the use of the Disturbed Portions of the Property in order to protect present and future human health or safety or the environment, and that this Covenant is required as part of the Department-approved remedy for the Property. The Department has also concluded that the Property, including the Disturbed Portions, in its current condition and when used in compliance with the Environmental Restrictions of this Covenant, does not present an unacceptable risk to present and future human health or safety or the environment.

ARTICLE II
DEFINITIONS

2.1. Department. The "Department" means the California Department of Toxic Substances Control and includes its successor agencies, if any.

2.2. Environmental Restrictions. "Environmental Restrictions" means all protective provisions, covenants, restrictions, prohibitions, and terms and conditions as set forth in any section of this Covenant.

2.3. Improvements. "Improvements" includes, but is not limited to buildings, structures, new roads, driveways, improved parking areas, wells, pipelines, or other utilities. It does not preclude trails or footpaths.

2,4. Lease. "Lease" means lease, rental agreement, or any other document that creates a right to use or occupy any portion of the Property.

2.5. Occupant. “Occupant” means the Covenantor, and any person entitled by ownership, leasehold, or other legal relationship to the right to occupy any portion of the Property.

2.6. Owner. “Owner” means the Covenantor, and all successors in interest, including heirs and assigns, or any person who at any time holds title to all or any portion of the Property.

2.7. Person. “Person” means an individual, trust, firm, joint stock company, business concern, corporation, including, but not limited to, a government corporation, county, city and county, district, commission, the state or any department, agency, or political subdivision thereof, any interstate body, and the United States and its agencies and instrumentalities, to the extent permitted by law. (See Health & Safety Code section 25319.)

ARTICLE III
GENERAL PROVISIONS

3.1. Runs with the Land. This Covenant sets forth Environmental Restrictions that apply to and encumber the Disturbed Portions of the Property no matter how it is improved, held, used, occupied, leased, sold, hypothecated, encumbered, or conveyed. This Covenant : (a) runs with the land pursuant to Civil Code section 1471 and Health and Safety Code sections 25221 and 25355.5; (b) inures to the benefit of and passes with each and every portion of the Property; (c) is for the benefit of, and is enforceable by the Department; and (d) is imposed upon the entire Property unless expressly stated herein as applicable only to a specific portion thereof.

3.2. Binding upon Owners/Occupants. This Covenant: (a) binds all Owners and Occupants of the Property, their heirs, successors, and assignees; and (b) the Owners’ and Occupants’ agents, employees, and lessees. Pursuant to Civil Code section 1471, all successive Owners of the Property are expressly bound hereby for the benefit of the Department. This Covenant, however, is binding on all Owners and Occupants, and their respective heirs, successors, assignees, agents, employees, and lessees only during their respective periods of ownership or occupancy except that such Owners or Occupants shall continue to be liable for any violations of, or noncompliance with, the Environmental Restrictions of this Covenant or any acts or omissions that occurred during their period of ownership or occupancy.

3.3. Incorporation into Deeds and Leases. This Covenant shall be incorporated by reference in each and every deed and lease for any part of the Disturbed Portions of the Property.

3.4. Conveyance of Property. The Owner and any subsequent Owner shall provide “Notice” (see Paragraph 7.3) to the Department not later than 30 calendar days after any conveyance or receipt of any ownership interest in the Property (excluding leases, and mortgages, liens, and other non-possessory encumbrances). The Notice shall include the name and mailing address of the new Owner of the Property and shall reference the site name and Project Code as listed on page one of this Covenant. The Notice shall also include the Assessor’s Parcel Number noted on page one. If the new Owner’s property has been assigned a different Assessor Parcel Number, each such Assessor Parcel Number that covers the Property must be provided. The Department

shall not by reason of this Covenant, have authority to approve, disapprove, or otherwise affect any proposed conveyance, except as otherwise provided by law or by administrative order.

3.5. Costs of Administering the Covenant to be paid by Owner. The Department may in the future incur costs associated with administration of this Covenant. Therefore, the Covenantor herby covenants for the Covenantor and for all subsequent Owners that pursuant to California Code of Regulations, title 22, section 67391.1, subd. (h), the Owner agrees to pay the Department's costs in administering, implementing, and enforcing this Covenant.

ARTICLE IV
RESTRICTIONS AND REQUIREMENTS

4.1 Prohibited Uses. The Property shall not be used for any of the following purposes without prior written approval by the Department.

a) A residence, including any mobile home or factory-built housing, constructed or installed for use as residential habitation.
b) A hospital for humans.
c) A public or private school for persons under 21 years of age.
d) A day care center for children.

4.2. Soil Management. Soil management activities at the Property on the Disturbed Portions are subject to the following requirements in addition to any other applicable Environmental Restrictions:

a) No activities that will disturb the soil (e.g. excavation, grading, removal, trenching, filling, earth movement, mining, drilling, or backfilling), other than for surface maintenance or improvement of existing roads, trails and paths, shall be allowed at the Property without a Soil Management Plan pre-approved by the Department in writing.
b) Any soil brought to the surface by excavation, grading, removal, trenching, filling, earth movement, mining, drilling, or backfilling shall be managed in accordance with all applicable provisions of state and federal law.
c) The Owner shall provide the Department "Notice" at least 14 calendar days prior to any building, excavation, grading, removal, trenching, filling, earth movement, mining, drilling, or backfilling on the Property.

4.3. Prohibited Activities. The following activities shall not be conducted at the Property:

a) Raising of food (e.g., cattle, food crops).
b) Drilling for water, oil, or gas without prior written approval by the Department.
c) Destruction of any vegetative cover except for fuel reduction and fire protection purposes.

4.4. Access for Department. The Department shall have reasonable right of entry and access to the Property for inspection, investigation, remediation, monitoring and other activities as deemed necessary by the Department in order to protect human health or safety and/or the environment.

4.5. Access for Implementing Operation and Maintenance. The entity or person responsible for implementing the operation and maintenance activities, if any, shall have

reasonable right of entry and access to the Property for the purpose of implementing such operation and maintenance activities until the Department determines that no further operation and maintenance activity is required.

4.6. Inspection and Reporting Requirements. The Owner shall conduct an annual inspection of the Property verifying compliance with this Covenant and shall submit an annual inspection report to the Department for its approval by January 15th of each calendar year, either separately for the Providence Mine Site or together with reports on other sites such as the Stiles Mill Site and the Indian Flat Site, subject to similar reporting requirements. The annual inspection report must include the dates, times, and names of those who conducted the inspection and reviewed the annual inspection report. It shall describe how the observations that were the basis for the statements and conclusions in the annual inspection report were performed (e.g., drive by, fly over, walk-in, etc.). If any violation is noted, the annual inspection report must detail the steps taken to correct the violation and return to compliance. If the Owner identifies any violations of this Covenant during the annual inspection or at any other time, the Owner must within 10 calendar days of identifying the violation: (a) determine the identity of the person in violation; (b) send a letter advising the person of the violation of the Covenant; and (c) demand that the violation cease immediately. Additionally, a copy of any correspondence related to the violation of this Covenant shall be sent to the Department within 10 calendar days of its original transmission.

4.7. Five-Year Review. In addition to the annual reviews noted above, after a period of five (5) years from September 1st, 2020, and every five (5) calendar years thereafter, the Owner shall submit a Five-Year Review report documenting its review of the Covenant, including compliance with the Environmental Restrictions, and its evaluation to determine if human health and the environment are being adequately protected by the Covenant. The report shall describe the results of all inspections, sampling analyses, tests and other data generated or received by the Owner and evaluate the adequacy of the Covenant in protecting human health and the environment. As a result of any review work performed, DTSC may require the owner to perform additional review work or modify the review work previously performed by the Owner.

ARTICLE V
ENFORCEMENT

5.1. Enforcement. Failure of any Owner or Occupant to comply with this Covenant shall be grounds for the Department to require modification or removal of any improvements constructed or placed upon any portion of the Property in violation of this Covenant. Violation of this Covenant, including, but not limited to, failure to submit any statement, record, report, or notice of the submission of any false statement, record, report or notice to the Department shall be grounds for the Department to pursue administrative, civil, or criminal actions, as provided by law.

ARTICLE VI
VARIANCE, TERMINATION, AND TERM

6.1. Variance from Environmental Restrictions. Any person may apply to the Department for a written variance from any of the Environmental Restrictions imposed by this Covenant. Such application shall be made in accordance with Health and Safety Code section 25223.

6.2. Removal of Environmental Restrictions. Any person may apply to the Department to remove any of the Environmental Restrictions imposed by this Covenant or terminate the Covenant in its entirety. Such application shall be made in accordance with Health and Safety Code section 25224.

6.3. Term. Unless ended in accordance with paragraph 6.2, by law, or by the Department in the exercise of its discretion, this Covenant shall continue in effect in perpetuity.

ARTICLE VII
MISCELLANEOUS

7.1. No Dedication Intended. Nothing set forth in this Covenant shall be construed to be a gift or dedication, or offer of a gift or dedication, of the property of any portion thereof to the general public or anyone else for any purpose whatsoever.

7.2. Recordation. The Covenantor shall record this Covenant, with all referenced Exhibits, in the County of Nevada within 10 calendar days of the Covenantor's receipt of a fully executed original.

7.3. Notices. Whenever any person gives or serves any "Notice" ("Notice", as used herein, includes any demand, request, or communication with respect to this Covenant), such notice shall be in writing and shall be deemed effective: (a) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served; or (b) five calendar days after deposit in the mail, if mailed by United States mail, postage prepaid, certified, return receipt requested:

To the Owner:
Nevada City
317 Broad Street
Nevada City, CA 95959
Attention: Dawn Zydonis
Parks and Recreation Manager

To the Department:
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, CA 95826
Attention: Steven R. Becker, P.G.
Senior Engineering Geologist
Brownfields and Environmental
Restoration Program

Any party may change its address or the person to whom a notice is to be sent by giving "Notice" in compliance with this paragraph.

7.4. Partial Invalidity. If this Covenant or any of its terms are determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.

7.5. Statutory References. All statutory references include successor provisions.

7.6. Incorporation of Attachments. All attachments and exhibits to this Covenant are incorporated herein by reference.

IN WITNESS WHEREOF, the parties execute this Covenant.

NEVADA CITY

Date: _____,2020 _____

Reinette Senum, Nevada City Mayor

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

Date: _____, 2020 _____

Steven R. Becker, P.G.
Senior Engineering Geologist
Site Evaluation and Remediation Unit
Brownfields and Environmental Restoration Project

NOTARY ACKNOWLEDGMENT OF LAND USE COVENANT AND AGREEMENT TO RESTRICT PROPERTY, ENVIRONMENTAL RESTRICTIONS

A notary public or other officer completing this certificate verifies only that the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California |
County of Nevada |

On _____ , 2020, before me,

_____ [Name and Title of Notary Public Officer],

personally appeared _____ [Name of signatory] who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____ (Seal)

NOTARY ACKNOWLEDGMENT OF LAND USE COVENANT AND AGREEMENT TO RESTRICT PROPERTY, ENVIRONMENTAL RESTRICTIONS

A notary public or other officer completing this certificate verifies only that the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California |
County of Nevada |

On _____ , 2020, before me,

_____ [Name and Title of Notary Public Officer],

personally appeared _____ [Name of signatory] who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____ (Seal)

JOHN E. BAKER
President

DAN HOAGLAND
Land Surveyor

ANDREW R. CASSANO
Land Planner

ROBERT M. ROURKE
Civil Engineer

NEVADA CITY ENGINEERING, INC.
505 COYOTE STREET, SUITE B • P.O. BOX 1437
NEVADA CITY, CALIFORNIA 95959 • TELEPHONE (530) 265-6911 • FAX (530) 265-8058

Engineering • Surveying • Planning

EXHIBIT "A"
Providence Mine Site

A portion of the Parcel A of that certain Parcel Map filed in Book 17 of Parcel Maps at Page 29, Nevada County Official Records, and being a portion of the Southwest Quarter of Section 12, Township 16 North, Range 8 East, Mount Diablo Base and Meridian, within the incorporated territory of the City of Nevada City, State of California, and being more particularly described as follows:

BEGINNING AT A POINT at a point on the Northerly line of said Parcel A from which the Southwest Corner of said Section 12 bears South 01°19'26" East a distance of 914.67 feet; **THENCE FROM SAID POINT OF BEGINNING** South 01°19'26" East a distance of 1.26 feet to a point on the Northerly line of Providence Mine Road; Thence following said Northerly road line North 42°15'00" East a distance of 17.05 feet to the beginning of a curve to the right, concave Southwest, having a radius of 110.00 feet; Thence following said curve in a Southeasterly direction through a central angle of 143°39'28" for an arc distance of 275.80 feet; thence leaving said Northerly line of Providence Mine Road North 67°49'00" East a distance of 211.03 feet; Thence North 20°46'00" West a distance of 177.57 feet to a point on the Northerly line of said Parcel A; Thence South 74°20'28" West a distance of 244.52 feet; Thence South 43°11'55" West a distance of 145.12 feet **TO THE POINT OF BEGINNING**.

The basis of bearings is the Book 17 of Parcel Maps Page 29, Nevada County Records.

The herein described area is shown on Exhibit "B" attached hereto and made a part hereof.

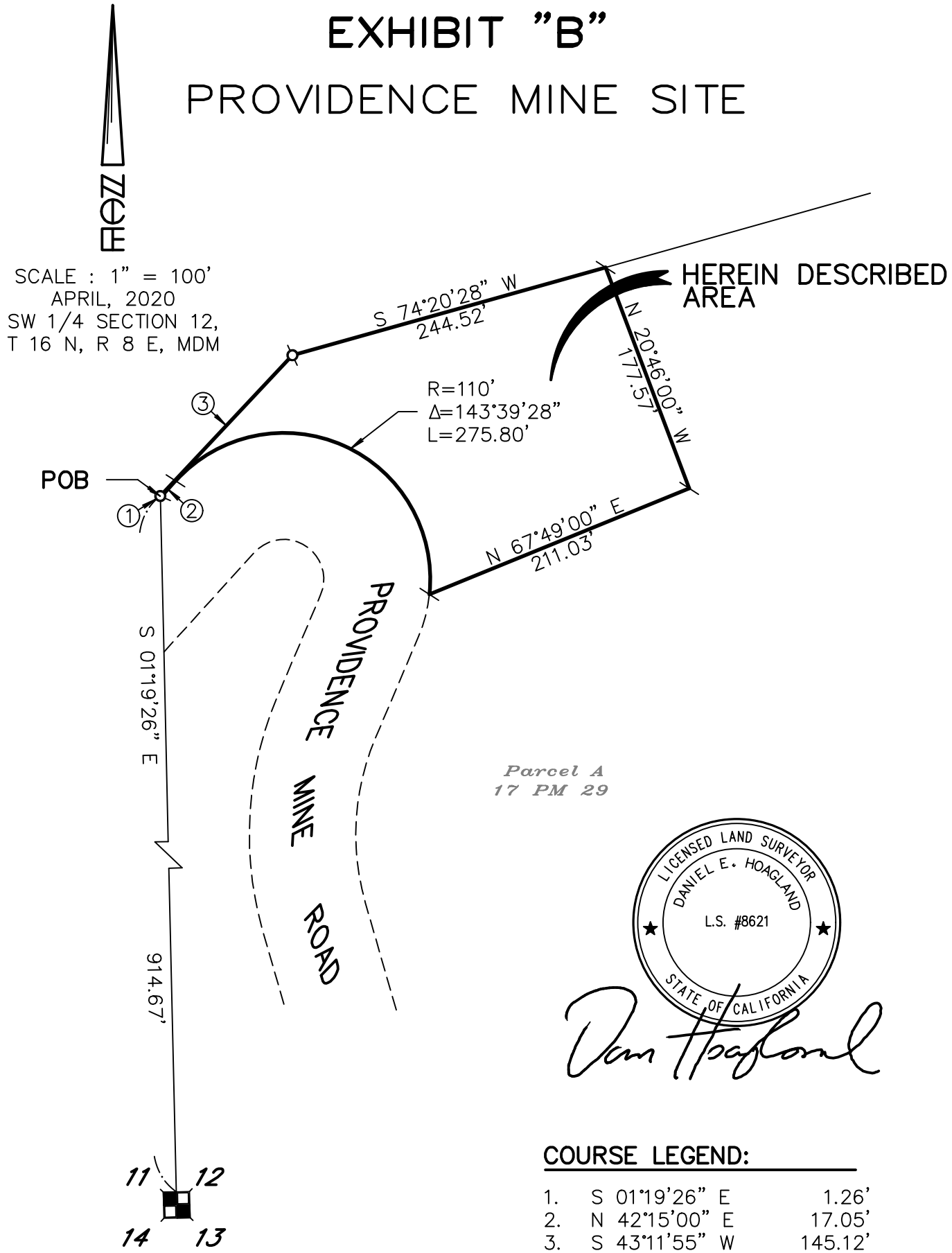
This description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.

Daniel E. Hoagland, PLS 8621

LICENSED LAND SURVEYOR
DANIEL E. HOAGLAND
L.S #8621
STATE OF CALIFORNIA

EXHIBIT "B"

PROVIDENCE MINE SITE



COURSE LEGEND:

1.	S 01°19'26" E	1.26'
2.	N 42°15'00" E	17.05'
3.	S 43°11'55" W	145.12'

JOHN E. BAKER
President

DAN HOAGLAND
Land Surveyor

ANDREW R. CASSANO
Land Planner

ROBERT M. ROURKE
Civil Engineer

NEVADA CITY ENGINEERING, INC.
505 COYOTE STREET, SUITE B • P.O. BOX 1437
NEVADA CITY, CALIFORNIA 95959 • TELEPHONE (530) 265-6911 • FAX (530) 265-8058

Engineering • Surveying • Planning

EXHIBIT "A"
Providence Quartz Mill Site

A portion of the Parcel A of that certain Parcel Map filed in Book 17 of Parcel Maps at Page 29, Nevada County Official Records, and being a portion of the Southwest Quarter of Section 12, Township 16 North, Range 8 East, Mount Diablo Base and Meridian, within the incorporated territory of the City of Nevada City, State of California, and being more particularly described as follows:

BEGINNING AT A POINT at a point on the Easterly line of said Parcel A, said point also being a point on the Southerly line of Providence Mine Road, from which the Southwest Corner of said Section 12 bears South 01°19'26" East a distance of 797.35 feet; **THENCE FROM SAID POINT OF BEGINNING** and following the Southerly and Westerly lines of Providence Mine Road North 42°15'00" East a distance of 101.13 feet to the beginning of a curve to the right, having a radius of 30.00 feet; Thence following said curve through a central angle of 160°45'00" for an arc distance of 84.17 feet; Thence South 23°00'00" West a distance of 83.19 feet to the beginning of a curve to the left, having a radius of 265.00 feet; thence following said curve through a central angle of 02°16'03" for an arc distance of 10.49'; Thence leaving said line of Providence Mine Road WEST a distance of 80.41 feet to a point on the Westerly line of said Parcel A; Thence following said Westerly line North 01°19'26" West a distance of 83.19 feet **TO THE POINT OF BEGINNING**.

The basis of bearings is the Book 17 of Parcel Maps Page 29, Nevada County Records.

The herein described area is shown on Exhibit "B" attached hereto and made a part hereof.

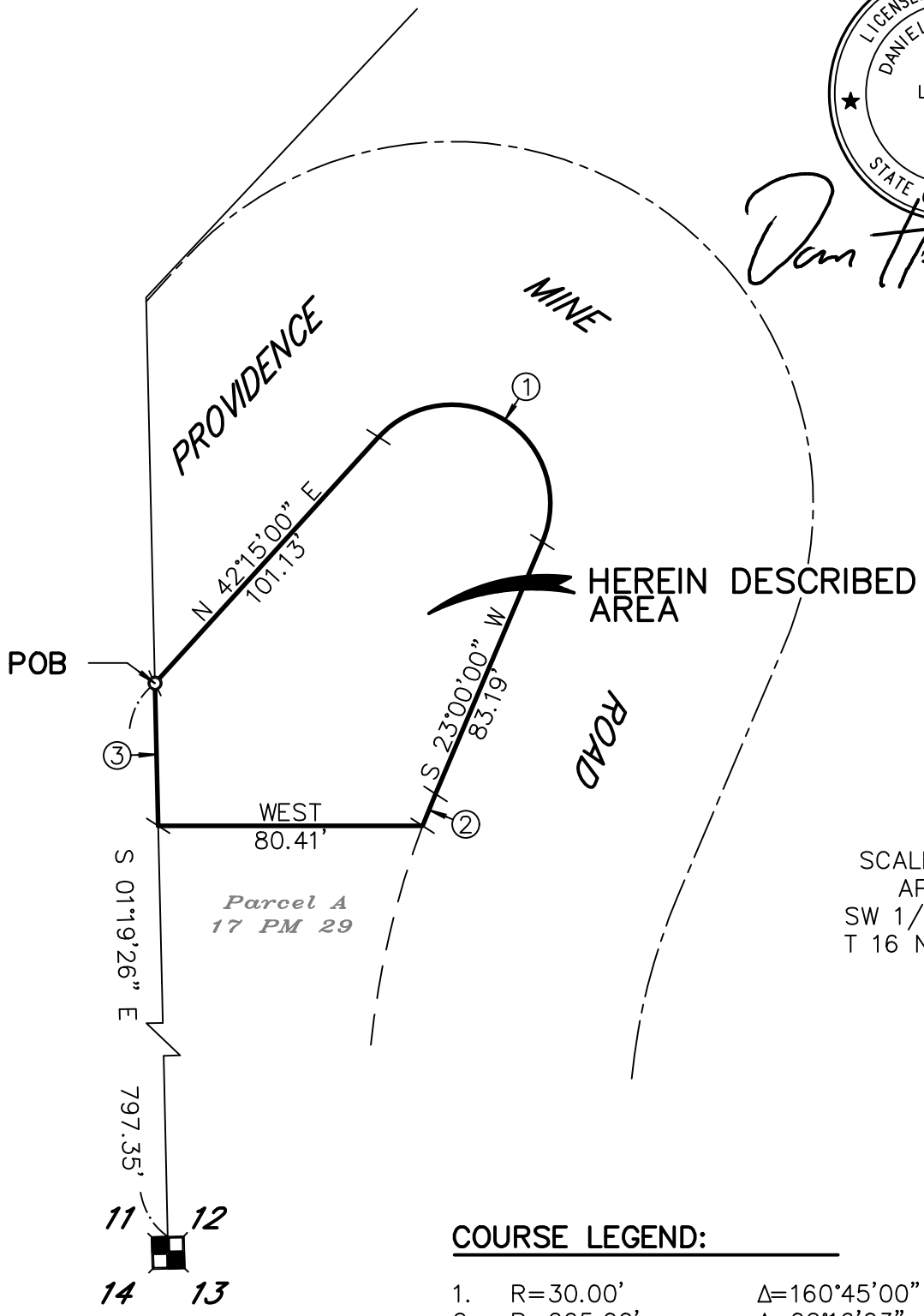
This description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.

Daniel E. Hoagland, PLS 8621

EXHIBIT "B"

PROVIDENCE QUARTZ MILL SITE

LICENSED LAND SURVEYOR
DANIEL E. HOAGLAND
L.S. #8621
STATE OF CALIFORNIA



N

SCALE : 1" = 50'
APRIL, 2020
SW 1/4 SECTION 12,
T 16 N, R 8 E, MDM

COURSE LEGEND:

1.	R=30.00'	Δ=160°45'00"	L=84.17'
2.	R=265.00'	Δ=02°16'03"	L=10.49'
3.	N 01°19'26" W	43.35'	

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City CA 95959
www.nevadacityca.gov

May 27, 2020

TITLE: Update on State and Local Eviction Moratoriums

RECOMMENDATION: Receive and file.

CONTACT: Catrina Olson, City Manager
Crystal Hodgson, City Attorney

BACKGROUND / DISCUSSION:
In response to the COVID-19 global pandemic, Governor Newsom issued two executive orders related to evictions in the State. He issued the first one (N-28-20) on March 16, 2020, which suspended any state law that would preempt or otherwise restrict the City's exercise of its police power to impose substantive limitations on evictions based on nonpayment of rent resulting from the impacts of COVID-19. The order was set to expire on May 31, 2020.

The Governor's second order related to evictions was issued on March 27, 2020, (N-37-20) and it instituted a statewide moratorium on residential evictions effective through May 31, 2020.

As of May 22, 2020 (the date this staff report was provided as part of the May 27, 2020, City Council Meeting Agenda packet), the City has a commercial eviction moratorium in place (Ordinance No. 2020-06), set to expire on May 31, 2020. And as of the date of this report, May 22, 2020, the Governor has not extended either of his two orders relating to evictions.

Unless the Governor extends his March 16, 2020 Order suspending State law impediments to allow for the City to adopt its own residential and/or commercial eviction moratorium, staff does not recommend that the City Council extend the City's commercial eviction moratorium beyond May 31, 2020, or adopt a City residential eviction moratorium.

It should be noted, that there is some State protection for tenants even if the Governor does not extend either eviction-related executive order. On April, 6, 2020, the California Judicial Council, the agency that makes court rules, added multiple emergency Rules of Court, including a rule prohibiting courts from processing nearly all unlawful detainers (the "Judicial Rule"). The Judicial Rule applies "until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted" or until the judicial council amends the rules. In other words, if the court's existing order is not amended, at minimum, it will last through late summer, and if the state of emergency runs through at least September, then the Judicial Rule will be effective into 2021.

Staff will update the Council at the May 27, 2020, meeting as to whether either of the Governor's orders were extended between the time this report was posted with the agenda packet, and the time the meeting occurs. If the Governor does extend his Orders, staff will prepare appropriate legal documents for your consideration to extend the City's commercial eviction moratorium, and/or adopt a residential eviction moratorium, provided that the Governor does not extend his order containing a residential eviction moratorium.

ENVIRONMENTAL CONSIDERATIONS: Not applicable.

FISCAL IMPACT: None.

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City CA 95959
www.nevadacityca.gov

May 27, 2020

TITLE: The 2019 Annual Housing Progress Report

RECOMMENDATION: Receive and File the 2019 Annual Progress Report (APR) and direct staff to submit the report to the Governor's Office of Planning and Research and the Housing Community Development Department in accordance with Government Code Section 65400(b)(1).

CONTACT: Amy Wolfson, City Planner

BACKGROUND/DISCUSSION:
Government Code Section 65400(b)(1) mandates that all cities and counties submit to their legislative bodies an annual report on the status of the general plan and progress in its implementation (the "Progress Report"). A copy of this Progress Report must also be sent to the Governor's Office of Planning and Research (OPR) and the Department of Housing and Community Development (HCD).
The Annual Progress Report (APR) helps to facilitate the implementation of the Housing Element and in tracking and monitoring the City's progress in addressing the regional housing needs allocation (RHNA), including the number of housing units permitted by income level, the status of programs in the Housing Element, and efforts to remove governmental constraints.

2019 ANNUAL HOUSING REPORT:
In 2019, the City provided entitlement for 14 new residential units, one of which was an Accessory Dwelling Unit (ADU), deed-restricted to occupants of moderate or below income levels. Most of those entitled permits are still pending permit issuance by the Building Department, with only one issued permit and one final occupancy permit issued in 2019. The one deed-restricted ADU was issued in the beginning of 2020 so the City won't receive credit for that unit until the 2020 APR is submitted.
It should be noted that the Attached Annual Progress Report, Table B does not reflect the City's reported housing progress between the years 2014 and 2017 so the totals do not include data from those years and are therefore under-reflected. I am including the response I received from the Department of Housing and Community Development when I queried them about this. Their response provided the data we previously submitted with the Table B they have on file showing the accurate numbers through 2017. The table is locked for editing so I couldn't manually enter this data into the current record as the email response suggested.

The 5th cycle (2014 -2019) RHNA targets amounted to a total of 85 units, 49 of which were to be restricted to moderate and below income levels. Over the cycle, the City constructed 17 units, two of which were restricted to moderate and below moderate income levels. Therefore, the City did not meet targets and fell short of the allocated target by 68 units. Failure to meet RHNA targets does subject the City to SB35 project streamlining provisions.

FISCAL CONSIDERATIONS: There is no fiscal impact.

ATTACHMENT:
- ✓ Annual Housing Progress Report for year 2019
- ✓ Email from HCD representative, Tom Brinkhuis dated 5/14/20

Jurisdiction	Nevada City	
Reporting Year	2019	(Jan. 1 - Dec. 31)

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation

(CCR Title 25 §6202)

Note: "+" indicates an optional field

Cells in grey contain auto-calculation formulas

Table A
Housing Development Applications Submitted

Project Identifier					Unit Types		Date Application Submitted	Proposed Units - Affordability by Household Incomes								Total Approved Units by Project	Total Disapproved Units by Project	Streamlining	Notes
1					2	3	4	5							6	7	8	9	10
Prior APN+	Current APN	Street Address	Project Name+	Local Jurisdiction Tracking ID+	Unit Category (SFA,SFD,2 to 4,5+,ADU,MH)	Tenure R=Renter O=Owner	Date Application Submitted	Very Low-Income Deed Restricted	Very Low-Income Non Deed Restricted	Low-Income Deed Restricted	Low-Income Non Deed Restricted	Moderate-Income Deed Restricted	Moderate-Income Non Deed Restricted	Above Moderate-Income	Total PROPOSED Units by Project	Total APPROVED Units by project	Total DISAPPROVED Units by Project (Auto-calculated Can Be Overwritten)	Was APPLICATION SUBMITTED Pursuant to GC 65913.4(b)? (SB 35 Streamlining)	Notes+
Summary Row: Start Data Entry Below								0	0	0	0	1	0	10	11	0	11	0	
	005-250-010	117 Walrath Avenue		190770	ADU	R	4/10/2019					1		1	2		2	No	
	005-391-028	216 Main Street		192020	2 to 4	R	8/8/2019							4	4		4	No	
	005-170-023	301 woodpecker		193463	ADU	R	12/23/2019							1	1		1	No	
	005-230-010	632 Zion		193505	SFD	R	12/30/2019							1	1		1	No	
	005-430-028	208 Clay Street		193504	ADU	R	12/30/2019							1	1		1	No	
	005-480-044	510 Silva		193535	SFD	O	12/31/2019							1	1		1	No	
	005-270-050	110 Mine Rock			2 to 4	R	8/7/2019							1	1		1	No	
															0		0		
															0		0		
															0		0		

Jurisdiction	Nevada City	
Reporting Year	2019	(Jan. 1 - Dec. 31)

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Note: "+" indicates an optional field

Cells in grey contain auto-calculation formulas

Table A2
Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units

Project Identifier					Unit Types		Affordability by Household Incomes - Completed Entitlement									Affordability by Household Incomes - Building Permits						
1					2	3	4							5	6	7						
Prior APN+	Current APN	Street Address	Project Name+	Local Jurisdiction Tracking ID+	Unit Category (SFA,SFD,2 to 4,5+,ADU,MH)	Tenure R=Renter O=Owner	Very Low-Income Deed Restricted	Very Low-Income Non Deed Restricted	Low- Income Deed Restricted	Low- Income Non Deed Restricted	Moderate-Income Deed Restricted	Moderate-Income Non Deed Restricted	Above Moderate-Income	Entitlement Date Approved	# of Units issued Entitlements	Very Low-Income Deed Restricted	Very Low-Income Non Deed Restricted	Low- Income Deed Restricted	Low- Income Non Deed Restricted	Moderate-Income Deed Restricted	Moderate-Income Non Deed Restricted	Above Moderate-Income
Summary Row: Start Data Entry Below							0	0	0	0	1	0	1		2	0	0	0	0	1	0	1
	005-250-010	117 Walrath Avenue		190770	ADU	R					1			6/28/2019	1					1		
	005-380-035	165 Grove		181257	SFD	O							1	9/19/2018	1							1
	005-170-023	301 woodpecker		193463	ADU	R							1	3/17/2020	1							1
	005-230-010	632 Zion		193505	SFD	R							1	4/23/2020	1							1
	005-270-050	110 Mine Rock Road		192010	2 to 4	R							1	12/10/2019	1							1
	005-110-030	106 Motherlode Ave			SFD	O							1	4/11/2018	1							1
															0							
															0							

Jurisdiction	Nevada City	
Reporting Year	2019	(Jan. 1 - Dec. 31)

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

This table is auto-populated once you enter your jurisdiction name and current year data. Past year information comes from previous APRs.

Please contact HCD if your data is different than the material supplied here

Table B
Regional Housing Needs Allocation Progress
Permitted Units Issued by Affordability

		1	2									3	4
Income Level		**RHNA Allocation by Income Level**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**				**Total Units to Date (all years)**	**Total Remaining RHNA by Income Level**
Very Low	Deed Restricted	19											19
	Non-Deed Restricted												
Low	Deed Restricted	14										1	13
	Non-Deed Restricted						1						
Moderate	Deed Restricted	16						1				2	14
	Non-Deed Restricted						1						
Above Moderate		36					1	1				2	34
Total RHNA		**85**											
Total Units							**3**	**2**				**5**	**80**

Note: units serving extremely low-income households are included in the very low-income permitted units totals

Cells in grey contain auto-calculation formulas

Jurisdiction	Nevada City	
Reporting Year	2019	(Jan. 1 - Dec. 31)

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Note: "+" indicates an optional field

Cells in grey contain auto-calculation formulas

Table C

Sites Identified or Rezoned to Accommodate Shortfall Housing Need

Project Identifier				Date of Rezone	RHNA Shortfall by Household Income Category				Type of Shortfall	Sites Description							
1				2	3				4	5	6	7	8		9	10	11
APN	**Street Address**	**Project Name+**	**Local Jurisdiction Tracking ID+**	**Date of Rezone**	**Very Low-Income**	**Low-Income**	**Moderate-Income**	**Above Moderate-Income**	**Type of Shortfall**	**Parcel Size (Acres)**	**General Plan Designation**	**Zoning**	**Minimum Density Allowed**	**Maximum Density Allowed**	**Realistic Capacity**	**Vacant/Nonvacant**	**Description of Existing Uses**
Summary Row: Start Data Entry Below																	
005-190-053	400 Providence Mine Road			1/12/2011					Unaccommodated Need	2	UHD	R3-PD	16	16	32	Vacant	
005-270-038	646 Searls Avenue			1/12/2011					No Net Loss	1	UHD	R3-PD-AN	16	16	15	Non-Vacant	Developed with SFD, entitled for 15 additional units

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation

(CCR Title 25 §6202)

Jurisdiction	Nevada City	
Reporting Year	2019	(Jan. 1 - Dec. 31)
D_1_Name	*D_2_Objective*	*D_3_Time*

D_4_Status

Table D

Program Implementation Status pursuant to GC Section 65583

Housing Programs Progress Report

1 Name of Program	2 Objective	3 Timeframe in H.E	4 Status of Program Implementation
(1) Pursue available funding sources for affordable housing, including applications for HOME and CDBG funds for the construction or rehabilitation of lower income housing, including extremely low-income owner/renter occupied housing.	Encourage the development and rehabilitation of affordable housing. Quantified Objective: 5 units rehabilitated 5 first time home buyer loans.	2010, Annually thereafter	The City did not have sufficient resources to apply for HOME and CDBG funds this housing cycle. The City will be seeking assistance from other agencies to obtain grant funding and administer these programs in the 6th Housing Cycle.
(2) Adopt city resolutions and provide other forms of support for nonprofit builders or other qualified interests to support acquisition of federal and state funding for affordable housing projects	Provide support resolutions with the submittal of federal and state grant assistance for loan applications.	Continuous and on-going; 2009-2014	The City did not have sufficient resources to apply for funding or reach out to nonprofit buildings for these programs. The City will be seeking assistance from other agencies, including nonprofits, to obtain grant funding and administer these programs in the 6th Housing Cycle.
(3) Support the efforts of the Nevada County Social Services Department to obtain additional Section 8 rental assistance Housing Vouchers.	Increase the number of residents in need of housing vouchers. Quantified Objective 10 Vouchers	Continuous and ongoing; 2009-2014	Invited Co. Director of Health and Human Services to provide a presentation on homelessness at the 10/26/2016 City Council Meeting. The City will continue to support the County to expand Section 8 rental assistance Housing Vouchers for potential residents within Nevada City.
(4) Encourage and continue to facilitate the conversion of existing motel units for Single Room Occupancy Units (SROs) for extremely low income households, lower income seniors and homeless individuals as an alternative to demolition or change in use. When possible, motel conversions shall be expedited by exempting them from formal environmental review. The city will promote these provisions as part of Program 17 to work with developers every two years.	Amend zoning code to identify appropriate zones where SRO units would be permitted and/or add definition. Quantified Objective 10 units	Every two years	The City's Service Lodge (SL) Zoning Designation allows for Multi-family housing pursuant to Municipal Code Section 17.52.020. In 2008, the City issued a building permit for the conversion of 40 existing motel rooms to 25 senior apartments (permit no. 08014300). Due to the lack of interest by the public in this program, the City did not amend the Zoning Code to address Single Room Occupancy Units. The City will revisit this program for implementation in the 6th Housing Cycle.
5) Thirty percent of all homes located in new subdivisions shall be 1,500 square feet or smaller. These homes shall be affordable to moderate and below income households. This shall be accomplished through deed restrictions or through an affordable housing plan that includes moderate and below income housing opportunities accomplished through a variety of mechanisms including, but not limited to, size restrictions, rental units, second units, etc. The plan shall be approved by the Planning Commission and/or City Council.	Amend City Zoning Code to achieve long term affordability through size and deed restrictions. Quantified Objective 5 units deed restricted for low income household ownership.	On-going 2009-2014	The Zoning Code Amended in 2009 consistent with this program. All subdivision proposals in the City since have met this requirement. The City currently has 34 entitle housing meeting this standard. None have been constructed and none are deed restricted but all are approved under an approved affordable housing plan.

6) Amend the City Zoning Code to allow subdivision of legal parcels with two legal single family dwellings provided that all setbacks, access and parking can be met subject to the recordation of a 30-year deed restriction limiting sales of one of the lots to either Very Low and/or Low income households. This would apply to all zones that allow single family subdivisions.	Quantified Objective Amend City Zoning Code to increase ownership opportunities for lower income households.	2012-2013 Fiscal Year	Zoning Code Amended in 2009, consistent with this program .
Amend the R2 zone to allow eight units per acre as allowed in the "MF," Mixed Residential land use designation of the General Plan. City Council Direction	Quantified Objective Amend City Zoning Code to increase the density of the R2 zone.	2009/10 Fiscal Year	Zoning Code Amended in 2009, consistent with this program.
(8) Amend the City Zoning Code to allow homeless shelters by right in the LI, Light Industrial district consistent with Senate Bill 2. Emergency shelters shall only be subject to the same development and management standards that apply to other allowed uses within the identified zone. Expand the definition of "Public-Quasi Public" to include emergency shelters, transitional housing and supportive housing. In addition to allowing transitional and supportive housing in the "Public-Quasi Public" zone, the Zoning Code will be amended to include Transitional and Supportive housing as a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.	Increased opportunity for the development of emergency shelters and transitional and supportive housing for homeless individuals. Quantified ObjectiveAdopt new ordinance to allow homeless shelters and transitional and supportive housing in accordance with Section 65583(a)(5).	2010-2011 Fiscal Year	Zoning Code Amended in 2009,consistent with this program
(9) The City will coordinate with and support neighboring jurisdictions in the establishment of a permanent, year-round emergency shelter within western Nevada County.	Quantified Objective Development of a regional homeless shelter within western Nevada County.	2009-2014	The City has an existing MOU with Sierra Roots to provide a warming shelter during severe weather events. Completed and ongoing. The City, and residents of the City, continue to support Hospitality House; an emergency shelter located in adjoining Grass Valley. Hospitality House, created in 2005, A new dormitory was completed for the facility in 2018. The facility serves hundreds of low income people every year. The City continues to work with County officials to support a permanent shelter concept.
(10) Actively support efforts of providers who establish short-term bed facilities for segments of the homeless population including specialized groups such as the mentally ill, and chronically disabled.	Provision of additional housing for homeless individuals	2009-2014	The City has an existing MOU with Sierra Roots to provide a warming shelter during severe weather events. Completed and ongoing. The City, and residents of the City, continue to support Hospitality House; an emergency shelter located in adjoining Grass Valley. Hospitality House, created in 2005, A new dormitory was completed for the facility in 2018. The facility serves hundreds of low income people every year.
(11) Work with FREED or another equivalent organization in seeking rehabilitation program grants for very low income disabled persons and senior citizens to improve accessibility and safety residential buildings.	Provide assistance to disabled persons Quantified Objective Provide assistance to 10 individuals.	Current and on-going 2009-2014	*The City has received two different rounds of CDBG funding for curb cuts ADA compliance, and money for park bathrooms for ADA compliance as a result of working with FREED on ADA needs, Improvements were made in residential areas where they have improved access to at least 10 disabled individuals, along with the general public.*
12) Work with FREED or another equivalent organization to develop a reasonable accommodation policy to provide exceptions and/or expedite approvals for projects or improvements that accommodate disabled residents.	Inclusion-of "Universal Design" principles and "visitability" standards in new or remodeled rental and ownership housing units to accommodate disabled residents. Quantified Objective 5 accessible dwelling units.	2010-2011 Fiscal Year	FREED is on the City's standard distribution list for housing project proposals. Their organization has regularly participated in public comments for housing proposals. The City will amend the Zoning Code in the 6th Housing Cycle to include a reasonable accommodate regulations.

(13) Continue to refer new development projects to FREED or another equivalent organization for review and to improve accessibility and eliminate barriers for persons with disabilities in new developments. ***Program 7 from 2003 (Modified)***	Enhanced development-review to accomplish accessibility for persons with disabilities. Quantified Objective Review and amend City Zoning Code.	2011-2012 Fiscal Year	FREED is on the City's standard distribution list for housing project proposals. Their organization has regularly participated in public comments for housing proposals.
(14) Revise the Zoning Ordinance to allow by right state licensed group homes, foster homes, residential care facilities, and similar facilities to allow group care homes with six (6) or fewer persons in all residential zones that permits a single family dwelling as a principal use.	Increased opportunities for the provision of small foster homes, residential care facilities, and similar facilities. Quantified Objective Revise City Zoning Code	2010-2011 Fiscal Year	Zoning Code Amended in 2009, consistent with this program.
(15) Revise the definition of "public-quasi public" in the Zoning Ordinance to specifically include state licensed group homes, foster homes, residential care facilities, and similar facilities.	Increased opportunities for the provision of large foster homes, and a variety residential care facilities,. Quantified Objective Revise City Zoning Code	2010-2011 Fiscal Year	Zoning Code Amended in 2009, consistent with this program.
(16) Amend the definition of "Family" in the City Zoning Ordinance to remove the restriction on the number of unrelated adults living as a single housekeeping unit.	Increased opportunities for unrelated individuals to live in a single housekeeping unit and to comply with Fair Housing Law. Quantified Objective Revise City Zoning Code	2010-2011 Fiscal Year	Zoning Code Amended in 2009, Consistent with this program.
(17) Work with and support the efforts of local non-profit and for profit builders to facilitate the development of multiple family rental housing.	Facilitate the development of affordable rental housing.	Every two years	The City is working to address a severe housing shortfall with a Cottage Dwelling Development Ordinance, which is intended to incentivize small unit development by way of density bonus and impact fee reduction. Staff intends to bring an initial draft before the planning commission at their March 2019 meeting. It is intended to promote development by both non-profit and for-profit developers. The City has an ordinance in place that allows a waiver of mitigation fees and utility hook-up fees for deed-restricted, low-income accessory dwelling units; City Municipal Code 17.72.026
18) Upon a request, meet with developers in advance of formal application submittals to identify ways to streamline and expedite the review process for multi- family rental housing units. Detailed applications will be provided along with requisite checklists These meeting will focus on city staff providing an early review of conceptual development applications and to identify filing requirements such that delays will be minimized.	Facilitate the development of affordable rental housing.	Continuous and on-going; 2009-2014	The City Planner regularly meets with developers and advises on how to avoid a prolonged process, primarily by avoiding a map project. I also advise on ways a project may be tailored to take advantage of a categorical CEQA exemption.
(19) Amend the RR and R1 zones to permit factory built and mobile homes on a permanent foundation and prohibit units 10 years of age and older per State requirements. Due to the historic character of Nevada City, factory built and mobile homes on foundations will not be permitted in the HD, Historic District combining zone. ***City Council direction***	Allow for manufactured housing within the City subject to the same standards as conventionally constructed single family homes. Quantified Objective Adopt new ordinance.	Complete by December 2010	Zoning Code Amended in 2009, Consistent with this program
(20) Develop alternative funding sources to finance public services as necessary to maintain level of service. ***Program 2.d from 2003 (modified)***	Reduce cost of development while maintaining and preserving quality of neighborhoods.	On going	Measure S, a tax that supports road and sidewalk improvements, Measure C, a tax which funds police and fire personnel, Recent rate increases for water and sewer, and Measure F a cannabis business excise tax
(21) Consider the cost impacts on affordable housing units when revising administrative processing and development impact fees.	The road development impact fee program should be revised to use a progressive, per square footage formula for residential uses the next time the City's nexus study is updated. Quantified ObjectiveInclude impacts on affordable housing when developing all new City based fees.	Continuous and on-going; 2009-2014	The City has not increased development impact fees since 1993 The City is considering a fee study in the near future. The City is also considering a Cottage Dwelling Ordinance which would allow reduced impact fees for developments of small units.

(22) In the review of new zoning and subdivision development standards, consider the cost implications on housing .	Quantified ObjectiveSpecifically address impacts on affordable housing when adopting new development standards.	Continuous and on-going; 2009-2014	The City considered cost impacts to amended fee programs. The City is also considering a Cottage Dwelling Ordinance which would allow reduced impact fees for developments of small units and also allow increased densities above 16 units per acre in both the R2 and R3 designations. Density increases would inversely correlate with unit size.
(23) Twenty five percent of the 2009-2014 RHNA allocation for Very Low and Low income residents shall be allocated to second dwelling units. ***City Council direction***	Quantified Objective 12 second units.	Ongoing from 2009-2014	The City issued five second dwelling unit permits during the 5th Housing Cycle. Two of these were deed restricted for moderate and below income (exceeding the 25% criteria of this program. The City encourages the development and conversion of accessory dwellings (secondary dwelling units) by waiving development impact fees for those that have deed restrictions.
(24) Periodically query the local property management businesses to verify rental rates for second dwellings within the City of Nevada City.	At least every two years monitor rental rates charged for second units	Ongoing from 2009-2014	A rental survey is currently being conducted that will include verification of rental rates for secondary units.
(25) Develop a new general plan land use designation and R3 zoning district that will provide a minimum of 16 units per acre and 16 units per site. The R3 zone shall include a range of unit sizes, reasonable site development standards, ensure standards will facilitate achieving maximum densities, encourage the development of housing for lower-income households and a ministerial application process subject to design review in accordance with Government Code Sections 65583.2 (i) and 65589.5 (d).	Increased rental housing opportunities for Very Low and Low income households. Quantified Objective:Amend general plan and City Zoning Code to develop new R3 zone district.	Fiscal year 2009-2010	The Code was amended consistent with this program. The General Plan is consistent with this minimum density requirement.
(26) Zone needed lands R3 to make sites available.	Meet rental housing opportunities for Very Low and Low income households per RHNA requirements. Quantified Objective:Zone approximately four acres of R3, utilizing candidate sites listed in Table 4.00-1, to accommodate the RHNA requirements.	Fiscal year 2010-2011	3 acres zoned to R3 to comply with 5th Cycle RHNA in 2011.
(27) Monitor the amount of land zoned for R3, High Density Multifamily Residential and initiate zone changes as part of a "no-net loss" policy of Government Code Section 65863 to accommodate affordable housing, if the supply falls below the City's targeted portion of the Quantified Objectives.	Annually monitor R3 lands to ensure that these lands remain sufficient to accommodate the City's affordable unit numbers throughout the planning period. Quantified Objective Report on availability through annual housing element report.	Continuous and on-going; 2009-2014	No reductions in R-3 land made during the 5th Housing City. City continues to monitor zoning. Between 2010 and 2017, the City was engaged with a developer proposing high-density housing on a 2-acre R3-zoned site. Entitlement has been approved for "The Grove" subdivision, though building permits have not been issued.
(28) Development proposals that under-realize density associated with R3 zoned sites shall be subject to a Use Permit. The City shall address and make applicable "no-net loss" findings required in Government Code Section **65863** for any land use request to a lower density or alternative land use.	The new R3 zone shall require a Use Permit for any project that does not achieve the 16 units per acre density. Quantified Objective: No net loss in R3 zoned land to accomplish the RHNA.	On-going 2009-2014	No reductions in R-3 land made during the 5th Housing City.
(29) Review all development proposals in City limits and annexation proposals for their impact on housing.	Increase the amount of land or units that would become affordable	Current and on-going 2009-2014	The City recently completed annexation of a 32-acre open space parcel and along with it, brought in three residential parcels. Two of those residential parcels are developed with single-family residences and the third was vacant, with only one unit of density. The City is currently looking at annexing several more developed, single-family lots that are connected to City services or are within close proximity to services.
(30) The Planning Commission shall review all residential expansion requests in excess of 25 percent.	Maintain smaller homes as one method of retaining housing diversity and moderating housing costs while preserving a mixture of housing types and sizes to maintain diversity of neighborhoods.	Current and on-going 2009-2014	There have been three residential expansions in excess of 25% within the 5th Housing Cycle and all have complied with the process and gone before the Planning Commission. No residential expansion requests were made during the 5th Housing Cycle.
(31) Encourage the development of well planned mixed use projects and/or live-work units that provide for the development of compatible residential, commercial, or employment development uses.	Mixed uses that accommodate residential uses to reduce the cost of housing and commuting. Quantified Objective: Amend general plan and zoning ordinance to specifically provide for mixed use development in non-residential zones.	2010-2011	The General Business District, the Local Business District, and the Service Lodge district allows for residential and commercial uses as a by-right use, requiring no discretionary process, other than Architectural Review if a new structure is proposed.

(32) Residential uses developed or added to or that convert existing commercial retail and/or office space shall be allowed as a ministerial use.	Expedite the permit process. Quantified Objective: Amend City Zoning Ordinance.	2010-2011	The Zoning Code was not amended to address conversions during the 5th Housing Cycle.
(33) Consider opportunities for the establishment of new mobile home parks and manufactured housing subdivisions if appropriate locations can be found that are screened from public view, do not require massive grading, and meet other objectives of this element.	Increase homeownership opportunities for Low and Very Low Income households by accommodating new or through expansion of existing mobile home parks. Quantified Objective: One new park or increase existing parks with 20 new spaces.	On-going 2009-2014	Zoning Code was amended to allow manufactured housing by right in 2009. The Light Industrial zoning designation allows for a Mobile Home Park (no density limitation) subject to a Conditional Use Permit. The City currently has a 20-unit, age-restricted mobile home park, and a 19-unit RV park.
(34) Density transfers shall be allowed from one parcel to an adjacent parcel or a parcel within 200' of the parcel, provided said transferred density shall be developed as affordable housing...In no case shall the overall density of the areas under consideration exceed maximum general plan densities plus any applicable affordable housing density bonuses. The density transfer shall be implemented using the SP-Site Performance Combining District of the zoning ordinance.	A tool to retain planned residential density when developing lower density projects.	On-going 2009-2014	No density transfers were proposed during the 5th Housing Cycle. This program will be revisited in the 6th Cycle Housing Element Update.
(35) Encourage innovative housing types that are both affordable to the full range of income groups and complementary to the character of the surrounding neighborhood (e.g., zero lot line, townhouse, planned unit development, garden apartment, etc.).	To encourage innovative design and smaller homes though the PD or other discretionary project review.	Continuous and on-going; 2009-2014	The City has processed two subdivision proposals (The Grove and the Bungalows), both with townhouse components, and a mix of unit sizes. The City also extended two subdivisions that also included a mix of housing styles and unit sizes (Pello Lane and Gracie Commons). The City is also considering a Cottage Dwelling Ordinance, which would allow reduced impact fees for developments of small units and allows increased densities above 16 units per acre in both the R2 and R3 designations. Density increases would inversely correlate with unit size.
(36) Continue allowing density bonuses and other incentives to developers of affordable housing, in accordance with State law and other objectives of the General Plan.	Increase the production of units affordable to low- and middle-income households Quantified Objective: 5 units	Continuous and on-going; 2009-2014	The City has a density bonus ordinance. Neither of the two development proposals in the current housing cycle (The Grove, and the Bungalows) took advantage of density bonus. The City will review the current density bonus ordinance for compliance with current state regulations and may amend this section of the Zoning Code if necessary during the 6th Housing Cycle.
(37) Codify the density bonus provisions of Ord. 90-10 into City Zoning Code.	Codify Ordinance 90-10.	1010-2011	Ordinance 90-10 was codified and amended under Ordinance 2009-06, though with small percentages required for a developer agreement. See Section 17.80.220.
(38) Maintain planned employment generating land uses to ensure that jobs will be available in proximity to housing and other city services.	Review any change of use of employment generating land uses to determine its impact on the City's jobs: housing balance. Quantified Objective: Discourage changes in use of Employment Center and Light Industrial zones unless it is for the purpose of accommodating the housing needs of current and/or future employees.	Continuous and on-going; 2009-2014	There have been no proposals for rezone of Employment Center or Light Industrial designations within the last housing cycle.
39) Encourage and/or facilitate the development of housing in proximity to existing and planned employment centers and other major employers.	Promote a pedestrian environment between living and work areas. Quantified Objective Amend general plan	Continuous and on-going; 2009-2014	The City has been active in improving walkability. Within the last housing cycle, the City has undertaken several sidewalk improvements projects, including new sidewalks added to Nile and Clay streets and on Nevada City Highway, respectively connecting downtown to the City's main recreational park, and connecting Nevada City to the City of Grass Valley. The City also adopted a policy for a cost sharing sidewalk improvement program. Planned improvement are pending for Boulder Street and Railroad Avenue. Unclear what part of General Plan should be updated. The Circulation Element currently "encourages the construction of pedestrian and bicycle pathways…"
(40) Limit growth and allowable density in areas served by Boulder Street because of traffic capacity constraints.	Preserve the existing neighborhood while recognizing major traffic constraints and capacity within the Boulder Street traffic shed.	Continuous and ongoing 2009-2014	There is little opportunity for growth at this corridor within City limits. There may be some potential within the sphere of influence, and further more outside the sphere of influence, though we have limited land use control there.
(41) Adopt public facility health and safety standards and traffic LOS Level of Service and safety standards which protects existing and future residential areas from significantly adverse impacts.	Maintain quality and character of neighborhoods	2011-2012	Safety and health standards are evaluated during project review, though no standards have been adopted within in this housing cycle. This program will be revisited in the 6th Cycle Housing Element Cycle.
(42) Regulate the use of housing units for short term vacation rentals.	Maintain housing availability.	Continuous and ongoing 2009-2014	Citizen initiative for the regulation of hosted short-term rentals was adopted per Ordinance 2015-12. The pending Cottage Dwelling Unit ordinance would restrict use of units as a hosted short-term rentals.

(43) Expand the city code enforcement program by retaining a part time code enforcement officer.	Reduce the amount of violations in a more timely manner Quantified Objective Retain a part time code enforcement officer.	2012	Current discussions are ongoing. Funding needs to be identified for this position.
(44) With the assistance of the APPLE Center for Sustainable Living or another equivalent organization, the City shall promote the various rebate programs offered by P.G & E and various low income assistance programs offered by P.G & E.	Reduce dependency on the local power grid-Quantified Objective: Development of brochures that includes rebate programs. The City will also make such energy efficient and sustainable building information available in utility billings at least once per year.	2014	APPLE has disbanded. However, the City Website has been updated to include programs for reducing energy dependence from non-renewable sources, and includes information and links to PG&E rebate programs in the "Residents" section of the website. The City has also entered into JOAs with four "Property Assessed Clean Energy (P.A.C.E)" programs and has an adopted Energy Action Plan, adopted in 2015.
(45) Notify City residents that energy conservation improvements are eligible to income-based qualified households for assistance under the City's residential rehabilitation program.	Reduction in energy consumption in existing residences. Quantified Objectives: 10 residences retrofitted with energy saving devices.	Continuous 2009-2014	The City Website has been updated to includes programs for reducing energy dependence from non-renewable sources, and includes information and links to PG&E rebate programs and specifically includes a link to "Project Go, Inc" which administered home energy assistance to low-income households in the "Residents" section of the website.
(46 With the assistance of the APPLE Center for Sustainable Living or another equivalent organization, incorporate code amendments recommendation resulting from the Energy Scarcity Resolution as directed by the City Council. The ordinance should identify incentives and/or assign a point of contact to assist with energy conservation and green building, establish an energy conservation program and make available energy saving measures into construction of all types.	Include energy conservation in development projects while promoting awareness of alternative "green" building possibilities Quantified Objectives: Amend the Municipal Code	2013-2014	APPLE has disbanded. The City regularly adopts the California Building Code including the California Green Building Standards pursuant to California Code of Regulations, Title 24, Part 11, most recently adopted per Ordinance 2017. The draft Cottage Dwelling Ordinance includes an energy efficient design requirement.
(47) Participate in the CDBG housing rehabilitation program	Provide financial assistance to qualified residents to rehabilitate homes. Quantified Objective 5 units.	2009-2014	Due to lack of City resources and the complexities in applying for CDBG funds, the City did not apply for this funding during current housing cycle. The City will revisit this program in the 6th Housing Cycle to collaborate with other agencies, such as Nevada County to assist the City in achieving this program.
(48) Notify city residents of availability of low interest loans for new construction and rehabilitation. ***Program 14 and 16 from 2003***	Notify residents of funding programs via website and utility bills.	On-going; 2009-2014	The City entered into JOAs with four Property Assessed Clean Energy (P.A.C.E)" programs, offering low-interest, long term loans through property tax assessments.
(49) Review all residential demolition requests for their impact on affordable housing stock.	Avoid demolition of affordable housing units when the structure is salvageable.	Continuous and ongoing 2009-2014	There have been three residential demolitions within the last housing cycle. All were due to fire or substantial degradation and all have been issued permits for rebuilding.
(50) If an unpermitted demolition occurs, any new home on the lot shall be the same size as the house illegally demolished. ***Policy 19 b from 2003***	Maintain smaller more affordable housing stock	Continuous and ongoing 2009-2014	Section 17.88.040 (A.1) requires that unpermitted demolitions have the same footprint, floor area and height as the demolished structure, per Ordinance 2009-06.
(51) Obtain information on fair housing law from the Department of Housing and Community Development and make that information available to the public.	Providing awareness that all people are afforded equal opportunity when attempting to obtain housing within the City. Quantified Objective Have copies of information available for the public on the City's website and at City Hall. Add statement to utility bills on a per annum basis.	Continuous and on-going; 2009-2014	Utility bills have limited space, though we are considering adding a web address that residents can reference. A link to HCD's fair housing website is on the City's website in the "Residents" Section.
(52) Refer all housing discrimination complainants to the State Fair Employment and Housing Commission.	Assurance that all people are afforded equal opportunity when attempting to procure housing. Quantified Objective Referrals to the State Fair Employment and Housing Commission.	Continuous and on-going; 2009-2014	The City has not had any housing discrimination complaints to refer to the State Fair Employment and Housing Commission.
General Comments:			

Jurisdiction	Nevada City	
Reporting Period	2019	(Jan. 1 - Dec. 31)

ANNUAL ELEMENT PROGRESS REPORT

Housing Element Implementation

(CCR Title 25 §6202)

Note: "+" indicates an optional field

Cells in grey contain auto-calculation formulas

Table E

Commercial Development Bonus Approved pursuant to GC Section 65915.7

Project Identifier				Units Constructed as Part of Agreement				Description of Commercial Development Bonus	Commercial Development Bonus Date Approved
1				2				3	4
APN	Street Address	Project Name+	Local Jurisdiction Tracking ID+	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Description of Commercial Development Bonus	Commercial Development Bonus Date Approved
Summary Row: Start Data Entry Below									

Jurisdiction	Nevada City	
Reporting Period	2019	(Jan. 1 - Dec. 31)

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Note: "+" indicates an optional field

Cells in grey contain auto-calculation formulas

Table F

Units Rehabilitated, Preserved and Acquired for Alternative Adequate Sites pursuant to Government Code section 65583.1(c)(2)

This table is optional. Jurisdictions may list (for informational purposes only) units that do not count toward RHNA, but were substantially rehabilitated, acquired or preserved. To enter units in this table as progress toward RHNA, please contact HCD at APR@hcd.ca.gov. HCD will provide a password to unlock the grey fields. Units may only be credited to the table below when a jurisdiction has included a program in its housing element to rehabilitate, preserve or acquire units to accommodate a portion of its RHNA which meet the specific criteria as outlined in Government Code section 65583.1(c)(2).

Activity Type	Units that Do Not Count Towards RHNA+ Listed for Informational Purposes Only				Units that Count Towards RHNA + Note - Because the statutory requirements severely limit what can be counted, please contact HCD to receive the password that will enable you to populate these fields.				The description should adequately document how each unit complies with subsection (c)(7) of Government Code Section 65583.1+
	Extremely Low-Income+	Very Low-Income+	Low-Income+	TOTAL UNITS+	Extremely Low-Income+	Very Low-Income+	Low-Income+	TOTAL UNITS+	
Rehabilitation Activity									
Preservation of Units At-Risk									
Acquisition of Units									
Total Units by Income									

Jurisdiction	Nevada City	
Reporting Period	2019	(Jan. 1 - Dec. 31)

NOTE: This table must only be filled out if the housing element sites inventory contains a site which is or was owned by the reporting jurisdiction, and has been sold, leased, or otherwise disposed of during the reporting year.

Note: "+" indicates an optional field

Cells in grey contain auto-calculation formulas

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Table G						
Locally Owned Lands Included in the Housing Element Sites Inventory that have been sold, leased, or otherwise disposed of						
Project Identifier						
1						**4**
APN	**Street Address**	**Project Name+**	**Local Jurisdiction Tracking ID+**	**Realistic Capacity Identified in the Housing Element**	**Entity to whom the site transferred**	**Intended Use for Site**
Summary Row: Start Data Entry Below						

Jurisdiction	Nevada City	
Reporting Year	2019	(Jan. 1 - Dec. 31)

Building Permits Issued by Affordability Summary		
Income Level		**Current Year**
Very Low	Deed Restricted	0
	Non-Deed Restricted	0
Low	Deed Restricted	0
	Non-Deed Restricted	0
Moderate	Deed Restricted	1
	Non-Deed Restricted	0
Above Moderate		1
Total Units		**2**

Note: Units serving extremely low-income households are included in the very low-income permitted units totals

Housing Applications Summary	
Total Housing Applications Submitted:	7
Number of Proposed Units in All Applications Received:	11
Total Housing Units Approved:	0
Total Housing Units Disapproved:	11

Use of SB 35 Streamlining Provisions	
Number of Applications for Streamlining	0
Number of Streamlining Applications Approved	0
Total Developments Approved with Streamlining	0
Total Units Constructed with Streamlining	0

Units Constructed - SB 35 Streamlining Permits			
Income	**Rental**	**Ownership**	**Total**
Very Low	0	0	0
Low	0	0	0
Moderate	0	0	0
Above Moderate	0	0	0
Total	0	0	0

Cells in grey contain auto-calculation formulas

Jurisdiction	Nevada City	
Reporting Year	2019	(Jan. 1 - Dec. 31)

Building Permits Issued by Affordability Summary		
Income Level		**Current Year**
Very Low	Deed Restricted	0
	Non-Deed Restricted	0
Low	Deed Restricted	0
	Non-Deed Restricted	0
Moderate	Deed Restricted	1
	Non-Deed Restricted	0
Above Moderate		1
Total Units		**2**

Note: Units serving extremely low-income households are included in the very low-income permitted units totals

Housing Applications Summary	
Total Housing Applications Submitted:	7
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Use of SB 35 Streamlining Provisions	
Number of Applications for Streamlining	0
Number of Streamlining Applications Approved	0
Total Developments Approved with Streamlining	0
Total Units Constructed with Streamlining	0

Units Constructed - SB 35 Streamlining Permits			
Income	**Rental**	**Ownership**	**Total**
Very Low	0	0	0
Low	0	0	0
Moderate	0	0	0
Above Moderate	0	0	0
Total	0	0	0

Cells in grey contain auto-calculation formulas

From: Annual Progress Reports@HCD
To: Amy Wolfson
Subject: RE: APR Table B - Nevada City
Date: Thursday, May 14, 2020 8:29:19 AM
Attachments: image001.png
image003.png

CAUTION: This email originated from outside of County of Nevada email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Amy,

It is likely the data did not get into our system by the time the 2019 form was developed. We do have your data in our database at this time. If you would like to manually enter the values in Table B, you may do so. This will not change the numbers in our database, but may be useful as you present the report to your legislative body.

TABLE B - Regional Housing Needs Allocation Progress

Permitted Units Issued by Affordability

Income Level	RHNA Allocation	Restrictions	Year 1 - 2014	Year 2 - 2015	Year 3 - 2016	Year 4 - 2017	Year 5 - 2018	Year 6 - 2019	Year 7 - 2020	Year 8 - 2021	Year 9 - 2022	Total Units to Date (all years)	Total Remaining RHNA by Income Level
Very Low*	19	Deed restricted	0	0	0	0	0	0	0	0	0	0	19
		Non-Restricted	0	0	0	0	0	0	0	0	0		
Low	14	Deed Restricted	0	0	0	0	0	0	0	0	0	4	10
		Non-Restricted	0	1	1	1	1	0	0	0	0		
Moderate	16	Deed Restricted	0	0	0	0	0	0	0	0	0	8	8
		Non-Restricted	0	1	3	3	1	0	0	0	0		
Above Moderate	36		0	0	0	0	1	0	0	0	0	1	35
Total Units			0	2	4	4	3	0	0	0	0	13	
Total RHNA	85											**Total Remaining Need for RHNA Period**	72

***Note: Units serving extremely low-income households are included in the very low-income permitted units totals**

Tom Brinkhuis
California Department of Housing & Community Development
Division of Housing Policy Development
2020 W. El Camino Avenue, Suite 500 | Sacramento, CA 95833
Phone: I am currently teleworking and can be reached at 530-505-1239 during normal business hours.

Ensure all Californians are counted!
Complete your 2020 Census form and bring billions of federal dollars to California. **Your responses are safe and confidential.** Learn more at CaliforniaCensus.org.

From: Amy Wolfson <Amy.Wolfson@nevadacityca.gov>
Sent: Wednesday, May 13, 2020 8:42 PM
To: Annual Progress Reports@HCD <APR@hcd.ca.gov>
Subject: APR Table B - Nevada City

Hello,

I am finishing up the APR for the City of Nevada City and I notice that the City's permit numbers did not populate for years 2014 – 2017. Please note, that I retroactively submitted all these years data last year when I sent in the 2018 data. If that is the reason these field s did not populate, please let me know what I need to do so we can get credit for them.

Amy Wolfson
City Planner
(530) 265-2496 x130

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City CA 95959
www.nevadacityca.gov

May 27, 2020

TITLE: Action Minutes May 13, 2020 City Council Meeting

RECOMMENDATION: Review and approve City Council Meeting action minutes of May 13, 2020.

CONTACT: Catrina Olson, City Manager

BACKGROUND / DISCUSSION:
The action minutes for the May 13, 2020 are attached for review.

ENVIRONMENTAL CONSIDERATIONS: Not applicable.

FISCAL IMPACT: Not applicable.

ATTACHMENTS:
- ✓ City Council Meeting action minutes May 13, 2020

CITY OF NEVADA CITY
ACTION MINUTES
REGULAR CITY COUNCIL MEETING OF MAY 13, 2020

NOTE: This meeting is available to view on the City's website www.nevadacityca.gov – Go to *Quick Links* and Click on *Agendas & Minutes* and find the Archived Videos in the middle of the screen. Select the meeting date and Click on *Video* to watch the meeting. For website assistance, please contact Loree' McCay, Deputy City Clerk at (530) 265-2496, ext 134.

- **City Council Meetings are available on DVD. To order, contact City Hall - cost is $15.00 per DVD.**
- **Closed Session Meetings are not recorded.**

CLOSED SESSION – None

REGULAR MEETING – 6:30 PM - Call to Order

Roll Call: Present: Mayor Senum, Vice Mayor Minett, Council Members Strawser, Parker and Moberg

PLEDGE OF ALLEGIANCE

PROCLAMATIONS:

PRESENTATIONS: 170 Ridge Road - Cashin's Field Affordable Housing Project

BUSINESS FROM THE FLOOR:

1. PUBLIC COMMENT (Per Government Code Section 54954.3)
Please refer to the meeting video on the City's website at www.nevadacityca.gov.

2. COUNCIL MEMBERS REQUESTED ITEMS AND COMMITTEE REPORTS:

3. CONSENT ITEMS:

A. Subject: Accounts Payable Activity Report – April 2020
Recommendation: Receive and file.

B. Subject: Rescheduling of Fiscal Year 2020/2021 Budget Workshop
Recommendation: Approve rescheduling the Fiscal Year (FY) 2020/2021 Budget Workshop from May 14, 2020 to May 20, 2020.

C. Subject: 3rd Quarter Financial Update, Fiscal Year (FY) 19/20
Recommendation: Receive and file.

D. Subject: Authorization for Procurement of Nevada City Wastewater Plant Belt Press Wash Water Return Pump
Recommendation: Pass Resolution 2020-31, a Resolution of the City of Nevada City Council authorizing the City Manager or designee to sign purchase orders for the procurement of Nevada City Wastewater Plant Belt Press Wash Water Return Pump from Pac Machine Company in the amount of $11,277.00 plus $2,000.00 in contingencies.

E. **Subject:** Lease Purchase of Two Chevy Silverado SSV (Special Service Vehicle) Trucks for the Nevada City Police Department
Recommendation: Pass Resolution 2020-28, a Resolution of the of the City Council of the City of Nevada City Authorizing the City Manager to execute lease agreements for two Chevy Silverados for the Nevada City Police Department.

F. **Subject:** Resolution Approving a Notice of Exemption for Commercial Street Phase II Improvements
Recommendation: Pass Resolution 2020-29, a Resolution of the City Council of the City of Nevada City, State of California, Recommending Approval of a Notice of Exemption (NOE) for Commercial Street Phase II Improvements and authorize the Mayor to sign.

G. **Subject:** Action Minutes April 22, 2020 City Council Meeting
Recommendation: Review and approve City Council Meeting Action Minutes of April 22, 2020.

H. **Subject:** Action Minutes May 1, 2020 Special City Council Meeting
Recommendation: Review and approve Special City Council Meeting Action Minutes of May 1, 2020.

Action: Motion by Strawser, seconded by Parker to approve consent item 3A through 3E as presented. Item 3F was pulled by Vice Mayor Minett for discussion, items 3G and 3H were pulled for separate votes due to absences from those meetings.
(Approved 5-0, Roll call votes ayes Minett, Strawser, Moberg, Parker and Senum)

Action: Item 3F was discussed. Motion by Strawser, seconded by Moberg to approve item 3F with the revision of the addition of the map.
(Approved 5-0, Roll call vote ayes - Minett, Strawser, Moberg, Parker and Senum)

Action: Motion by Strawser, seconded by Minett to approve item 3G as presented
(Approved 4-0, Abstention 1, Roll call vote ayes - Minett, Strawser, Moberg, and Senum, abstention - Parker)

Action: Motion by Strawser, seconded by Parker to approve item 3H as presented.
(Approved 4-0, Abstention 1 Roll call vote ayes - Minett, Strawser, Moberg, and Parker, abstention - Senum)

4. DEPARTMENT REQUESTED ACTION ITEMS AND UPDATE REPORTS:

A. **Subject:** Approval of Street Closure at the 300 and 400 block of Broad Street to Vehicular Traffic from Fridays at 6AM Until Mondays at 6AM until the COVID-19 Pandemic Shelter in Place Orders are Lifted and Suspend the Imposition and Collection of City Parking Meter Fees Until the End of the Local Emergency
Recommendation:
1. Provide approval for City staff to block off the 300 and 400 block of Broad Street from 6AM on Fridays until 6AM on Mondays in an effort to create more area to social distance in the downtown area.

2. Review and approve Resolution 2020-XX, a Resolution of the City Council Of The City Of Nevada City Suspending The Imposition And Collection Of Parking Fees At City Parking Meters During The Covid-19 Local Emergency.

Action: Motion by Minett, seconded by Strawser to table these items and bring them back to the May

27, 2020 meeting and to give the City Manager and Police Chief discretion on a case by case basis to allow businesses the ability to expand outside if requested.
(Approved 4-0, Noes 1, Roll call vote ayes - Minett, Strawser, Moberg and Senum, noes Parker)

5. PUBLIC HEARINGS:

A. Subject: Consideration of and First Reading of Ordinance Repealing and Readopting Chapter 17.150 of the Nevada City Municipal Code entitled "Wireless Telecommunication Facilities in the City"
Recommendation: Hold first reading, waive reading of Ordinance in its entirety, and read by title only, Ordinance 2020-XX Repealing and Readopting Chapter 17.150 of the Nevada City Municipal Code entitled "Wireless Telecommunication Facilities in the City".

Action: Motion by Strawser, seconded by Moberg to continue the Public Hearing to a date certain of May 27, 2020.
(Approved 5-0, Roll call vote ayes - Minett, Strawser, Moberg, Parker and Senum)

6. OLD BUSINESS:

7. NEW BUSINESS:

A. Subject: Declaration of Fiscal Emergency
Recommendation: Approve Resolution 2020-30, a Resolution of the City Council of the City of Nevada City Proclaiming a Local Financial Emergency and Recognizing the Financial Hardship Facing the City in Fiscal Years 19/20 and 20/21.

Action: Motion by Strawser, seconded by Parker to approve Resolution 2020-30, a Resolution of the City Council of the City of Nevada City Proclaiming a Local Financial Emergency and Recognizing the Financial Hardship Facing the City in Fiscal Years 19/20 and 20/21.
(Approved 5-0, Roll call vote ayes - Minett, Strawser, Moberg, Parker and Senum)

8. CORRESPONDENCE: Correspondence was read into the record.

9. ANNOUNCEMENTS:

10. CITY MANAGER'S REPORT: A verbal report was provided.

11. ADJOURNMENT: - 8:54 PM

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

_____
Reinette Senum, Mayor

_____
Niel Locke, City Clerk

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City CA 95959
www.nevadacityca.gov

May 27, 2020

TITLE: Action Minutes May 20, 2020 Special City Council Meeting, Budget Workshop

RECOMMENDATION: Review and approve Special City Council Meeting, Budget Workshop action minutes of May 20, 2020.

CONTACT: Catrina Olson, City Manager

BACKGROUND / DISCUSSION:
The action minutes for the May 20, 2020 are attached for review.

ENVIRONMENTAL CONSIDERATIONS: Not applicable.

FISCAL IMPACT: Not applicable.

ATTACHMENTS:
- ✓ Special City Council Meeting, Budget Workshop action minutes May 1, 2020

CITY OF NEVADA CITY
ACTION MINUTES
REGULAR CITY COUNCIL MEETING OF MAY 20, 2020

NOTE: This meeting is available to view on the City's website www.nevadacityca.gov – Go to *Quick Links* and Click on *Agendas & Minutes* and find the Archived Videos in the middle of the screen. Select the meeting date and Click on *Video* to watch the meeting. For website assistance, please contact Gabrielle Christakes, Deputy City Clerk at (530) 265-2496, ext 133.

- **City Council Meetings are available on DVD. To order, contact City Hall - cost is $15.00 per DVD.**
- **Closed Session Meetings are not recorded.**

CLOSED SESSION – None

BUDGET WORKSHOP MEETING – 11:00 AM - Call to Order

Roll Call: Present: Mayor Senum, Vice Mayor Minett, Council Members Strawser, Parker and Moberg

PROCLAMATIONS:

PRESENTATIONS:

BUSINESS FROM THE FLOOR:

1. PUBLIC COMMENT (Per Government Code Section 54954.3)
Please refer to the meeting video on the City's website at www.nevadacityca.gov.

2. COUNCIL MEMBERS REQUESTED ITEMS AND COMMITTEE REPORTS:

3. CONSENT ITEMS:

4. DEPARTMENT REQUESTED ACTION ITEMS AND UPDATE REPORTS:

A. Subject: Proposed Fiscal Year (FY) 2019-2020 Year End Budget Amendments
Recommendation: Staff is requesting City Council provide staff direction to bring back the proposed FY 19/20 budget amendments with recommendations for a balanced year-end budget to the June 10, 2020 City Council Meeting for adoption.

Action: No action was taken, City Council directed staff to bring back the proposed FY 19/20 budget amendments with a balanced year-end budget for the General Fund by use of the appropriate committed funds for adoption at the FY 19/20 City Council meeting.

B. Subject: Three Proposed Draft Budget Scenarios, Fiscal Year (FY) 2020-2021

Recommendation: The proposed three scenarios for FY 20/21 draft budget are being presented at the Nevada City Council Budget Workshop May 20, 2020. The proposed draft scenarios include a summarized overview of the City's budget, which includes; a budget summary of revenues and expenditures for the General Fund, Measure "C", Measure "S", the Water Fund and Wastewater Fund. The proposed draft budget scenarios aspire to achieve the City's goals and objectives within the City's available resources. Council direction is requested regarding the desired scenario for staff to bring forward as the final proposed FY 20/21 budget for adoption at the June 10,2020 City Council meeting.

Action: No action was taken, City Council directed staff to bring back the proposed FY 20/21 budget using scenario number 2 as presented. Council directed staff to use the appropriate operational reserves to balance the General Fund proposed budget.

5. PUBLIC HEARINGS:

6. OLD BUSINESS:

7. NEW BUSINESS:

8. CORRESPONDENCE:

9. ANNOUNCEMENTS:

10. CITY MANAGER'S REPORT:

11. ADJOURNMENT: - 1:03 PM

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

_____

Reinette Senum, Mayor

_____

Niel Locke, City Clerk

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City CA 95959
www.nevadacityca.gov

May 27, 2020

TITLE: Permanent Local Housing Allocation (PLHA) Program

RECOMMENDATION: Review the information regarding the Permanent Local Housing Allocation (PLHA) Program and the possibility of a multi-jurisdictional agreement for a joint application and funds administration to be submitted by Nevada County with funding to be managed by Nevada County with local direction for fund use. City Council to direct staff to then bring back a Resolution for adoption committing to the multi-jurisdictional agreement/approach to the PLHA Program.

CONTACT: Catrina Olson, City Manager

BACKGROUND / DISCUSSION:
On February 26, 2020, the California Department of Housing and Community Development announced the release of an Entitlement and Non-entitlement Local government formula component Notice of Funding Availability for approximately $195 million for the Permanent Local Housing Allocation (PLHA) Program.

The Permanent Local Housing Allocation (PLHA) is an allocation of SB2 funds ($75 dollar recording fee on real estate transactions) made to all CA jurisdictions - Cities and Counties. Grass Valley, Nevada City, Town of Truckee, and the County will all receive a yearly allocation of PLHA dollars over the next five years totaling: $677,000 for Grass Valley, $394,000 for Nevada City, $1.53 million for Nevada County, and $532,000 for Truckee. Truckee is not part of this PLHA partnership, but are listed for your reference.

Eligible uses for the funds are as follows (The **bolded** items are development interests of the County):

- **The predevelopment, development, acquisition, rehabilitation, and preservation of multifamily, residential live work, rental housing that is affordable to extremely low-, very low-, low-, or moderate-income households, including necessary operating subsidies.**
- **The predevelopment, development, acquisition, rehabilitation, and preservation of Affordable rental and ownership housing, including Accessory Dwelling Units (ADUs), that meets the needs of a growing workforce earning up to 120-percent of AMI, or 150-percent of AMI in high-cost areas.**
- **Matching portions of funds placed into Local or Regional Housing Trust Funds.**
- Matching portions of funds available through the Low- and Moderate-Income Housing Asset Fund pursuant to subdivision (d) of HSC Section 34176.
- Capitalized Reserves for Services connected to the preservation and creation of new permanent supportive housing.

- **Assisting persons who are experiencing or at risk of homelessness, including, but not limited to, providing rapid rehousing, rental assistance, supportive/case management services that allow people to obtain and retain housing, operating and capital costs for navigation centers and emergency shelters, and the new construction, rehabilitation, and preservation of permanent and transitional housing.**
    - This activity may include subawards to administrative entities as defined in HSC Section 50490(a)(1-3) that were awarded CESH program or HEAP funds for rental assistance to continue assistance to these households.
    - Applicants must provide rapid rehousing, rental assistance, navigation centers, emergency shelter, and transitional housing activities in a manner consistent with the Housing First practices described in 25 CCR, Section 8409, subdivision (b)(1)-(6) and in compliance with WIC Section 8225(b)(8). An applicant allocated funds for the new construction, rehabilitation, and preservation of permanent supportive housing shall incorporate the core components of Housing First, as provided in WIC Section 8255, subdivision (b).
- Accessibility modifications in lower-income owner-occupied housing.
- Efforts to acquire and rehabilitate foreclosed or vacant homes and apartments.
- Homeownership opportunities, including, but not limited to, down payment assistance.

A provision of the PLHA guidelines allows for a local government to “delegate” their allocated PLHA funds to another local government like a County. By delegating their funds, the local government enters into a legally binding agreement with the other local government allowing that entity to apply for PLHA funds on their behalf. The purpose this is to give small jurisdiction the ability to leverage larger jurisdictions in pursuing funds, administering program funds pursuant to PLHA guidelines and guidelines set forth by state statutes and contained within the state’s standard agreement.

Nevada County is seeking a partnership with local jurisdiction in applying for PLHA funds and would like interested jurisdiction to delegate their allocated funds to the County. Prior to submission of the application, the County will enter into legally binding agreements subject to the terms and conditions set forth in the PLHA guidelines. The County will work with participating jurisdictions to identify eligible uses for the funds that are of interest to all parties. Of interest to the County is the establishment of a Housing Trust fund. By committing a portion of the combined PLHA allocations to a Trust fund, the state, through a separate source, may award up to $750,000 in matching funds to the trust fund (doubles the money).

City staff is seeking City Council direction to prepare a Resolution committing to a multi-jurisdiction PLHA Program agreement.

ENVIRONMENTAL CONSIDERATIONS: Not applicable.

FISCAL IMPACT: This will provide the City funding for the above-mentioned uses that will be administered by the County that otherwise the City may not have had the staff time or resources to apply for or administer.

ATTACHMENTS:

- ✓ Memorandum for Permanent and Local Housing Allocation (PLHA) Program.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF FINANCIAL ASSISTANCE
2020 W. El Camino Avenue, Suite 670
Sacramento, CA 95833
(916) 263-2771 / FAX (916) 263-2763
www.hcd.ca.gov

February 26, 2020

MEMORANDUM FOR: All Potential Applicants

FROM: Jennifer Seeger, Acting Deputy Director
Division of Financial Assistance

SUBJECT: **Permanent Local Housing Allocation Program Entitlement and Non-entitlement Local Government Formula Component Notice of Funding Availability**

The California Department of Housing and Community Development (Department) is pleased to announce the release of this Entitlement and Non-entitlement Local government formula component Notice of Funding Availability for approximately **$195 million** for the Permanent Local Housing Allocation (PLHA) program. This funding provides grants to Entitlement and Non-entitlement Local governments in California for housing-related projects and programs that assist in addressing the unmet housing needs of their local communities.

The Department will begin accepting Program applications on **April 27, 2020** through 5:00 p.m. Pacific Standard Time on **July 27, 2020**. The Department will only accept applications through a postal carrier service such as U.S. Postal Service, UPS, FedEx, or other carrier services that provide date stamp verification confirming delivery to the Department's office. Please contact the Department if delivery is not completed by fault of the carrier service. The delivery address is:

California Department of Housing and Community Development
Division of Financial Assistance, Program Design and Implementation
Permanent Local Housing Allocation Program
2020 West El Camino Avenue, Suite 150
Sacramento, CA 95833

Personal deliveries will not be accepted. No facsimiles, incomplete applications, application revisions, electronically transmitted, or walk-in application packages will be accepted.

The PLHA application forms, workshop details, and Guidelines are posted on the Department's website. To receive information on workshops and other updates, please subscribe to the PLHA listserv. If you have any further questions, please contact PLHA@hcd.ca.gov.

Attachment

Permanent Local Housing Allocation Program

Entitlement and Non-entitlement Local Government Formula Component

Notice of Funding Availability

Gavin Newsom, Governor
State of California

Lourdes Castro Ramirez, Secretary
Business, Consumer Services and Housing Agency

Douglas R. McCauley, Acting Director
Department of Housing and Community Development

2020 West El Camino Avenue, Suite 500, Sacramento, CA 95833
Telephone: (916) 263-2771
Website: http://www.hcd.ca.gov/grants-funding/active-funding/plha.shtml
Email: **PLHA@hcd.ca.gov**

February 26, 2020

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APPENDICES 9

Permanent Local Housing Allocation

Entitlement and Non-Entitlement Local Government Formula Component

Notice of Funding Availability

I. Overview

A. Notice of Funding Availability

The California Department of Housing and Community Development (Department) is announcing the availability of approximately **$195 million** in funding for the Permanent Local Housing Allocation (PLHA) program Entitlement and Non-entitlement Local government formula component Notice of Funding Availability (NOFA). This NOFA is funded from moneys deposited in the Building Homes and Jobs Trust Fund (Fund) in calendar year 2019.

Funding for this NOFA is provided pursuant to Senate Bill (SB) 2 (Chapter 364, Statutes of 2017). SB 2 established the Fund and authorizes the Department to allocate 70 percent of moneys collected and deposited in the Fund, beginning in calendar year 2019, to Local governments for eligible housing and homelessness activities. The intent of the bill is to provide a permanent, on-going source of funding to Local governments for housing-related projects and programs that assist in addressing the unmet housing needs of their local communities.

For the 2019-20 fiscal year, the Department will issue two separate NOFAs to award the (PLHA) funds:

1. Entitlement and Non-entitlement Local government formula component NOFA; and

2. Non-entitlement Local government competitive component NOFA (anticipated in August 2020).

This NOFA outlines threshold and application requirements for Entitlement Local governments and Non-entitlement Local governments as defined in Guidelines Section 101. Entitlement Local governments are metropolitan cities and urban counties that received a CDBG grant for fiscal year 2017 pursuant to the federal formula specified in 42 USC Section 5306.

B. Timeline

NOFA Release Date	February 26, 2020
Application Submittal	April 27, 2020 – July 27, 2020
Award Announcement	August, 2020 – October, 2020

C. Authorizing Legislation and Regulations

SB 2 (Chapter 364, Statutes of 2017) established the PLHA program. The program operates under the requirements of Health and Safety Code (HSC), Part 2 of Division 31, Chapter 2.5 (commencing with Section 50470).

Section 50470 (b)(2)(B)(i) of the HSC authorizes the Department to allocate 70 percent of the moneys collected and deposited in the Fund, beginning in calendar year 2019, for the PLHA program.

Section 50470 (b)(2)(B)(i)(I) of the HSC requires the Department to allocate 90 percent of PLHA funds based on the federal CDBG formula specified in 42 USC, Section 5306, except that the portion allocated to Non-entitlement Local governments is required to be distributed through a competitive grant program for Non-entitlement Local governments.

Section 50470 (b)(2)(B)(i)(II) of the HSC requires the Department to allocate the remaining 10 percent of PLHA funds equitably to Non-entitlement Local governments.

Section 50470 (d) authorizes the Department to adopt Guidelines to implement the PLHA program, not subject to the rulemaking provisions of the California Administrative Procedure Act.

This NOFA governs the administration of funding from the Fund (created by Section 50470, subdivision (a)(1) and appropriated by item 2240-103-3317 in the Budget Act of 2019) and made available under the PLHA program.

Capitalized terms not otherwise defined in this NOFA shall have the meanings set forth in Guidelines Section 101.

II. <u>Program requirements</u>

The following is provided as a summary for the allocation of the PLHA funds to Entitlement and Non-entitlement Local governments and is not to be considered a complete representation of the eligibility, threshold, or other requirements, terms and conditions.

A. Eligible Applicants

An Applicant must be an Entitlement Local government, a Non-entitlement Local government, or a Local or Regional Housing Trust Fund delegated by the Local government pursuant to Guidelines Section 300.

A Local government that delegates another Local government to submit an application and administer the formula component of PLHA funds on its behalf must enter into a legally binding agreement with the Local government, as set forth in Guidelines Section 300(c).

A Local government that delegates a Local or Regional Housing Trust Fund to submit an application and administer the formula component of PLHA funds on its behalf must enter into a legally binding agreement with the Local or Regional Housing Trust Fund, as set forth in Guidelines Section 300(d).

B. Eligible Activities

Pursuant to Guidelines Section 301(a), the PLHA funds allocated to eligible Applicants must be used to carry out one or more of the eligible activities listed below:

1. The predevelopment, development, acquisition, rehabilitation, and preservation of multifamily, residential live-work, rental housing that is affordable to extremely low-, very low-, low-, or moderate-income households, including necessary Operating subsidies.

2. The predevelopment, development, acquisition, rehabilitation, and preservation of Affordable rental and ownership housing, including Accessory Dwelling Units (ADUs), that meets the needs of a growing workforce earning up to 120 percent of Area Median Income (AMI), or 150 percent of AMI in High-cost areas. ADUs shall be available for occupancy for a term of no less than 30 days. See Appendix B for a list of High-cost areas in California.

3. Matching portions of funds placed into Local or Regional Housing Trust Funds.

4. Matching portions of funds available through the Low- and Moderate-Income Housing Asset Fund pursuant to subdivision (d) of HSC Section 34176.

5. Capitalized Reserves for Services connected to the preservation and creation of new Permanent supportive housing.

6. Assisting persons who are experiencing or At risk of homelessness, including, but not limited to, providing rapid rehousing, rental assistance, supportive/case management services that allow people to obtain and retain housing, operating and capital costs for navigation centers and emergency shelters, and the new construction, rehabilitation, and preservation of permanent and transitional housing.

    a. This Activity may include subawards to Administrative Entities as defined in HSC Section 50490(a)(1-3) that were awarded California Emergency Solutions and Housing (CESH) Program or Homeless Emergency Aid Program (HEAP) funds for rental assistance to continue assistance to these households.

    b. Applicants must provide rapid rehousing, rental assistance, navigation centers, emergency shelter, and transitional housing activities in a manner consistent with the Housing First practices described in 25 CCR, Section 8409, subdivision (b)(1)-(6) and in compliance with Welfare Institutions Code (WIC) Section 8255(b)(8). An Applicant allocated funds

for the new construction, rehabilitation, and preservation of Permanent supportive housing shall incorporate the core components of Housing First, as provided in WIC Section 8255(b).

7. Accessibility modifications in Lower-income Owner-occupied housing.

8. Efforts to acquire and rehabilitate foreclosed or vacant homes and apartments.

9. Homeownership opportunities, including, but not limited to, down payment assistance.

10. Fiscal incentives made by a county to a city within the county to incentivize approval of one or more Affordable housing projects, or matching funds invested by a county in an Affordable housing development project in a city within the county, provided that the city has made an equal or greater investment in the project. The county fiscal incentives shall be in the form of a grant or low-interest loan to an Affordable housing project. Matching funds investments by both the county and the city also shall be a grant or low-interest deferred loan to the Affordable housing project.

    Twenty percent of the moneys in the Fund are required by statute to be expended for Affordable Owner-Occupied Workforce Housing (AOWH). If funding proposed in Local government Plans for AOWH activities is lower than 20 percent of the moneys available in the Fund, the Department may require Local governments to use a specific percentage of their annual formula allocations in some future year for AOWH activities as part of the annual funding process.

C. Allocation of Funding and Award Limits

An Entitlement and a Non-entitlement Local government are eligible for an allocation of PLHA funds. See Appendix A for allocation of PLHA funds to each Entitlement and Non-entitlement Local government for fiscal year 2019-20.

The PLHA funds allocated to each Entitlement Local government is directly proportionate to each Entitlement Local government's share of total 2017 Community Development Block Grant (CDBG) allocation in California.

The PLHA funds allocated to each Non-entitlement Local government is based on the sum of:

1. Fifty percent of the funding available for the Non-entitlement formula component divided by the number of Local governments eligible for the Non-entitlement formula component; and

2. Fifty percent of the funding available for the Non-entitlement formula component allocated in proportion to each Non-entitlement Local government's share of the total most severe housing need in California's Non-entitlement Local governments, based upon the most recent U.S. Department of Housing and

Urban Development (HUD) Comprehensive Housing Affordability Strategy (CHAS) data.

Two or more Local governments may expend PLHA funds on an eligible jointly funded project, provided the project is an eligible Activity pursuant to Guidelines Section 301(a), and will be located within the boundaries of one of the Local governments.

An Applicant eligible for an allocation of PLHA funds must comply with the Deadline and Funding Requirements set forth in Guidelines Section 304.

In order to avoid amending the Department Standard Agreement each year, and to expedite the disbursement of PLHA funds, the Department Standard Agreement and the Applicant's PLHA resolution shall include a five-year estimate of PLHA formula allocations, as stated in Appendix C, as the maximum funding amount. The actual amounts may be lower, and the disbursements will be based on the actual allocation amounts. Please be advised that no funding from any subsequent year will be disbursed if the Local government is not in compliance with the Housing Element requirement and the Housing Element Annual Progress Report requirement stated in Guidelines Section 302(a) and (b), or in the event that the Local government has not submitted its annual PLHA report, as required by Guidelines Section 503. In addition, the grantee must be in compliance with Guidelines Sections 300(e) and 502. For a list of jurisdictions currently ineligible for PLHA funds due to the Housing Element and/or Annual Progress Report requirement, please refer to Appendix D.

D. Program Administrative and Activity Delivery Costs

A Local government that receives an allocation award under this NOFA shall not use more than 5 percent of the allocation for administrative costs related to the execution of eligible activities.

Staff and overhead costs directly related to carrying out the eligible activities described in Guidelines Section 301(a) are "activity costs" and not subject to the cap on "administrative costs." A Local government may share any funds available for administrative costs with entities to which it provides funding.

Predevelopment expenses for construction projects funded by PLHA funds, and costs to develop and prepare the PLHA application and Plan may be paid from the PLHA funds regardless of when the costs were incurred. Reimbursement of expenses to prepare the PLHA application and Plan are subject to the cap on administrative costs. Other costs incurred more than one year prior to commitment by the Local government may not be paid from the PLHA funds.

E. Application Requirements

An Applicant must submit a complete application and other documents by the deadline stated in this NOFA. Applications submitted in response to this NOFA must meet the threshold requirements set forth in Guidelines Section 302.

F. Administration and Reporting Requirements

A grantee of the PLHA funds must meet the administration requirements set forth in Guidelines Sections 500 and 501, and reporting requirements in Section 503.

III. Application Submission and Review Procedures

Applications must be on the Department's forms and cannot be altered or modified by the Applicant. Excel forms must be in Excel format, not a PDF document. Applications that do not meet the program requirements outlined in this NOFA will not be eligible for funding. Application forms are available for download on the PLHA webpage.

A. Application Submission Process

A complete original application with original signature, and an electronic copy on Compact Disc or USB flash drive with all applicable information can be submitted to the Department between **April 27, 2020** and **July 27, 2020.** No applications will be accepted after **5:00 p.m. Pacific Standard Time on July 27, 2020**. The Department will only accept applications through a postal carrier service such as U.S. Postal Service, UPS, FedEx, or other carrier services that provide date stamp verification confirming delivery to the Department's office. Please contact the Department if delivery is not completed by fault of the carrier service. The delivery address is:

California Department of Housing and Community Development
Division of Financial Assistance, PDI
Permanent Local Housing Allocation Program
2020 West El Camino Avenue, Suite 150
Sacramento, CA 95833

Personal deliveries will not be accepted. No facsimiles, incomplete applications, application revisions, electronically transmitted, or walk-in application packages will be accepted. Applications that do not meet the filing deadline requirements will not be eligible for funding.

It is the Applicant's responsibility to ensure that the application is clear, complete, and accurate. The Department may request additional clarifying information and/or inquire as to where in the application specific information is located. However, missing and/or forgotten application information or documentation may cause the application not to pass threshold.

Those Applicants that are notified they did not pass threshold requirements will have the opportunity to appeal.

B. Application Workshops

Applicants are strongly encouraged to attend a PLHA workshop to gain information critical for preparing the application, which will be discussed at the workshop. PLHA

workshop dates, times, and locations are located on the Department's PLHA webpage. These in-person workshops will cover the NOFA and application.

IV. Appeals

A. Basis of Appeals

1. Upon receipt of the Department's notice that an application has been determined to be incomplete, ineligible, or fail threshold review, Applicants under this NOFA may appeal such decision(s) to the Department pursuant to this section.

2. No Applicant shall have the right to appeal a decision of the Department relating to another Applicant's eligibility, award, denial of award, or any other matter related thereto.

3. The appeal process provided herein applies solely to decisions of the Department made in this NOFA and does not apply to any decisions to be made pursuant to future NOFAs.

B. Appeal Process and Deadlines

1. **Process.** In order to file an appeal, an Applicant must submit a written appeal to the Department, which states all relevant facts, arguments, and evidence upon which the appeal is based. Furthermore, the Applicant must provide a detailed description of how the application is complete, eligible or meets threshold requirements, as applicable, or provide additional information to resolve the Department's determination. Appeals are to be submitted to the Department at PLHA@hcd.ca.gov according to the deadline set forth in Department review letters.

2. **Filing Deadline.** Appeals must be received by the Department no later than five (5) business days from the date of the Department's threshold review letter representing the Department's decision made in response to the application.

C. Decisions

Any request to appeal the Department's decision regarding an application shall be reviewed for compliance with the Guidelines and this NOFA. All decisions rendered shall be final, binding, and conclusive, and shall constitute the final action of the Department.

D. Award Announcements and Contracts

The Department anticipates issuing award letters between August 2020 and October 2020. Award recommendations will be posted on the PLHA webpage.

V. Other terms and conditions

A. Right to Modify or Suspend

The Department reserves the right, at is sole discretion, to suspend, amend, or modify the provisions of this NOFA at any time, including, without limitation, the amount of funds available hereunder. If such an action occurs, the Department will notify all interested parties and will post the revisions to the Department's website.

B. Disclosure of Application

Information provided in the application will become a public record and available for review by the public, pursuant to the California Public Records Act (Gov. Code section 6250 et seq.). As such, any materials provided will be disclosed to any person making a request under this Act. The Department cautions Applicants to use discretion in providing information not specifically requested, including, but not limited to, bank account numbers, personal phone numbers, and home addresses. By providing this information to the Department, the Applicant is waiving any claim of confidentiality and consents to the disclosure of submitted material upon request.

C. Conflicts

In the event of any conflict between the terms of this NOFA and either applicable state or federal law or regulation, the terms of the applicable state or federal law or regulation shall control. Applicants are deemed to have fully read and understand all applicable state and federal laws, and regulations pertaining to PLHA, and understand and agree that the Department shall not be responsible for any errors or omissions in the preparation of this NOFA.

APPENDICES

Appendix A: Entitlement and Non-entitlement Local Government Formula Allocation for Fiscal Year 2019-20.

Entitlement Local Government		Non-entitlement Local Government	
Local Government	**Funding Amount**	**Local Government**	**Funding Amount**
Alameda	$558,765	Alpine County	$68,065
Alameda County	$933,865	Alturas	$79,305
Alhambra	$465,628	Amador City	$65,861
Aliso Viejo	$119,177	Amador County	$134,185
Anaheim	$2,155,285	American Canyon	$117,435
Antioch	$394,235	Anderson	$103,770
Apple Valley	$287,561	Angels	$81,289
Bakersfield	$1,730,902	Arcata	$176,062
Baldwin Park	$488,178	Artesia	$135,728
Bellflower	$513,624	Arvin	$138,593
Berkeley	$1,293,584	Atwater	$158,209
Buena Park	$369,242	Auburn	$119,859
Burbank	$477,182	Avenal	$104,652
Camarillo	$135,354	Benicia	$141,459
Carlsbad	$272,582	Biggs	$70,710
Carson	$414,730	Bishop	$83,713
Cathedral City	$283,223	Blue Lake	$68,285
Cerritos	$109,213	Brawley	$151,156
Chico	$390,348	Butte County	$333,428
Chino	$249,365	Calaveras County	$206,477
Chino Hills	$177,285	Calexico	$203,832
Chula Vista	$1,059,483	Calimesa	$88,783
Citrus Heights	$312,759	Calipatria	$77,101
Clovis City	$365,609	Calistoga	$85,256
Compton	$769,720	Capitola	$105,092
Concord	$488,785	Carmel-by-the-Sea	$81,950
Contra Costa County	$2,170,178	Chowchilla	$110,382
Corona	$582,003	Clearlake	$145,867
Costa Mesa	$528,581	Coalinga	$103,109
Cupertino City	$165,510	Colfax	$72,032
Daly City	$511,821	Colusa	$85,917
Davis	$302,924	Colusa County	$83,493
Delano City	$325,124	Corcoran	$113,908
Downey	$520,279	Corning	$92,529
El Cajon	$645,382	Crescent City	$80,848
El Centro (Colonia Only)	$245,998	Del Norte County	$140,797

Entitlement Local Government		Non-entitlement Local Government	
Local Government	**Funding Amount**	**Local Government**	**Funding Amount**
El Monte	$847,292	Dinuba	$148,291
Elk Grove	$439,787	Dixon	$115,451
Encinitas	$156,044	Dorris	$66,522
Escondido	$842,911	Dos Palos	$82,832
Fairfield	$390,910	Dunsmuir	$72,032
Fontana	$981,122	El Centro	$216,175
Fountain Valley	$144,608	El Dorado County	$479,995
Fremont	$641,160	Etna	$67,183
Fresno	$3,407,603	Eureka	$187,522
Fresno County	$1,643,348	Exeter	$97,819
Fullerton	$688,452	Farmersville	$98,260
Garden Grove	$994,343	Ferndale	$71,150
Gardena	$329,877	Firebaugh	$95,395
Gilroy City	$244,259	Fort Bragg	$106,856
Glendale	$867,025	Fort Jones	$69,167
Glendora City	$130,258	Fortuna	$108,619
Goleta	$94,015	Fowler	$81,069
Hanford	$295,468	Glenn County	$106,856
Hawthorne	$612,819	Grass Valley	$135,508
Hayward	$651,735	Greenfield	$139,916
Hemet	$402,536	Gridley	$92,529
Hesperia	$505,777	Grover Beach	$121,182
Huntington Beach	$548,495	Guadalupe	$101,125
Huntington Park	$651,678	Gustine	$73,575
Indio City	$455,962	Hidden Hills	$71,371
Inglewood	$735,776	Hollister	$180,249
Irvine	$757,977	Holtville	$82,611
Kern County	$2,160,344	Humboldt County	$344,448
La Habra	$388,867	Huron	$99,582
La Mesa	$188,809	Imperial	$91,427
Laguna Niguel	$153,414	Imperial County	$173,858
Lake Elsinore	$248,527	Indian Wells	$88,783
Lake Forest	$221,070	Industry	$65,596
Lakewood	$270,847	Inyo County	$103,770
Lancaster	$694,855	Ione	$75,338
Livermore	$208,540	Jackson	$87,460
Lodi	$336,265	King City	$134,185
Lompoc	$227,027	Kings County	$163,499
Long Beach	$2,926,784	Lake County	$241,741
Los Angeles	$26,219,573	Lakeport	$79,305
Los Angeles County	$11,025,126	Lassen County	$102,007
Lynwood	$631,387	Lemoore	$145,205

Entitlement Local Government		Non-entitlement Local Government	
Local Government	**Funding Amount**	**Local Government**	**Funding Amount**
Madera	$422,319	Lincoln	$203,171
Marin County	$725,571	Lindsay	$117,214
Menifee	$251,604	Live Oak	$89,664
Merced	$518,719	Livingston	$108,839
Milpitas City	$238,595	Loomis	$81,730
Mission Viejo	$206,683	Los Banos	$188,184
Modesto	$969,747	Loyalton	$67,624
Montebello	$316,758	Madera County	$273,920
Monterey	$116,419	Mammoth Lakes	$81,730
Monterey County	$648,380	Maricopa	$66,742
Monterey Park	$318,871	Marina	$157,548
Moreno Valley	$1,029,809	Mariposa County	$128,455
Mountain View	$256,551	Marysville	$110,382
Napa City	$318,210	McFarland	$112,806
National City	$393,191	Mendocino County	$349,958
Newport Beach	$169,613	Merced County	$310,947
Norwalk	$592,762	Modoc County	$76,440
Oakland	$3,704,475	Mono County	$77,101
Oceanside	$649,151	Montague	$68,726
Ontario	$920,018	Mount Shasta	$89,885
Orange	$607,483	Napa County	$143,222
Orange County	$1,272,164	Nevada City	$78,865
Oxnard	$1,158,429	Nevada County	$306,319
Palm Desert	$171,306	Orange Cove	$101,345
Palm Springs	$192,237	Orland	$92,529
Palmdale	$779,064	Oroville	$137,051
Palo Alto	$231,496	Pacific Grove	$118,757
Paradise	$93,596	Palos Verdes Estates	$96,717
Paramount City	$438,197	Parlier	$133,524
Pasadena	$936,076	Pismo Beach	$99,582
Perris City	$466,532	Placer County	$455,090
Petaluma	$184,357	Placerville	$110,823
Pico Rivera	$338,973	Plumas County	$121,182
Pittsburg	$317,683	Plymouth	$67,404
Placentia	$214,774	Point Arena	$67,404
Pleasanton City	$151,089	Portola	$75,338
Pomona	$1,068,445	Rancho Mirage	$172,094
Porterville	$342,754	Red Bluff	$124,047
Rancho Cordova City	$285,366	Rio Dell	$79,085
Rancho Cucamonga	$450,476	Rio Vista	$96,276
Rancho Santa Margarita	$101,396	Riverbank	$122,063
Redding	$336,814	San Benito County	$121,182

Entitlement Local Government		Non-entitlement Local Government	
Local Government	**Funding Amount**	**Local Government**	**Funding Amount**
Redondo Beach	$130,830	San Joaquin	$78,644
Redwood City	$347,719	San Juan Bautista	$75,999
Rialto	$597,786	San Juan Capistrano	$236,452
Riverside	$1,622,125	Sand City	$67,139
Riverside County	$3,996,171	Santa Cruz County	$565,952
Rocklin City	$134,638	Scotts Valley	$103,770
Rosemead	$343,238	Shasta County	$286,924
Roseville	$313,366	Shasta Lake	$102,227
Sacramento	$2,357,067	Sierra County	$67,624
Sacramento County	$2,720,826	Siskiyou County	$142,120
Salinas	$1,006,847	Solano County	$128,234
San Bernardino	$1,622,027	Soledad	$120,961
San Bernardino County	$3,459,141	Sonora	$91,427
San Buenaventura	$357,439	South Lake Tahoe	$165,703
San Clemente	$189,040	St. Helena	$89,003
San Diego	$5,790,183	Suisun City	$154,683
San Diego County	$1,979,966	Susanville	$93,191
San Francisco	$8,718,035	Sutter County	$116,333
San Joaquin County	$1,310,193	Sutter Creek	$78,644
San Jose	$4,348,646	Taft	$90,546
San Leandro	$349,960	Tehama	$65,596
San Luis Obispo County	$872,502	Tehama County	$186,685
San Marcos City	$319,178	Trinidad	$66,081
San Mateo	$341,894	Trinity County	$121,622
San Mateo County	$1,209,550	Truckee	$104,652
Santa Ana	$2,803,706	Tulare County	$583,584
Santa Barbara	$453,109	Tulelake	$68,506
Santa Barbara County	$569,787	Tuolumne County	$242,182
Santa Clara	$479,491	Ukiah	$129,777
Santa Clara County	$736,733	Vernon	$65,376
Santa Clarita	$588,259	Wasco	$135,508
Santa Cruz	$264,744	Weed	$76,661
Santa Maria	$733,471	Westmorland	$72,693
Santa Monica	$547,516	Wheatland	$72,032
Santa Rosa	$694,325	Williams	$80,848
Santee	$134,374	Willits	$92,309
Seaside	$193,124	Willows	$93,631
Simi Valley	$290,357	Winters	$88,783
Sonoma County	$899,393	Woodlake	$89,885
South Gate	$721,320	Yolo County	$136,610
South San Francisco	$217,980	Yountville	$81,069
Stanislaus County	$1,154,982	Yreka	$102,007

Stockton	$1,711,430

Entitlement Local Government	
Local Government	**Funding Amount**
Sunnyvale	$533,023
Temecula	$273,393
Thousand Oaks	$296,040
Torrance	$444,374
Tulare	$318,433
Turlock	$309,854
Tustin	$385,545
Union City	$253,935
Upland	$277,837
Vacaville	$240,500
Vallejo	$505,369
Ventura County	$859,749
Victorville	$632,770
Visalia	$630,815
Vista	$408,882
Walnut Creek	$138,449
Watsonville	$362,515
West Covina	$388,763
West Sacramento	$236,679
Westminster	$510,577
Whittier	$383,190
Woodland	$248,989
Yorba Linda	$106,529
Yuba City	$311,140

Yuba County	$272,377

Appendix B: List of High-cost Areas in California

High-cost Area by County	High-cost Area pursuant to Federal Housing Finance Agency's Maximum Loan Limits for Mortgages Acquired in Calendar Year 2020	High-cost Area pursuant to Department of Housing and Urban Development Very low-Income Adjustments due to High-Housing Cost for Fiscal Year 2020
Alameda	x	
Butte		x
Contra Costa	x	
El Dorado	x	
Los Angeles	x	
Madera		x
Marin	x	
Mendocino		x
Mono	x	
Monterey	x	
Napa	x	
Orange	x	
Placer	x	
Riverside		x
Sacramento	x	
San Benito	x	
San Bernardino		x
San Diego	x	
San Francisco	x	
San Luis Obispo	x	
San Mateo	x	
Santa Barbara	x	
Santa Clara	x	
Santa Cruz	x	
Sierra		x
Sonoma	x	
Tulare		x
Ventura	x	
Yolo	x	

Appendix C: Estimate of Five-Year PLHA Allocation for Entitlement and Non-entitlement Local Government

Entitlement Local Government		Non-entitlement Local Government	
Local Government	**Estimate 5-Year Funding Amount**	**Local Government**	**Estimate 5-Year Funding Amount**
Alameda	$3,352,590	Alpine County	$408,390
Alhambra	$2,793,768	Alturas	$475,835
Aliso Viejo	$715,062	Amador City	$395,168
Anaheim	$12,931,710	Amador County	$805,115
Antioch	$2,365,410	American Canyon	$704,612
Apple Valley	$1,725,366	Anderson	$622,622
Bakersfield	$10,385,412	Angels	$487,737
Baldwin Park	$2,929,068	Arcata	$1,056,372
Bellflower	$3,081,744	Artesia	$814,372
Berkeley	$7,761,504	Arvin	$831,563
Buena Park	$2,215,452	Atwater	$949,257
Burbank	$2,863,092	Auburn	$719,158
Camarillo	$812,124	Avenal	$627,912
Carlsbad	$1,635,492	Benicia	$848,754
Carson	$2,488,380	Biggs	$424,261
Cathedral City	$1,699,338	Bishop	$502,283
Cerritos	$655,278	Blue Lake	$409,715
Chico	$2,342,088	Brawley	$906,940
Chino	$1,496,190	Butte County	$2,000,572
Chino Hills	$1,063,710	Calaveras County	$1,238,865
Chula Vista	$6,356,898	Calexico	$1,222,996
Citrus Heights	$1,876,554	Calimesa	$532,699
Clovis City	$2,193,654	Calipatria	$462,611
Compton	$4,618,320	Calistoga	$511,540
Concord	$2,932,710	Capitola	$630,557
Corona	$3,492,018	Carmel-by-the-Sea	$491,704
Costa Mesa	$3,171,486	Chowchilla	$662,295
Cupertino City	$993,060	Clearlake	$875,203
Daly City	$3,070,926	Coalinga	$618,655
Davis	$1,817,544	Colfax	$432,196
Delano City	$1,950,744	Colusa	$515,507
Downey	$3,121,674	Colusa County	$500,961
El Cajon	$3,872,292	Corcoran	$683,453
El Centro	$1,475,988	Corning	$555,180
Elk Grove	$2,638,722	Crescent City	$485,092
El Monte	$5,083,752	Del Norte County	$844,787
Encinitas	$936,264	Dinuba	$889,749
Escondido	$5,057,466	Dixon	$692,710

Entitlement Local Government		Non-entitlement Local Government	
Local Government	**Estimate 5 Year Funding Amount**	**Local Government**	**Estimate 5 Year Funding Amount**
Fairfield	$2,345,460	Dorris	$399,135
Fontana	$5,886,732	Dos Palos	$496,994
Fountain Valley	$867,648	Dunsmuir	$432,196
Fremont	$3,846,960	El Centro	$1,297,051
Fresno	$20,445,618	El Dorado County	$2,879,974
Fullerton	$4,130,712	Etna	$403,103
Gardena	$1,979,262	Eureka	$1,125,138
Garden Grove	$5,966,058	Exeter	$586,917
Gilroy City	$1,465,554	Farmersville	$589,562
Glendale	$5,202,150	Ferndale	$426,906
Glendora City	$781,548	Firebaugh	$572,371
Goleta	$564,090	Fort Bragg	$641,136
Hanford	$1,772,808	Fort Jones	$415,004
Hawthorne	$3,676,914	Fortuna	$651,715
Hayward	$3,910,410	Fowler	$486,414
Hemet	$2,415,216	Glenn County	$641,136
Hesperia	$3,034,662	Grass Valley	$813,049
Huntington Beach	$3,290,970	Greenfield	$839,497
Huntington Park	$3,910,068	Gridley	$555,180
Indio City	$2,735,772	Grover Beach	$727,093
Inglewood	$4,414,656	Guadalupe	$606,754
Irvine	$4,547,862	Gustine	$441,452
Laguna Niguel	$920,484	Hidden Hills	$428,228
La Habra	$2,333,202	Hollister	$1,081,498
Lake Forest	$1,326,420	Holtville	$495,671
Lake Elsinore	$1,491,162	Humboldt County	$2,066,693
Lakewood	$1,625,082	Huron	$597,497
La Mesa	$1,132,854	Imperial	$548,568
Lancaster	$4,169,130	Imperial County	$1,043,148
Livermore	$1,251,240	Indian Wells	$532,699
Lodi	$2,017,590	Industry	$393,581
Lompoc	$1,362,162	Inyo County	$622,622
Long Beach	$17,560,704	Ione	$452,032
Los Angeles	$157,317,438	Jackson	$524,764
Lynwood	$3,788,322	King City	$805,115
Madera	$2,533,914	Kings County	$980,995
Menifee	$1,509,624	Lake County	$1,450,450
Merced	$3,112,314	Lakeport	$475,835
Milpitas City	$1,431,570	Lassen County	$612,043
Mission Viejo	$1,240,098	Lemoore	$871,235
Modesto	$5,818,482	Lincoln	$1,219,029

Entitlement Local Government		Non-entitlement Local Government	
Local Government	**Estimate 5 Year Funding Amount**	**Local Government**	**Estimate 5 Year Funding Amount**
Montebello	$1,900,548	Lindsay	$703,289
Monterey	$698,514	Live Oak	$537,988
Monterey Park	$1,913,226	Livingston	$653,038
Moreno Valley	$6,178,854	Loomis	$490,382
Mountain View	$1,539,306	Los Banos	$1,129,105
Napa City	$1,909,260	Loyalton	$405,747
National City	$2,359,146	Madera County	$1,643,522
Newport Beach	$1,017,678	Mammoth Lakes	$490,382
Norwalk	$3,556,572	Maricopa	$400,458
Oakland	$22,226,850	Marina	$945,290
Oceanside	$3,894,906	Mariposa County	$770,732
Ontario	$5,520,108	Marysville	$662,295
Orange	$3,644,898	McFarland	$676,841
Oxnard	$6,950,574	Mendocino County	$2,099,753
Palmdale	$4,674,384	Merced County	$1,865,687
Palm Desert	$1,027,836	Modoc County	$458,644
Palm Springs	$1,153,422	Mono County	$462,611
Palo Alto	$1,388,976	Montague	$412,359
Paradise	$561,576	Mount Shasta	$539,311
Paramount City	$2,629,182	Napa County	$859,334
Pasadena	$5,616,456	Nevada City	$473,190
Perris City	$2,799,192	Nevada County	$1,837,916
Petaluma	$1,106,142	Orange Cove	$608,076
Pico Rivera	$2,033,838	Orland	$555,180
Pittsburg	$1,906,098	Oroville	$822,306
Placentia	$1,288,644	Pacific Grove	$712,546
Pleasanton City	$906,534	Palos Verdes Estates	$580,305
Pomona	$6,410,670	Parlier	$801,148
Porterville	$2,056,524	Pismo Beach	$597,497
Rancho Cordova City	$1,712,196	Placer County	$2,730,542
Rancho Cucamonga	$2,702,856	Placerville	$664,940
Rancho Santa Margarita	$608,376	Plumas County	$727,093
Redding	$2,020,884	Plymouth	$404,425
Redondo Beach	$784,980	Point Arena	$404,425
Redwood City	$2,086,314	Portola	$452,032
Rialto	$3,586,716	Rancho Mirage	$1,032,569
Riverside	$9,732,750	Red Bluff	$744,284
Rocklin City	$807,828	Rio Dell	$474,513
Rosemead	$2,059,428	Rio Vista	$577,661
Roseville	$1,880,196	Riverbank	$732,382
Sacramento	$14,142,402	San Benito County	$727,093

Entitlement Local Government		Non-entitlement Local Government	
Local Government	**Estimate 5 Year Funding Amount**	**Local Government**	**Estimate 5 Year Funding Amount**
Salinas	$6,041,082	San Joaquin	$471,868
San Bernardino	$9,732,162	San Juan Bautista	$455,999
San Clemente	$1,134,240	San Juan Capistrano	$1,418,712
San Diego	$34,741,098	Sand City	$402,838
San Francisco	$52,308,210	Santa Cruz County	$3,395,713
San Jose	$26,091,876	Scotts Valley	$622,622
San Leandro	$2,099,760	Shasta County	$1,721,544
San Marcos City	$1,915,068	Shasta Lake	$613,366
San Mateo	$2,051,364	Sierra County	$405,747
Santa Ana	$16,822,236	Siskiyou County	$852,722
Santa Barbara	$2,718,654	Solano County	$769,410
Santa Clara	$2,876,946	Soledad	$725,770
Santa Clarita	$3,529,554	Sonora	$548,568
Santa Cruz	$1,588,464	South Lake Tahoe	$994,219
Santa Maria	$4,400,826	St. Helena	$534,021
Santa Monica	$3,285,096	Suisun City	$928,099
Santa Rosa	$4,165,950	Susanville	$559,147
Santee	$806,244	Sutter County	$698,000
Seaside	$1,158,744	Sutter Creek	$471,868
Simi Valley	$1,742,142	Taft	$543,278
South Gate	$4,327,920	Tehama	$393,581
South San Francisco	$1,307,880	Tehama County	$1,120,113
Stockton	$10,268,580	Trinidad	$396,491
Sunnyvale	$3,198,138	Trinity County	$729,738
Temecula	$1,640,358	Truckee	$627,912
Thousand Oaks	$1,776,240	Tulare County	$3,501,506
Torrance	$2,666,244	Tulelake	$411,037
Tulare	$1,910,598	Tuolumne County	$1,453,095
Turlock	$1,859,124	Ukiah	$778,667
Tustin	$2,313,270	Vernon	$392,259
Union City	$1,523,610	Wasco	$813,049
Upland	$1,667,022	Weed	$459,966
Vacaville	$1,443,000	Westmorland	$436,163
Vallejo	$3,032,214	Wheatland	$432,196
San Buenaventura	$2,144,634	Williams	$485,092
Victorville	$3,796,620	Willits	$553,857
Visalia	$3,784,890	Willows	$561,792
Vista	$2,453,292	Winters	$532,699
Walnut Creek	$830,694	Woodlake	$539,311
Watsonville	$2,175,090	Yolo County	$819,661
West Covina	$2,332,578	Yountville	$486,414

Entitlement Local Government		Non-entitlement Local Government	
Local Government	**Estimate 5 Year Funding Amount**	**Local Government**	**Estimate 5 Year Funding Amount**
Westminster	$3,063,462	Yreka	$612,043
West Sacramento	$1,420,074	Yuba County	$1,634,265
Whittier	$2,299,140		
Woodland	$1,493,934		
Yorba Linda	$639,174		
Yuba City	$1,866,840		
Alameda County	$5,603,190		
Contra Costa County	$13,021,068		
Fresno County	$9,860,088		
Kern County	$12,962,064		
Los Angeles County	$66,150,756		
Marin County	$4,353,426		
Monterey County	$3,890,280		
Orange County	$7,632,984		
Riverside County	$23,977,026		
Sacramento County	$16,324,956		
San Bernardino County	$20,754,846		
San Diego County	$11,879,796		
San Joaquin County	$7,861,158		
San Luis Obispo County	$5,235,012		
San Mateo County	$7,257,300		
Santa Barbara County	$3,418,722		
Santa Clara County	$4,420,398		
Sonoma County	$5,396,358		
Stanislaus County	$6,929,892		
Ventura County	$5,158,494		

Appendix D: Ineligible Jurisdictions Due to Housing Element Requirement and/or Annual Progress Report (APR) Requirement stated in Guidelines Section 302(a) and (b)

As of the date of this notice, 72 jurisdictions are not in compliance with the Housing Element and/or Housing Element Annual Progress Report (APR) Requirements stated in Guidelines Section 302(a) and (b). PLHA is an over-the-counter program, so as these jurisdictions reach compliance with the Housing Element and APR requirements, they will be eligible for these funds. We acknowledge that many jurisdictions listed below are in process of obtaining compliance, and they will be eligible for this program once compliance is obtained during the application period.

Jurisdictions	Housing Element Compliance Status	2018 and 2019 APRs
Alturas	Out	
Amador City	Due- June 30, 2014	Neither received
Bell	Out	Neither received
Blue Lake	Out	Neither received
Blythe		Neither received
Bradbury		Neither received
California City		Neither received
Calipatria		Neither received
Canyon Lake	In Review	
Chowchilla	In Review	
Commerce		Neither received
Compton	Out	
Covina	Due- October 15,2013	
Crescent City		Neither received
Cudahy		Neither received
Del Rey Oaks	In Review	
Desert Hot Springs	Out	
Dos Palos	In Review	
Eureka	In Review	
Ferndale		Neither received
Fort Jones	Out	
Fowler		Neither received
Glenn County		Neither received
Hesperia		Neither received
Holtville		Neither received
Huntington Beach	In Review	Neither received
Huntington Park	Out	Neither received
Inyo County		Neither received
La Habra Heights	Due- October 15, 2013	
La Puente	Out	
Lake County	Out	

Jurisdictions	Housing Element Compliance Status	2018 and 2019 APRs
La Mirada		Neither received
Lassen County		Neither received
Loyalton		Neither received
Marina	In Review	
Maywood	In Review	Neither received
Mendocino County	Out	
Mendota		Neither received
Modoc County		Neither received
Mono County	Out	
Montebello	Out	Neither received
Orange Cove	Out	
Parlier		Neither received
Patterson		Neither received
Pismo Beach	In Review	
Red Bluff	Due- August 31, 2019	
Rialto	In Review	Neither received
Ridgecrest		Neither received
Rio Dell	Due- August 31, 2019	
Ripon		Neither received
Rolling Hills	Out	Neither received
Sanger	In Review	
Seaside	In Review	
Selma	Out	
Shafter		Neither received
Soledad	In Review	
Sonora	Out	
South El Monte	Out	
Susanville	Out	
Trinidad	Due- August 31, 2019	
Trinity County	In Review	
Victorville	In Review	
Westlake Village	Out	
Westmorland	Out	
Wheatland	In Review	Neither received
Willows	In Review	
Woodlake	In Review	

Please note – the information provided above is current as of February 25, 2020. Please contact Paul McDougall, Housing Policy Manager, at paul.mcdougall@hcd.ca.gov with questions or to verify status of housing element compliance. For questions about APR compliance, please email APR@hcd.ca.gov.

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City CA 95959
www.nevadacityca.gov

May 27, 2020

TITLE: Unenforced Smoking Areas Pilot Project Update

RECOMMENDATION: Pass Resolution 2020-XX, a Resolution of the City of Nevada City, City Council Approving the Implementation of the Unenforced Smoking Areas Program.

CONTACT: Chad Ellis, Police Chief

BACKGROUND / DISCUSSION:
Municipal Code Section 8.24.135 prohibits smoking in certain unenclosed areas including streets, sidewalks and municipal parking lots within the Historic District. At the City Council meeting on March 9, 2016 there was a three month designated smoking area pilot project proposed by City Staff. See sections below from the staff report of March 9, 2016:

On February 24, 2016, the City Council reviewed receptacle designs for two previously approved designated smoking areas in the Historic District. At the meeting, the City Council authorized City staff to move forward with the receptacle design but also requested staff relocate the two designated smoking areas as follows:

1) *Relocate the previously approved Commercial Street Parking Lot designated smoking area (shown in the attached Commercial St. map) to the location of the bench adjacent to the fence.*

2) *Relocate the previously approved designated smoking area in the Nevada Street parking lot to the Spring Street parking lot.*

The City Engineer has toured the Commercial Street parking lot and identified a few challenges with the requested modification. In order to properly adhere to Americans with Disabilities Act (ADA) requirements, it would be necessary to remove a significant amount of concrete to provide a safe at-grade smoking area accessible by wheelchair near the bench location. The City Engineer has indicated this will be much more expensive than the original location because of concrete removal and the need to construct a new curb closer to the fence. Additionally, the bench location is near a Family Child Care Home where children are present, which presents concerns about second hand smoke exposure.

The City has also received a significant amount of correspondence from residents and merchants near the Spring Street parking lot expressing concerns about the presence of a designated smoking area near their property. Staff has identified a location adjacent to the freeway that would be as minimally impactful to businesses/residents as possible (see attached Spring St. map).

However, based on the above considerations, staff is recommending the City Council consider authorizing a limited three-month pilot project in the Commercial Street parking lot's original location, which can be implemented without concrete modifications. Following the three-month pilot, Staff will provide the Council with a report on how the designated area worked including impact on litter, loitering, compliance, etc. This will provide the Council with the opportunity to evaluate whether to continue with the Commercial Street designated smoking area and location, and whether or not to consider adding additional locations in the future.

After modest research staff found that, the proposed pilot program was never implemented. The City has continued to receive regular complaints about the littering of cigarette butts and public smoking, and has received repeated requests to locate an area/areas that the merchants and their employees, out of town visitors and residents can be directed to if they would like to smoke.

Staff had reviewed previous proposed areas and have identified what pros and cons they may have. Police Chief Leal and Lt. Chad Ellis in conjunction with the City Engineer, Bryan McAlister had proposed new designated smoking areas that would not be intrusive/offensive to Nevada City patrons.

Staff re-introduced the idea of a designated smoking are pilot project during the September 26, 2018 City Council meeting. Staff was directed to move forward in drafting and proposing a plan for a designated smoking area pilot project and to bring it back to City Council for review. Also, requested was that staff provide notice to all businesses in the proposed areas of the pilot project. This had been done. Staff sought Council discussion/approval on the proposed designated smoking area pilot project. Once brought back to the Council the decision was made not to move forward with the designated smoking areas.

With continued complaints about smoking throughout downtown and the littering of cigarette butts, the Police Department, along with members of the community, and The Public Health Department, began to meet to come up with potential solutions. At the June 12, 2019 Council meeting the Police Department with the backing of the Health Department proposed a new plan for a pilot program for unenforced smoking areas. The locations selected were the Commercial Street parking lot, the Spring Street parking lot as well as the Nevada Street parking lot. In each of these areas, a receptacle for disposing of cigarette butts was installed.

Since the implementation of the unenforced smoking areas, the Police Department has received approximately 12 complaints regarding smoking in areas outside of the unenforced areas. Officers have been issuing citations for smoking outside the areas when they see a violation occur. In speaking with the Public Works Superintendent, Bubba Highsmith, he advised people are in fact utilizing the receptacles installed in the unenforced areas. In speaking to some of the business owner's downtown, the Police Department has been informed that while they still occasionally see people smoking it does not seem to be as bad as it was.

Another benefit to the unenforced areas is that business owners now more freely advise people they see smoking that they are not allowed to smoke in downtown but can direct them to an area they can smoke. Prior to the unenforced areas business owners were not likely to confront someone for smoking, as they could not give them an alternate location where they could smoke.

ENVIRONMENTAL CONSIDERATIONS:
Continuing with the unenforced smoking areas with properly designed fire resistant receptacles and the placement of receptacles in various locations assists in cleaning the environment in the immediate area, reducing the amount of toxic waste entering the drains ultimately ending up in Deer Creek and other streams, reducing the fire dangers associated with the careless discarding of cigarettes, and reducing second hand smoke exposure.

FISCAL IMPACT: Potential savings to the Police Department for staff time, issuing tickets, processing them, and going to court.

ATTACHMENTS:

- ✓ Exhibit – Map showing unenforced smoking areas

RESOLUTION NO. 2020-XX

A RESOLUTION OF THE CITY OF NEVADA CITY, CITY COUNCIL APPROVING THE IMPLEMENTATION OF THE UNENFORCED SMOKING AREAS PROGRAM

WHEREAS, Municipal Code Section 8.24.135 prohibits smoking in certain unenclosed areas including streets, sidewalks and municipal parking lots within the Historic District, and;

WHEREAS, at the City Council meeting on March 9, 2016 there was a three month designated smoking area pilot project proposed by City Staff, and;

WHEREAS, after modest research staff found that, the proposed pilot program was never implemented. The City has continued to receive regular complaints about the littering of cigarette butts and public smoking, and has received repeated requests to locate an area/areas that the merchants and their employees, out of town visitors and residents can be directed to if they would like to smoke, and;

WHEREAS, staff had reviewed previous proposed areas and have identified what pros and cons they may have. Police Chief Leal and Lt. Chad Ellis in conjunction with the City Engineer, Bryan McAlister had proposed new designated smoking areas that would not be intrusive/offensive to Nevada City patrons, and;

WHEREAS, at the June 12, 2019 Council meeting the Police Department with the backing of the Health Department proposed a new plan for a pilot program for unenforced smoking areas. The locations selected were the Commercial Street parking lot, the Spring Street parking lot as well as the Nevada Street parking lot. In each of these areas, a receptacle for disposing of cigarette butts was installed, and;

WHEREAS, since the implementation of the unenforced smoking areas, the Police Department has received approximately 12 complaints regarding smoking in areas outside of the unenforced areas. Officers have been issuing citations for smoking outside the areas when they see a violation occur. In speaking with the Public Works Superintendent, Bubba Highsmith, he advised people are in fact utilizing the receptacles installed in the unenforced areas. In speaking to some of the business owner's downtown, the Police Department has been informed that while they still occasionally see people smoking it does not seem to be as bad as it was, and;

WHEREAS, another benefit to the unenforced areas is that business owners now more freely advise people they see smoking that they are not allowed to smoke in downtown but can direct them to an area they can smoke. Prior to the unenforced areas business owners were not likely to confront someone for smoking, as they could not give them an alternate location where they could smoke, and;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Nevada City Pass Resolution 2020-XX, A Resolution of the City of Nevada City, City Council Approving the Implementation of the Unenforced Smoking Areas Program and Authorizes the Mayor to sign.

PASSED AND ADOPTED at a regularly scheduled meeting of the City Council of Nevada City held on the 27th day of May, 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____

Reinette Senum, Mayor

ATTEST:

_____

Niel Locke, City Clerk

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City CA 95959
www.nevadacityca.gov

May 27, 2020

TITLE: Relaxation of Outdoor Dining Regulations ,On-Site Parking Requirements, Signage Regulations and Wavier of Related Fees Related to Covid-19

RECOMMENDATION: It is recommended that the City Council direct the City Manager, acting as the Director of Defense and Disaster, to establish a program to assist restaurants and retail establishments in the following ways:

1. Outdoor Dining Outdoor Dining. For the purpose of allowing restaurants to request an increase in the allowable public and private space available for outdoor dining: relax outdoor dining regulations, development standards and conditions of approval, and to establish regulations which allow outdoor consumption of alcohol at restaurants where indoor consumption of alcohol was already allowed; and

2. Waive Fees. Waive the following fees until 11:59 p.m. on November 19, 2020:

   a. Use of public space for outdoor dining; and

   b. Applications for a relaxation of outdoor dining regulations.

3. Parking. Allow a reduction in mandatory on-site parking on private property for increased outdoor dining space, or for retail pick-up with a property owner's permission; and

4. Signage. To permit each restaurant and retail establishment the use of one temporary sign (including A-frame signage) not to exceed 12 square feet, in such a manner that signage does not impede accessible pedestrian access along the sidewalk or into the business; and

5. Administration. Allow staff to process these adjustments administratively. This includes making temporary administrative adjustments (i.e., reduction of enforcement on existing conditions of approval) to previously approved Conditional Use Permits and other entitlement mechanisms.

CONTACT: Catrina Olson, City Manager
Crystal V. Hodgson, City Attorney
Amy Wolfson, City Planner

SUMMARY:

The COVID-19 pandemic has severely restricted economic activity on many fronts, negatively impacting owners and employees, and reducing City revenues through a reduction in taxable sales. The recent approval of Nevada County's plan to move into the second phase of "Stage 2," of the statewide stay at home order now allows for restaurants within the City to offer dine-in service again and some retail to offer instore shopping, subject to certain restrictions. In

order to accommodate restaurants desiring to increase their outdoor dining spaces and retail businesses back open for indoor shopping, it is proposed that the City reduce its requirements related to outdoor dining in order to assist restaurants in handling occupancy reductions for indoor dining options as well as on-site parking and signage requirements to assist retail locations in providing for safe and efficient merchandise pick-up and effective advertising.

BACKGROUND/DISCUSSION:

During Stage 1 of the Governor's Stay at Home order, restaurants were only able to offer take-out meals. While many restaurants have closed due to the decline in business, others have barely survived on the take-out basis while their indoor dining rooms remained closed for customers. The recent approval of Nevada County's plan to move into the second phase of "Stage 2," of the statewide stay at home order now allows for restaurants within the City to offer dine-in service again and some retail to offer instore shopping, subject to certain restrictions.

Outdoor Dining

There are two types of outdoor dining in Nevada City. Outdoor dining outside an establishment on private property (i.e., tables/chairs in front of the Three Forks Brewery), and outdoor dining on public property such as on a public sidewalk. Most businesses with outside dining in Nevada City do so on private property. Any restaurant utilizing public property would first need an encroachment permit with the City to use public right-of-way, mostly sidewalks, for outdoor dining purposes. All outdoor dining within the City is normally subject to either a Conditional Use Permit or Commercial Site Plan review. In order for restaurants to meet state social distancing policies, many will face a reduction in occupancy. Dine-in ability is key for many restaurants and the reduction in occupancy may not be a viable option for business success.

Not all restaurants have outdoor dining, and many only have limited space immediately adjacent to their business frontage on private property or on City-owned property (i.e., sidewalks). Therefore, it is recommended that the City allow greater flexibility in temporary outdoor dining accommodations to include greater use of sidewalk areas (where sidewalks are wide enough to provide safe pedestrian and accessibility access) as well as on-street and off-street parking areas when such areas can be made safe for dining opportunities, such as the use of parkettes on streets and utilization of parking stalls in off-street locations. Where possible, shared/common dining areas can be created on public property in the downtown area to accommodate diners from multiple restaurants and private parking areas would be encouraged to be used by adjoining businesses.

As all use of public property requires an encroachment permit, the simple encroachment permit would still need to be filled out, but no fee nor discretionary review would be required. Businesses or property owners would be asked to submit a simple site plan along with simple paperwork and proof of standard insurance. Similarly, those restaurants that have private off-street parking facilities would not be subject to the normal land use permitting applications and fees and would also be asked to submit a simple site plan and proof of standard insurance for use of private parking spaces temporarily converted to outdoor reastaurant seating. The City will work with businesses and property owners to ensure proper access is maintained on private property, public sidewalks and right-of-ways and that created areas are safe for diners. Maintenance of areas, to include refuse and cleaning, would be the responsibility of the permit holders and all

applicable non-City regulations, such as restrictions on alcoholic beverages, would be in effect unless otherwise modified by State action.

Restaurants with outdoor seating are entitled to do so via a Conditional Use Permit or, in some cases an approved Commercial Site Plan. Occasionally, the entitlement for a given restaurant is a different mechanism (not a Conditional Use Permit) that was reviewed and approved by the City. The individual entitlement would include parameters and conditions of approval related to the number of indoor and/or outdoor seats allowed (if any), where alcohol may be consumed (if at all), hours of operation, and the amount of parking needed. One of the staff recommendations would authorize the City Manager or designee to make administrative adjustments to Conditional Use Permits and other approval mechanisms that result in adjustments to outdoor dining regulations, on-site parking requirements, development standards and conditions of approval related to outdoor dining and alcohol consumption at local businesses. The term of the temporary relaxation of the signage and outdoor dining regulations would commence immediately upon your approval of the emergency declaration. The term would end at 11:59 p.m. on November 19, 2020 unless otherwise extended. A report on the temporary program, to include locations of outdoor dining locations allowed under the program, will be presented to Council no later than September 2020.

Temporary Signage Flexibility

Exterior signage is generally authorized after design review by the Planning Commission or staff depending on the zoning. A-frame signage is expressly prohibited in the Histroic District. The proposed temporary relaxation of signage restrictions would allow businesses to erect temporary signage within the stated parameters without need of a permit or review process, including allowing A-frame signage within the Historic District for the duration of the emergency declaration. On-Site Parking Flexibility

With the expected easing of restrictions on retail locations, to include the use of curb-side and alternative pickup locations for ordered merchandise, it is also requested to provide the City Manager flexibility related to on-site parking regulations to better work with retailers. This may include reducing the amount of available on-site parking or other circulation/signage issues to assure that pedestrian and vehicle safety are considered in any changes to facilitate curbside or parking stall delivery options by retailers.

ENVIRONMENTAL CONSIDERATIONS: Not applicable.

FISCAL IMPACT: Nominal expenditures related to staff review of outdoor dining and encroachment permits and working with participating businesses. Unknown revenue gain from sales tax from restaurants able to serve more customers than under indoor-only occupancy standards.

ATTACHMENT:

- ✓ A Proclamation by the Director of Defense and Disaster of the City of Nevada City, Authorizing the Creation of an Administrative Program in Response to Covid-19 to Temporarily Relax Outdoor Dining Regulations, and On-Site Parking Requirements and to Waive Related Fees

EMERGENCY PROCLAMATION

A PROCLAMATION BY THE DIRECTOR OF DEFENSE AND DISASTER OF THE CITY OF NEVADA CITY, AUTHORIZING THE CREATION OF AN ADMINISTRATIVE PROGRAM IN RESPONSE TO COVID-19 TO TEMPORARILY RELAX OUTDOOR DINING REGULATIONS, SIGNAGE REGULATIONS, AND ON-SITE PARKING REQUIREMENTS, AND TO WAIVE RELATED FEES

WHEREAS, on January 30, 2020, the World Health Organization (WHO) declared the outbreak a "public health emergency of international concern" and on March 11, 2020, the WHO has elevated the public health emergency to the status of a pandemic. On January 31, 2020, United States Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States to aid the nation's healthcare community in responding to COVID-19. On February 26, 2020 the County of Orange declared a local emergency and a local health emergency. On March 4, 2020, California Governor Gavin Newsom declared a State of Emergency in California; and

WHEREAS, in declaring a State of Emergency, the Governor indicated that, as of March 4, 2020, there were 129 confirmed cases of COVID-19 in the United States, including 53 in California, and more than 9,400 Californians across 49 counties in home monitoring based on possible travel-based exposure to the virus, with officials expecting the number of cases in California, the United States, and worldwide to increase; and

WHEREAS, on March 13, 2020, the President of the United States issued a proclamation declaring the COVID-19 outbreak in the United States as a national emergency, beginning March 1, 2020; and

WHEREAS, conditions of extreme peril to the safety of persons and property have arisen due to the potential introduction of COVID-19 to Placentia and Orange County; and

WHEREAS, as of May 18, 2020, there were 81,795 confirmed cases of COVID-19 in the State of California; and

WHEREAS, as of May 18, 2020, there have been 41 reported current COVID-19 cases in Nevada County; and

WHEREAS, as of May 18, 2020, 1 person in Nevada County has died from COVID-19, and

WHEREAS, the Governor has declared that California is now in "Stage 2" of reopening the economy, where retail (curbside and delivery only) and essential businesses can open with modifications, and

WHEREAS, Nevada County has received the Governor's approval to move into the second phase of "Stage 2" which allows for city restaurants to permit dine-in customers and for certain retail establishments to allow for in-store shopping, with restrictions, and

WHEREAS, many local restaurants have been hard hit by the economic downturn; and

WHEREAS, tables which are outside and set at a distance from other tables are safer than tables which are indoors and closely packed; and

WHEREAS, during the pandemic there is a reduced need for on-site parking, and such parking spaces can safely be used to help accommodate outdoor seating; and

WHEREAS, businesses need additional signage in order to communicate operations for dine-in and in-store customers and procedures for curbside pick-up; and

WHEREAS, it is prudent for the city to establish regulations, so that restaurants and retail establishments can operate in a reasonable and safe manner; and

WHEREAS, on May 27, 2020, the City Council voted __ to __ to proclaim that it supports this action of the City Manager, acting as the City's Director of Defense and Disaster, to assist restaurants in meeting social distancing requirements of "Phase 2" of the Governor's roadmap.

NOW, THEREFORE, IT IS PROCLAIMED AND ORDERED by the City Manager, acting as Director of the Defense and Disaster, that the City of Nevada City's City Manager prepare and administer a program to assist local restaurants to operate within the second stage of the state's "Phase 2" operation. The program shall be operative through 11:59 p.m. on November 19, 2020 unless extended or prematurely terminated and shall generally conform to the following:

1. *Outdoor Dining*. For the purpose of allowing restaurants to request an increase in the allowable public and private space available for outdoor dining: relax outdoor dining regulations, development standards and conditions of approval, and to establish regulations which allow outdoor consumption of alcohol at restaurants where indoor consumption of alcohol was already allowed; and
2. *Waive Fees*. Waive fees relating to the following until 11:59 p.m. on November 19, 2020:
    a. Use of public space for outdoor dining; and
    b. Applications for a relaxation of outdoor dining regulations.
3. *Parking*. Allow a reduction in mandatory on-site parking on private property for increased outdoor dining space with a property owner's permission; and
4. *Signage*. During the pendency of the local emergency or until repealed sooner, each restaurant and retail establishment shall be permitted one temporary sign not to exceed 12 square feet, and in such a manner that signage does not impede accessible pedestrian access along the sidewalk or into the business.
5. *Administration*. Establish a means to process these adjustments administratively. This includes making temporary administrative adjustments (i.e., reduction of enforcement on existing conditions of approval) to previously approved Conditional Use Permits and other entitlement mechanisms.

PROCLAIMED this 27th day of May 2020.

_____
Catrina Olson, City Manager
and Director of Defense and Disaster

_____
Crystal V. Hodgson, City Attorney

ATTEST:

_____
Gabrielle Christakes, Deputy City Clerk

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City CA 95959
www.nevadacityca.gov

May 27, 2020

TITLE: Update on Staff's Request for Broad Street Closures During Shelter in Place Orders

RECOMMENDATION:

1. Receive staff report and provide staff direction regarding Broad Street closures;

2. Review and approve Resolution 2020-XX, a Resolution of the City Council of the City of Nevada City Suspending the Imposition and Collection of Parking Fees at City Parking Meters During the Covid-19 Local Emergency.

CONTACT: Catrina Olson, City Manager
Chad Ellis, Police Chief

BACKGROUND / DISCUSSION:

At the May 13, 2020 City Council meeting, staff asked for the City Council's direction to close the 200, 300, and 400, blocks of Broad Street during weekend hours to vehicular traffic in order to allow for restaurants to expand their outdoor seating and for approval of a Resolution suspending the imposition and collection of parking fees. The Council directed staff to continue both items until the May 27, 2020 City Council meeting, to give the City Council and staff two weeks to see how businesses were doing since the Governor had just approved Nevada County's plan to move into the second part of the Phase 2 opening before the May 13, 2020 meeting.

Since the May 13, 2020 Council meeting, staff has received additional feedback from City businesses and has researched other options for providing more restaurant outdoor seating. Based on that research and the feedback received, staff has changed their recommendation. Instead of closing Broad Street, staff recommends your approval of the agenda item presented to expand restaurant outdoor seating through use of private parking and/or public sidewalk.

Staff also recommends continuing to impose parking fees. However, because the City Council directed the resolution suspending the imposition and collection of parking fees resolution be brought back for Council consideration at its May 27, Council meeting, the proposed resolution is attached.

ENVIRONMENTAL CONSIDERATIONS: None

FISCAL IMPACT: To be determined

ATTACHMENTS:

- Resolution 2020-XX, a Resolution of the City Council of the City of Nevada City Suspending the Imposition and Collection of Parking Fees at City Parking Meters During the Covid-19 Local Emergency
- Responses from local restaurants regarding street closures

RESOLUTION 2020-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEVADA CITY SUSPENDING THE IMPOSITION AND COLLECTION OF PARKING FEES AT CITY PARKING METERS DURING THE COVID-19 LOCAL EMERGENCY

WHEREAS, conditions of extreme peril to the safety of persons or property have arisen within the City of Nevada City as a result of the spread of the COVID-19 virus throughout the State of California; and

WHEREAS, the Governor of California declared a Statewide state of emergency due to the COVID-19 virus on Wednesday, March 4, 2020; and

WHEREAS, the City Council confirmed the declaration of a local emergency due to the existence or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within the City of Nevada City on March 11, 2020; and

WHEREAS, despite sustained efforts, the virus remains a threat, and further efforts to control the spread of the virus to reduce and minimize the risk of infection and otherwise mitigate the effects of COVID-19 are needed; and

WHEREAS, the economic impacts of COVID-19 have been significant, and businesses are experiencing substantial losses; and

WHEREAS, the City Council desires to suspend the requirement to pay parking meter fees in the downtown area of the City during the local emergency in order to prevent any additional adverse economic impacts on individuals and downtown businesses.

NOW, THEREFORE, IT IS HEREBY RESOLVED AND ORDERED that imposition and collection of City parking meter fees in the City of Nevada City is hereby suspended until the end of the local emergency due to COVID-19, or until further resolution of the City Council of the City of Nevada City.

PASSED AND ADOPTED at a regularly scheduled meeting of the City Council of Nevada City held on the 27th day of May, 2020 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Reinette Senum, Mayor

ATTEST:

Niel Locke, City Clerk

RESPONSE FROM RESTAURANTS REGARDING CLOSING OFF STREET ONE BLOCK AT A TIME FOR RESTAURANTS TO CREATE OUTDOOR DINING

From Nevada City Classic Café - Yes

Hi Cathy

I like the idea of one night instead of 3 days that the City Council talk about.....
May be we can have music ?????

So Yes I'd be willing to participate if approved by City Council

Genevieve Crouzet
Nevada City Classic Cafe
216 broad st. Nevada City

From Friar Tuck's – Yes

I'm all in. Let's do this

Ken Paige
Friar Tuck's Restaurant & Bar
111 N. Pine Street
Nevada City, Ca, 95959
408-209-6310

Eat your food with gladness &
drink your wine with a joyful heart

From The Crazy Horse- Yes

Yes - I'd be willing to participate.

From Three Forks Bakery & Brewing Co. - Yes

Hi Cathy,
Thanks for the creative thinking on this. We're actually working on a potential plan to put some seating in our parking lot. That said, I think it could be really fun (and hopefully bring out some extra people) for us to all set up in the street on rotating nights.

On Commercial St maybe Heartwood would even consider staying open late for it. So we'd have Heartwood, One 11 Kitchen, Sushi Q, The Pizza Joint and Three Forks all on lower Commercial Street and Sopa Thai, New Moon and Ike's on upper.

Shana Maziarz
Three Forks Bakery & Brewing Co
Nevada City, CA
530-210-1082 (cell)
shana@threeforksnc.com
www.ThreeForksNC.com
www.facebook.com/ThreeForksNC

From Fred's Chinese Restaurant - No

Sent from my iPhone
No-not interested at this time

Fred

From Sushi Q – Yes

YES!
I'd be willing to participate if approved by the City Council.
Thank you for including us.

SushiQ
Kumiko

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

May 27, 2020

TITLE: Consideration of and First Reading of Ordinance Repealing and Readopting Chapter 17.150 of the Nevada City Municipal Code entitled "Wireless Telecommunication Facilities in the City"

RECOMMENDATION: Hold first reading, waive reading of Ordinance in its entirety, and read by title only, Ordinance 2020-XX Repealing and Readopting Chapter 17.150 of the Nevada City Municipal Code entitled "Wireless Telecommunication Facilities in the City".

CONTACT: Amy Wolfson, City Planner
Baron Bettenhausen, Consulting City Attorney

BACKGROUND / DISCUSSION:
The City Council adopting an Ordinance amending Chapter 17.150 of the Nevada City Municipal Code entitled "Wireless Telecommunication Facilities in the City" on September 25, 2019. The City Council subsequently authorized Council Member Strawser to meet with a working group of citizens, the City's consultant Bob Ross, and Jones & Mayer attorney Baron Bettenhausen to make changes to Chapter 17.150 to add further protections to the public health, safety, and welfare, permitted under federal and state law.

The working group met with Council Member Strawser and Mayor Senum on March 6, 2020, and agreed upon proposed changes that were submitted to Bob Ross and Baron Bettenhausen for their review. On March 13, 2020, the working group met at Nevada City Council Chambers with Mayor Senum and Council Member Strawser, joined by Baron Bettenhausen and Bob Ross via video conference to discuss all the requested amendments. Baron Bettenhausen has prepared a new revised version of the Telecommunication Ordinance incorporating the working group's requested changes, as were legally permissible.

A redlined version of the proposed ordinance amending Chapter 17.150 comparing it to the currently adopted Chapter 17.150 is attached for your review. Notable changes include the following:

- Removal of option for Master Deployment Plan;
- Update distancing requirements between facilities;
- Include distancing from sensitive use areas;
- Clarify frequency of recertification requirement;

- Conform undergrounding requirement to existing federal law;
- Streamline standards imposed to make more objective; and
- Removal of redundant requirements and other minor changes to clarify provisions of the ordinance as needed.

The working group, Bob Ross, and Baron Bettenhausen came to consensus on most issues; notably there is still a disagreement about what distancing requirement should be included for new wireless facilities located in the public-right-of way. The requirement contained in Section 17.150.070 (A)(1)(d) reads as following: "The installation of new wireless facilities to new or existing poles in the public right-of-way must be separated 500 feet away from the nearest wireless facility."

The working group advocates for this distance to be 1,500 feet, but Baron, Bob, and Duane recommend using the 500 feet as is proposed. Staff would like the City Council's specific direction on what distance to use in this section.

ENVIRONMENTAL CONSIDERATIONS: Not applicable at this time.

FINANCIAL CONSIDERATIONS: None.

ATTACHMENTS:

- ✓ Ordinance No. 2020-XX, Ordinance Repealing and Readopting Chapter 17.150 of the Nevada City Municipal Code entitled "Wireless Telecommunication Facilities in the City"
- ✓ Redlined Ordinance comparing proposed changes with the originally adopted Ordinance (NCMC Chapter 17.150)

ORDINANCE NO. 2020-XX

AN ORDINANCE OF THE CITY OF NEVADA CITY REPEALING AND READOPTING CHAPTER 17.150 OF THE NEVADA CITY MUNICIPAL CODE ENTITLED "WIRELESS TELECOMMUNICATION FACILITIES IN THE CITY"

WHEREAS, California Public Utilities Code Section 7901.1 gives the City the right to control, in a reasonable manner, the time, place, and manner, when applied equally, where telecommunications facilities can be located; and

WHEREAS, Section 7901 of the California Public Utilities Code ("section 7901") authorizes telephone and wireless corporations to construct telephone or wireless telecommunication lines along and upon any public road or highway, along or across any of the waters or lands within this state, and to erect poles, posts, piers, or abatements for supporting the insulators, wires, and other necessary fixtures of their lines, in such manner and at such points as not to incommode the public use of the road or highway or interrupt the navigation of the waters; and

WHEREAS, Section 7901.1 of the California Public Utilities Code confirms the right of municipalities to exercise reasonable control as to the time, place, and manner in which roads, highways, and waterways are accessed, which control must be applied to all entities in an equivalent manner, and may involve the imposition of fees. Specifically, it has been determined by the courts that a municipality has authority to regulate the placement and appearance of telecommunications equipment installed on its public rights-of-way, and that a municipality need not grant wireless providers blanket permission to install their equipment throughout a municipality, but may require wireless providers to go through a site-specific permitting process provided it is not so burdensome that it runs afoul of section 7901; and

WHEREAS, in order to protect the general welfare of citizens of Nevada City, the Nevada City Municipal Code is updated to regulate the siting of small cell facilities within the scope of existing laws; and

WHEREAS, Section 1455 of Title 47 of the United States Code mandates approval by local agencies of certain eligible facilities requests for modification and requires compliance with the American with Disabilities Act, of an existing wireless tower or base station that does not substantially change the physical dimensions of such wireless tower or base station; and

WHEREAS, pursuant to 47 USC 332 and subject to the limitations set forth therein, the City has authority to regulate the placement, construction, or modification of personal wireless service facilities; and

WHEREAS, on October 10, 2018, the City Council adopted an interim ordinance, and on November 14, 2018, the City Council extended that ordinance through October 9, 2019;

WHEREAS, on September 25, 2019, the City Council of the City of Nevada City adopted an Ordinance amending Chapter 17.150 of the Nevada City Municipal Code and renaming it "Wireless Telecommunication Facilities in the City;" and

WHEREAS, the City Council desires to adopt further amendments to Chapter 17.150 of the Municipal Code, consistent with its authority under federal and state law;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF NEVADA CITY DOES ORDAIN AS FOLLOWS:

SECTION 1**:** Chapter 17.150 of the Municipal Code Replaced and Readopted. Chapter 17.150 entitled "Wireless Telecommunications Facilities" is hereby repealed in its entirety and readopted to read as follows:

"17.150.010 Purpose and Policy.

The purpose and intent of this chapter is to provide a uniform and comprehensive set of standards for the development of telecommunication facilities and installation of antennas. The regulations contained herein are designed to protect and promote community welfare and the aesthetic quality of Nevada City as set forth within the goals, objectives and policies of the Nevada City general plan; while at the same time not unduly restricting the development of needed telecommunications facilities and important amateur radio installations and encouraging managed development of telecommunications infrastructure to insure Nevada City's role in the evolution of technology. It is also the stated intent of this chapter to provide a public forum to insure a balance between public concerns and private interest in establishing telecommunication and related facilities.

It is furthermore intended that, to all extent permitted by law, the city shall apply these regulations to specifically accomplish the following:

A. Protect the visual character of the city from the potential adverse effects of telecommunication facility development and minor antenna installation;

B. Insure against the creation of visual blight within or along the city's scenic corridors and ridgelines;

C. Retain local responsibility for and control over the use of public rights-of-way to protect citizens and enhance the quality of their lives.

D. Protect the environmental resources of Nevada City;

E. Ensure that a competitive and broad range of telecommunications services and high quality telecommunications infrastructures are provided to serve the business community;

F. Create and preserve telecommunication facilities that will serve as an important and effective part of Nevada City's emergency response network;

G. Provide for the charging of reasonable, competitively neutral, nondiscriminatory fees for use of the public right-of-way by telecommunication providers; and,

H. Provide for the maximization of access and usability of an internet web site for the city of Nevada City.

17.150.020 Definitions.

"7-Hills Business District" means the areas shown in Section 17.150.230.

"**Accessory Facility** or **Structure**" means an accessory facility or structure serving or being used in conjunction with Wireless Telecommunication Facilities, and located on the same property or lot as the Wireless Telecommunications Facilities, including but not limited to, utility or transmission equipment, storage sheds, or cabinets.

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

"ADA" means the Americans With Disabilities Act or ADA.

"Applicant" means any Wireless service provider submitting an application for a conditional use permit or administrative permit for Wireless telecommunications facilities.

"Application" means all necessary and required documentation that an Applicant submits in order to receive a conditional use permit, administrative permit, or a building permit for Wireless telecommunications facilities.

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

purposes.

"**Base station**" shall have the same meaning as set forth in 47 C.F.R. 1.6100 (b)(1), as may be amended.

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

"**Code**" means the Nevada City Municipal Code.

"**Collocation**" or "**Co-location**" has the same meaning as set forth in 47 C.F.R. §1.40001(b)(2), as may be amended.

"**Commercial Impracticability**" or "**Commercially Impracticable**" means the inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which could not have been reasonably anticipated or foreseen and which jeopardizes the financial efficacy of the project.

"Complete Application" means an application that contains all necessary and required information and/or data necessary to enable an informed decision to be made with respect to an application and that all information is true, accurate and correct.

"Concealment" shall have the same meaning as Stealth below.

"**DAS**" or "**Distributive Antenna System**" means a network of antennas and related fiber optic nodes, including strand-mounted antennas, which provide access and signal transfer for Wireless Telecommunication Service providers. DAS also includes antenna combining technology, managed hubs and remote antennas that distribute a wireless signal to a series of connected indoor or outdoor multi-band, multi-technology radio heads allowing for multiple carriers or Wireless Service Providers to use the same set of antennas, cabling or fiber optics.

"**CUP**" shall mean conditional use permit.

"**Director**" means the City Manager, or his or her designee.

"Eligible Facility" means an existing Wireless tower or base station that involves collocation of new transmission equipment or the replacement of transmission equipment that does not constitute a substantial modification.

"FAA" means the Federal Aviation Administration, or its duly designated and authorized successor agency.

"**Facility(ies)**" means wireless telecommunications facility(ies).

“FCC” means the Federal Communications Commission, or its duly designated and authorized successor agency.

“**Ground-Mounted**” means any communications equipment that is mounted to a separate post or to a foundation on the ground and extends above the natural grade.

“**Located within public right-of-way**” includes any facility which in whole or in part, itself or as part of another structure, rests upon, in, over or under the public right-of-way.

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

“**Monopole**” means a structure composed of a hollow non-wooden pole or telecommunications tower used to support antennas or related equipment. A monopole also includes any disguised monopole, including but not limited to trees or other object.

“**Mounted**” means attached or supported.

“**Necessary**” or “**Necessity**” or “**Need”** means what is technologically required for the equipment to function as designed by the manufacturer and that anything less will result in prohibiting the provision of service in violation of applicable law. Necessary or Need does not mean what may be desired, preferred or the most cost-efficient approach and is not related to an Applicant’s specific chosen design standards. Any situation involving a choice between or among alternatives or options is not a Need or a Necessity.

“**Personal wireless service(s)**” shall have the same meaning as set forth in 47 U.S.C. § 332(c)(7)(C), as it may be amended.

“**Pole**” means a single shaft of wood, steel, concrete or other material capable of supporting the equipment mounted thereon in a safe and adequate manner and as required by provisions of this Code.

“**Small wireless facility**” or “**Small cell**” shall have the same meaning as provided in 47 CFR 1.6002(*l*) as it may be amended from time to time.

“**Stealth**” or “**Stealth Siting Technique**” means a design or treatment that minimizes adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which means the least visually and physically intrusive Facility, so as to make it substantially invisible, and that is not technologically or commercially impracticable under the facts and circumstances.

Stealth technique includes such techniques as i) DAS or its functional equivalent; or ii) camouflage where the Facility is disguised to make it less visually obtrusive and not recognizable to the average person as a Wireless Facility.

"Substantial Modification" has the same meaning as provided in 47 C.F.R § 1.40001(b)(7), as may be amended, which defines that term differently based on the particular Facility type and location. For clarity, the definition in this section organizes the FCC's criteria and thresholds for a substantial change according to the Facility type and location.

1. For Towers outside the public rights-of-way, a substantial change occurs when:
    a. The proposed co-location or modification increases the overall height more than ten percent (10%) or the height of one additional antenna array not to exceed twenty (20) feet (whichever is greater); or
    b. The proposed co-location or modification increases the width more than twenty (20) feet from the edge of the Wireless Tower or the width of the Wireless Tower at the level of the appurtenance (whichever is greater); or
    c. The proposed co-location or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four (4); or
    d. The proposed co-location or modification involves excavation outside the current boundaries of the leased or owned property surrounding the Wireless Tower, including any access or utility easements currently related to the site.

2. For Towers in the public rights-of-way and for all base stations, a substantial change occurs when:
    a. The proposed co-location or modification increases that overall height more than ten percent (10%) or ten (10) feet (whichever is greater); or
    b. The proposed co-location or modification increases the width more than six (6) feet from the edge of the Wireless Tower or base station; or
    c. The proposed co-location or modification involves the installation of any new equipment cabinets on the ground when there are no existing ground-mounted equipment cabinets; or
    d. The proposed co-location or modification involves the installation of any new ground-mounted equipment cabinets that are ten percent (10%) larger in height or volume than any existing ground-mounted cabinets; or
    e. The proposed co-location or modification involves excavation outside the area in proximity to the structure and other transmission equipment already deployed on the ground.

3. In addition, for all Towers and base stations wherever located, a substantial change occurs when:
    a. The proposed co-location or modification would defeat the existing concealment elements of the support structure ad determined by the City; or

b. The proposed co-location or modification violates a prior condition of approval as regards to height, width, number and size of equipment cabinets or any excavation that is inconsistent with the thresholds for a substantial change described in this section.

4. As to all measurements set forth herein, the following principles shall govern:

a. Any threshold or limit of height increases are cumulative or collective.
b. For sites with horizontally separated deployments, the cumulative limit is measured from the originally permitted support structure without regard to any increases in size due to Wireless equipment not included in the original design. For sites with vertically separated deployments, the cumulative limit is measured from the permitted site dimensions as they existed on February 22, 2012, the date of passage of the Middle-Class Tax Relief and Job Creation Act of 2012, Section 6409(a).

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

"**Transmission Equipment**" shall have the same meaning as provided in 47C.F.R.§ 1.40001(b)(8), as may be amended.

"**Tower**" shall have the same meaning as set forth in 47 C.F.R. 1.40001(b)(9), as may be amended.

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

"**Wireless telecommunications services**" means the provision of services using a wireless telecommunications facility or a wireless telecommunications collocation facility, and shall include, but not limited to, the following services: personal wireless services, cellular service, personal communication service, and/or data radio telecommunications. "**Wireless telecommunications facility**" or "**facilities**" mean any facility that transmits and/or receives electromagnetic waves for commercial purposes. It includes, but is not limited to, antennas and/or other types of equipment for the transmission or receipt of such signals, telecommunications towers or similar structures supporting such equipment, related accessory equipment, equipment buildings, parking areas, and other accessory development. This definition includes DAS systems owned or operated by a commercial carrier and are part of a commercial wireless system, or are able to be used by the general public, regardless of the location or whether the facility or any of its components is located inside or outside a structure or building.

Exceptions: The term "wireless telecommunications facility" does not apply to the following:

(a) A telecommunications facility that is both owned and operated by a governmental entity where the director determines enforcing the requirements of this Chapter are against the public interest.

(b) Mobile services providing public information coverage of news events of a temporary nature.

(d) Any wireless telecommunications facilities exempted from this Code by federal law or state law.

17.150.030 Applicability

A. Applicability. This chapter applies to the siting, construction or modification of any and all wireless telecommunications facilities proposed to be located in any portion of the City as follows:

1. All facilities, notwithstanding the date approved or the location installed, shall be subject immediately to the provisions of this chapter provided, however, if a condition of approval conflicts with a provision of this chapter, the condition of approval shall control until the permit is amended or revoked.

2. Any wireless telecommunication facility that was lawfully constructed prior to the adoption of this Ordinance that does not comply with the standards, regulations and/or requirements of this chapter, shall be allowed to continue as it presently exists, provided that i) it exists and is operating as originally permitted; and ii) any modification of the Facility has been properly permitted.

3. Any modification not properly permitted under a previously existing ordinance must be permitted under this Ordinance.

4. Any modification of a Facility or its equipment subsequent to the adoption of this Ordinance, must be permitted under this Ordinance and will require the entire Facility and any new or modified installation to comply with this Ordinance, except that any Tower or other support structure properly permitted prior to the adoption of this Ordinance may remain at the originally permitted height.

5. Any repair and maintenance of a Wireless Facility that does not i) increase the height of the structure, ii) alter the equipment profile, iii) change the latest RF Modeling form provided for this site, iv) increase the footprint of the Facility, v) increase the structural loading on the support structure; or vi) otherwise exceed the conditions of the permit, does not require an application for a new permit, but may require a building permit, electrical permit or other authorizing permit. In no instance shall any additional construction or modification be considered to be repair or maintenance.

B. Exclusions. This chapter does not apply to any entity legally entitled to an exemption from these zoning requirements pursuant to state or federal law.

17.150.040 Wireless Telecommunications Facility Permit Requirements.

A. General Rule: Conditional Use Permit Required

Unless otherwise provided herein, all new wireless facilities, except for small cells or collocations or modifications to existing wireless facilities, shall require a Conditional Use Permit. See section 17.150.060, below for review procedures.

1. The Planning Commission may refer a conditional use permit to the City Council for approval.

2. The Planning Commission shall approve a Conditional Use Permit if all of the following apply:

A. The facility will comply with all applicable laws including, but not limited to:

1. The Americans with Disabilities Act;

2. All building and safety requirements, including those within the California Building Standards Code, as amended by the city and the latest version of TIA ANSI 222, to the extent that such standards are more restrictive than the otherwise applicable requirements.

3. All applicable current requirements of the FCC and OSHA (Occupational Safety and Health Administration), including requirements relating to radiofrequency (RF) emissions and limits on interference.

4. The requirements of this Chapter 17.150.

5. Either the City has issued all required encroachment permits or it is a condition of the issuance of the permit that no installation begin in reliance on the permit until the City has issued all required encroachment permits.

B. A facility that obtains an administrative permit need not obtain a conditional use permit.

B. Administrative Permit.

The Director shall approve an administrative permit if all of the following apply:

1. The application is for i) a Small Wireless Facility, or ii) a collocation or modification of wireless telecommunication equipment on an existing Eligible Facility which does not create a Substantial Modification.

2. The facility will comply with all applicable laws including, but not limited to:

a. The Americans with Disabilities Act;

b. All building and safety requirements, including those within the California Building Standards Code, as amended by the city and the latest version of TIA ANSI 222, to the extent that such standards are more restrictive than the otherwise applicable requirements.

c. All applicable requirements of the FCC and OSHA (Occupational Safety and Health Administration), including requirements relating to radiofrequency (RF) emissions and limits on interference.

d. The requirements of this Chapter 17.150.

3. The proposed facility complies with the City's published wireless design guidelines.

4. The proposed facility will be installed on either:

a. An existing support structure that meets all of the following requirements:

i. The facility will match the design of the pole; and

ii. If feasible, all equipment installed on the pole will be the same color as the pole; or

b. A new light pole that meets all of the following requirements:

i. The pole is not closer to any existing light pole than the then current spacing between light poles upon the street the pole shall be installed; and

ii. Unless requested otherwise by the City in writing, the light on the pole will be illuminated, operated, and maintained consistent with the operation of the other light poles in the City, and the full costs of illumination shall be fully borne by the applicant.

5. Either the City has issued all required encroachment permits or it is a condition of the issuance of the permit that no installation begin in reliance on the permit until the City has issued all required encroachment permits.

C. <u>Batched Application</u>: An Applicant, or its agent of record, may submit Applications

for multiple small wireless facilities or locations with the following conditions that are intended in order to assure compliance with the FCC's 'Shot Clock' requirements:

1. No single batched submittal shall contain more than five (5) Applications.

2. There must be a minimum of seven business days between submittals of batched Applications.

3. No more than 4 batched Applications shall be accepted in any thirty consecutive day period.

D. Other Permits Required. In addition to any permit that may be required under this chapter, the applicant must obtain all other required prior permits or other approvals from other city departments, or state or federal agencies. Any permit granted under this chapter is subject to the conditions and/or requirements of other required permits or other approvals from other city departments, state or federal agencies.

E. Eligible Applicants. Only applicants who have been granted the right to enter the public right-of-way pursuant to state of federal law, or who have entered into a franchise agreement with the city permitting them to use the public right-of-way, or who are acting at the behest and direction of one of the foregoing shall be eligible for a permit to install or modify a wireless telecommunications facility or a wireless telecommunication collocation facility in the public right-of-way.

F. Speculative Equipment Prohibited. The city shall not approve any equipment or other improvements in connection with a Wireless Telecommunications Facility Permit when the applicant does not actually and presently intend to install such equipment or construct such improvements within one-hundred-eighty (180) days.

17.150.050 Application for Wireless Telecommunications Facility Permit

A) General Application Requirements: The following items are considered general application requirements and shall be included in all applications:

1. Identification of all current applicable federal and State law and rule, including the specific section and subsection, regarding Wireless facilities under which the Application is filed.

2. The name, address, phone number and e-mail address of the person preparing the application

3. The name, address, and phone number of the property owner and the Applicant, including the legal name of the Applicant. If the owner of the structure is different than the Applicant, the name and all necessary contact information for each shall be provided.

4. The postal address and tax map parcel number of the subject property, or when application is for installation in the public right of way real, for the real property closest to proposed installation, and, if applicable, the Public Utility Pole number.

5. The zoning district or designation in which the property is situated.

6. For all new Facilities, a completed Propagation Study Data Form is required.

7. For all new Facilities, a separate list of all frequencies licensed to the carrier not intended to be initially activated.

8. A copy of the FCC licenses applicable for all the frequency bands licensed to the carrier to provide service in the City.

9. All Applications shall include signed written commitment stating that:

    a) the Applicant's Facility shall at all times without exception be maintained in a safe manner, and in compliance with all conditions of the Conditional Use Permit, as well as all applicable and permissible local codes, ordinances, and regulations and all applicable City, State and Federal Laws, rules, and regulations, unless specifically granted relief by the Council in writing;
    b) the construction of the Facility is legally permissible, including, but not limited to the fact that the Applicant is licensed to do business in the State.
    c) the Applicant commits to fully and completely indemnify the City for any use of the City's Right-of-Way by Applicant, it's employees, and agents.

10. Certified detailed construction drawings, including but not limited to the following information:

    a) the size of the property footprint on which the structure to be built or attached to is located, stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines and rights-of-way.

    b) location of the nearest residential or habitable structure.

    c) the location, size and height of all existing and proposed structures on the property.

    d) enclosures and cabinets on the property on which the structure is located that are related to the subject of the application.

e) a site plan to-scale showing the footprint of the support structure and the type, location and dimensions of boundaries, access drives, landscaping and buffers, fencing, underground utilities of any kind and any easements.

f) elevation drawings showing the profile and the vertical rendition of the Facility and, where appropriate, its support Structure and identifying all existing and proposed attachments and all related fixtures, structures, appurtenances and apparatus, including the height above the existing grade, materials, colors and lighting.

g) proposed electrical and grounding plans for the Facility.

11. The azimuth, size, top of antenna height, locations of all proposed and existing antennas on the support structure, and the height of the tip of any lightning arrestor.

12. Copies of the cut sheets for all antennas, Remote Radio Unit's, Transmitters, Receivers, and other in line RF devices that are used in the site.

13. The type and manufacturer of the Tower or other support Structure and a rigorous structural analysis and report for such, including the calculations, certified by a Professional Engineer licensed in the State and proving the structure's capability to safely accommodate the facilities of the Applicant.

14. An ANSI/TIA-222 Maintenance and Conditions Assessment report regarding the physical condition of the Facility and its components, using the most recently adopted version of ANSI/TIA-222, or a functional equivalent report for any support structure that is not a Tower. If applicable, the report shall identify and contain allowable tolerances including but not limited to guy tensions, plumb, twist, slip splices, and take-up devices. No Conditional Use Permit or Administrative Permit or any authorization for anything other than remediation work shall be issued for any Wireless Facility or related equipment where the structure being attached to is in need of safety-related remediation to comply with the requirements of this Ordinance and other applicable adopted standards of the City, unless and until all remediation work that is deemed needed has been completed or a schedule for the remediation work has been approved by the City.

15. For telecommunications Towers, but only Towers, taller than thirty-three feet (33') in height, a completed and signed checklist for categorical exclusion of radio frequency electromagnetic emissions. If the modification, co-location or construction of a new Wireless Facility is not categorically excluded based on the Federal Communications Commission's rules and regulations, the Applicant shall provide a compliance letter to the City committing to remain in full compliance

with all requirements set forth by the latest edition of the Federal Communications Commission (FCC) OET Bulletin 65 or its functional equivalent.

16. After the construction or modification of the Facility, the City requires an on-site Radiofrequency Compliance Report documenting compliance with the latest version of the FCC's RF emissions standards as set forth in OET Bulleting 65. It shall be prepared and signed by a registered Professional Engineer certified in the State of California. In addition, an RF Data Request Sheet shall be completed by the Applicant or their technical RF consultant and submitted with the Application (see Attachment #). Applications lacking these documents shall be deemed materially incomplete. Un-redacted copies of these documents along with all calculations are to be provided, prior to the issuance of the Certificate of Compliance.

16.

17. A signed statement that the Applicant will expeditiously remedy any physical or RF interference with other Wireless devices or services.

18. Cut Sheets or specifications for all equipment to be installed/mounted on the structure including a photograph and model name/number for each piece of equipment included.

19. No applicant seeking to install wireless antennas shall seek an encroachment permit for fiber or coaxial cable only. Applicants shall simultaneously request fiber installation or other cable installation when seeking to install antennas in the right-of-way.

20. If the applicant requests an exception to the requirements of this chapter (in accordance with section 17.150.180), the applicant shall provide all information and studies necessary for the city to evaluate that request.

21. An application fee and a deposit for a consultant's review as set forth herein; in an amount set by resolution by the city council. Failing to submit the correct Application fee shall make the Application incomplete on its face

22. Proof that a temporary mock-up of the facility and sign has been installed at the proposed location for a period of at least thirty (30) calendar days.

a) Applicant shall obtain an encroachment permit before installing the temporary mock-up and must remove the temporary mock-up within five (5) calendar days of receiving a written notice to remove from the director.

b) When seeking the encroachment permit, the applicant shall provide proof of written notice mailed to all property owners within

300 feet of the proposed installation. The applicant shall mail a notice regarding installation of the mock-up at least ten (10) business days prior to the installation.

c) The mock-up shall demonstrate the height and mass of the facility, including all interconnecting cables. The applicant shall not be entitled to install the facility it intends to install permanently. The mock-up may consist of story poles or the like.

d) The mock-up shall include a sign that displays photo simulations depicting before and after images, including any accessory equipment cabinet, and the telephone number of the Public Works Department.

e) The applicant shall be required to follow any other city practices or processes relevant to the installation of a mock-up as may be provided in a publicly accessible form or document.

f) After installation of the mock-up, the applicant shall certify that the mock-up accurately represents the height and width of the proposed installation and has been installed consistent with this Code.

B) Co-location Application Requirements: In addition to the requirements set forth in Subsection A, the following items shall be included in the application for co-locations.

1) A copy of the lease with the owner of the structure, and with the landowner if different than the structure owner, and if applicable a signed letter of agency granting authorization to represent and commit for the party represented. If the Applicant owns the site, a copy of proof of ownership is required.

2) The frequency, modulation and class of service of radio or other transmitting equipment.

3) Transmission and maximum effective radiated power of the antenna(s).

4) Direction of maximum lobes and associated radiation of the antenna(s).

5) Require to-scale photographic simulations of the Facility “before and after construction” from key viewpoints inside of the City as deemed appropriate and/or as designated and accompanied by i) a map showing the locations of where the photographs were taken; and ii) the distance(s) of each location

from the proposed structure. Guidance will be provided concerning the appropriate key viewpoints on an individual Application basis.

6) A copy of the Applicant's Certificate of Liability Insurance.

C) New Wireless Structures and Substantial Modification Requirements: In addition to the preceding requirements, the following shall be included in the application for new Wireless Support Structures and Substantial Modifications of support structures:

1. General Liability Commercial Insurance $5 million to protect the City: The applicant shall obtain, pay for and maintain, in full force and effect until the facility approved by the permit is removed in its entirety from the public right-of-way, an insurance policy or policies of commercial general liability insurance, with minimum limits of Two Million Dollars ($2,000,000) for each occurrence and One Hundred Million Dollars ($100,000,000) in the aggregate, that fully protects the City from claims and suits for boards, commissions, officers, officials, agents, consultants, employees and volunteers as additional named insureds, be issued by an insurer admitted in the State of California with a rating of at least a A:VII in the latest edition of A.M. Best Insurance Guide, and include an endorsement providing that the policies cannot be canceled or reduced.

2. The Applicant for a new Tower or Substantial Modification shall submit clear and convincing technical evidence, done by the Wireless service provider associated with the Application, justifying the technical Need for the proposed height of the Facility and the Need for such, to the exclusion of all reasonable less intrusive alternatives. Evidence in the form of propagation studies must include the modeling data and assumptions used to produce the studies on a form to be provided by the City.

3. The Applicant shall disclose in writing any agreement in existence prior to submission of the application that would limit or preclude the ability of the Applicant to share space on the new Tower or support structure.

4. If a Modification of a Facility is needed whereby the height, profile or size of the Facility is increased, or if construction is needed outside the permitted compound or property, a detailed narrative explaining what changes are needed and why they are needed.

5. The type of support structure, the number of antenna arrays proposed to be accommodated and a Certified structural report, including all calculations, demonstrating the Facility's capacity to accommodate the required number of antenna arrays and associated equipment for which the structure must be designed.

6. A copy of the foundation design, including a geotechnical sub-surface soils investigation report and foundation design recommendation for the Tower or other structure. Such shall be Certified by a licensed Professional Engineer licensed in the State that is experienced in the structural design of Wireless support structures.

7. A written copy of an analysis completed by a qualified individual or organization to determine if the proposed Wireless telecommunications Facility is in compliance with Federal Aviation Administration Regulation Part 77 and if it requires lighting. Unless already lighted, this requirement shall also be for any Facility where there is a proposed increase in the height of the Facility. If this analysis determines that an FAA determination is required, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided with the application.

8. A narrative description of the specifically what will be done to minimize the visual impact. The City expressly reserves the right to require the use of stealth or camouflage techniques.

9. For a new support structure, or for a Substantial Modification, the Applicant shall be required to submit clear and convincing evidence that a new Tower or support structure or the Substantial Modification is the only option within one-half (1/2) mile of the proposed new Tower or support structure that will enable the provision of Wireless services substantially within the intended service area.

10. Timely re-certifications (at the municipality's discretion but no more frequent than every 5 years) will be denied if the re-certification has not been properly or timely submitted, or any equipment no longer in use has not been removed within the required 30-day period. In addition, no further applications for any new wireless facilities from the applicant and its representatives will be accepted by the City until such time as the timely re-certification has been submitted, all equipment no longer in use has been removed, and all fees and fines or any other amounts owed are paid in full.

11. In order to better inform the public, in the case of a new Tower or support structure, the Applicant shall hold a "balloon test" or erect a story pole, i.e. a temporary mast, prior to the initial public hearing on the application. The choice of the use of a balloon test or story pole shall be that of the City based upon the facts and circumstances involved.

a) The Applicant shall arrange to fly, or raise upon story pole, a minimum of a three (3) foot in diameter, brightly colored balloon at the maximum height of the proposed new Tower. To reasonably

assure control and the stability of the balloon in winds, a spherical balloon shall not be used.

b) At least fourteen (14) days prior to the conduct of the balloon test, a sign shall be erected so as to be clearly visible from the road nearest the proposed site and shall be removed no later than fourteen (14) days after the conduct of the balloon test. The sign shall be at least four feet (4') by eight feet (8') in size and shall be legible from the road by a person with 20/20 corrected vision. The sign shall be placed off, but as near to, the public right-of-way as is possible and shall show the times and date(s) of the balloon test and City contact information.

c) The dates (including a second date, in case of poor visibility or wind in excess of 15 mph on the initial date), times and location of the balloon test shall be advertised by the Applicant, in a newspaper with a general circulation in the City and as agreed to by the City, fourteen (14) and seven (7) days in advance of the first test date. The Applicant shall inform the City in writing of the dates and times of the test, at least fourteen (14) days in advance.

d) The balloon shall be flown for at least four (4) consecutive hours between 10:00 am and 4:00 p.m. on the dates chosen. The primary date shall be on a weekend, but the second date, in case of poor visibility on the initial date, may be on a weekday. A report with photos from various locations of the balloon, and to-scale superimposed photo simulations of the Facility when completed, shall be provided with the application.

e) The Applicant shall notify all property owners and residents located within 500 feet of the nearest property line of the subject property of the proposed construction of the Tower or other support structure and the Wireless Facility, and of the date(s) and time(s) of the balloon test. Such notice shall be provided at least fourteen (14) days prior to the conduct of the balloon test and shall be delivered by first-class mail. The Applicant shall bear all costs associated with said notification.

12. The owner of a new Tower or other support structure, and his/her successors in interest, shall negotiate in good faith for the shared use of the Facility by other Wireless service providers, and shall:

a) Respond within 60 days to a request for information from a potential shared use Applicant.

b) Negotiate in good faith concerning future requests for shared use of the new Wireless telecommunications Facility by other telecommunications providers.

c) Allow shared use of the new Wireless telecommunications Facility if another telecommunications provider agrees in writing to pay reasonable charges.

d) Understand that failure to abide by the conditions outlined above may be grounds for denial or revocation of the Conditional Use Permit.

13. The Applicant shall provide a written description and a visual rendering demonstrating how it shall effectively screen from view the Facility and all related equipment and structures associated with the Facility. The buffer, which may be located within the required setback area, shall consist of a landscape strip, at least five (5) feet in depth, located outside the security fence. For facilities located within 500 feet of environmentally sensitive areas the City may require wider landscape buffers and other items such as decay resistant, solid wood fences, earth berms, and brick or masonry walls in addition to the security fence. The landscape strip should be planted with a combination of trees and/or shrubs which are capable of attaining the required minimum height at maturity and which will enhance and, at minimum, partially screen the outward appearance of the security fence. . All fencing, walls, and landscaping shall be kept in good condition and repair and maintained in a neat manner by the owner of the Tower.

14. Co-location Not Reasonably Feasible: Co-location on an existing structure is not reasonably feasible if the co-location is Technically or Commercially Impracticable or the owner of the structure is unwilling to enter into a contract for its use. Written clear and convincing evidence to support such claims must be submitted with an application.

15. Spec Support Structures Prohibited: A building permit shall not be issued for construction of a new facility or other support structure until there is an application filed for or by a specific carrier that documents that a less visually intrusive option or co-location on an existing structure is not Technologically Impracticable.

D. Small Cell Facilities Requirements. In addition to the preceding requirements, the following shall include in the application for a small cell facility a general description of the proposed scope of work and the specific purpose(s) of the small Wireless Facility. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with emphasis on those maters likely to be affected or impacted by the work proposed. The description shall include at a minimum the type of equipment, number of antennas, height to top of antenna(s), statement of compliance with FCC requirements, and description and/or depiction of concealment elements, along with cut

sheets for all antennas, Remote Radio Unit's, Transmitters, Receivers, and other in-line RF devices that are used in the site, propagation studies and modeling data including RF technical data and emissions.

E. Effect of State or Federal Law Change. If a subsequent state or federal law prohibits the collection of any information authorized by section 17.150.050, the director may omit, modify or add to that request from the city's application form with the written approval of the city attorney, which approval shall be a public record.

F. Independent Expert. The Director is authorized to retain on behalf of the city an independent, qualified consultant to review any application for a permit for a wireless telecommunications facility and confirm applicant's ongoing compliance. .The review is intended to be a review of all aspects of the proposed wireless telecommunications facility and shall address any or all of the following:

1. Compliance with applicable radio frequency emission standards, including completion of an RF Exposure Guidelines Checklist, and proof of all applicable licenses or other approvals required by the FCC.

2. Compliance with applicable building standards (e.g. the latest version of TIA-ANSI 222 regarding the structural adequacy of the support structure to the extent that such standards are more stringent than otherwise applicable standards);

3. Whether a denial of the application would be an "effective prohibition" in violation of applicable law;

4. The accuracy and completeness of submissions;

5. Technical demonstration of the unavailability of alternative sites or configurations and/or coverage analysis;

6. The applicability of analysis techniques and methodologies;

7. The validity of conclusions reached or claims made by applicant;

8. The viability of alternative sites and alternative designs; and

9. Any other specific technical issues identified by the consultant or designated by the city.

The cost of this review shall be paid by the applicant through a deposit pursuant to an adopted fee schedule which may be adopted by resolution. No permit shall be issued to any applicant which has not fully reimbursed the city for the cost of a consultant's review, even if the cost exceeds the initial amount of the deposit. Such amount shall be paid to the City prior to the issuance of the applicable permit or Certificate of Completion, whichever is procedurally needed next. Upon written request after the issuance of the

Certificate of Completion and the payment of all expert assistance invoices, the City shall promptly refund any unexpended amount of the deposit. The payment of the deposit shall precede any work being done that is related to the intended Application or lease.

17.150.060 Review Procedure

A. Pre-submittal Conference. Prior to application submittal, the city strongly encourages all applicants to schedule and attend a pre-submittal conference with designated City staff/departments and or consultants to receive informal feedback on the proposed location, design and application materials. The pre-submittal conference is intended to identify potential concerns and streamline the formal application review process after submittal. Staff will endeavor to provide applicants with a reasonable time and date mutually agreed upon. As the pre-submittal conference is not mandatory and is for the benefit of the applicant, it shall not precipitate the start of the FCC's applicable shot clock deadlines.

B. Application Submittal Appointment. All applications must be submitted to the city and/or its designated consultant for completeness and review.

C. Notice; Decisions. The provisions in this section describe the procedures for approval and any required notice for an application.

1. *Planning Commission Hearings.* Any permit application under this chapter subject to planning commission approval (directly, or via appeal) shall require notice and a public hearing. The planning commission may approve, or conditionally approve, an application only after it makes the findings required in section 17.150.080.

2. *Decision by Planning Commission.* The Planning Commission may approve, or conditionally approve, an application only after it makes the findings required in section 17.150.080. Within ten days after the Planning Commission approves or conditionally approves an application under this chapter, the director shall issue a notice of the decision and post the notice on the City's Planning Department public website, and any applicable conditions of approval shall be provided to the applicant at the contact information provided on the application.

3. *Written Decision Required.* All final decisions made pursuant to this chapter shall be in writing and based on substantial evidence in the written administrative record. The written decision shall include the reasons for the decision.

D. Appeals. Appeals shall be subject to the requirements of Chapter 17.88.

E. Review of Applications.

1. *Engineer's Certification.* Where a certification of any technical or engineering expert is called for in an application, such certification shall bear the signature and seal of a Professional Engineer licensed in the State.

2. *Leases Do Not Extinguish City Priorities*. The existence of a lease or an option to lease shall not be deemed justification for not complying with the city's siting priorities. An Applicant may not bypass sites of higher priority solely because the site proposed is under lease or an option to lease exists. If a site other than the number 1 priority is proposed, the applicant must explain to the reasonable satisfaction of the City why colocation is technically or commercially impracticable. Build-to-Suit agreements between carriers and a proposed tower owner shall not be a valid basis for any claim of exemption, exception or waiver from compliance with this Section.

3. *Verifiable Information.* Any technical information must be provided in such a manner, form and with such content that it is able to be verified by a third party using the information used and provided by the applicant.

17.150.070 Requirements for Facilities

A. Design, Development, and Construction Standards.

All Wireless telecommunications shall be planned, designed, located, and erected in accordance with the following:

1. *General Guidelines*:

a. The applicant shall employ screening, undergrounding (where not prohibited by federal or state law) and camouflage design techniques in the design and placement of wireless telecommunications facilities to ensure that the facility is as visually screened as feasible, to prevent the facility from dominating the surrounding area and to minimize significant view impacts from surrounding properties all in a manner that achieves compatibility and does not result in visual disharmony with the community.

b. 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 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.

c. Facilities shall be located such that the primary view from each residential structure is not significantly impaired.

d. The installation of new wireless facilities to new or existing poles in the public right-of-way must be separated at least five hundred (500) feet away from the nearest wireless facility.

e. Each component part of a facility shall be located in such manner as to minimize physical or visual obstructions to pedestrian or vehicular traffic, not

inconvenience the public's use of the right-of-way, and not create safety hazards to pedestrians and motorists.

f. A facility shall not be located within any portion of the public right-of-way interfering with access to fire hydrants, fire stations, fire escapes, water valves, or underground vaults, valve housing structures, or any other vital public health and safety facility.

2. *Traffic Safety*. All facilities shall be designed and located in such a manner as to avoid adverse impacts on traffic safety.

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

4. *Equipment*. The applicant shall use the least visible equipment possible. Antenna elements shall be flush mounted, symmetrical to the top of the pole, and no more than four (4) inches wider in diameter than the existing pole, to the extent not technically impracticable. 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 section, antennas shall be the minimum height above ground technically needed to achieve the requirements herein. When part of small cell or DAS, antenna and equipment attached to and directly associated with the antenna, excluding cabling, shall cumulatively not exceed 3 cubic feet in volume, nor be larger than two feet (2') in height.

5. *Poles*.

a. Facilities shall be located consistent with section 17.150.190.

b. Only pole-mounted antennas shall be permitted in the right-of-way. All other telecommunications facilities are prohibited and no new poles are permitted that are not replacing an existing pole.

c. Utility Poles. If the proposed facility is to be located upon a utility pole, the maximum height of any antenna shall not exceed the lesser of forty-eight (48) inches or ten percent (10%) above the existing height of the utility pole, nor shall any portion of the antenna or equipment mounted on a pole be less than twenty-four (24) feet above any drivable road surface or 16-and-one-half feet (16.5') above any sidewalk or driveway surface. All installations on utility poles shall fully comply with the California Public Utilities Commission general orders, including, but not limited to, General Order 95, as may be revised or superseded.

d. Light Poles. If the proposed facility is to be located upon a light pole, the maximum height of any antenna shall not exceed the lesser of forty-eight (48) inches or ten percent (10%) above the existing height of the light pole, nor shall any portion of the antenna or equipment mounted on a pole be less than ten (10) feet above the ground

and no less than twenty-four (24) feet above any drivable road surface or more than sixteen and a half (16.5) feet above any sidewalk or driveway surface.

e. New or Replacement Poles. Primarily but not exclusively for aesthetic reasons, the City reserves the right, at Applicant's cost, to require a new pole, or a replacement pole if such is needed to accommodate Wireless Equipment. If an applicant proposes to replace a pole in order to accommodate a proposed facility, the pole shall either be (i) designed to resemble as closely as is reasonably possible the appearance and dimensions of existing poles near the proposed location, including size, height, color, materials and style to the maximum extent feasible; or (ii) designed consistent with adopted wireless design guidelines. The new or replacement pole shall also be a hollow metal or non-corrodible functionally equivalent structure.

f. A pole mounted equipment and enclosure, exclusive of antennas, shall not exceed four (4) cubic feet in total volume.

g. No utility or light pole shall ever exceed the lesser of fifty feet (50') or the maximum permitted height for the zoning district in which it is located.

h. Accessory Equipment: Except where otherwise preempted by federal or state law, all accessory equipment is required to be located underground to the extent feasible. When above-ground is the only feasible location for a particular type of accessory equipment and when such accessory equipment cannot be pole-mounted, such accessory equipment shall be enclosed within a structure, and shall not exceed a height of five feet and a total footprint of 15 square feet, and when viewed from the street, is surrounded by foliage, which foliage, within 6 months of installation, will screen no less than 50% of the structure when viewed from the street.

6. *Space*. Each facility to be located within the right of way shall be designed to occupy the least amount of space in the right-of-way that is technically feasible.

7. *Wind Loads*. Each facility 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 facility, where such modification is proposed.

8. *Obstructions*. Each component part of a facility shall be located in such manner as to minimize physical or visual obstruction to pedestrian or vehicular traffic, not incommode the public's use of the right-of-way, and not create safety hazards to pedestrians and motorists.

9. *Public Facilities*. No equipment or facility shall be located and no work associated thereto shall interfere with access to a fire hydrant, fire station, fire escape, water valve, underground vault, valve housing structure, utility or any other public health or safety facility or the public right-of-way.

10. *Screening and Aesthetics*.

a. All ground-mounted facility, pole-mounted equipment, or walls, fences, landscaping or other screening methods shall be installed at least eighteen (18) inches from the curb and gutter flow line.

b. If permitted to be mounted externally, no Wireless Antenna or other pole-mounted equipment shall extend laterally beyond the diameter of the structure as measured at the point of attachment.

c. If permitted to be mounted externally, the point of attachment of any antennas shall not be more than three inches (3") from the pole or other support structure, and the space between the structure and the attachment point of the antenna shall be concealed with a weather-proof material the same color as the structure or the antenna.

d. Antennas shall be of a color that, as closely as is reasonably possible, matches that of the support structure.

e. Except in such circumstances where federal or state law preempts this requirement, all antenna, cabling, electronic and accessory equipment not attached to the antenna(s) and transmission and distribution cable or fiber shall be placed underground in a weather-proof vault or contained inside the new support Structure; and when federal or state law or justifiable circumstance preempt or prohibit this requirement, the same shall be mounted so as to be the least visually intrusive given the facts and circumstances.

f. Signage shall be attached on all wireless facilities in such manner as to leave it clearly visible to any person by, near, under, or around the site, indicating the level of exposure to RF emissions from the site at the spot of the signage. Signage shall be in compliance with appropriate federal and state regulations.

g. All small cell or DAS Antennas shall not be larger than two feet (2') in height.

11. *Accessory Equipment.* Not including the electric meter, all accessory equipment shall be located underground, except as provided below:

a. If the proposed facility is in the right-of-way, unless city staff determines that there is no room in the public right-of-way for undergrounding, that undergrounding is not feasible, or federal or state law or regulation prohibit the City from requiring undergrounding, an exception 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 feasible location for a particular type of accessory equipment and will be ground-mounted, such accessory equipment shall be enclosed within a structure, and shall not exceed a height of three feet (3') and a total of

twenty-eight (28) cubic feet, and shall be fully screened and/or camouflaged, including the use of landscaping, architectural treatment, or acceptable alternate screening. Required electrical meter cabinets shall be screened and/or camouflaged. Also, while pole-mounted equipment is generally the least favored installation, should pole-mounted equipment be sought, it shall be installed as required in this Chapter.

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 street with no homes.

d. When otherwise preempted by federal or state law or regulation.

12. *Landscaping*. Where appropriate, each facility shall be installed so as to maintain and enhance existing landscaping on the site, including trees, foliage and shrubs. Additional landscaping shall be planted, irrigated and maintained by applicant where such landscaping is deemed necessary by the city to provide screening or to conceal the facility.

13. *Signage*. No facility shall bear any signs or advertising devices other than certification, warning or other signage required by law or permitted by the city.

14. *Lighting*.

a. No facility may be illuminated unless specifically required by the Federal Aviation Administration or other government agency. Beacon lights are not permitted unless required by the Federal Aviation Administration or other government agency.

b. Legally required lightning arresters and beacons shall be included when calculating the height of facilities such as telecommunications towers, lattice towers and monopoles.

c. Any required lighting shall be shielded to eliminate, to the maximum extent possible, impacts on the surrounding neighborhoods.

d. Unless otherwise required under FAA or FCC regulations, applicants may install only timed or motion-sensitive light controllers and lights and must install such lights so as to avoid illumination impacts to adjacent properties to the maximum extent feasible. The City may, in its discretion, exempt an applicant from the foregoing requirement when the applicant demonstrates a substantial public safety need.

e. The applicant shall submit a lighting study which shall be prepared by a qualified lighting professional to evaluate potential impacts to adjacent properties. Should no lighting be proposed, no lighting study shall be required.

15. *Noise*.

a. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 7:00 PM and 7:00 AM. A Fire Department Inspection on backup generators is required before generator installation

b. At no time shall equipment noise from any facility exceed an exterior noise level of fifty-five (55) dBA three (3) feet from the source of the noise if the facility is located in the public right-of-way adjacent to a business, commercial, manufacturing, utility or school zone; provided, however, that for any such facility located within fifteen hundred (1500) feet of any property zoned residential or improved with a residential use, such equipment noise shall not exceed forty-five (45) dBA three (3) feet from the sources of the noise.

16. *Security*. Each facility shall be designed to be resistant to, and minimize opportunities for, unauthorized access, climbing, vandalism, graffiti and other conditions that would result in hazardous situations, visual blight or attractive nuisances. The director may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when, because of its location and/or accessibility, a facility has the potential to become an attractive nuisance. Additionally, no dangerous or potentially lethal devices or elements shall be installed as a security device.

17. *Modification*. Consistent with current state and federal laws and, if permissible under the same, at the time of modification of a wireless telecommunications facility, existing equipment shall, to the extent feasible, be replaced with equipment that reduces visual, noise and other impacts, including, but not limited to, undergrounding the equipment and replacing larger, more visually intrusive facilities with smaller, less visually intrusive facilities.

18. *Expiration*. The installation and construction approved by a wireless telecommunications facility permit shall begin within one (1) year after its approval or it will expire without further action by the city.

19. *Construction*. All construction and maintenance shall at all times comply with all applicable portions of all federal, State and local safety and safety related codes.

20. *Compliance.* No telecommunication facility shall be sited or operated in such a manner that it poses, either by itself or in combination with other such facilities, a threat to public health. To that end no telecommunication facility or combination of facilities shall produce at any time power densities that exceed the standard for human exposure adopted or promulgated by any agency with authority to promulgate such standards. Initial compliance with this requirement shall be demonstrated for any facility within 500 hundred feet of residential uses or sensitive receptors such as schools, churches, hospitals, etc. and all broadcast radio and television facilities, regardless of adjacent land uses, through submission, at the time of application for the necessary permit or entitlement, to include cut sheets for all antennas, Remote Radio Unit's, Transmitters, Receivers,

and other in-line RF devices that are used in the site, as well as the Modeling and Propagation Study Data Forms.

B. Conditions of Approval. In addition to compliance with the design and development standards outlined in this section, all facilities shall be subject 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:

1. *As built drawings.* The permittee shall submit an as-built drawing within thirty (30) days after installation of the facility. As-builts shall be in an electronic format acceptable to the city which can be linked to the city's GIS.

2. *Contact information*. 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 (30) 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:

a. 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 facility.

b. The legal status of the owner of the wireless telecommunications facility.

3. Assignment. The permittee shall notify the city in writing at least ninety (90) days prior to any proposed transfer or assignment of the permit. 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 by a qualified radio frequency engineer demonstrating compliance with all applicable regulations and standards of the Federal Communications Commission. 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 the applicable permits pursuant to and following the procedure set on in section 17.150.170.

4. *Signs*. At all times, all required notices and/or signs shall be posted on the site as required by the Federal Communications Commission, California Public Utilities Commission, any applicable licenses or 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.

5. *Security.* For a CUP a permittee shall pay for and provide a performance bond or other form of security approved by the city attorney's office, which shall be in effect until the facilities are fully and completely removed and the site reasonably returned to its original condition, to cover permittee's obligations under these conditions of approval and this code. The security instrument coverage shall include, but not be limited to, removal of the facility. (The amount of the security instrument shall be calculated by the applicant in its submittal documents in an amount rationally related to the obligations covered by the bond and shall be specified in the conditions of approval.) Before issuance of any building permit, permittee must submit said security instrument.

6. *Noise.* If a nearby property owner registers a noise complaint, the city shall forward the same to the permittee. Said compliant shall be reviewed and evaluated by the applicant. The permittee shall have ten (10) business days to file a written response regarding the complaint which shall include any applicable remedial measures. If the city determines the complaint is valid and the applicant 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 chapter. 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.

7. *Permit Expiration*. A condition setting forth the permit expiration date in accordance with section 17.150.150 shall be included in the conditions of approval.

8. *Additional conditions.* The wireless telecommunications facility shall be subject to such conditions, changes or limitations as are from time to time deemed necessary by the director 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 public right-of-way 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.

9. *Permit Transfer.* The permittee shall not transfer the permit to any person prior to the completion of the construction of the facility covered by the permit, unless and until the transferee of the permit has submitted the security instrument required by section 17.150.070(B)(5).

10. *Property Rights.* 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 wireless

telecommunications facility 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 an encroachment permit issued for any facility within the public right-of-way, the permittee shall provide the city with documentation establishing to the city's satisfaction that the permittee has the legal right to use or interfere with any other structure, improvement or property within the public right-of-way to be affected by applicant's facilities.

11. *Liability.* The permittee shall assume full liability for damage or injury caused to any property or person by the facility.

12. *Repair Obligations.* 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 wireless telecommunications facility in the public right-of-way. 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. 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 city engineer shall cause such repair to be completed at permittee's sole cost and expense.

13. *Drip Line.* No facility shall be permitted to be installed in the drip line of any tree in the right-of-way.

14. *Insurance.* The permittee shall obtain, pay for and maintain, in full force and effect until the facility approved by the permit is removed in its entirety from the public right-of-way, an insurance policy or policies meeting the City of Nevada City's insurance requirements for contractors to perform work with public right-of-way.

15. *Indemnification.* Permittee shall defend, indemnify, protect and hold harmless city, its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees, and volunteers from and against any and all claims, actions, or proceeding against the city, and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees, and volunteers to attack, set aside, void or annul, an approval of the city, planning commission or city council concerning this permit and the project. Such indemnification shall include damages of any type, judgments, settlements, penalties, fines, defensive costs or expenses, including, but not limited to, interest, attorneys' fees and expert witness fees, or liability of any kind related to or arising from such claim, action, or proceeding. The city shall promptly notify the permittee of any claim, action, or proceeding. Nothing contained herein shall prohibit city from participating in a defense of any claim, action or

proceeding. The city shall have the option of coordinating the defense, including, but not limited to, choosing counsel after consulting with permittee and at permittee's expense.

16. *Hold Harmless.* Additionally, to the fullest extent permitted by law, the permittee, and every permittee and person in a shared permit, jointly and severally, shall defend, indemnify, protect and hold the city and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers harmless from and against all claims, suits, demands, actions, losses, liabilities, judgments, settlements, costs (including, but not limited to, attorney's fees, interest and expert witness fees), or damages claimed by third parties against the city for any injury claim, and for property damage sustained by any person, arising out of, resulting from, or are in any way related to the wireless telecommunications facility, or to any work done by or use of the public right-of-way by the permittee, owner or operator of the wireless telecommunications facility, or their agents, excepting only liability arising out of the sole negligence or willful misconduct of the city and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers.

17. *Cabinet Removal.* Should the utility company servicing the facility 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.

18. *Relocation.* The permittee shall modify, remove, or relocate its facility, 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 wireless telecommunications facility has become incompatible with public health, safety or welfare or the public's use of the public right-of-way. Such modification, removal, or relocation of the facility shall be completed within ninety (90) days of notification by city unless exigencies dictate a shorter period for removal or relocation. Modification or relocation of the facility shall require submittal, review and approval of a modified permit pursuant to the Code including applicable notice and hearing 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 facility is not modified, removed, or relocated within said period of time, city may cause the same to be done at the sole cost and expense of 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 wireless telecommunications facilities without prior

notice to permittee provided permittee is notified within a reasonable period thereafter.

19. *Conditions.* Permittee shall agree in writing that the permittee is aware of, and agrees to abide by, all conditions of approval imposed by the wireless telecommunications facility permit within thirty (30) days of permit issuance. The permit shall be void and of no force or effect unless such written consent is received by the city within said thirty (30) day period.

20. *Right of Way Agreement.* Prior to the issuance of any encroachment permit, permittee shall be required to enter into a right-of-way agreement with the city in accordance with the City's past practice.

17.150.080 Findings.

No CUP shall be granted for a wireless telecommunications facility unless the approving party makes all of the following findings:

A. All notices required for the proposed installation have been timely given.

B. The proposed facility has been designed and located in compliance with all applicable laws, including the requirements of this Chapter 17.150.

C. The applicant has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has otherwise obtained a legal authorization to use the public right-of-way.

D. The facility is designed in a manner consistent with the architectural requirements applicable to the zone, if any.

E. The proposed facilities are designed in a way that preserves and promotes harmonious land uses and the public right-of-way in the City, furthers the purposes of the general plan, and protects public health and safety, visual resources, and the aesthetic quality of the City consistent with the goals, objectives and policies of the General Plan;

F. The applicant has shown that no other feasible design would be less intrusive upon the values intended to be protected by Chapter 17.150.

G. There is no known feasible alternate location which is available to the applicant at rates that are not commercially impracticable and that would be less intrusive upon the values intended to be protected by Chapter 17.150, and which location would allow the applicant to meet its reasonable wireless coverage objectives.

17.150.090 Planning Commission.

The Planning Commission will review and approve, conditionally approve, or deny a CUP.

17.150.100 Nonexclusive Grant

No permit or approval granted under this chapter shall confer any exclusive right, privilege, license or franchise to occupy or use the public right-of-way of the city for any purpose whatsoever. Further, no approval shall be construed as any warranty of title.

17.150.110 Emergency Deployment.

A COW shall be permitted for the duration of an emergency declared by the city or at the discretion of the director. "COW" means a "cell on wheels," which is a wireless telecommunications facility temporarily rolled in or temporarily installed. Notwithstanding the foregoing, other than in extreme emergency situations as determined by the City, COWs shall not be permitted in the right-of-way.

17.150.120 Operation and Maintenance Standards.

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

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. Each permittee of a wireless telecommunications facility shall provide the director with the name, address and 24-hour local or toll-free contact phone number of 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 (7) days of any change.

C. All facilities, including, but not limited to, telecommunication towers, poles, accessory equipment, lighting, fences, walls, shields, cabinets, artificial foliage or camouflage, and the facility site shall be maintained in good and safe condition, including compliance with the applicable portions of the most current version of TIA-ANSI 222, including but not limited to ensuring the facilities are free of:

1. Unreasonable amount of 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. Loose or unsecured fittings.

8. Broken and misshapen structural parts; and

9. Any damage from any cause.

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

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

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

17.150.130 Certificate of Completion for New Work

A. No work shall be allowed to be done at or on any wireless facility, excepting normal repair and maintenance work, for which the owner cannot produce a certificate of completion for the most recent previous work, until a final inspection has been conducted and a certificate of completion has been issued. The owner of the wireless facility, telecommunications tower, or other support structure shall pay for any inspection(s) prior to the inspection(s) being conducted. A passing final inspection is required prior to the issuance of a certificate of completion.

B. Operation of a facility without a certificate of completion is prohibited and may be enforced either pursuant to Chapter 1.12 or 1.22 of this Code.

17.150.140 No Dangerous Condition or Obstructions Allowed.

No person shall install, use or maintain any facility, when such installation, use or

maintenance endangers or is reasonably likely to endanger the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such facility unreasonably interferes with or unreasonably impairs or impedes the flow of pedestrian, bicycle, or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects permitted at or near said location. A facility, an equipment enclosure, and ancillary equipment must be designed and located in a manner that does not materially obstruct the roadway views of vehicles, bicycles, and pedestrians traveling within the public right-of-way, and does not obstruct the visibility of signs located within the right-of-way.

17.150.150 Permit Expiration.

A. Unless Government Code section 65964, as may be amended, authorizes the city to issue a permit with a shorter term, a permit for any wireless telecommunications facility shall be valid for a period of ten (10) years, unless pursuant to another provision of this Code it lapses sooner or is revoked. At the end of ten (10) years from the date of issuance, such permit shall automatically expire.

B. A permittee may apply for a new permit within one hundred and eighty (180) days prior to expiration. Said application and proposal shall comply with the city's current code requirements for wireless telecommunications facilities.

17.150.160 Cessation of Use or Abandonment.

A. A wireless telecommunications facility is considered abandoned and shall be promptly removed as provided herein if it ceases to provide wireless telecommunications services for ninety (90) or more consecutive days unless the permittee has obtained prior written approval from the director which shall not be unreasonably denied. If there are two (2) or more users of a single facility, then this provision shall not become effective until all users cease using the facility.

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

C. Failure to inform the director of cessation or discontinuation of operations of any existing facility as required by this section shall constitute a violation of any approvals and be grounds for:

1. Litigation;
2. Revocation or modification of the permit;

3. Acting on any bond or other assurance required by this article or conditions of approval of the permit;
4. Removal of the facilities by the city in accordance with the procedures established under this Code for abatement of a public nuisance at the owner's expense; and/or
5. Any other remedies permitted under this Code.

17.150.170 Removal and Restoration – Permit Expiration, Revocation or Abandonment.

A. Upon the expiration date of the permit, including any extensions, earlier termination or revocation of the permit or abandonment of the facility, the permittee, owner or operator shall remove its wireless telecommunications facility and restore the site to its natural condition except for retaining the landscaping improvements and any other improvements at the discretion of the city. Removal shall be in accordance with proper health and safety requirements and all ordinances, rules, and regulations of the city. The facility shall be removed from the property, at no cost or expense to the city.

B. Failure of the permittee, owner or operator to promptly remove its facility and restore the property within ninety (90) days after expiration, earlier termination or revocation of the permit, or abandonment of the facility, shall be a violation of this Code. Upon a showing of good cause, an extension may be granted by the director where circumstances are beyond the control of the permittee after expiration. Further failure to abide by the timeline provided in this section shall be grounds for:

1. Prosecution;

2. Acting on any security instrument required by this chapter or conditions of approval of permit;

3. Removal of the facilities by the city in accordance with the procedures established under this Code for abatement of a public nuisance at the owner's expense; and/or

4. Any other remedies permitted under this Code.

C. *Summary Removal*. In the event the director or city engineer determines that the condition or placement of a wireless telecommunications facility located in the public right-of-way constitutes a dangerous condition, obstruction of the public right-of-way, or an imminent threat to public safety, or determines other exigent circumstances require immediate corrective action (collectively, "exigent circumstances"), the director or city engineer may cause the facility to be removed summarily and immediately without advance notice or a hearing. Written notice of the removal shall include the basis for the removal and shall be served upon the permittee and person who owns the facility within five (5) business days of removal and all property removed shall be preserved for the

owner's pick-up as feasible. If the owner cannot be identified following reasonable effort or if the owner fails to pick-up the property within sixty (60) days, the facility shall be treated as abandoned property.

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

17.150.180 Exceptions.

A. Effective Prohibition. In the event that any applicant asserts that strict compliance with any provisions in this chapter, as applied to a specific proposed wireless services facility, would effectively prohibit the provision of wireless services, the Planning Commission, when the application is for a CUP, or the Director, when the application is for an Administrative Permit, may grant a limited, one-time exemption from strict compliance subject to the provisions in this section.

B. Required Findings. The Planning Commission or Director shall not grant any exception unless the applicant demonstrates with clear and convincing evidence all the following:

1. The applicant has provided the city with a clearly defined technical service objective and a clearly defined potential site search area;

2. The applicant has provided the city with a meaningful comparative analysis that includes the factual reasons why any alternative location(s) or design(s) suggested by the city of otherwise identified in the administrative record, including but not limited to potential alternatives identified at any public meeting or hearing, are not technically feasible or potentially available; and

3. The applicant has provided the city with a meaningful comparative analysis that includes the factual reasons why the proposed location and design deviates is the least noncompliant location and design necessary to reasonably achieve the applicant's reasonable technical service objectives.

C. Scope. The Planning Commission and Director shall limit their exemption to the extent to which the applicant demonstrates such exemption in Necessary to reasonably achieve its reasonable technical service Needs. The Planning Commission may adopt conditions of approval as reasonably necessary to promote the purposes in this chapter

and protect the public health, safety and welfare.

D. Procedure. An applicant desiring relief, waiver, or exemption from any aspect or requirement of this Ordinance shall address and identify such at the earliest possible time. If relief is not requested at or prior to a Pre-Application meeting, the city reserves the right to require a formal Amendment of the Application, including payment of all applicable fees and charges. The burden of providing the need for requested relief shall be solely on Applicant. Applicant bears all costs of the city in considering the request for relief.

17.150.190 Location Prohibitions and Preferences

A. Prohibited. Unless otherwise required by law, no wireless facility in the right of way may be located in any area the City Engineer determines is inconsistent with existing or planned or expected uses of the right of way.

B. Especially Discouraged. Telecommunications facilities are especially discouraged in any residential and historical zone as well as designated sensitive areas.

C. Discouraged. Wireless telecommunication facilities are discouraged from being in the Scenic Corridor Combining District or any Historic Districts. A facility in the scenic corridor combining district must obtain a CUP where required by federal or state law and this ordinance.

D. Encouraged. Wireless telecommunication facilities are encouraged to be in industrial and commercial zones.

17.150.200 Effect on Other Ordinances.

Compliance with the provisions of this chapter shall not relieve a person from complying with any other applicable provision of this Code. In the event of a conflict between any provision of this chapter and other sections of this Code, this chapter shall control.

17.150.210 State or Federal Law.

A. In the event it is determined by the city attorney that state or federal law prohibits certain discretionary permitting requirements for certain wireless telecommunications facilities, such requirement shall be deemed severable and all remaining regulations shall remain in full force and effect. For those facilities, in lieu of a CUP required by section 17.150.040, an administrative permit shall be required, and all provisions of that section shall be required except to the extent determined by the city attorney to be prohibited by law. Any conditions of approval set forth in this provision or deemed necessary by the director shall be imposed and administered as reasonable time, place and manner rules.

B. If subsequent to the issuance of the city attorney's opinion pursuant to (A) above,

the city attorney determines that the law has changed and that such discretionary permitting is permissible, the city attorney shall inform appropriate city staff and all discretionary permitting requirements shall be reinstated.

17.150.220 Nonconforming Wireless Telecommunications Facilities in the Right-of-Way.

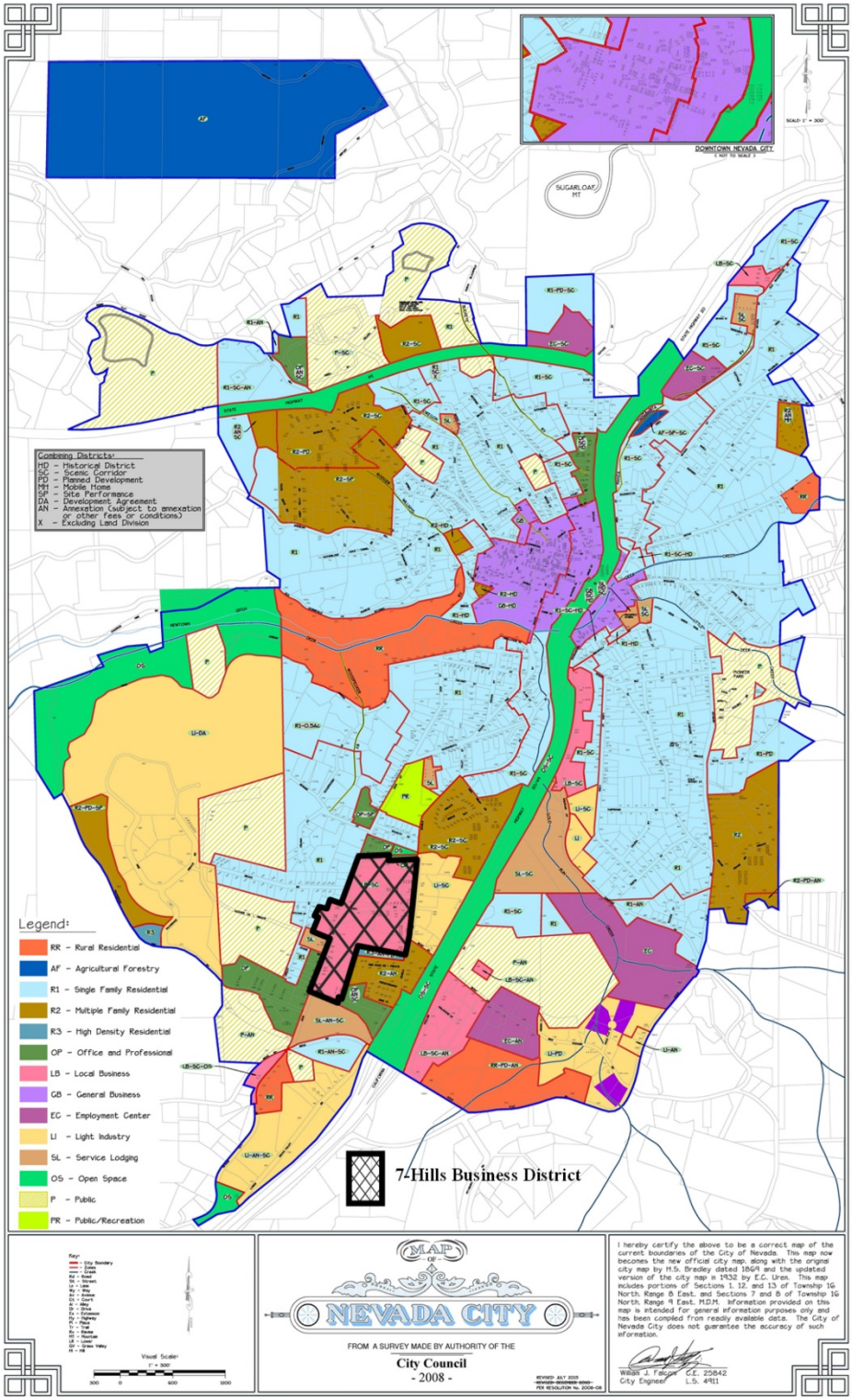
A. Nonconforming wireless telecommunications facilities are those facilities that do not conform to this chapter.

B. Nonconforming wireless telecommunications facilities shall be brought into conformity with all requirements of this article upon the first modification or upgrade of the Facility or Equipment following adoption of this ordinance; provided, however, that should the owner desire to expand or modify the facility, intensify the use, or make some other change in a conditional use, the owner shall comply with all applicable provisions of this Code at such time, to the extent the city can require such compliance under federal and state law.

C. An aggrieved person may file an appeal to the city council of any decision of the director made pursuant to this section. In the event of an appeal alleging that the ten (10) year amortization period is not reasonable as applied to a particular property, the city council may consider the amount of investment or original cost, present actual or depreciated value, dates of construction, amortization for tax purposes, salvage value, remaining useful life, the length and remaining term of the lease under which it is maintained (if any), and the harm to the public if the structure remains standing beyond the prescribed amortization period, and set an amortization period accordingly for the specific property."

SECTION 17.150.230 MAP OF 7-HILLS BUSINESS DISTRICT

7-Hills Business District Exhibit Map
as depicted on the City Zoning Map



Key:
- City Boundary
- Zones
- Creek
- River
- Road
- Trail
- Lake
- Bridge
- Trail
- Court
- Alley
- Drive
- Extension
- Highway
- Place
- Road
- Racine
- Mountain
- Lower
- Old Deer Valley
- Hill

Visual Scale:
1" = 300'
300 0 600 1200

MAP OF
NEVADA CITY
FROM A SURVEY MADE BY AUTHORITY OF THE
City Council
- 2008 -

REVISED: JULY 2015
~~REVISED: DECEMBER 2010~~
PER RESOLUTION No. 2006-08

I hereby certify the above to be a correct map of the current boundaries of the City of Nevada. This map now becomes the new official city map, along with the original city map by H.S. Bradley dated 1869 and the updated version of the city map in 1932 by E.C. Uren. This map includes portions of Sections 1, 12, and 13 of Township 16 North, Range 8 East, and Sections 7 and 8 of Township 16 North, Range 9 East, M.D.M. Information provided on this map is intended for general information purposes only and has been compiled from readily available data. The City of Nevada City does not guarantee the accuracy of such information.

William J. Falconer C.E. 25842
City Engineer L.S. 4911

SECTION 2. CEQA. This Ordinance is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines sections 15061, 15183, 15301, 15303, and 15305 because it can be seen with certainty that there is no possibility that the adoption of this ordinance will have a significant impact on the environment.

SECTION 3. Effective Date. This ordinance shall become effective on the 31st day after adoption.

SECTION 4. Severability. If any portion of this ordinance is found to be unenforceable, each such provision shall be severed, and all remaining portions of this ordinance shall be enforced to the maximum extent legally permissible.

SECTION 5. Certification. The City Clerk shall certify to the passage and adoption of this ordinance as required by law.

PASSED, APPROVED AND ADOPTED this ___th day of _____2020 by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

_____
Reinette Senum, Mayor

ATTEST:

_____
Niel Locke, City Clerk

APPROVED AS TO FORM

_____
Crystal V. Hodgson, City Attorney

I, Niel Locke, City Clerk of Nevada City, do hereby certify that the foregoing urgency ordinance was introduced and adopted at a meeting thereof on the ____day of _____ 2020.

_____

Niel Locke, City Clerk

ORDINANCE NO. ~~2019-06~~2020-XX

AN ORDINANCE OF THE CITY OF NEVADA CITY ~~AMENDING~~REPEALING AND READOPTING CHAPTER 17.150 ~~TO~~OF THE NEVADA CITY MUNICIPAL CODE~~, AND RENAMING IT~~ ENTITLED "WIRELESS TELECOMMUNICATION FACILITIES IN THE CITY"

WHEREAS, California Public Utilities Code Section 7901.1 gives the ~~**CITY"**~~ City the right to control, in a reasonable manner, the time, place, and manner, when applied equally, where telecommunications facilities can be located; and

WHEREAS, Section 7901 of the California Public Utilities Code ("section 7901") authorizes telephone and wireless corporations to construct telephone or wireless telecommunication lines along and upon any public road or highway, along or across any of the waters or lands within this state, and to erect poles, posts, piers, or abatements for supporting the insulators, wires, and other necessary fixtures of their lines, in such manner and at such points as not to incommode the public use of the road or highway or interrupt the navigation of the waters; and

WHEREAS, Section 7901.1 of the California Public Utilities Code confirms the right of municipalities to exercise reasonable control as to the time, place, and manner in which roads, highways, and waterways are accessed, which control must be applied to all entities in an equivalent manner, and may involve the imposition of fees. Specifically, it has been determined by the courts that a municipality has authority to regulate the placement and appearance of telecommunications equipment installed on its public rights-of-way, and that a municipality need not grant wireless providers blanket permission to install their equipment throughout a municipality, but may require wireless providers to go through a site-specific permitting process provided it is not so burdensome that it runs afoul of section 7901; and

WHEREAS, in order to protect the general welfare of citizens of Nevada City, the Nevada City Municipal Code is updated to regulate the siting of small cell facilities within the scope of existing laws; and

WHEREAS, Section 1455 of Title 47 of the United States Code mandates approval by local agencies of certain eligible facilities requests for modification and requires compliance with the American with Disabilities Act, of an existing wireless tower or base station that does not substantially change the physical dimensions of such wireless tower or base station; and

WHEREAS, pursuant to 47 USC 332 and subject to the limitations set forth therein, the City has authority to regulate the placement, construction, or modification of personal wireless service facilities; and

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WHEREAS, on October 10, 2018, the City Council adopted an interim ordinance, and on November 14, 2018, the City Council extended that ordinance through October 9, 2019;

WHEREAS, on September 25, 2019, the City Council of the City of Nevada City adopted an Ordinance amending Chapter 17.150 of the Nevada City Municipal Code and renaming it "Wireless Telecommunication Facilities in the City;" and

WHEREAS, the City Council desires to adopt further amendments to Chapter 17.150 of the Municipal Code, consistent with its authority under federal and state law;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF NEVADA CITY DOES ORDAIN AS FOLLOWS:

SECTION 1**:** Chapter 17.150 of the Municipal Code ~~Amended~~Replaced and ~~Renamed~~Readopted, Chapter 17.150 ~~is hereby renamed to be,~~entitled "Wireless Telecommunications Facilities" is hereby repealed in its entirety and ~~is amended~~readopted to read as follows;

"17.150.010 Purpose and Policy.

The purpose and intent of this chapter is to provide a uniform and comprehensive set of ~~zoning regulations and~~ standards for the ~~permitting,~~ development~~, siting,~~ of telecommunication facilities and installation~~, modification, design, operation and maintenance of wireless telecommunications facilities in the city. These regulations~~ of antennas. The regulations contained herein are ~~intended~~designed to ~~prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with wireless telecommunications facilities. This chapter provides standards necessary (1) for the preservation of the public right-of-way in the city for the maximum benefit and use of the public, (2) to~~ protect and promote ~~and protect public health and safety,~~ community welfare~~, visual resources~~ and the aesthetic quality of ~~the city consistent with~~Nevada City as set forth within the goals, objectives and policies of the ~~General Plan, and (3) to provide for the orderly, managed and efficient~~ Nevada City general plan; while at the same time not unduly restricting the development of ~~wireless telecommunications~~ needed telecommunications facilities and important amateur radio installations and encouraging managed development of telecommunications infrastructure to insure Nevada City's role in the evolution of technology. It is also the stated intent of this chapter to provide a public forum to insure a balance between public concerns and private interest in establishing telecommunication and related facilities~~ in accordance with the state and federal laws, rules and regulations.~~ .

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~~This chapter~~It is furthermore intended ~~solely as a zoning regulation. These requirements are in addition~~that, to ~~any other applicable~~all extent permitted by law, ~~such as~~ the ~~requirement~~city shall apply these regulations to ~~obtain an encroachment permit, and any required authorization~~specifically accomplish the following:

A. Protect the visual character of the city from ~~a third party, such as~~the potential adverse effects of telecommunication facility development and minor antenna installation;

B. Insure against the creation of visual blight within or along the city's scenic corridors and ridgelines;

C. Retain local responsibility for and control over the use of public rights-of-way to protect citizens and enhance the quality of their lives.

D. Protect the environmental resources of Nevada City;

E. Ensure that a competitive and broad range of telecommunications services and high quality telecommunications infrastructures are provided to serve the business community;

F. Create and preserve telecommunication facilities that will serve as an important and effective part of Nevada City's emergency response network;

G. Provide for the charging of reasonable, competitively neutral, nondiscriminatory fees for use of the public right-of-way by telecommunication providers; and,

H. Provide for the maximization of access and usability of an ~~electric utility.~~ internet web site for the city of Nevada City.

17.150.020 Definitions.

"7-Hills Business District" means the areas shown in Section 17.150.230.

"**Accessory Facility** or **Structure**" means an accessory facility or structure serving or being used in conjunction with Wireless Telecommunication Facilities, and located on the same property or lot as the Wireless Telecommunications Facilities, including but not limited to, utility or transmission equipment, storage sheds, or cabinets.

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

"ADA" means the Americans With Disabilities Act or ADA.

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"Applicant" means any Wireless service provider submitting an application for a ~~special~~conditional use permit or administrative permit for Wireless telecommunications facilities.

"Application" means all necessary and required documentation that an Applicant submits in order to receive a ~~special~~conditional use permit, administrative permit, or a building permit for Wireless telecommunications facilities.

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

"**Base station**" shall have the same meaning as set forth in 47 C.F.R. 1.6100 (b)(1), as may be amended.

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

"**Code**" means the Nevada City Municipal Code.

"**Collocation**" or "**Co-location**" has the same meaning as set forth in 47 C.F.R. §1.40001(b)(2), as may be amended.

"**Commercial Impracticability**" or "**Commercially Impracticable**" means the inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which could not have been reasonably anticipated or foreseen and which jeopardizes the financial efficacy of the project.

"Complete Application" means an application that contains all necessary and required information and/or data necessary to enable an informed decision to be made with respect to an application and that all information is true, accurate and correct.

"Concealment" shall have the same meaning as Stealth below.

"**DAS**" or "**Distributive ~~Access~~Antenna System**" means a network of antennas and related fiber optic nodes, including strand-mounted antennas, which provide access and signal transfer for Wireless Telecommunication Service providers. DAS also includes antenna combining technology, managed hubs and remote antennas that distribute a wireless signal to a series of connected indoor or outdoor multi-band, multi-technology

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radio heads allowing for multiple carriers or Wireless Service Providers to use the same set of antennas, cabling or fiber optics.

"**CUP**" shall mean conditional use permit.

"**Director**" means the ~~director of planning~~City Manager, or his or her designee.

"Eligible Facility" means an existing Wireless tower or base station that involves collocation of new transmission equipment or the replacement of transmission equipment that does not constitute a substantial modification.

"FAA" means the Federal Aviation Administration, or its duly designated and authorized successor agency.

"**Facility(ies)**" means wireless telecommunications facility(ies).

"FCC" means the Federal Communications Commission, or its duly designated and authorized successor agency.

"**Ground-Mounted**" means any communications equipment that is mounted to a separate post or to a foundation on the ground~~, or installed in or under~~ and extends above the ~~ground.~~ natural grade.

"**Located within public right-of-way**" includes any facility which in whole or in part, itself or as part of another structure, rests upon, in, over or under the public right-of-way.

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

"**Monopole**" means a structure composed of a hollow non-wooden pole or telecommunications tower used to support antennas or related equipment. A monopole also includes any disguised monopole, including but not limited to trees or other object.

"**Mounted**" means attached or supported.

"**Necessary**" or "**Necessity**" or "**Need"** means what is technologically required for the equipment to function as designed by the manufacturer and that anything less will result in prohibiting the provision of service in violation of applicable law. Necessary or Need does not mean what may be desired, preferred or the most cost-efficient approach and is not related to an Applicant's specific chosen design standards. Any situation involving a choice between or among alternatives or options is not a Need or a Necessity.

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"**Personal wireless service(s)**" shall have the same meaning as set forth in 47 U.S.C. § 332(c)(7)(C), as it may be amended.

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

"**Small wireless facility**" or "**Small cell**" ~~means a facility~~shall have the same meaning as ~~defined~~provided in 47 CFR 1.6002(*l*) as it may be amended from time to time.

"**Stealth**" or "**Stealth Siting Technique**" means a design or treatment that minimizes adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which means the least visually and physically intrusive Facility, so as to make it substantially invisible, and that is not technologically or commercially impracticable under the facts and circumstances. Stealth technique includes such techniques as i) DAS or its functional equivalent; or ii) camouflage where the Facility is disguised to make it less visually obtrusive and not recognizable to the average person as a Wireless Facility.

"Substantial Modification" has the same meaning as provided in 47 C.F.R § 1.40001(b)(7), as may be amended, which defines that term differently based on the particular Facility type and location. For clarity, the definition in this section organizes the FCC's criteria and thresholds for a substantial change according to the Facility type and location.

1. For Towers outside the public rights-of-way, a substantial change occurs when:
    a. The proposed co-location or modification increases the overall height more than ten percent (10%) or the height of one additional antenna array not to exceed twenty (20) feet (whichever is greater); or
    b. The proposed co-location or modification increases the width more than twenty (20) feet from the edge of the Wireless Tower or the width of the Wireless Tower at the level of the appurtenance (whichever is greater); or
    c. The proposed co-location or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four (4); or
    d. The proposed co-location or modification involves excavation outside the current boundaries of the leased or owned property surrounding the Wireless Tower, including any access or utility easements currently related to the site.

2. For Towers in the public rights-of-way and for all base stations, a substantial change occurs when:
    a. The proposed co-location or modification increases that overall height more than ten percent (10%) or ten (10) feet (whichever is greater); or

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b. The proposed co-location or modification increases the width more than six (6) feet from the edge of the Wireless Tower or base station; or
c. The proposed co-location or modification involves the installation of any new equipment cabinets on the ground when there are no existing ground-mounted equipment cabinets; or
d. The proposed co-location or modification involves the installation of any new ground-mounted equipment cabinets that are ten percent (10%) larger in height or volume than any existing ground-mounted cabinets; or
e. The proposed co-location or modification involves excavation outside the area in proximity to the structure and other transmission equipment already deployed on the ground.

3. In addition, for all Towers and base stations wherever located, a substantial change occurs when:
a. The proposed co-location or modification would defeat the existing concealment elements of the support structure ad determined by the City; or
b. The proposed co-location or modification violates a prior condition of approval as regards to height, width, number and size of equipment cabinets or any excavation that is inconsistent with the thresholds for a substantial change described in this section.

4. As to all measurements set forth herein, the following principles shall govern:
a. Any threshold or limit of height increases are cumulative or collective.
b. For sites with horizontally separated deployments, the cumulative limit is measured from the originally permitted support structure without regard to any increases in size due to Wireless equipment not included in the original design. For sites with vertically separated deployments, the cumulative limit is measured from the permitted site dimensions as they existed on February 22, 2012, the date of passage of the Middle-Class Tax Relief and Job Creation Act of 2012, Section 6409(a).

~~b.~~

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

"**Transmission Equipment**" shall have the same meaning as provided in 47C.F.R.§ 1.40001(b)(8), as may be amended.

"**Tower**" shall have the same meaning as set forth in 47 C.F.R. 1.40001(b)(9), as may be amended.

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

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"**Wireless telecommunications services**" means the provision of services using a wireless telecommunications facility or a wireless telecommunications collocation facility, and shall include, but not limited to, the following services: personal wireless services, cellular service, personal communication service, and/or data radio telecommunications.

"**Wireless telecommunications facility**" or "**facilities**" mean any facility that transmits and/or receives electromagnetic waves for commercial purposes. It includes, but is not limited to, antennas and/or other types of equipment for the transmission or receipt of such signals, telecommunications towers or similar structures supporting such equipment, related accessory equipment, equipment buildings, parking areas, and other accessory development. This definition includes DAS systems owned or operated by a commercial carrier and are part of a commercial wireless system, or are able to be used by the general public, regardless of the location or whether the facility or any of its components is located inside or outside a structure or building.

Exceptions: The term "wireless telecommunications facility" does not apply to the following:

(a) A telecommunications facility that is both owned and operated by a governmental entity where the director determines enforcing the requirements of this Chapter are against the public interest.

(b) Mobile services providing public information coverage of news events of a temporary nature.

(d) Any wireless telecommunications facilities exempted from this Code by federal law or state law.

17.150.030 Applicability

A. Applicability. This chapter applies to the siting, construction or modification of any and all wireless telecommunications facilities proposed to be located in any portion of the City as follows:

1. All facilities, notwithstanding the date approved or the location installed, shall be subject immediately to the provisions of this chapter provided, however, if a condition of approval conflicts with a provision of this chapter, the condition of approval shall control until the permit is amended or revoked.

2. Any wireless telecommunication facility that was lawfully constructed prior to the adoption of this Ordinance that does not comply with the standards, regulations and/or requirements of this chapter, shall be allowed to continue as it presently exists, provided that i) it exists and is operating as originally permitted; and ii) any modification of the Facility has been properly permitted.

3. Any modification not properly permitted under a previously existing ordinance must be permitted under this Ordinance.

4. Any modification of a Facility or its equipment subsequent to the adoption of this Ordinance, must be permitted under this Ordinance and will require the entire Facility and any new or modified installation to comply with this Ordinance, except that any Tower or other support structure properly permitted prior to the adoption of this Ordinance may remain at the originally permitted height.

5. Any repair and maintenance of a Wireless Facility that does not i) increase the height of the structure, ii) alter the equipment profile, iii) change the latest RF ~~emissions levels~~Modeling form provided for this site, iv) increase the footprint of the Facility, v) increase the structural loading on the support structure; or vi) otherwise exceed the conditions of the permit, does not require an application for a new permit, but may require a building permit, electrical permit or other authorizing permit. In no instance shall any additional construction or modification be considered to be repair or maintenance.

B. Exclusions. This chapter does not apply to any entity legally entitled to an exemption from these zoning requirements pursuant to state or federal law.

17.150.040 Wireless Telecommunications Facility Permit Requirements.

A. General Rule: Conditional Use Permit Required

~~1.~~ Unless otherwise provided herein, all new wireless facilities, except for small cells or collocations or modifications to existing wireless facilities, shall require a Conditional Use Permit. See section 17.150.060, below for review procedures.

1. The Planning Commission may refer a conditional use permit to the City Council for approval.

2. The Planning Commission shall approve a Conditional Use Permit if all of the following apply:

A. The facility will comply with all applicable laws including, but not limited to:

1. The Americans with Disabilities Act;

2. All building and safety requirements, including those within the California Building Standards Code, as amended by the city and the latest version of TIA ANSI 222, to the extent that such standards are more restrictive than the otherwise applicable requirements.

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3. All applicable current requirements of the FCC and OSHA (Occupational Safety and Health Administration), including requirements relating to radiofrequency (RF) emissions and limits on interference.

4. The requirements of this Chapter 17.150.

~~2.~~**5.** Either the City has issued all required encroachment permits or it is a condition of the issuance of the permit that no installation begin in reliance on the permit until the City has issued all required encroachment permits.

~~3.~~B. A facility that obtains an administrative permit need not obtain a conditional use permit.

B. Administrative Permit.

The Director shall approve an administrative permit if all of the following apply:

1. The application is for i) a Small Wireless Facility, or ii) a collocation or modification of wireless telecommunication equipment on an existing Eligible Facility which does not create a Substantial Modification.

2. The facility will comply with all applicable laws including, but not limited to:

a. The Americans with Disabilities Act;

b. All building and safety requirements, including those within the California Building Standards Code, as amended by the city and the latest version of TIA ANSI 222, to the extent that such standards are more restrictive than the otherwise applicable requirements.

c. All applicable requirements of the FCC and OSHA (Occupational Safety and Health Administration), including requirements relating to ~~radio-frequency~~radiofrequency (RF) emissions and limits on interference.

d. The requirements of this Chapter 17.150.

3. The proposed facility complies with the City's published wireless design guidelines.

4. The proposed facility will be installed on either:

a. An existing support structure that meets all of the following requirements:

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i. The facility will match the design of the pole; and

ii. If feasible, all equipment installed on the pole will be the same color as the pole; or

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b. A new light pole that meets all of the following requirements:

i. The pole is ~~at least ninety (90) feet away from~~not closer to any existing light pole than the then current spacing between light poles upon the street the pole shall be installed; and

ii. Unless requested otherwise by the City in writing, the light on the pole will be illuminated, operated, and maintained consistent with the operation of the other light poles in the City, and the full costs of illumination shall be fully borne by the applicant.

5. Either the City has issued all required encroachment permits ~~and entered into any required franchise agreement(s);~~ or it is a condition of the issuance of the permit that no installation begin in reliance on the permit until the City has issued all required encroachment permits ~~and entered into any required franchise agreement(s).~~.

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~~C. Master Deployment Plan Permit~~

~~1. Excepting batched applications for Small Wireless Facilities, any applicant that seeks approval of five (5) or more wireless telecommunications facilities may elect to submit an application for a Master Development Plan Permit. The proposed Master Deployment Plan shall be conceptual in nature and approval thereof shall not be deemed approval of any given Facility or specific address or location. The proposed facilities in a Master Development Plan shall be reviewed together at the same time and subject to the same requirements and procedures applicable to a Major Wireless Telecommunications Facility Permit.~~

~~2. A Master Development Plan Permit shall not be deemed approval for all wireless telecommunications facilities within the plan; provided, however, that an encroachment permit shall be required.~~

~~3. After the approval of a Master Development Plan Permit, an individual wireless telecommunications facility shall require either a CUP or an Administrative Permit, as applicable.~~

~~D.~~ C. Batched Application: An Applicant, or its agent of record, may submit Applications for multiple small wireless facilities or locations with the following conditions that are

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intended in order to assure compliance with the FCC's 'Shot Clock' requirements:

1. No single batched submittal shall contain more than five (5) Applications~~;~~.

2. There must be a minimum of seven business days between submittals of batched Applications~~;~~.

3. No more than 4 batched Applications shall be accepted in any thirty ~~(30)~~ consecutive day period.

~~E~~

D. Other Permits Required. In addition to any permit that may be required under this chapter, the applicant must obtain all other required prior permits or other approvals from other city departments, or state or federal agencies. Any permit granted under this chapter is subject to the conditions and/or requirements of other required permits or other approvals from other city departments, state or federal agencies.

~~F~~E. Eligible Applicants. Only applicants who have been granted the right to enter the public right-of-way pursuant to state of federal law, or who have entered into a franchise agreement with the city permitting them to use the public right-of-way, or who are acting at the behest and direction of one of the foregoing shall be eligible for a permit to install or modify a wireless telecommunications facility or a wireless telecommunication collocation facility in the public right-of-way.

~~G~~F. Speculative Equipment Prohibited. The city shall not approve any equipment or other improvements in connection with a Wireless Telecommunications Facility Permit when the applicant does not actually and presently intend to install such equipment or construct such improvements within one-hundred-eighty (180) days.

17.150.050 Application for Wireless Telecommunications Facility Permit

A) General Application Requirements: The following items are considered general application requirements and shall be included in all applications:

~~1) Any items that are asserted not to be applicable to the instant Application(s) shall be clearly identified in the front of the Application.~~

~~2)~~1. Identification of ~~the specific~~all current applicable federal and State law and rule, including the specific section and subsection, regarding Wireless facilities under which the Application is filed.

~~3)~~2. The name, address, phone number and e-mail address of the person preparing the application

~~4)~~3. The name, address, and phone number of the property owner and the Applicant, including the legal name of the Applicant. If the owner of the structure

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is different than the Applicant, the name and all necessary contact information for each shall be provided.

~~5)~~4. The postal address and tax map parcel number of the subject property, or when application is for installation in the public right of way real, for the real property closest to proposed installation, and, if applicable, the Public Utility Pole number.

~~6)~~5. The zoning district or designation in which the property is situated.

~~7)~~6. For all new Facilities, a ~~list of the specific frequency bands to be initially activated immediately upon completion of construction~~completed Propagation Study Data Form is required.

~~8)~~7. For all new Facilities, a separate list of all frequencies licensed to the carrier not intended to be initially activated.

~~9)~~8. A copy of the FCC licenses applicable for all the frequency bands licensed to the carrier to provide service in the City.

~~10)~~9. All Applications shall include signed written commitment ~~statements~~stating that:

a) the Applicant's Facility shall at all times without exception be maintained in a safe manner, and in compliance with all conditions of the ~~Special~~Conditional Use Permit, as well as all applicable and permissible local codes, ordinances, and regulations and all applicable City, State and Federal Laws, rules, and regulations, unless specifically granted relief by the Council in writing;

b) the construction of the Facility is legally permissible, including, but not limited to the fact that the Applicant is licensed to do business in the State.

c) the Applicant commits to fully and completely indemnify the City for any use of the City's Right-of-Way by Applicant, it's employees, and agents.

~~11)~~10. Certified detailed construction drawings, including but not limited to the following information:

a) the size of the property footprint on which the structure to be built or attached to is located, stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines and rights-of-way.

b) location of the nearest residential or habitable structure.

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c) the location, size and height of all existing and proposed structures on the property.

d) enclosures and cabinets on the property on which the structure is located that are related to the subject of the application.

e) a site plan to-scale showing the footprint of the support structure and the type, location and dimensions of boundaries, access drives, landscaping and buffers, fencing, underground utilities of any kind and any easements.

f) elevation drawings showing the profile and the vertical rendition of the Facility and, where appropriate, its support Structure and identifying all existing and proposed attachments and all related fixtures, structures, appurtenances and apparatus, including the height above the existing grade, materials, colors and lighting.

g) proposed electrical and grounding plans for the Facility.

~~12)~~11. The azimuth, size, top of antenna height, locations of all proposed and existing antennas on the support structure, and the height of the tip of any lightning arrestor.

~~13)~~12. Copies of the cut sheets for all antennas, Remote Radio Unit's, Transmitters, Receivers, and other in line RF devices that are used in the site.

~~14)~~13. The type and manufacturer of the Tower or other support Structure and a rigorous structural analysis and report for such, including the calculations, certified by a Professional Engineer licensed in the State and proving the structure's capability to safely accommodate the facilities of the Applicant.

~~15)~~14. An ANSI/TIA-222 Maintenance and Conditions Assessment report regarding the physical condition of the Facility and its components, using the most recently adopted version of ANSI/TIA-222, or a functional equivalent report for any support structure that is not a Tower. If applicable, the report shall identify and contain allowable tolerances including but not limited to guy tensions, plumb, twist, slip splices, and take-up devices. No Conditional Use Permit or Administrative Permit or any authorization for anything other than remediation work shall be issued for any Wireless Facility or related equipment where the structure being attached to is in need of safety-related remediation to comply with the requirements of this Ordinance and other applicable adopted standards of the City, unless and until all remediation work that is deemed needed has been completed or a schedule for the remediation work has been approved by the City.

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~~16)~~15. For telecommunications Towers, but only Towers, taller than thirty-three feet (33') in height, a completed and signed checklist for categorical exclusion of radio frequency electromagnetic emissions. If the modification, co-location or construction of a new Wireless Facility is not categorically excluded based on the Federal Communications Commission's rules and regulations, the Applicant shall provide a compliance letter to the City committing to remain in full compliance with all requirements set forth by the latest edition of the Federal Communications Commission (FCC) OET Bulletin 65 or its functional equivalent.

~~In certain instances, the City may deem it appropriate to have an on-site RF survey of the Facility done after~~16. After the construction or modification of the Facility~~. Such survey~~, the City requires an on-site Radiofrequency Compliance Report documenting compliance with the latest version of the FCC's RF emissions standards as set forth in OET Bulleting 65. It shall be ~~done under the observation~~prepared and ~~direction of~~ signed by a registered Professional Engineer certified in the ~~City~~State of California. In addition, an RF Data Request Sheet shall be completed by the Applicant or ~~its designee,~~their technical RF consultant and ~~an un~~submitted with the Application (see Attachment #). Applications lacking these documents shall be deemed materially incomplete. Un-redacted ~~copy~~copies of ~~the survey results~~these documents along with all calculations are to be provided, prior to the issuance of ~~a~~the Certificate of Compliance.

16.

~~17)~~

~~18)~~17. A signed statement that the Applicant will expeditiously remedy any physical or RF interference with other Wireless devices or services.

~~19)~~18. Cut Sheets or specifications for all equipment to be installed/mounted on the structure including a photograph and model name/number for each piece of equipment included.

~~20)~~19. No applicant seeking to install wireless antennas shall seek an encroachment permit for fiber or coaxial cable only. Applicants shall simultaneously request fiber installation or other cable installation when seeking to install antennas in the right-of-way.

~~21)~~20. If the applicant requests an exception to the requirements of this chapter (in accordance with section 17.150.180), the applicant shall provide all information and studies necessary for the city to evaluate that request.

~~22)~~21. An application fee and a deposit for a consultant's review as set forth herein; in an amount set by resolution by the city council. Failing to submit the correct Application fee shall make the Application incomplete on its face

~~23)~~22. Proof that a temporary mock-up of the facility and sign has been installed at the proposed location for a period of at least thirty (30) calendar days.

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a) Applicant shall obtain an encroachment permit before installing the temporary mock-up~~,~~ and must remove the temporary mock-up within five (5) calendar days of receiving a written notice to remove from the director.

b) When seeking the encroachment permit, the applicant shall provide proof of written notice mailed to all property owners within ~~500~~300 feet of the proposed installation. The applicant shall mail a notice regarding installation of the mock-up at least ~~five (5~~ten (10) business days prior to the installation.

c) The mock-up shall demonstrate the height and mass of the facility, including all interconnecting cables. The applicant shall not be entitled to install the facility it intends to install permanently. The mock-up may consist of story poles or the like.

d) The mock-up shall include a sign that displays photo simulations depicting before and after images, including any accessory equipment cabinet, and the telephone number of the Public Works Department.

e) The applicant shall be required to follow any other city practices or processes relevant to the installation of a mock-up as may be provided in a publicly accessible form or document.

f) After installation of the mock-up, the applicant shall certify that the mock-up accurately represents the height and width of the proposed installation and has been installed consistent with this Code.

B) Co-location Application Requirements: In addition to the requirements set forth in Subsection A, the following items shall be included in the application for co-locations ~~on existing structures:~~.

~~B)~~

1) A copy of the lease with the owner of the structure, and with the landowner if different than the structure owner, and if applicable a signed letter of agency granting authorization to represent and commit for the party represented. If the Applicant owns the site, a copy of proof of ownership is required.

2) The frequency, modulation and class of service of radio or other transmitting equipment.

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3) Transmission and maximum effective radiated power of the antenna(s).

4) Direction of maximum lobes and associated radiation of the antenna(s).

5) ~~If requested,~~Require to-scale photographic simulations of the Facility "before and after construction" from key viewpoints inside of the City as deemed appropriate and/or as designated and accompanied by i) a map showing the locations of where the photographs were taken; and ii) the distance(s) of each location from the proposed structure. Guidance will be provided concerning the appropriate key viewpoints on an individual Application basis.

6) A copy of the Applicant's Certificate of Liability Insurance.

C) New Wireless Structures and Substantial Modification Requirements: In addition to the preceding requirements, the following shall be included in the application for ~~a~~ new Wireless Support Structures and Substantial Modifications of support structures:

1. General Liability Commercial Insurance $5 million to protect the City: The applicant shall obtain, pay for and maintain, in full force and effect until the facility approved by the permit is removed in its entirety from the public right-of-way, an insurance policy or policies of commercial general liability insurance, with minimum limits of Two Million Dollars ($2,000,000) for each occurrence and One Hundred Million Dollars ($100,000,000) in the aggregate, that fully protects the City from claims and suits for boards, commissions, officers, officials, agents, consultants, employees and volunteers as additional named insureds, be issued by an insurer admitted in the State of California with a rating of at least a A:VII in the latest edition of A.M. Best Insurance Guide, and include an endorsement providing that the policies cannot be canceled or reduced.

~~1)~~2. The Applicant for a new Tower or Substantial Modification shall submit clear and convincing technical evidence, done by the Wireless service provider associated with the Application, justifying the technical Need for the proposed height of the Facility and the Need for such, to the exclusion of all reasonable less intrusive alternatives. Evidence in the form of propagation studies must include the modeling data and assumptions used to produce the studies on a form to be provided by the City.

~~2)~~3. The Applicant shall disclose in writing any agreement in existence prior to submission of the application that would limit or preclude the ability of the Applicant to share space on the new Tower or support structure.

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3)4. If a Modification of a Facility is needed whereby the height, profile or size of the Facility is increased, or if construction is needed outside the permitted compound or property, a detailed narrative explaining what changes are needed and why they are needed.

4)5. The type of support structure, the number of antenna arrays proposed to be accommodated and a Certified structural report, including all calculations, demonstrating the Facility's capacity to accommodate the required number of antenna arrays and associated equipment for which the structure must be designed.

5)6. A copy of the foundation design, including a geotechnical sub-surface soils investigation report and foundation design recommendation for the Tower or other structure. Such shall be Certified by a licensed Professional Engineer licensed in the State that is experienced in the structural design of Wireless support structures.

6)7. A written copy of an analysis completed by a qualified individual or organization to determine if the proposed Wireless telecommunications Facility is in compliance with Federal Aviation Administration Regulation Part 77 and if it requires lighting. Unless already lighted, this requirement shall also be for any Facility where there is a proposed increase in the height of the Facility. If this analysis determines that an FAA determination is required, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided with the application.

7)8. A narrative description of the specifically what will be done to minimize the visual impact. The City expressly reserves the right to require the use of stealth or camouflage techniques.

8)9. For a new support structure, or for a Substantial Modification, the Applicant shall be required to submit clear and convincing evidence that a new Tower or support structure or the Substantial Modification is the only option within one-half (1/2) mile of the proposed new Tower or support structure that will enable the provision of Wireless services substantially within the intended service area.

10. Timely re-certifications (at the municipality's discretion but no more frequent than every 5 years) will be denied if the re-certification has not been properly or timely submitted, or any equipment no longer in use has not been removed within the required 30-day period. In addition, no further applications for any new wireless facilities from the applicant and its representatives will be accepted by the City until such time as the timely re-certification has been submitted, all equipment no longer in use has been removed, and all fees and fines or any other amounts owed are paid in full.

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~~9)~~11. In order to better inform the public, in the case of a new Tower or support structure, the Applicant shall hold a "balloon test" or erect a story pole, i.e. a temporary mast, prior to the initial public hearing on the application. The choice of the use of a balloon test or story pole shall be that of the City based upon the facts and circumstances involved.

a) The Applicant shall arrange to fly, or raise upon story pole, a minimum of a three (3) foot in diameter, brightly colored balloon at the maximum height of the proposed new Tower. To reasonably assure control and the stability of the balloon in winds, a spherical balloon shall not be used.

b) At least fourteen (14) days prior to the conduct of the balloon test, a sign shall be erected so as to be clearly visible from the road nearest the proposed site and shall be removed no later than fourteen (14) days after the conduct of the balloon test. The sign shall be at least four feet (4') by eight feet (8') in size and shall be legible from the road by a person with 20/20 corrected vision. The sign shall be placed off, but as near to, the public right-of-way as is possible and shall show the times and date(s) of the balloon test and City contact information.

c) The dates (including a second date, in case of poor visibility or wind in excess of 15 mph on the initial date), times and location of the balloon test shall be advertised by the Applicant, in a newspaper with a general circulation in the City and as agreed to by the City, fourteen (14) and seven (7) days in advance of the first test date. The Applicant shall inform the City in writing of the dates and times of the test, at least fourteen (14) days in advance.

d) The balloon shall be flown for at least four (4) consecutive hours between 10:00 am and 4:00 p.m. on the dates chosen. The primary date shall be on a ~~week end~~weekend, but the second date, in case of poor visibility on the initial date, may be on a ~~week day~~weekday. A report with photos from various locations of the balloon, and to-scale superimposed photo simulations of the Facility when completed, shall be provided with the application.

e) The Applicant shall notify all property owners and residents located within ~~one thousand five hundred (1,~~500~~)~~ feet of the nearest property line of the subject property of the proposed construction of the Tower or other support structure and the Wireless Facility, and of the date(s) and time(s) of the balloon test. Such notice shall be provided at least fourteen (14) days prior to the conduct of the balloon test and shall be delivered by first-class

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mail. The Applicant shall bear all costs associated with said notification.

~~10)~~12. The owner of a new Tower or other support structure, and his/her successors in interest, shall negotiate in good faith for the shared use of the Facility by other Wireless service providers, and shall:

a) Respond within 60 days to a request for information from a potential shared~~-~~ use Applicant~~;~~.

b) Negotiate in good faith concerning future requests for shared use of the new Wireless telecommunications Facility by other telecommunications providers.

c) Allow shared use of the new Wireless telecommunications Facility if another telecommunications provider agrees in writing to pay reasonable charges.

d) Understand that failure to abide by the conditions outlined above may be grounds for denial or revocation of the ~~Special~~Conditional Use Permit.

~~11)~~13. ~~-~~The Applicant shall provide a written description and a visual rendering demonstrating how it shall effectively screen from view the Facility and all related equipment and structures associated with the Facility. The buffer, which may be located within the required setback area, shall consist of a landscape strip, at least five (5) feet in depth, located outside the security fence. For facilities located within 500 feet of environmentally sensitive areas the City may require wider landscape buffers and other items such as decay resistant, solid wood fences, earth berms, and brick or masonry walls in addition to the security fence. The landscape strip should be planted with a combination of trees and/or shrubs which are capable of attaining the required minimum height at maturity and which will enhance and, at minimum, partially screen the outward appearance of the security fence~~. For Towers located within 1,000 feet of a residential area, the City may require wider landscape buffers and other items such as decay resistant, solid wood fences, earth berms, and brick or masonry walls in addition to the security fence.~~. All fencing, walls, and landscaping shall be kept in good condition and repair and maintained in a neat manner by the owner of the Tower.

~~12)~~14. ~~-~~Co-location Not Reasonably Feasible: Co-location on an existing structure is not reasonably feasible if the co-location is Technically or Commercially Impracticable or the owner of the structure is unwilling to enter into a contract for its use. Written clear and convincing evidence to support such claims must be submitted with an application.

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13)15. -Spec Support Structures Prohibited: A building permit shall not be issued for construction of a new Towerfacility, or other support structure until there is an application filed for or by a specific carrier that documents that the Facility is Necessary for that carrier to provide service in the intended service area for service primarily within the City and that a less visually intrusive option or co-location on an existing structure is not Technologically Impracticable.

D. Small Cell Facilities Requirements. In addition to the preceding requirements, the following shall include in the application for a small cell facility a general description of the proposed scope of work and the specific purpose(s) of the small Wireless Facility. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with emphasis on those maters likely to be affected or impacted by the work proposed. The description shall include at a minimum the type of equipment, number of antennas, height to top of antenna(s), statement of compliance with FCC requirements, and description and/or depiction of concealment elements, along with cut sheets for all antennas, Remote Radio Unit's, Transmitters, Receivers, and other in-line RF devices that are used in the site, propagation studies and modeling data including RF technical data and emissions.

E. Effect of State or Federal Law Change. If a subsequent state or federal law prohibits the collection of any information authorized by section 17.150.050, the director may omit, modify or add to that request from the city's application form with the written approval of the city attorney, which approval shall be a public record.

F. Independent Expert. The directorDirector is authorized to retain on behalf of the city an independent, qualified consultant to review any application for a permit for a wireless telecommunications facility. and confirm applicant's ongoing compliance. .The review is intended to be a review of all aspects of the proposed wireless telecommunications facility and shall address any or all of the following:

1. Compliance with applicable radio frequency emission standards; including completion of an RF Exposure Guidelines Checklist, and proof of all applicable licenses or other approvals required by the FCC.

2. Compliance with applicable building standards (e.g. the latest version of TIA-ANSI 222 regarding the structural adequacy of the support structure to the extent that such standards are more stringent than otherwise applicable standards);

3. Whether a denial of the application would be an "effective prohibition" in violation of applicable law;

4. The accuracy and completeness of submissions;

5. Technical demonstration of the unavailability of alternative sites or

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configurations and/or coverage analysis;

6. The applicability of analysis techniques and methodologies;

7. The validity of conclusions reached or claims made by applicant;

8. The viability of alternative sites and alternative designs; and

9. Any other specific technical issues identified by the consultant or designated by the city.

The cost of this review shall be paid by the applicant through a deposit pursuant to an adopted fee schedule which may be adopted by resolution. No permit shall be issued to any applicant which has not fully reimbursed the city for the cost of a consultant's review, even if the cost exceeds the initial amount of the deposit. Such amount shall be paid to the City prior to the issuance of the applicable permit or Certificate of Completion, whichever is procedurally needed next. Upon written request after the issuance of the Certificate of Completion and the payment of all expert assistance invoices, the City shall promptly refund any unexpended amount of the deposit. The payment of the deposit shall precede any work being done that is related to the intended Application or lease.

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17.150.060 Review Procedure

A. Pre-submittal Conference. Prior to application submittal, the city strongly encourages all applicants to schedule and attend a pre-submittal conference with designated City staff/departments and or consultants to receive informal feedback on the proposed location, design and application materials. The pre-submittal conference is intended to identify potential concerns and streamline the formal application review process after submittal. Staff will endeavor to provide applicants with a reasonable time and date mutually agreed upon. As the pre-submittal conference is not mandatory and is for the benefit of the applicant, it shall not precipitate the start of the FCC's applicable shot clock deadlines.

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B. Application Submittal Appointment. All applications must be submitted to the city and/or its designated consultant for completeness and review.

C. Notice; Decisions. The provisions in this section describe the procedures for approval and any required notice for an application.

1. *Planning Commission Hearings.* Any permit application under this chapter subject to planning commission approval (directly, or via appeal) shall require notice and a public hearing. The planning commission may approve, or conditionally approve, an application only after it makes the findings required in section 17.150.080.

2. *Decision by Planning Commission.* The Planning Commission may approve, or conditionally approve, an application only after it makes the findings required

in section 17.150.080. Within ten days after the Planning Commission approves or conditionally approves an application under this chapter, the director shall issue a notice of the decision and post the notice on the City's Planning Department public website, and any applicable conditions of approval shall be provided to the applicant at the contact information provided on the application.

3. *Written Decision Required.* All final decisions made pursuant to this chapter shall be in writing and based on substantial evidence in the written administrative record. The written decision shall include the reasons for the decision.

D. Appeals. Appeals shall be subject to the requirements of Chapter 17.88.

E. Review of Applications.

1. *Engineer's Certification.* Where a certification of any technical or engineering expert is called for in an application, such certification shall bear the signature and seal of a Professional Engineer licensed in the State.

2. *Leases Do Not Extinguish City Priorities*. The existence of a lease or an option to lease shall not be deemed justification for not complying with the city's siting priorities. An Applicant may not bypass sites of higher priority solely because the site proposed is under lease or an option to lease exists. If a site other than the number 1 priority is proposed, the applicant must explain to the reasonable satisfaction of the City why colocation is technically or commercially impracticable. Build-to-Suit agreements between carriers and a proposed tower owner shall not be a valid basis for any claim of exemption, exception or waiver from compliance with this Section.

3. *Verifiable Information.* Any technical information must be provided in such a manner, form and with such content that it is able to be verified by a third party using the information used and provided by the applicant.

17.150.070 Requirements for Facilities

A. Design, Development, and Construction Standards.

All ~~wireless~~Wireless telecommunications ~~facilities shall be designed and maintained as to minimize visual, noise and other impacts on the surrounding community and~~ shall be planned, designed, located, and erected in accordance with the following:

1. *General Guidelines*:

a. The applicant shall employ screening, undergrounding (where not prohibited by federal or state law) and camouflage design techniques in the design and placement of wireless telecommunications facilities to ensure that the facility is as visually screened as feasible, to prevent the facility from dominating the surrounding area and to minimize significant view impacts from surrounding properties all in a manner that

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achieves compatibility and does not result in visual disharmony with the community~~, and in compliance with section 17.400.175 of this Code~~.

b. 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 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.

c. Facilities shall be located such that the primary view from each residential structure is not significantly impaired.

d. The installation of new wireless facilities to new or existing poles in the public right-of-way must be separated at least five hundred (500) feet away from the nearest wireless facility.

e. Each component part of a facility shall be located in such manner as to minimize physical or visual obstructions to pedestrian or vehicular traffic, not inconvenience the public's use of the right-of-way, and not create safety hazards to pedestrians and motorists.

f. A facility shall not be located within any portion of the public right-of-way interfering with access to fire hydrants, fire stations, fire escapes, water valves, or underground vaults, valve housing structures, or any other vital public health and safety facility.

2. *Traffic Safety*. All facilities shall be designed and located in such a manner as to avoid adverse impacts on traffic safety.

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

4. *Equipment*. The applicant shall use the least visible equipment possible. Antenna elements shall be flush mounted, symmetrical to the top of the pole, and no more than four (4) inches wider in diameter than the existing pole, to the extent not technically impracticable. 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 section, antennas shall be the minimum height above ground technically ~~Needed~~needed to achieve the ~~intended purpose~~requirements herein. When part of small cell or DAS, antenna and equipment attached to and directly associated with the antenna, excluding cabling, shall cumulatively not exceed 3 cubic feet in volume, nor be larger than two feet (2') in height.

5. *Poles*.

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a. Facilities shall be located consistent with section 17.150.190.

b. Only pole-mounted antennas ~~or strand mounted antennas (within 10 feet of pole)~~ shall be permitted in the right-of-way. All other telecommunications ~~towers~~facilities are prohibited and no new poles are permitted that are not replacing an existing pole.

c. Utility Poles. If the proposed facility is to be located upon a utility pole, the maximum height of any antenna shall not exceed the lesser of forty-eight (48) inches or ten percent (10%) above the existing height of the utility pole, nor shall any portion of the antenna or equipment mounted on a pole be less than twenty-four (24) feet above any drivable road surface or 16-and-one-half feet (16.5') above any sidewalk or driveway surface. All installations on utility poles shall fully comply with the California Public Utilities Commission general orders, including, but not limited to, General Order 95, as may be revised or superseded.

d. Light Poles. If the proposed facility is to be located upon a light pole, the maximum height of any antenna shall not exceed the lesser of forty-eight (48) inches or ten percent (10%) above the existing height of the light pole, nor shall any portion of the antenna or equipment mounted on a pole be less than ten (10) feet above the ground and no less than twenty-four (24) feet above any drivable road surface or more than sixteen and a half (16.5) feet above any sidewalk or driveway surface.

e. New or Replacement Poles. Primarily but not exclusively for aesthetic reasons, the City reserves the right, at Applicant's cost, to require a new pole, or a replacement pole if such is needed to accommodate Wireless Equipment. If an applicant proposes to replace a pole in order to accommodate a proposed facility, the pole shall either be (i) designed to resemble as closely as is reasonably possible the appearance and dimensions of existing poles near the proposed location, including size, height, color, materials and style to the maximum extent feasible; or (ii) designed consistent with adopted wireless design guidelines. The new or replacement pole shall also be a hollow metal or non-~~corrodable~~corrodible functionally equivalent structure.

f. A pole mounted equipment and enclosure, exclusive of antennas, shall not exceed four (4) cubic feet in total volume.

g. No utility or light pole shall ever exceed the lesser of fifty feet (50') or the maximum permitted height for the zoning district in which it is located.

h. Accessory Equipment: Except where otherwise preempted by federal or state law, all accessory equipment is required to be located underground to the extent feasible. When above-ground is the only feasible location for a particular type of accessory equipment and when such accessory equipment cannot be pole-mounted, such accessory equipment shall be enclosed within a structure, and shall not exceed a height of five feet and a total footprint of 15 square feet, and when viewed

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from the street, is surrounded by foliage, which foliage, within 6 months of installation, will screen no less than 50% of the structure when viewed from the street.

6. *Space*. Each facility to be located within the right of way shall be designed to occupy the least amount of space in the right-of-way that is technically feasible.

7. *Wind Loads*. Each facility 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 facility, where such modification is proposed.

8. *Obstructions*. Each component part of a facility shall be located ~~so~~in such manner, as ~~not~~ to ~~cause any~~minimize physical or visual obstruction to pedestrian or vehicular traffic, not incommode the public's use of the right-of-way, ~~or~~and not create safety hazards to pedestrians and motorists.

9. *Public Facilities*. No equipment or facility shall be located and no work associated thereto shall interfere with access to a fire hydrant, fire station, fire escape, water valve, underground vault, valve housing structure, utility or any other public health or safety facility or the public right-of-way.

10. *Screening and Aesthetics*.

a. All ground-mounted facility, pole-mounted equipment, or walls, fences, landscaping or other screening methods shall be installed at least eighteen (18) inches from the curb and gutter flow line.

b. If permitted to be mounted externally, no Wireless Antenna or other pole-mounted equipment shall extend laterally beyond the diameter of the structure as measured at the point of attachment.

c. If permitted to be mounted externally, the point of attachment of any antennas shall not be more than three inches (3") from the pole or other support structure, and the space between the structure and the attachment point of the antenna shall be concealed with a weather-proof material the same color as the structure or the antenna.

d. Antennas shall be of a color that, as closely as is reasonably possible, matches that of the support structure.

e. Except in such circumstances where federal or state law preempts this requirement, all antenna, cabling, electronic and accessory equipment not attached to the antenna(s) and transmission and distribution cable or fiber shall be placed underground in a weather-proof vault or contained inside the new support Structure; and when federal or state law or justifiable circumstance preempt or prohibit this requirement, the same shall be mounted so as to be the least visually intrusive given the facts and circumstances.

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~~f. A Small Wireless Facility shall not be easily recognizable as a wireless facility by a layperson.~~

f. Signage shall be attached on all wireless facilities in such manner as to leave it clearly visible to any person by, near, under, or around the site, indicating the level of exposure to RF emissions from the site at the spot of the signage. Signage shall be in compliance with appropriate federal and state regulations.

g. All small cell or DAS Antennas shall not be larger than two feet (2') in height.

11. *Accessory Equipment*. Not including the electric meter, all accessory equipment shall be located underground, except as provided below:

a. If the proposed facility is in the right-of-way, unless city staff determines that there is no room in the public right-of-way for undergrounding, that undergrounding is not feasible, or federal or state law or regulation prohibit the City from requiring undergrounding, an exception 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 feasible location for a particular type of accessory equipment and will be ground-mounted, such accessory equipment shall be enclosed within a structure, and shall not exceed a height of three feet (3') and a total of twenty-eight (28) cubic feet, and shall be fully screened and/or camouflaged, including the use of landscaping, architectural treatment, or acceptable alternate screening. Required electrical meter cabinets shall be screened and/or camouflaged. Also, while pole-mounted equipment is generally the least favored installation, should pole-mounted equipment be sought, it shall be installed as required in this Chapter.

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 street with no homes.

d. When otherwise preempted by federal or state law or regulation.

12. *Landscaping*. Where appropriate, each facility shall be installed so as to maintain and enhance existing landscaping on the site, including trees, foliage and shrubs. Additional landscaping shall be planted, irrigated and maintained by applicant where such landscaping is deemed necessary by the city to provide screening or to conceal the facility.

13. *Signage*. No facility shall bear any signs or advertising devices other than certification, warning or other signage required by law or permitted by the city.

14. *Lighting*.

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a. No facility may be illuminated unless specifically required by the Federal Aviation Administration or other government agency. Beacon lights are not permitted unless required by the Federal Aviation Administration or other government agency.

b. Legally required lightning arresters and beacons shall be included when calculating the height of facilities such as telecommunications towers, lattice towers and monopoles.

c. Any required lighting shall be shielded to eliminate, to the maximum extent possible, impacts on the surrounding neighborhoods.

d. Unless otherwise required under FAA or FCC regulations, applicants may install only timed or motion-sensitive light controllers and lights, and must install such lights so as to avoid illumination impacts to adjacent properties to the maximum extent feasible. The City may, in its discretion, exempt an applicant from the foregoing requirement when the applicant demonstrates a substantial public safety need.

e. The applicant shall submit a lighting study which shall be prepared by a qualified lighting professional to evaluate potential impacts to adjacent properties. Should no lighting be proposed, no lighting study shall be required.

15. *Noise*.

a. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 7:00 PM and 7:00 AM. A Fire Department Inspection on backup generators is required before generator installation.

b. At no time shall equipment noise from any facility exceed an exterior noise level of fifty-five (55) dBA three (3) feet from the source of the noise if the facility is located in the public right-of-way adjacent to a business, commercial, manufacturing, utility or school zone; provided, however, that for any such facility located within ~~five~~fifteen hundred (~~500~~1500) feet of any property zoned residential or improved with a residential use, such equipment noise shall not exceed forty-five (45) dBA three (3) feet from the sources of the noise.

16. *Security*. Each facility shall be designed to be resistant to, and minimize opportunities for, unauthorized access, climbing, vandalism, graffiti and other conditions that would result in hazardous situations, visual blight or attractive nuisances. The director may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when, because of its location and/or accessibility, a facility has the potential to become an attractive nuisance. Additionally, no dangerous or potentially lethal devices or elements shall be installed as a security device.

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17. *Modification*. Consistent with current state and federal laws and, if permissible under the same, at the time of modification of a wireless telecommunications facility, existing equipment shall, to the extent feasible, be replaced with equipment that reduces visual, noise and other impacts, including, but not limited to, undergrounding the equipment and replacing larger, more visually intrusive facilities with smaller, less visually intrusive facilities.

18. *Expiration*. The installation and construction approved by a wireless telecommunications facility permit shall begin within one (1) year after its approval or it will expire without further action by the city.

19. *Construction*. All construction and maintenance shall at all times comply with all applicable portions of all federal, State and local safety and safety related codes.

20. *Compliance.* No telecommunication facility shall be sited or operated in such a manner that it poses, either by itself or in combination with other such facilities, a threat to public health. To that end no telecommunication facility or combination of facilities shall produce at any time power densities that exceed the standard for human exposure adopted or promulgated by any agency with authority to promulgate such standards. Initial compliance with this requirement shall be demonstrated for any facility within 500 hundred feet of residential uses or sensitive receptors such as schools, churches, hospitals, etc. and all broadcast radio and television facilities, regardless of adjacent land uses, through submission, at the time of application for the necessary permit or entitlement, to include cut sheets for all antennas, Remote Radio Unit's, Transmitters, Receivers, and other in-line RF devices that are used in the site, as well as the Modeling and Propagation Study Data Forms.

B. Conditions of Approval. In addition to compliance with the design and development standards outlined in this section, all facilities shall be subject 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:

1. *As built drawings.* The permittee shall submit an as-built drawing within thirty (30) days after installation of the facility. As-builts shall be in an electronic format acceptable to the city which can be linked to the city's GIS.

2. *Contact information*. 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 (30) 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:

a. 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 facility.

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b. The legal status of the owner of the wireless telecommunications facility.

3. Assignment. The permittee shall notify the city in writing at least ninety (90) days prior to any proposed transfer or assignment of the permit. 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 by a qualified radio frequency engineer demonstrating compliance with all applicable regulations and standards of the Federal Communications Commission. 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 the applicable permits pursuant to and following the procedure set on in section 17.150.170.

4. *Signs*. At all times, all required notices and/or signs shall be posted on the site as required by the Federal Communications Commission, California Public Utilities Commission, any applicable licenses or 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.

5. *Security.* For a CUP ~~or a Master Deployment Plan Permit,~~ permittee shall pay for and provide a performance bond or other form of security approved by the city attorney's office, which shall be in effect until the facilities are fully and completely removed and the site reasonably returned to its original condition, to cover permittee's obligations under these conditions of approval and this code. The security instrument coverage shall include, but not be limited to, removal of the facility. (The amount of the security instrument shall be calculated by the applicant in its submittal documents in an amount rationally related to the obligations covered by the bond and shall be specified in the conditions of approval.) Before issuance of any building permit, permittee must submit said security instrument.

6. *Noise.* If a nearby property owner registers a noise complaint, the city shall forward the same to the permittee. Said compliant shall be reviewed and evaluated by the applicant. The permittee shall have ten (10) business days to file a written response regarding the complaint which shall include any applicable remedial measures. If the city determines the complaint is valid and the applicant 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 chapter. The matter shall be reviewed by the director. If the director determines sound proofing or other sound attenuation measures should be required to

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bring the project into compliance with the Code, the director may impose conditions on the project to achieve said objective.

7. *Permit Expiration*. A condition setting forth the permit expiration date in accordance with section 17.150.150 shall be included in the conditions of approval.

8. *Additional conditions.* The wireless telecommunications facility shall be subject to such conditions, changes or limitations as are from time to time deemed necessary by the director 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 public right-of-way 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.

9. *Permit Transfer.* The permittee shall not transfer the permit to any person prior to the completion of the construction of the facility covered by the permit, unless and until the transferee of the permit has submitted the security instrument required by section 17.150.070(B)(5).

10. *Property Rights.* 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 wireless telecommunications facility 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 an encroachment permit issued for any facility within the public right-of-way, the permittee shall provide the city with documentation establishing to the city's satisfaction that the permittee has the legal right to use or interfere with any other structure, improvement or property within the public right-of-way to be affected by applicant's facilities.

11. *Liability.* The permittee shall assume full liability for damage or injury caused to any property or person by the facility.

12. *Repair Obligations.* 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 wireless telecommunications facility in the public right-of-way. 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. Such time period for

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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 city engineer shall cause such repair to be completed at permittee's sole cost and expense.

13. *Drip Line.* No facility shall be permitted to be installed in the drip line of any tree in the right-of-way.

14. *Insurance.* The permittee shall obtain, pay for and maintain, in full force and effect until the facility approved by the permit is removed in its entirety from the public right-of-way, an insurance policy or policies meeting the City of Nevada City's insurance requirements for contractors to perform work with public right-of-way.

15. *Indemnification.* Permittee shall defend, indemnify, protect and hold harmless city, its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees, and volunteers from and against any and all claims, actions, or proceeding against the city, and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees, and volunteers to attack, set aside, void or annul, an approval of the city, planning commission or city council concerning this permit and the project. Such indemnification shall include damages of any type, judgments, settlements, penalties, fines, defensive costs or expenses, including, but not limited to, interest, attorneys' fees and expert witness fees, or liability of any kind related to or arising from such claim, action, or proceeding. The city shall promptly notify the permittee of any claim, action, or proceeding. Nothing contained herein shall prohibit city from participating in a defense of any claim, action or proceeding. The city shall have the option of coordinating the defense, including, but not limited to, choosing counsel after consulting with permittee and at permittee's expense.

16. *Hold Harmless.* Additionally, to the fullest extent permitted by law, the permittee, and every permittee and person in a shared permit, jointly and severally, shall defend, indemnify, protect and hold the city and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers harmless from and against all claims, suits, demands, actions, losses, liabilities, judgments, settlements, costs (including, but not limited to, attorney's fees, interest and expert witness fees), or damages claimed by third parties against the city for any injury claim, and for property damage sustained by any person, arising out of, resulting from, or are in any way related to the wireless telecommunications facility, or to any work done by or use of the public right-of-way by the permittee, owner or operator of the wireless telecommunications facility, or their agents, excepting only liability arising out of the sole negligence or willful misconduct of the city and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers.

17. *Cabinet Removal.* Should the utility company servicing the facility with electrical service that does not require the use of an above ground meter cabinet, the permittee

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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.

18. *Relocation.* The permittee shall modify, remove, or relocate its facility, 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 wireless telecommunications facility has become incompatible with public health, safety or welfare or the public's use of the public right-of-way. Such modification, removal, or relocation of the facility shall be completed within ninety (90) days of notification by city unless exigencies dictate a shorter period for removal or relocation. Modification or relocation of the facility shall require submittal, review and approval of a modified permit pursuant to the Code including applicable notice and hearing 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 facility is not modified, removed, or relocated within said period of time, city may cause the same to be done at the sole cost and expense of 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 wireless telecommunications facilities without prior notice to permittee provided permittee is notified within a reasonable period thereafter.

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19. *Conditions.* Permittee shall agree in writing that the permittee is aware of, and agrees to abide by, all conditions of approval imposed by the wireless telecommunications facility permit within thirty (30) days of permit issuance. The permit shall be void and of no force or effect unless such written consent is received by the city within said thirty (30) day period.

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20. *Right of Way Agreement.* Prior to the issuance of any encroachment permit, permittee shall be required to enter into a right-of-way agreement with the city in accordance with the City's past practice.

17.150.080 Findings.

No CUP shall be granted for a wireless telecommunications facility unless the approving party makes all of the following findings:

A. All notices required for the proposed installation have been timely given.

B. The proposed facility has been designed and located in compliance with all

applicable laws, including the requirements of this Chapter 17.150.

C. The applicant has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has otherwise obtained a legal authorization to use the public right-of-way.

D. The facility is designed in a manner consistent with the architectural requirements applicable to the zone, if any.

E. ~~The applicant has shown that no other feasible design would be less intrusive upon the values intended to be protected by Chapter 17.150.~~ The proposed facilities are designed in a way that preserves and promotes harmonious land uses and the public right-of-way in the City, furthers the purposes of the general plan, and protects public health and safety, visual resources, and the aesthetic quality of the City consistent with the goals, objectives and policies of the General Plan;

~~F~~F. The applicant has shown that no other feasible design would be less intrusive upon the values intended to be protected by Chapter 17.150.

G. There is no known feasible alternate location which is available to the applicant at rates that are not commercially impracticable and that would be less intrusive upon the values intended to be protected by Chapter 17.150, and which location would allow the applicant to meet its reasonable wireless coverage objectives.

17.150.090 Planning Commission.

The Planning Commission will review and approve, conditionally approve, or deny ~~CUP and Master Deployment Plan Permits~~a CUP.

17.150.100 Nonexclusive Grant

No permit or approval granted under this chapter shall confer any exclusive right, privilege, license or franchise to occupy or use the public right-of-way of the city for any purpose whatsoever. Further, no approval shall be construed as any warranty of title.

17.150.110 Emergency Deployment.

A COW shall be permitted for the duration of an emergency declared by the city or at the discretion of the director. "COW" means a "cell on wheels," which is a wireless telecommunications facility temporarily rolled in or temporarily installed. Notwithstanding the foregoing, other than in extreme emergency situations as determined by the City, COWs shall not be permitted in the right-of-way.

17.150.120 Operation and Maintenance Standards.

All wireless telecommunications facilities must comply at all times with the following

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operation and maintenance standards.

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. Each permittee of a wireless telecommunications facility shall provide the director with the name, address and 24-hour local or toll-free contact phone number of 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 (7) days of any change.

C. All facilities, including, but not limited to, telecommunication towers, poles, accessory equipment, lighting, fences, walls, shields, cabinets, artificial foliage or camouflage, and the facility site shall be maintained in good and safe condition, including compliance with the applicable portions of the most current version of TIA-ANSI 222, including but not limited to ensuring the facilities are free of:

1. Unreasonable amount of 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. Loose or unsecured fittings.
8. Broken and misshapen structural parts; and
9. Any damage from any cause.

D. All trees, foliage or other landscaping elements approved as part of the facility shall be maintained in good condition at all times, and the permittee, owner and operator of the facility shall be responsible for replacing any damaged, dead or decayed landscaping.

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No amendment to any approved landscaping plan may be made until it is submitted to and approved by the director.

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

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

17.150.130 Certificate of Completion for New Work

A. No work shall be allowed to be done at or on any wireless facility, excepting normal repair and maintenance work, for which the owner cannot produce a certificate of completion for the most recent previous work, until a final inspection has been conducted and a certificate of completion has been issued. The owner of the wireless facility, telecommunications tower, or other support structure shall pay for any inspection(s) prior to the inspection(s) being conducted. A passing final inspection is required prior to the issuance of a certificate of completion.

B. Operation of a facility without a certificate of completion is prohibited and may be enforced either pursuant to Chapter 1.12 or 1.22 of this Code.

17.150.140 No Dangerous Condition or Obstructions Allowed.

No person shall install, use or maintain any facility, when such installation, use or maintenance endangers or is reasonably likely to endanger the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such facility unreasonably interferes with or unreasonably impairs or impedes the flow of pedestrian, bicycle, or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects permitted at or near said location. A facility, an equipment enclosure, and ancillary equipment must be designed and located in a manner that does not materially obstruct the roadway views of vehicles, bicycles, and pedestrians traveling within the public right-of-way, and does not obstruct the visibility of signs located within the right-of-way.

17.150.150 Permit Expiration.

A. Unless Government Code section 65964, as may be amended, authorizes the city to issue a permit with a shorter term, a permit for any wireless telecommunications facility shall be valid for a period of ten (10) years, unless pursuant to another provision of this Code it lapses sooner or is revoked. At

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the end of ten (10) years from the date of issuance, such permit shall automatically expire.

B. ~~B.~~ A permittee may apply for a new permit within one hundred and eighty (180) days prior to expiration. Said application and proposal shall comply with the city's current code requirements for wireless telecommunications facilities.

17.150.160 Cessation of Use or Abandonment.

A. A wireless telecommunications facility is considered abandoned and shall be promptly removed as provided herein if it ceases to provide wireless telecommunications services for ninety (90) or more consecutive days unless the permittee has obtained prior written approval from the director which shall not be unreasonably denied. If there are two (2) or more users of a single facility, then this provision shall not become effective until all users cease using the facility.

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

C. Failure to inform the director of cessation or discontinuation of operations of any existing facility as required by this section shall constitute a violation of any approvals and be grounds for:

1. Litigation;

2. Revocation or modification of the permit;

3. Acting on any bond or other assurance required by this article or conditions of approval of the permit;

4. Removal of the facilities by the city in accordance with the procedures established under this Code for abatement of a public nuisance at the owner's expense; and/or

5. Any other remedies permitted under this Code.

17.150.170 Removal and Restoration – Permit Expiration, Revocation or Abandonment.

A. Upon the expiration date of the permit, including any extensions, earlier termination or revocation of the permit or abandonment of the facility, the permittee, owner or operator

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shall remove its wireless telecommunications facility and restore the site to its natural condition except for retaining the landscaping improvements and any other improvements at the discretion of the city. Removal shall be in accordance with proper health and safety requirements and all ordinances, rules, and regulations of the city. The facility shall be removed from the property, at no cost or expense to the city.

B. Failure of the permittee, owner or operator to promptly remove its facility and restore the property within ninety (90) days after expiration, earlier termination or revocation of the permit, or abandonment of the facility, shall be a violation of this Code. Upon a showing of good cause, an extension may be granted by the director where circumstances are beyond the control of the permittee after expiration. Further failure to abide by the timeline provided in this section shall be grounds for:

1. Prosecution;

2. Acting on any security instrument required by this chapter or conditions of approval of permit;

3. Removal of the facilities by the city in accordance with the procedures established under this Code for abatement of a public nuisance at the owner's expense; and/or

4. Any other remedies permitted under this Code.

C. ~~C.~~ *Summary Removal*. In the event the director or city engineer determines that the condition or placement of a wireless telecommunications facility located in the public right-of-way constitutes a dangerous condition, obstruction of the public right-of-way, or an imminent threat to public safety, or determines other exigent circumstances require immediate corrective action (collectively, "exigent circumstances"), the director or city engineer may cause the facility to be removed summarily and immediately without advance notice or a hearing. Written notice of the removal shall include the basis for the removal and shall be served upon the permittee and person who owns the facility within five (5) business days of removal and all property removed shall be preserved for the owner's pick-up as feasible. If the owner cannot be identified following reasonable effort or if the owner fails to pick-up the property within sixty (60) days, the facility shall be treated as abandoned property.

D. *Removal of Facilities by City*. In the event the city removes a facility in accordance with nuisance abatement procedures or summary removal, any such removal shall be without any liability to the city for any damage to such facility that may result from reasonable efforts of removal. In addition to the procedures for recovering costs of nuisance abatement, the city may collect such costs from the performance bond posted and to the extent such costs exceed the amount of the performance bond, collect those excess costs in accordance with this Code. Unless otherwise provided herein, the city has no obligation to store such facility. Neither the permittee, owner nor operator shall have any claim if the city destroys any such facility not timely removed by the permittee,

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owner or operator after notice, or removed by the city due to exigent circumstances.

17.150.180 Exceptions.

A. Effective Prohibition. In the event that any applicant asserts that strict compliance with any provisions in this chapter, as applied to a specific proposed wireless services facility, would effectively prohibit the provision of wireless services, the Planning Commission, when the application is for a CUP, or the Director, when the application is for an Administrative Permit, may grant a limited, one-time exemption from strict compliance subject to the provisions in this section.

B. Required Findings. The Planning Commission or Director shall not grant any exception unless the applicant demonstrates with clear and convincing evidence all the following:

1. The applicant has provided the city with a clearly defined technical service objective and a clearly defined potential site search area;

~~3~~2. The applicant has provided the city with a meaningful comparative analysis that includes the factual reasons why any alternative location(s) or design(s) suggested by the city of otherwise identified in the administrative record, including but not limited to potential alternatives identified at any public meeting or hearing, are not technically feasible or potentially available; and

~~4~~3. The applicant has provided the city with a meaningful comparative analysis that includes the factual reasons why the proposed location and design deviates is the least noncompliant location and design necessary to reasonably achieve the applicant's reasonable technical service objectives.

C. Scope. The Planning Commission and Director shall limit ~~its~~their exemption to the extent to which the applicant demonstrates such exemption in Necessary to reasonably achieve its reasonable technical service Needs. The Planning Commission may adopt conditions of approval as reasonably necessary to promote the purposes in this chapter and protect the public health, safety and welfare.

D. Procedure. An applicant desiring relief, waiver, or exemption from any aspect or requirement of this Ordinance shall address and identify such at the earliest possible time. If relief is not requested at or prior to a Pre-Application meeting, the city reserves the right to require a formal Amendment of the Application, including payment of all applicable fees and charges. The burden of providing the need for requested relief shall be solely on Applicant. Applicant bears all costs of the city in considering the request for relief.

17.150.190 Location Prohibitions and Preferences

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A. Prohibited. Unless otherwise required by law, no wireless facility in the right of way may be located in any area the City Engineer determines is inconsistent with existing or planned or expected uses of the right of way.

B. Especially Discouraged. ~~Unless authorized by CUP or otherwise allowed by law, telecommunications~~Telecommunications facilities ~~shall not be allowed within those portions of the right of way which~~ are especially discouraged in ~~the 7 Hills Business District,~~ any residential and historical zone ~~or in the Historical Combining District.~~ as well as designated sensitive areas.

C. Discouraged. Wireless telecommunication facilities are discouraged from being in the Scenic Corridor Combining District~~.~~ or any Historic Districts. A facility in the scenic corridor combining district must ~~either~~ obtain a CUP ~~or administrative permit~~ where required by federal or state law and this ordinance.

D. Encouraged. Wireless telecommunication facilities are encouraged to be in industrial and commercial zones.

17.150.200 Effect on Other Ordinances.

Compliance with the provisions of this chapter shall not relieve a person from complying with any other applicable provision of this Code. In the event of a conflict between any provision of this chapter and other sections of this Code, this chapter shall control.

17.150.210 State or Federal Law.

A. In the event it is determined by the city attorney that state or federal law prohibits certain discretionary permitting requirements for certain wireless telecommunications facilities, such requirement shall be deemed severable and all remaining regulations shall remain in full force and effect. For those facilities, in lieu of a CUP required by section 17.150.040, an administrative permit shall be required, and all provisions of that section shall be required except to the extent determined by the city attorney to be prohibited by law. Any conditions of approval set forth in this provision or deemed necessary by the director shall be imposed and administered as reasonable time, place and manner rules.

B. If subsequent to the issuance of the city attorney's opinion pursuant to (A) above, the city attorney determines that the law has changed and that such discretionary permitting is permissible, the city attorney shall inform appropriate city staff and all discretionary permitting requirements shall be reinstated.

17.150.220 Nonconforming Wireless Telecommunications Facilities in the Right-of-Way.

A. Nonconforming wireless telecommunications facilities are those facilities that do not conform to this chapter.

B. Nonconforming wireless telecommunications facilities shall be brought into conformity with all requirements of this article upon the first modification or upgrade of the Facility or Equipment following adoption of this ordinance; provided, however, that should the owner desire to expand or modify the facility, intensify the use, or make some other change in a conditional use, the owner shall comply with all applicable provisions of this Code at such time, to the extent the city can require such compliance under federal and state law.

C. An aggrieved person may file an appeal to the city council of any decision of the director made pursuant to this section. In the event of an appeal alleging that the ten (10) year amortization period is not reasonable as applied to a particular property, the city council may consider the amount of investment or original cost, present actual or depreciated value, dates of construction, amortization for tax purposes, salvage value, remaining useful life, the length and remaining term of the lease under which it is maintained (if any), and the harm to the public if the structure remains standing beyond the prescribed amortization period, and set an amortization period accordingly for the specific property."

SECTION 17.150.230 MAP OF 7-HILLS BUSINESS DISTRICT

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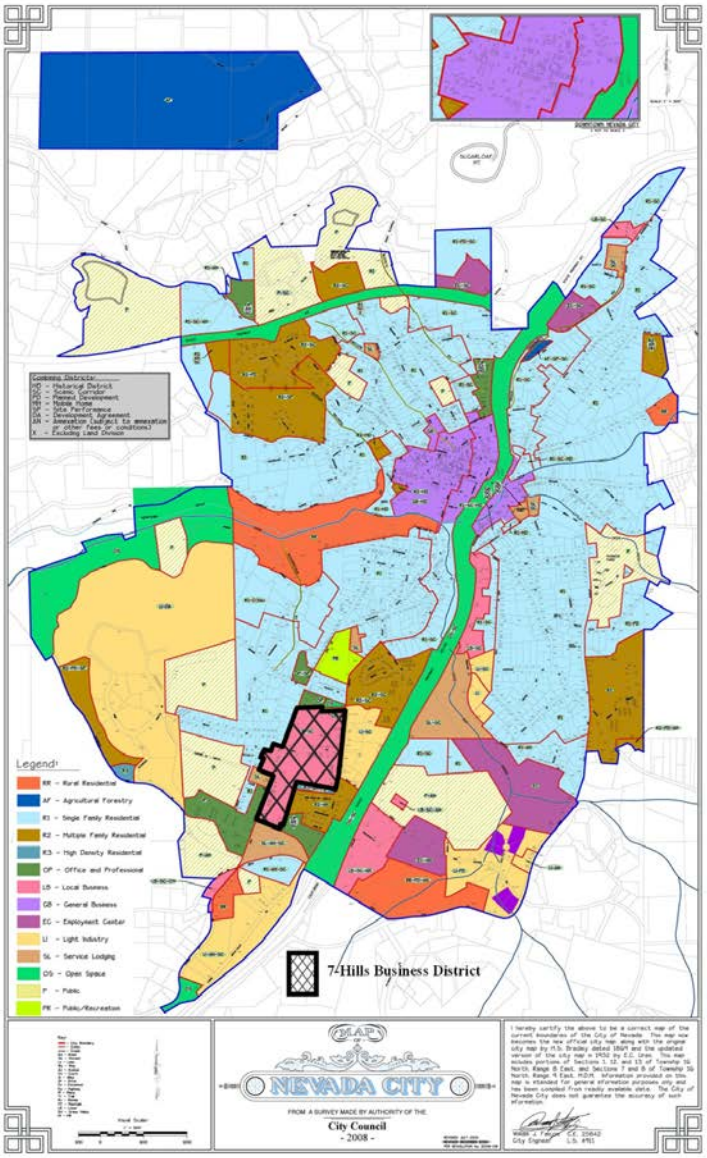
7-Hills Business District Exhibit Map
as depicted on the City Zoning Map



SECTION 2. CEQA. This Ordinance is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines ~~section 15061 because CEQA only applies to projects which have the potential to have a significant impact on the environment and because the environmental impact of each individual project will be analyzed at the time that the project is submitted. There are no impacts of this ordinance which have the potential to cumulatively cause a significant effect on the environment because the city is so small, and it is not anticipated that there will be enough facilities to cause such an impact.~~ sections 15061, 15183, 15301, 15303, and 15305 because it can be seen with certainty that there is no possibility that the adoption of this ordinance will have a significant impact on the environment.

~~SECTION 3. Moratorium Terminated. Upon the effective date of this ordinance, the interim ordinance, originally adopted on October 10, 2018, and extended on November 14, 2018 is repealed.~~

~~SECTION 4.~~SECTION 3. Effective Date. This ordinance shall become effective on the 31st day after adoption.

SECTION ~~5~~4. Severability. If any portion of this ordinance is found to be unenforceable, each such provision shall be severed, and all remaining portions of this ordinance shall be enforced to the maximum extent legally permissible.

SECTION ~~6~~5. Certification. The City Clerk shall certify to the passage and adoption of this ordinance as required by law.

PASSED, APPROVED AND ADOPTED ~~at the regularly scheduled meeting of the Nevada City Council held on the 25th~~this ___th day of ~~September, 2019~~_____2020 by the following vote:

AYES: ~~**PARKER, MINETT, STRAWSER, MOBERG**~~COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

Reinette Senum, Mayor

~~**ABSTAIN: SENUM**~~

ATTEST:

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_____
Niel Locke, City Clerk

APPROVED AS TO FORM

_____
Crystal V. Hodgson, City Attorney

I, Niel Locke, City Clerk of Nevada City, do hereby certify that the foregoing urgency ordinance was introduced and adopted at a meeting thereof on the ____day of _____ 2020.

_____
~~Reinette Senum, Mayor~~

_____
Niel Locke, City Clerk

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