



**REGULAR CITY COUNCIL MEETING
WEDNESDAY, SEPTEMBER 25, 2019**

**Closed Session – 6:15 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
David Parker, Council Member**

**Erin Minett, Vice Mayor
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.

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: 6:15 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 54957.6, a closed session of the City Council will be held for the purpose of reviewing its position and instructing its designated representatives regarding employee salaries, salary schedules, fringe benefits and all other matters within the statutory scope of representation. The designated labor negotiation representatives for Nevada City are Catrina Olson, City Manager and Loree' McCay, Administrative Services Manager. The labor negotiations concern the following bargaining unit: Nevada County Professional Firefighters, Local 3800.

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 AND COMMITTEE REPORTS:

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

Recommendation: Receive and file.

B. Subject: Award of Contract for Miscellaneous Paving 2019

Recommendation: Pass Resolution 2019-XX, a Resolution of the City Council of the City of Nevada City to award a contract to Central Valley Engineering & Asphalt, Inc. in the amount of \$49,900 plus \$10,000 contingencies for Miscellaneous Paving 2019 in Nevada City and authorize the Mayor to sign.

4. APPROVAL OF ACTION MINUTES:

A. City Council Meeting – September 11, 2019

5. DEPARTMENT REQUESTED ACTION ITEMS AND UPDATE REPORTS:

A. Subject: Courthouse Committee Update

Recommendation: Receive and file.

- B. Subject:** Parking Committee Update
Recommendation: Receive and file.

6. PUBLIC HEARINGS:

- A. Subject:** Ordinance for the Regulation of Wireless Telecommunication Facilities in the City
Recommendation: Introduce by title only, and waive reading the full reading of the Ordinance, second reading of Ordinance 2019-XX amending Chapter 17.150 and renaming it “Wireless Telecommunication Facilities in the City”.

7. OLD BUSINESS:

8. NEW BUSINESS:

- A. Subject:** Request for In-Kind Sponsorship of the Wild and Scenic Film Festival and Street Closure Request at York Street
Recommendation: Approve request to provide in-kind sponsorship of the Wild and Scenic Film Festival January 16-19, 2020:
1. Waive fees for the use of the Veteran’s Building.
 2. Waive fees for the use of the City Hall Council Chambers.
 3. Approve the street closure request for York Street and waive applicable fees.

9. CORRESPONDENCE:

10. ANNOUNCEMENTS:

11. CITY MANAGER’S REPORT:

12. ADJOURNMENT

Certification of Posting of Agenda

I, Catrina Olson, City Manager for the City of Nevada City, declare that the foregoing agenda for the September 25th, 2019 Regular Meeting of the Nevada City City Council was posted September 20th, 2019 at the entrance of City Hall. The agenda is also posted on the City’s website www.nevadacityca.gov.

Signed September 20th, 2019, at Nevada City, California

Catrina Olson, City Manager

CITY OF NEVADA CITY
City Council
Long Range Calendar

October 9, 2019	Regular Council Meeting
October 14, 2019	Holiday
October 23, 2019	Regular Council Meeting
November 11, 2019	Holiday
November 13, 2019	Regular Council Meeting
November 28/29, 2019	Holiday
December 10, 2019	Regular Council Meeting (Tuesday instead of Wednesday)
December 25, 2019	Holiday
January 1, 2019	Holiday
January 8, 2019	Regular Council Meeting
January 20, 2019	Holiday
January 22, 2019	Regular Council Meeting
February 10, 2019	Strategic Planning
February 12, 2019	Regular Meeting
February 17, 2019	Holiday
February 26, 2019	Regular 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

September 25, 2019

TITLE: Fire Activity Report – August 2019

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 {08/01/2019} And {08/31/2019}

Alm Date	Alm Time	Location	Incident Type
08/02/2019	04:45:00	439 Brock RD /Nevada City	554 Assist invalid
08/02/2019	10:35:00	20864 Rector RD /Nevada C	116 Fuel burner/boiler malfuncti
08/02/2019	14:38:00	Pittsburg Mine RD & Banne	131 Passenger vehicle fire
08/02/2019	18:46:00	145 BOST AVE /Nevada City	743 Smoke detector activation, n
08/03/2019	02:57:00	12396 Robust WAY /Nevada	251 Excessive heat, scorch burns
08/03/2019	08:34:00	121 Dorsey DR /Grass Vall	745 Alarm system activation, no
08/03/2019	11:34:00	Greenhorn Rd approximatel	611 Dispatched & cancelled en ro
08/03/2019	13:42:00	760 ZION ST /Nevada City,	743 Smoke detector activation, n
08/03/2019	15:37:00	First Camp site at Scotts	320 Emergency medical service, o
08/03/2019	17:41:00	111 Chief Kelly DR /Nevad	320 Emergency medical service, o
08/03/2019	22:55:00	841 Old Tunnel RD /60 Uni	113 Cooking fire, confined to co
08/04/2019	19:57:00	425 Nimrod ST /A/Nevada C	321 EMS call, excluding vehicle
08/05/2019	17:25:00	11166 Banner Mine WAY /Ne	300 Rescue, EMS incident, other
08/07/2019	10:27:00	510 Sacramento ST /nevada	320 Emergency medical service, o
08/07/2019	23:26:00	13313 Greenhorn RD /Grass	320 Emergency medical service, o
08/08/2019	13:08:00	416 Crown Point CIR /Gras	743 Smoke detector activation, n
08/09/2019	06:14:00	150 Sutton WAY /249/Grass	320 Emergency medical service, o
08/09/2019	08:29:00	11891 Brunswick DR /Grass	611 Dispatched & cancelled en ro
08/09/2019	20:59:00	Highwaay 49 /Nevada City,	622 No Incident found on arrival
08/10/2019	14:49:00	760 ZION ST /Nevada City,	743 Smoke detector activation, n
08/10/2019	18:35:00	401 BROAD ST /Nevada City	321 EMS call, excluding vehicle
08/10/2019	23:44:00	17143 Sky Oaks LANE /Gras	320 Emergency medical service, o
08/11/2019	01:13:00	10280 Red Dog RD /Nevada	323 Motor vehicle/pedestrian acc
08/12/2019	08:33:00	347 Nile ST /22/Nevada Ci	320 Emergency medical service, o
08/12/2019	13:45:00	121 Dorsey DR /Grass Vall	611 Dispatched & cancelled en ro
08/12/2019	14:41:00	459 HOLLOW WAY /Nevada Ci	243 Fireworks explosion (no fire
08/12/2019	17:17:00	120 BRIDGE ST /Nevada Cit	412 Gas leak (natural gas or LPG
08/13/2019	03:41:00	1866 Ridge RD /Grass Vall	733 Smoke detector activation du
08/13/2019	14:36:00	416 Crown Point CIR /Gras	700 False alarm or false call, O
08/13/2019	14:55:00	867 Sutton WAY /Grass Val	550 Public service assistance, O
08/13/2019	16:07:00	10946 Pine View Heights /	320 Emergency medical service, o
08/13/2019	17:13:00	Purnndon Crossing /Nevada	320 Emergency medical service, o
08/14/2019	07:28:00	10714 Pittsburg RD /Nevad	554 Assist invalid
08/14/2019	08:13:00	York Street & Commercial	622 No Incident found on arrival
08/14/2019	15:22:00	Idaho-Maryland Rd near Br	142 Brush or brush-and-grass mix
08/14/2019	15:22:00	Idaho-Maryland Rd near Br	142 Brush or brush-and-grass mix
08/14/2019	21:19:00	10293 Ridge RD /Nevada Ci	412 Gas leak (natural gas or LPG
08/15/2019	03:30:00	760 ZION ST /Nevada City,	622 No Incident found on arrival
08/15/2019	06:36:00	145 BOST AVE /Nevada City	743 Smoke detector activation, n
08/15/2019	21:15:00	Ridge RD & Nevada City HW	412 Gas leak (natural gas or LPG
08/16/2019	10:49:00	145 Holbrooke LN /Grass V	424 Carbon monoxide incident
08/16/2019	14:08:00	700 HOOVER LN /Nevada Cit	711 Municipal alarm system, mali
08/16/2019	16:42:00	13234 Squirrel Creek RD /	300 Rescue, EMS incident, other
08/16/2019	19:10:00	13266 North Bloomfield RD	324 Motor Vehicle Accident with
08/17/2019	13:23:00	760 ZION ST /Nevada City,	743 Smoke detector activation, n
08/17/2019	14:47:00	18851 State Highway 20 HW	611 Dispatched & cancelled en ro
08/17/2019	16:00:00	332 Nile ST /Nevada City,	300 Rescue, EMS incident, other
08/17/2019	16:35:00	Julia Ranch RD & Jones Ri	653 Smoke from barbecue, tar ket
08/18/2019	14:47:00	841 Old Tunnel RD /60 Uni	320 Emergency medical service, o

Station 54 Incident Responses

Alarm Date Between {08/01/2019} And {08/31/2019}

Alm Date	Alm Time	Location	Incident Type
08/18/2019	20:44:00	625 Eskaton CIR /Grass Va	320 Emergency medical service, o
08/19/2019	04:47:00	760 ZION ST /Nevada City,	320 Emergency medical service, o
08/19/2019	08:36:00	12213 Loma Rica DR /Grass	320 Emergency medical service, o
08/19/2019	13:00:00	118 Great Oak CT /Nevada	424 Carbon monoxide incident
08/20/2019	03:58:00	150 Sutton WY /Grass Vall	320 Emergency medical service, o
08/20/2019	08:05:00	416 Crown Point CIR /Bldg	745 Alarm system activation, no
08/20/2019	08:48:00	10099 Celio RD /Nevada Ci	320 Emergency medical service, o
08/20/2019	11:50:00	301 Sacramento ST /Nevada	320 Emergency medical service, o
08/20/2019	13:19:00	10743 Ridge RD /Nevada Ci	622 No Incident found on arrival
08/20/2019	13:41:00	333 Clay ST /Nevada City,	320 Emergency medical service, o
08/22/2019	02:25:00	12659 Pinewoods RD /Nevad	320 Emergency medical service, o
08/22/2019	03:58:00	State Highway 20 HWY & Br	320 Emergency medical service, o
08/22/2019	08:31:00	400 HOOVER LN /Nevada Cit	324 Motor Vehicle Accident with
08/23/2019	14:02:00	316 Olympia Park CIR /Gra	745 Alarm system activation, no
08/23/2019	15:03:00	416 Crown Point CIR /Gras	700 False alarm or false call, O
08/23/2019	22:10:00	17560 Champion RD /Nevada	611 Dispatched & cancelled en ro
08/24/2019	10:37:00	598 Sutton WAY /Grass Val	400 Hazardous condition, Other
08/24/2019	21:20:00	State Highway 20 HWY & Sc	320 Emergency medical service, o
08/24/2019	22:06:00	325 Bridge WAY /Nevada Ci	320 Emergency medical service, o
08/25/2019	10:24:00	10228 Dumbow RD /Nevada C	320 Emergency medical service, o
08/25/2019	15:07:00	416 Crown Point Cir /Neva	700 False alarm or false call, O
08/27/2019	00:54:00	12949 Boreham LANE /Nevad	320 Emergency medical service, o
08/27/2019	13:25:00	757 Sutton WAY /Grass Val	320 Emergency medical service, o
08/28/2019	01:26:00	321 Dorsey DR /Grass Vall	700 False alarm or false call, O
08/28/2019	07:53:00	Butler ST /Grass Valley,	324 Motor Vehicle Accident with
08/28/2019	11:40:00	616 Sutton WAY /Grass Val	321 EMS call, excluding vehicle
08/28/2019	11:49:00	510 Sacramento ST /Nevada	300 Rescue, EMS incident, other
08/29/2019	00:28:00	340 Gracie RD /Nevada Cit	300 Rescue, EMS incident, other
08/29/2019	08:42:00	625 Eskaton CIR /102/Gras	321 EMS call, excluding vehicle
08/29/2019	15:07:00	16646 Meadow WAY /Nevada	554 Assist invalid
08/30/2019	11:06:00	Pitcairn Lane & Gracie RD	322 Motor vehicle accident with
08/30/2019	12:18:00	410 Crown Point CIR /100/	730 System malfunction, Other
08/30/2019	12:33:00	290 Sierra College DR /Gr	745 Alarm system activation, no
08/30/2019	15:47:00	State Highway 20 HWY & Ne	463 Vehicle accident, general cl
08/30/2019	16:36:00	Zion ST & Ridge RD /Nevad	320 Emergency medical service, o
08/30/2019	17:02:00	13770 Lost Trail rd. /Gra	111 Building fire
08/31/2019	21:20:00	155 Glasson WAY /Grass Va	611 Dispatched & cancelled en ro
08/31/2019	23:09:00	108 Parkside PL /Nevada C	320 Emergency medical service, o

Total Incident Count 87

Nevada County Consolidated Fire District

Nevada City Incident List

Alarm Date Between {08/01/2019} And {08/31/2019}

Alm Date	Alm Time	Location	Incident Type
08/01/2019	19:53:00	111 Chief Kelly DR /Nevada	320 Emergency medical service, other
08/02/2019	04:45:00	439 Brock RD /Nevada City, CA	554 Assist invalid
08/02/2019	18:46:00	145 BOST AVE /Nevada City, CA	743 Smoke detector activation, no
08/03/2019	11:40:00	444 Brock RD /Nevada City, CA	320 Emergency medical service, other
08/03/2019	13:42:00	760 ZION ST /Nevada City, CA	743 Smoke detector activation, no
08/03/2019	17:41:00	111 Chief Kelly DR /Nevada	320 Emergency medical service, other
08/03/2019	19:05:00	West Broad Street & Chief	320 Emergency medical service, other
08/03/2019	22:09:00	Commercial Street /Nevada	611 Dispatched & cancelled en route
08/04/2019	03:25:00	222 Broad Street /Nevada	320 Emergency medical service, other
08/04/2019	19:57:00	425 Nimrod ST /A/Nevada City,	321 EMS call, excluding vehicle
08/05/2019	10:08:00	925 MAIDU AVE /Nevada City,	320 Emergency medical service, other
08/05/2019	14:00:00	347 Nile ST /14/Nevada City,	320 Emergency medical service, other
08/05/2019	14:15:00	470 SEARLS AVE /Nevada City,	611 Dispatched & cancelled en route
08/06/2019	05:33:00	925 MAIDU AVE /Nevada City,	320 Emergency medical service, other
08/07/2019	10:27:00	510 Sacramento ST /nevada	320 Emergency medical service, other
08/07/2019	14:29:00	High ST & Washigton ST	320 Emergency medical service, other
08/10/2019	14:49:00	760 ZION ST /Nevada City, CA	743 Smoke detector activation, no
08/10/2019	18:35:00	401 BROAD ST /Nevada City, CA	321 EMS call, excluding vehicle
08/12/2019	08:33:00	347 Nile ST /22/Nevada City,	320 Emergency medical service, other
08/12/2019	14:41:00	459 HOLLOW WAY /Nevada City,	243 Fireworks explosion (no fire)
08/12/2019	17:17:00	120 BRIDGE ST /Nevada City,	412 Gas leak (natural gas or LPG)
08/14/2019	00:25:00	475 Spring ST /Nevada City,	320 Emergency medical service, other
08/14/2019	08:13:00	York Street & Commercial	622 No Incident found on arrival at
08/15/2019	03:30:00	760 ZION ST /Nevada City, CA	622 No Incident found on arrival at
08/15/2019	06:36:00	145 BOST AVE /Nevada City, CA	743 Smoke detector activation, no
08/15/2019	16:49:00	230 Commercial Sreet /Nevada	320 Emergency medical service, other
08/15/2019	21:15:00	Ridge RD & Nevada City HWY	412 Gas leak (natural gas or LPG)
08/16/2019	10:54:00	420 GOLD FLAT RD /Nevada	320 Emergency medical service, other
08/16/2019	14:08:00	700 HOOVER LN /Nevada City,	711 Municipal alarm system,
08/17/2019	13:23:00	760 ZION ST /Nevada City, CA	743 Smoke detector activation, no
08/17/2019	16:00:00	332 Nile ST /Nevada City, CA	300 Rescue, EMS incident, other
08/18/2019	14:03:00	805 LINDLEY AVE /Nevada City,	700 False alarm or false call, Other
08/18/2019	14:47:00	841 Old Tunnel RD /60	320 Emergency medical service, other
08/18/2019	20:16:00	111 Chief Kelly DR /Grass	320 Emergency medical service, other
08/19/2019	04:47:00	760 ZION ST /Nevada City, CA	320 Emergency medical service, other
08/19/2019	13:00:00	118 Great Oak CT /Nevada	424 Carbon monoxide incident
08/19/2019	13:16:00	111 Chief Kelly DR /Nevada	320 Emergency medical service, other
08/19/2019	18:45:00	Pioneer Park /Nevada City, CA	320 Emergency medical service, other
08/19/2019	22:41:00	235 COMMERCIAL ST /Nevada	320 Emergency medical service, other
08/20/2019	00:08:00	656 Broad ST /Nevada City, CA	320 Emergency medical service, other
08/20/2019	11:50:00	301 Sacramento ST /Nevada	320 Emergency medical service, other
08/20/2019	13:41:00	333 Clay ST /Nevada City, CA	320 Emergency medical service, other
08/22/2019	08:31:00	400 HOOVER LN /Nevada City,	324 Motor Vehicle Accident with no
08/24/2019	22:06:00	325 Bridge WAY /Nevada City,	320 Emergency medical service, other
08/25/2019	09:58:00	925 MAIDU AVE /Nevada City,	320 Emergency medical service, other

Nevada County Consolidated Fire District

Nevada City Incident List

Alarm Date Between {08/01/2019} And {08/31/2019}

Alm Date	Alm Time	Location	Incident Type
08/25/2019	14:11:00	728 Nevada ST /4/Nevada City,	320 Emergency medical service, other
08/25/2019	20:19:00	514 Nursery ST /Nevada City,	320 Emergency medical service, other
08/26/2019	01:16:00	980 Helling WAY /Nevada City,	320 Emergency medical service, other
08/27/2019	23:21:00	656 W Broad Street /Nevada	320 Emergency medical service, other
08/28/2019	05:28:00	728 Nevada Steet /4/Nevada	320 Emergency medical service, other
08/28/2019	11:49:00	510 Sacramento ST /Nevada	300 Rescue, EMS incident, other
08/29/2019	00:28:00	340 Gracie RD /Nevada City,	300 Rescue, EMS incident, other
08/29/2019	01:03:00	656 W Broad Street /Nevada	320 Emergency medical service, other
08/30/2019	06:26:00	111 Chief Kelly DR /Nevada	320 Emergency medical service, other
08/30/2019	09:53:00	126 Orchard ST /Nevada City,	550 Public service assistance, Other
08/30/2019	13:09:00	State Highway 49 HWY & Broad	622 No Incident found on arrival at
08/30/2019	15:09:00	201 CHURCH ST /Nevada City,	320 Emergency medical service, other
08/30/2019	16:36:00	Zion ST & Ridge RD /Nevada	320 Emergency medical service, other
08/31/2019	23:09:00	108 Parkside PL /Nevada City,	320 Emergency medical service, other

Total Incident Count 59

Nevada City Incident Type Summary

Alarm Date Between {08/01/2019} And {08/31/2019}

District	False	Fire	Good	Hazard	Overpressu	Rescue	Service	Special
01	0	0	0	0	0	1	0	0
02	10	0	2	2	0	7	1	0
54	0	4	3	1	0	7	2	0
84	0	1	3	1	1	9	0	0
86	0	0	0	0	0	2	0	0
87	0	0	0	0	0	1	0	0
GRS	1	0	0	0	0	0	0	0
NCCFD	0	1	1	0	0	2	0	0
NEV	6	0	2	3	1	14	1	0
OPH	0	0	1	0	0	0	0	0
	17	6	12	7	2	43	4	0

Nevada County Consolidated Fire District

NEV Year-to-date Incident Participation

Activity Date Between {07/01/2019} And
{08/31/2019}

Staff Id/Name	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Percent
NEV-03 Cartzdafner, Kevin L	0	0	0	0	0	0	35	36	0	0	0	0	71	36.97
NEV-65 Chau, Michael	0	0	0	0	0	0	18	9	0	0	0	0	27	14.06
NEV-I023 Dambly, Trenton	0	0	0	0	0	0	28	31	0	0	0	0	59	30.72
NEV-09 Goodspeed, Samuel J	0	0	0	0	0	0	1	1	0	0	0	0	2	1.04
NEV-69 McDaniel, Jesse	0	0	0	0	0	0	40	25	0	0	0	0	65	33.85
NEV-70 Otani, Alex	0	0	0	0	0	0	28	29	0	0	0	0	57	29.68
NEV-15 Paulus, Daniel H	0	0	0	0	0	0	30	18	0	0	0	0	48	25.00
NEV-I024 Rodriguez, Ryan	0	0	0	0	0	0	22	36	0	0	0	0	58	30.20
NEV-I022 Rubinson, Jake	0	0	0	0	0	0	6	3	0	0	0	0	9	4.68
NEV-I025 Tomlinson, Rodney	0	0	0	0	0	0	13	24	0	0	0	0	37	19.27

Total Runs by Month											
Jan	0	Feb	0	Mar	0	Apr	0	May	0	Jun	0
Jul	98	Aug	94	Sep	0	Oct	0	Nov	0	Dec	0

Grand Total Runs: 192

REPORT TO CITY COUNCIL

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

September 25, 2019

TITLE: Award of Contract for Miscellaneous Paving 2019

RECOMMENDATION: Pass Resolution 2019-XX, a Resolution of the City Council of the City of Nevada City to award a contract to Central Valley Engineering & Asphalt, Inc. in the amount of \$49,900 plus \$10,000 contingencies for Miscellaneous Paving 2019 in Nevada City and authorize the Mayor to sign.

CONTACT: Bryan K. McAlister, City Engineer

BACKGROUND/DISCUSSION:

The City Engineer and Public Works staff identified Miscellaneous Paving 2019 necessary for street maintenance. The project consists of a pavement repair and pavement replacement in multiple locations, as further shown and described in the contract.

City staff solicited bids for Misc. Paving 2019 from local contractors. Qualified bids received are as follows:

- Simpson & Simpson, Inc, Newcastle, CA \$ 74,398.00
- Central Valley Engineering & Asphalt, Inc., Roseville CA \$ 49,900.00
- Hansen Bros. Enterprises, Grass Valley, CA \$ 74,049.00

Central Valley Engineering & Asphalt, Inc. was selected as the lowest responsive and responsible bidder.

FISCAL CONSIDERATIONS: The project will be funded by Measure “S” funds for street rehabilitation.

ATTACHMENT:

- ✓ Resolution 2019-XX, a Resolution of the City Council of the City of Nevada City to award a contract to Central Valley Engineering & Asphalt, Inc. for Miscellaneous Paving 2019 in Nevada City and authorize the Mayor to sign
- ✓ Contract for Misc. Paving 2019 in Nevada City

RESOLUTION NO. 2019-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEVADA CITY TO AWARD A CONTRACT TO CENTRAL VALLEY ENGINEERING & ASPHALT, INC. FOR MISC. PAVING 2019 IN NEVADA CITY AND AUTHORIZE MAYOR TO SIGN

WHEREAS, The City of Nevada City has a voter approved sales tax for Measure "S" Paving and Reconstruction of Various Streets; and

WHEREAS, City has caused to be prepared certain plans, specifications and other contract documents pertaining to the Miscellaneous Paving 2019; and

WHEREAS, consistent with Municipal Code requirements, City staff advertised and received bids for Miscellaneous Paving 2019 in Nevada City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Nevada City to award the contract to Central Valley Engineering & Asphalt, Inc. in the amount of \$49,900 plus \$10,000 contingencies for Miscellaneous Paving 2019 in Nevada City and authorize the Mayor to sign.

PASSED AND ADOPTED at the regular meeting of the City Council of the City of Nevada City on the 25th day of September, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Reinette Senum, Mayor

ATTEST:

Niel Locke, City Clerk

MISCELLANEOUS

PAVING 2019



City of Nevada City, 95959
Nevada County, California

Bryan K. McAlister
PE C58570
PLS 9199

William J. Falconi
PE 25842
PLS 4911

NOTICE TO CONTRACTOR'S

Miscellaneous Paving 2019

Sealed proposals for **Miscellaneous Paving 2019** will be received by the City at City Hall, 317 Broad Street, Nevada City, California, 95959, until **3:00 PM on September 19, 2019**, at which time, or as soon thereafter as practicable, all such proposals will be publicly opened and read at City Hall, 317 Broad St, Nevada City, California.

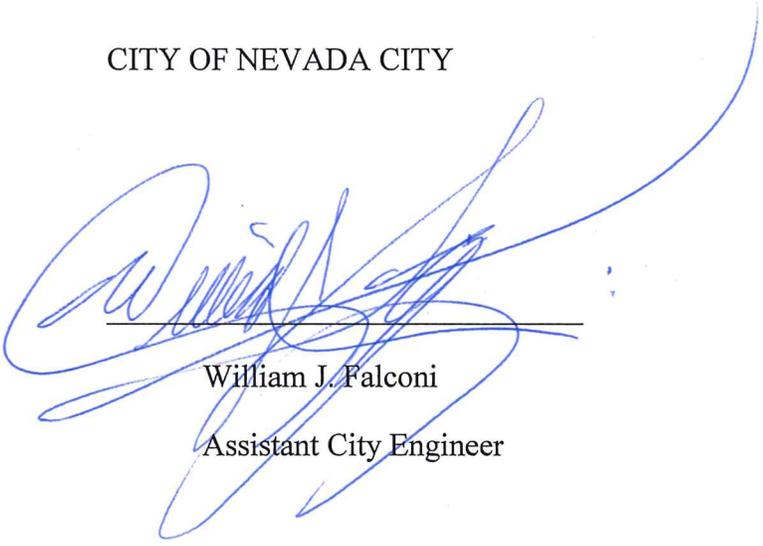
Bids shall be enclosed and sealed in an envelope addressed to the City of Nevada City at the above stated address and shall be marked "**Miscellaneous Paving 2019**".

The work includes the furnishing of all labor, materials, and equipment required for the job in accordance with the plans, specifications and other contract documents as set forth by the City Engineer. Such bid documents will be on file with the City staff and are available for inspection during office hours. There is no pre-bid meeting for this project. Please call Bill (916) 765-1010 if you have questions or want to meet onsite.

The City reserves the right to reject all bids; or to accept any portion of bid schedule; to reject any bid which is incomplete or irregular; to determine which proposal is, in its judgment, the lowest responsible bid of a responsible bidder and to waive any informality or minor irregularity of any bid.

DATED: August 26, 2019

CITY OF NEVADA CITY



William J. Falconi

Assistant City Engineer

PROPOSAL/CONTRACT

Miscellaneous Paving 2019

Nevada City, CA

TO: City of Nevada City, City Hall, Nevada City, California.

The undersigned, as a bidder, submits the following proposal for **Miscellaneous Paving 2019** in the City of Nevada City, California, and offers to perform all work and furnish all labor, materials, tools, equipment, power and water as required for the completion of said project, in accordance with the plans, specifications and all other contract documents. The bidder has inspected the project site and has examined all conditions affecting the proposed work.

The bidder is licensed with Contractors State License Board and is registered as a public works contractor with the Department of Industrial Relations as required to bid on this contract.

If this bid is accepted, the bidder agrees to execute the Agreement, and furnish to the City all documents and evidences of insurance, within ten (10) days after receiving written notice of the award of contract, and complete the project within **thirty (30) working days** after receiving written notice to proceed. **No bond is required for this project.**

Attached to this bid and made a part hereof is a list of proposed subcontractors, setting forth all information required by Section 4104 of the Government Code.

The undersigned is (state whether individual, partnership or corporation) Corporation .

DATED: September 19, 2019

FIRM NAME: Central Valley Engineering & Asphalt, Inc.

ADDRESS: 216 Kenroy Lane
Roseville, CA 95678

PHONE: 916-791-1609

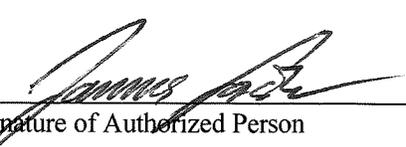
CELL PHONE: 916-257-6064

CONTRACTOR'S #: 773404

EXPIRATION: 3/31/2020

NEVADA CITY BUSINESS LICENSE

#: _____ EXPIRATION: To be purchased if awarded

BY: 
Signature of Authorized Person

Contact Person: James Castle, CFO/Secretary

BID SCHEDULE

MISCELLANEOUS PAVING 2019

<u>No.</u>	<u>Quantity</u>	<u>Unit</u>	<u>Item Description</u>	<u>Unit Price</u>	<u>Total Price</u>
1)	70	TN	Bost Ave. (West End) Overlay	\$ <u>255.00</u>	\$ <u>17850.00</u>
2)	1	LS	Tennis Court	\$ <u>1275.00</u>	\$ <u>1275.00</u>
3)	10	TN	Cottage/Pine	\$ <u>255.00</u>	\$ <u>2550.00</u>
4)	1	LS	N. Pine (Steps)	\$ <u>1275.00</u>	\$ <u>1275.00</u>
5)	5	TN	Commercial St (New Moon)	\$ <u>255.00</u>	\$ <u>1275.00</u>
6)	3	TN	Foley Library	\$ <u>255.00</u>	\$ <u>765.00</u>
7)	4	TN	Park Pool (West Entrance)	\$ <u>255.00</u>	\$ <u>1020.00</u>
8)	1	LS	Courthouse ADA (3) locations	\$ <u>1275.00</u>	\$ <u>1275.00</u>
9)	40	TN	Washington St / at Coyote	\$ <u>255.00</u>	\$ <u>10,200.00</u>
10)	4	TN	Main Street	\$ <u>255.00</u>	\$ <u>1020.00</u>
11)	45	TN	East Broad Street	\$ <u>255.00</u>	\$ <u>11475.00</u>
				Grand Total	\$ <u>49,900.00</u>

1. All measurements and dimensions must be verified in the field prior to construction.
2. If the City accepts your Bid, you must submit for a City Business License.
3. City may accept any portions of the bid schedule depending upon budget.

LIST OF SUBCONTRACTORS

<u>NAME</u>	<u>PLACE OF BUSINESS</u>	<u>PORTION OF WORK</u>
1. ABSL Construction	Hayward, CA	Grinding - Partial
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

AGREEMENT

THIS AGREEMENT is made this _____ day of _____, between the CITY OF NEVADA CITY, a municipal corporation, hereinafter called "City," and _____, hereinafter called "Contractor."

WHEREAS, City has caused to be prepared certain plans, specifications and other contract documents pertaining to the **Miscellaneous Paving 2019** in said City: and

WHEREAS, after notice duly given, City has awarded the contract for such work to Contractor;

NOW, THEREFORE, IT IS AGREED by and between said parties as follows:

1. Scope of Work. The contractor agrees to furnish all labor, materials, tools and equipment, required to complete the improvements in Nevada City, California, in accordance with the plans, specifications and other contract representation made in mandatory meetings. All such work shall be performed in a good and workmanlike manner and to the satisfaction of the designer of said project.

2. Contract Price. As consideration for all such work, City agrees to pay to Contractor the total sum of _____ (\$ _____) Dollars, payable in the manner hereinafter set forth.

3. Contract Documents. The complete contract between the parties hereto consists of the Notice to Contractors, the Information to Bidders, the Bid Proposal, the General Conditions, the Plans and Specifications, and all other drawings and printed or written explanatory matter pertaining thereto. All of the foregoing documents are intended to cooperate, so that any work or requirement specified in any of them is to be carried out or observed the same as if mentioned in all.

4. Time for Performance. Within five (5) days after the execution of this Agreement, City shall give Contractor written Notice to Proceed, and thereafter Contractor shall commence the work and shall prosecute the same with due diligence until completion and acceptance by City; provided, however, that all such work shall be completed and ready for use within **thirty (30) working days** after Contractor receives said Notice to Proceed.

5. Extension of Time. If, because of adverse weather conditions, strikes, inability of the Contractor (through no fault on his/her part) to obtain necessary materials, or other cause beyond the reasonable control of Contractor, Contractor is unable to complete the required work within the allowed time, he shall be entitled to an extension or extensions of such time, commensurate with the unavoidable delay thus caused; provided, however that Contractor shall apply to City for approval of any such extension prior to the expiration of the time for performance as specified in the preceding paragraph.

6. Contractor's Failure to Complete Work. If Contractor fails to prosecute the work with such diligence as will insure its completion within the time hereinabove specified, or any extension thereof, or fails to complete such work within such time, or if Contractor shall otherwise violate this Agreement, City may give written notice to Contractor and his sureties of City's intention to terminate this Agreement unless, within five (5) days after services of such notice, satisfactory arrangements are made with the City for the completion of such work or the curing of such breach; and if such arrangements are not made within such time, City may, at its option, terminate this Agreement by giving written notice of such termination to Contractor and his sureties.

7. Payments to Contractor. On or before the tenth day of each month during the progress of the work, Contractor shall submit to the City Engineer an itemized statement of all labor and materials incorporated into the improvement during the preceding month and the portion of the contract price applicable thereto. City shall pay to Contractor a sum equal to ninety (90%) percent of the contract price apportionment for approved progress payments. The remaining ten (10%) percent shall be paid to Contractor thirty-five (35) days after final acceptance of the work

by City.

8. Indemnification. Contractor agrees to hold City, and its officers, agents, and employees harmless from any and all liability and claims for damages for death and personal injury, and for property damage, incident to or arising out of the operations of Contractor or any subcontractor under this Agreement, and Contractor further agrees to defend City, and its officers, agents, and employees in any and all lawsuits which may be brought for such damages caused, or alleged to have been caused, by such operations. In addition, Contractor agrees to furnish to the City evidences of insurance coverage. The approval of such insurance by City shall not constitute a waiver or limitation of any rights under this indemnity agreement, regardless of whether such insurance shall be held to be inapplicable to any such damage or claims therefore.

Executed in duplicate this _____ day of _____, _____.

ATTEST:

CITY OF NEVADA CITY

By: _____
(Mayor)

(Contractor)

By: _____
(Authorized Officer)

GENERAL CONDITIONS

1. Inspection of Construction

The Engineer shall have access to the work and the site of the work at all times and the Contractor shall afford such access to the Engineer and shall furnish all relevant information requested by him. At the request of the Engineer the Contractor shall open for inspection any part of the work which has been covered up, and if any part of the work has been covered up in contravention of the instructions of the Engineer, or if on being opened up, is found not to be in accordance with the terms of the contract, the expense of opening and recovering shall be charged to the Contractor. If the work has been covered up but not in contravention of such instructions and is found to be in accordance with the terms of the contract, the actual cost of opening and recovering shall be borne by the City, and in such case, if the work of opening and recovering is done by the Contractor, it shall be considered as extra work and paid for accordingly.

2. Change Orders

If for any reason it becomes necessary or desirable to change the alignment, dimensions, or design of the work, the City shall have the right to issue written change orders therefore. If the Contractor considers that any such change involves extra work, he shall immediately so notify the Engineer in writing, and shall make claim for compensation for such work not later than the first day of the month following the month in which the work was performed. If, in the opinion of the Engineer, any change order results in a change in the amount of work performed, the contract price shall be adjusted for extra work or omitted work, as the case may be.

3. Contractor's Employees and Subcontractors

The Contractor shall at all times be responsible for the adequacy and efficiency of his employees and any subcontractor and the latter's employees. All workers shall have adequate skill and experience to perform properly the work assigned to them.

4. Errors and Omissions

If the Contractor in the course of the work becomes aware of any error or omission in the contract documents, or of any discrepancy between such documents and the physical conditions of the work site, he shall immediately inform the Engineer, who shall take such action as he may deem necessary in order to rectify the matter. Any work done after such discovery and without the authorization of the Engineer will be at the Contractor's risk.

5. Guaranty of Work

For a period of one (1) year after final acceptance of the work by the City, the Contractor shall make all Improvements and replacements arising out of any defective workmanship or materials. If the Contractor fails to make such repairs or replacements within ten (10) days after receiving written notice to do so, or within such further time as may be allowed by the City, the City may undertake such repairs or replacements, in which case the Contractor shall be liable to the City for the cost thereof.

6. Contractor's Responsibility for Work

The Contractor shall be responsible for the proper care and protection of the work, and of all materials delivered to the work site, until completion of the work and its final acceptance by the City.

7. Performance Bond

No Performance bond shall be required for this project.

8. Payment Bond

A payment (labor and materials) bond is required for public works contracts involving an expenditure in excess of twenty-five thousand dollars (\$25,000). If the contract is in excess of this amount the contractor shall provide a payment bond to the City of Nevada City before commencement of work. Cost for the bond shall be included in the contractor bid proposal and no additional compensation will be provided.

A payment bond shall be in an amount not less than 100 percent of the total amount payable pursuant to the contract. The bond shall be in the form of a bond and not a deposit in lieu of a bond. The bond shall be executed by an admitted surety insurer.

9. Workmen’s Compensation Insurance

The Contractor shall carry workmen’s compensation insurance for all employees working on or about the site of the work, and if any work is subcontracted, the Contractor shall require each subcontractor to carry such insurance for all of the latter’s employees, unless they are covered by the Contractor’s insurance.

10. Insurance Requirements

CONTRACTOR shall purchase and maintain insurance in amounts of coverage not less than the following amounts:

General Liability: (Including operations, products and completed operations)	\$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
Automobile Liability:	\$1,000,000 per accident for bodily injury and property damage.

The Contractor shall deliver to the City, concurrently with the execution of the contract, certificates evidencing all insurance required by the contract, and each such certificate shall include a provision to the effect that the policy or policies cannot be canceled or materially modified unless the insurer gives the City at least fifteen (15) days written notice thereof prior to such cancellation or modification.

11. Prevailing Wages

Contractor shall pay each laborer, workman or mechanic in accordance with State and Federal Prevailing Wage Rates and the California Labor Code. These wage rates are hereby made a part of this contract:

State General Prevailing Wage Determinations in effect on date advertised

General prevailing wage determination

Journeyman and Apprentice Prevailing Wage Rates can be accessed at the following websites:

<http://www.dir.ca.gov/OPRL/2017-2/PWD/index.htm> and

<http://www.dir.ca.gov/das/publicworks.html>

Reference: Labor Code <http://www.labor.ca.gov/laborlawreg.htm>

Federal Prevailing Wage Determinations in effect on bid date

General Decision # CA170009 CA9

<http://www.wdol.gov/wdol/scafiles/davisbacon/ca.html>

Electronic Certified Payroll Records

- All contractors must furnish electronic certified payroll records to the Labor Commissioner using the online eCPR data system
- No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
- No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.
- This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
- The contractor shall post job site notices prescribed by regulation. (See 8 Calif. Code Reg. §16451(d))

Project Specifications

PROJECT LIMITS

Project is located at **Miscellaneous Paving on Various Streets in Nevada City**, Nevada City, CA. Project limits are as shown on the improvement plans.

PROJECT DESCRIPTION

The project consists of pavement improvements including preparation of area to be paved, repair and reshape areas to improve drainage, and pavement adjacent to new or existing concrete.

CONSTRUCTION NOTES

All improvements shall be constructed in accordance with the plans and details for the project and the latest edition of Caltrans Standard Plans and Standard Specifications.

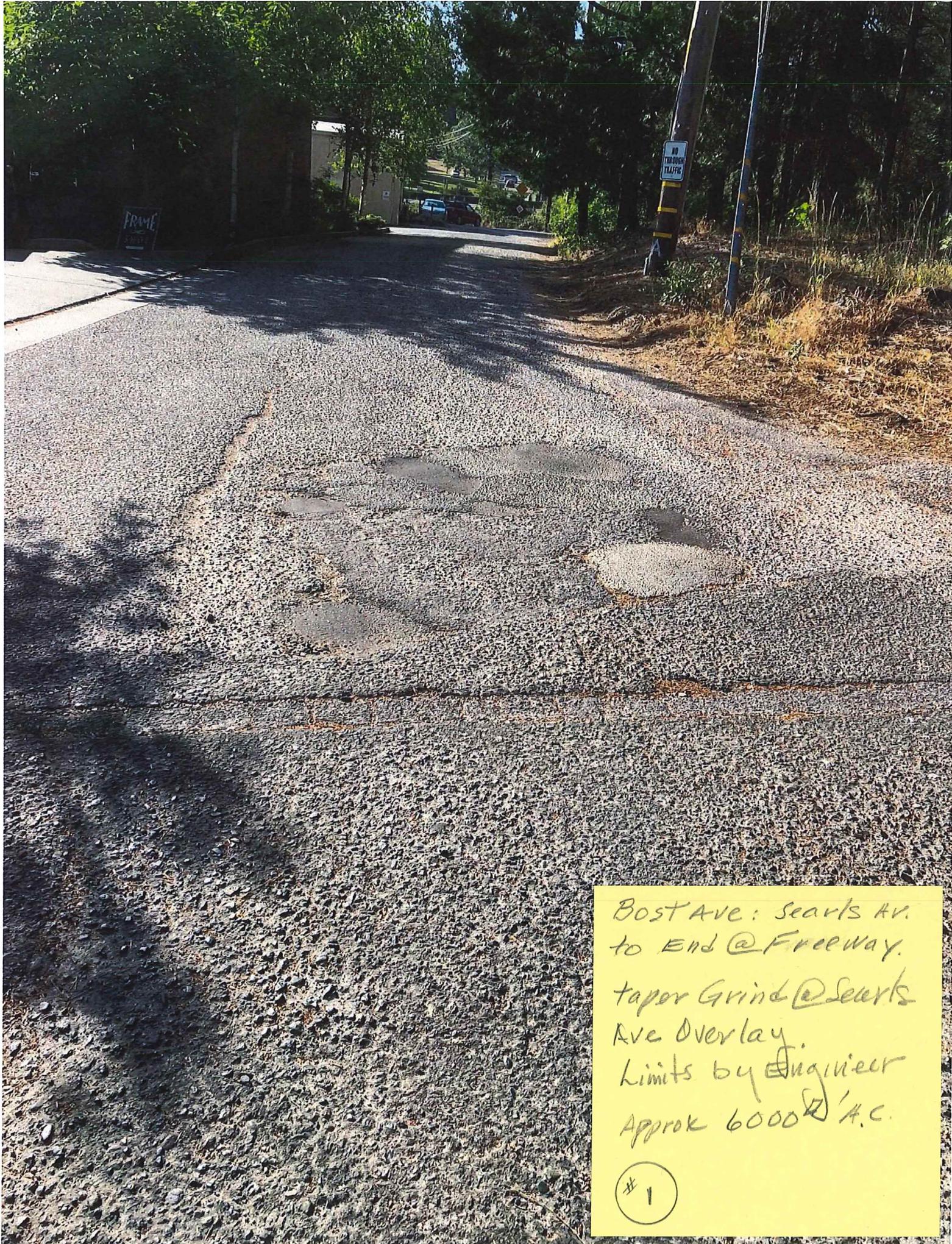
Bid items shall include all mobilization, demolition, clearing, removal and disposal of demolition debris or excess materials, earthwork, compaction, and all other incidental work as shown on the plans that is not included in other bid items. Stumps and roots shall be removed to a minimum depth of 2' below the grading plane. Any incidental fill shall be constructed to 90% relative compaction excepting the upper 6" shall be constructed to 95% relative compaction. All excavation areas shall be scarified to 6" below subgrade and replaced at 95% relative compaction. Compaction testing, where determined to be necessary by City staff, will be provided by the City in accordance with Caltrans Standard Specifications.

All asphalt concrete used on the project, including on overlays, leveling courses and digouts shall be included in the bid items. The contract unit price paid for asphalt concrete shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals for doing all the work involved in the paving operations including raising all existing manhole frames, valve boxes, and monument boxes to finished grade of the new surfacing. Contractor shall provide a 4' edge grind along all existing curb edges and where joining existing asphalt. Grindings may be reused and compacted onsite as base material. The Contractor shall coordinate with the City Engineer or City Inspector to verify suitability of subgrade prior to paving. Asphalt tickets shall be provided to the City at end of each work day.

Construction activity requiring lane closures shall conform to the following restrictions: The travel way may be reduced to one 11 foot lane of traffic with two way stop control. The Contractor shall provide access to parking lots, driveways, residences and businesses at all times unless otherwise approved by the City Engineer. Pedestrian and bicycle access shall be provided through construction areas within the right of way, unless otherwise approved by the City Engineer. Upon request, a full road closure with detours may be implemented with signage provided by the Contract and as approved by the City Engineer.

MATERIAL NOTES

Asphalt material shall be Type A or B 1/2-inch maximum medium gradation and shall conform to the provisions in Sections 39. "Asphalt Concrete," of the Standard Specifications and these Special Provisions. Asphalt cement shall be grade PG 64-16 conforming to the requirements of Section 92 of the Standard Specifications.



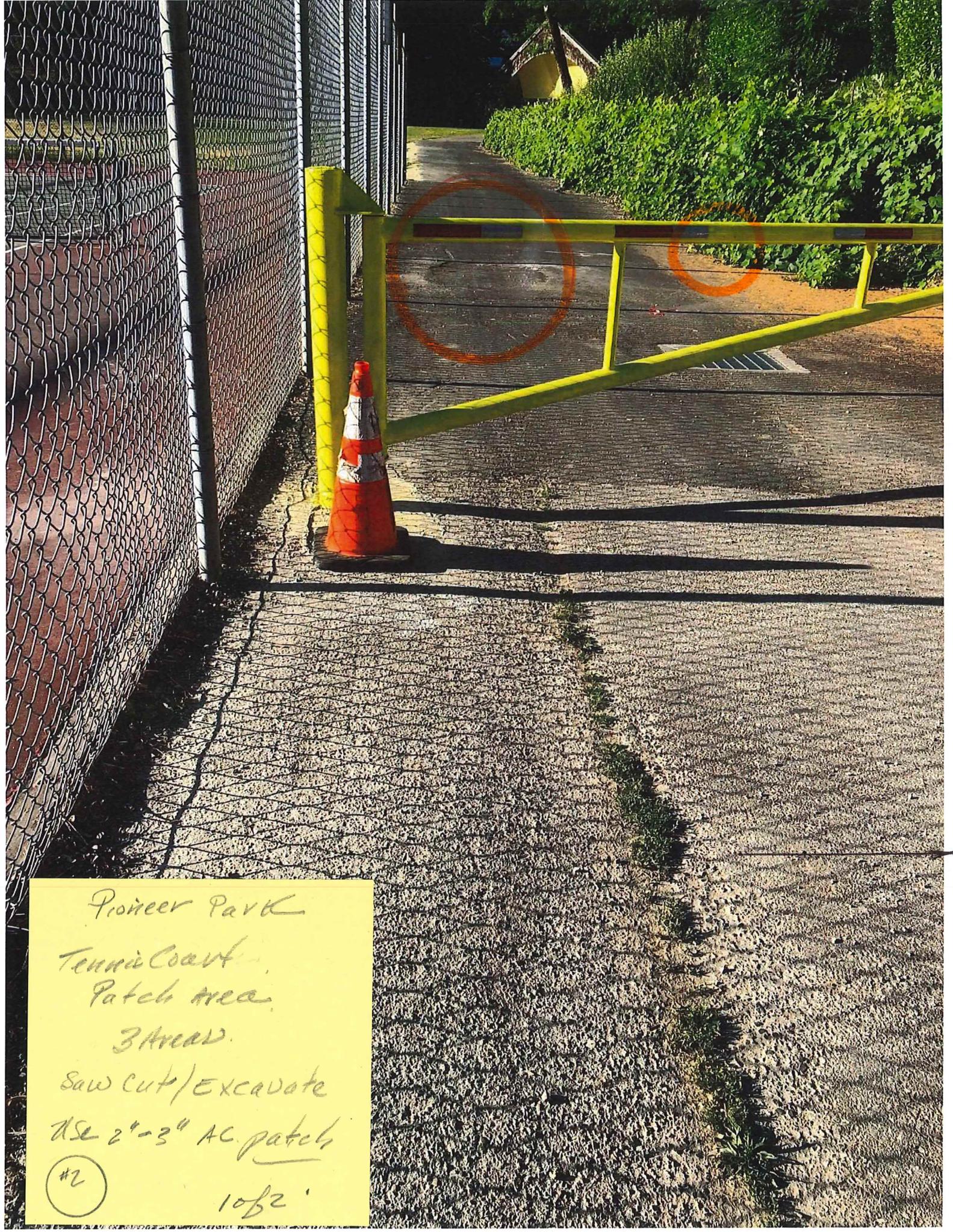
Bost Ave: Searks Av.
to End @ Freeway.

taper Grind @ Searks
Ave Overlay.

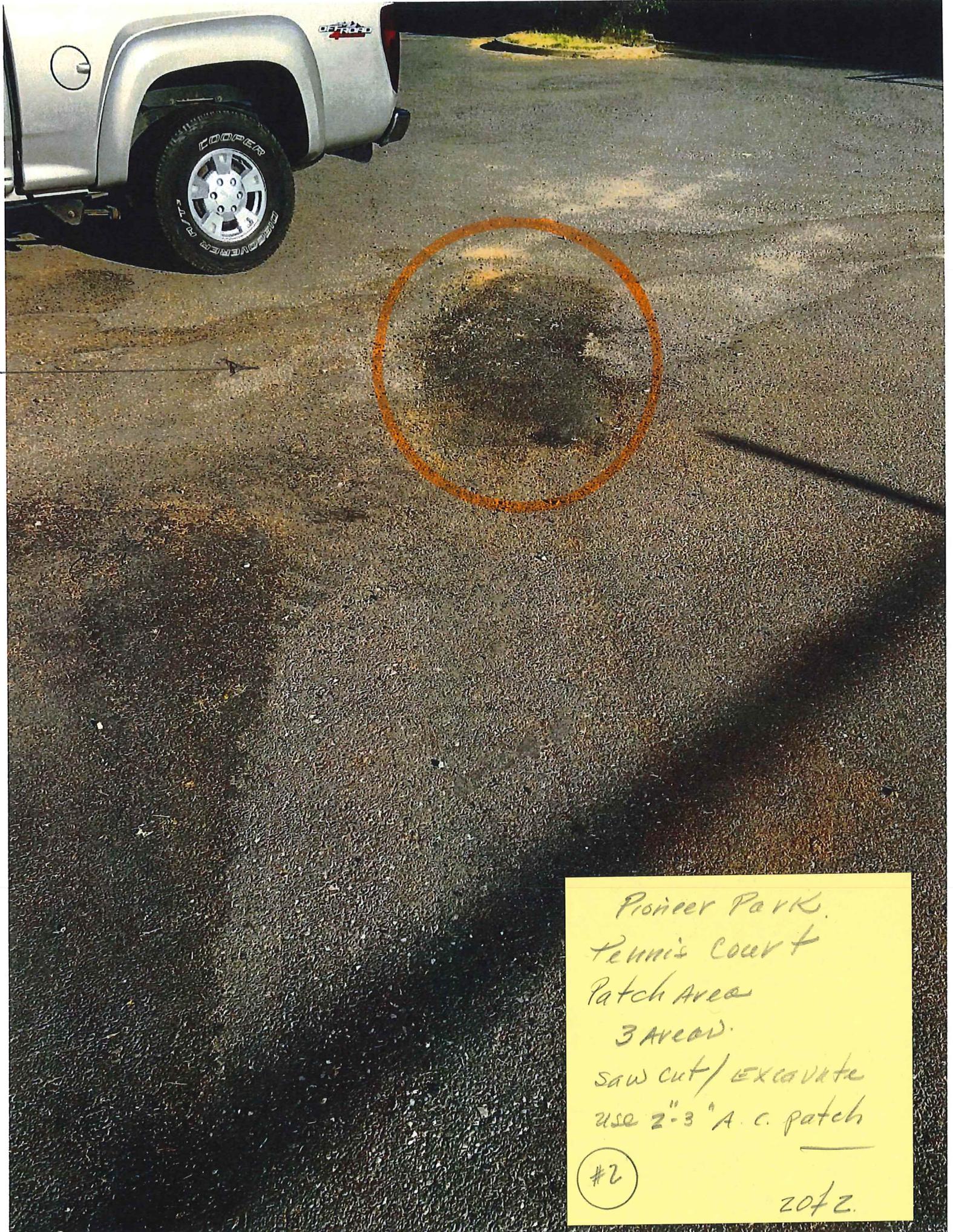
Limits by Engineer

Approx 6000' A.C.

#1



Pioneer Park
Tennis Court
Patch area
3 Areas
Saw cut/Excavate
Use 2"-3" AC. patch
#2
10/2'



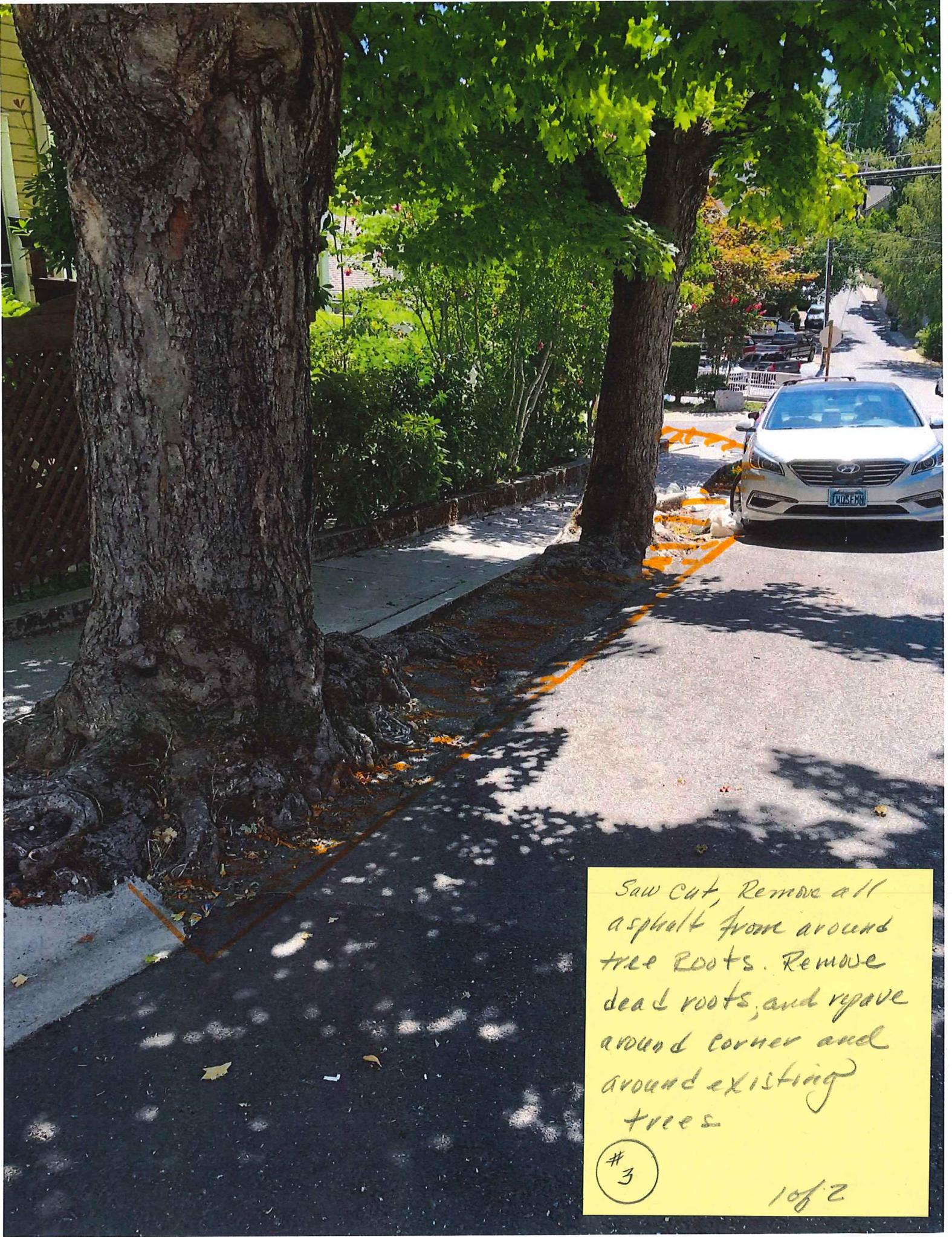
Pioneer Park,
Tennis Court
Patch Area

3 Areas.

saw cut/Excavate
use 2"-3" A.C. patch

#2

20/2.



Saw cut, Remove all asphalt from around tree roots. Remove dead roots, and repave around corner and around existing trees

3

10/2



Saw cut, taper, regrade
& pave w/ 2" AC

As shown
clean weeds
pave to wall -

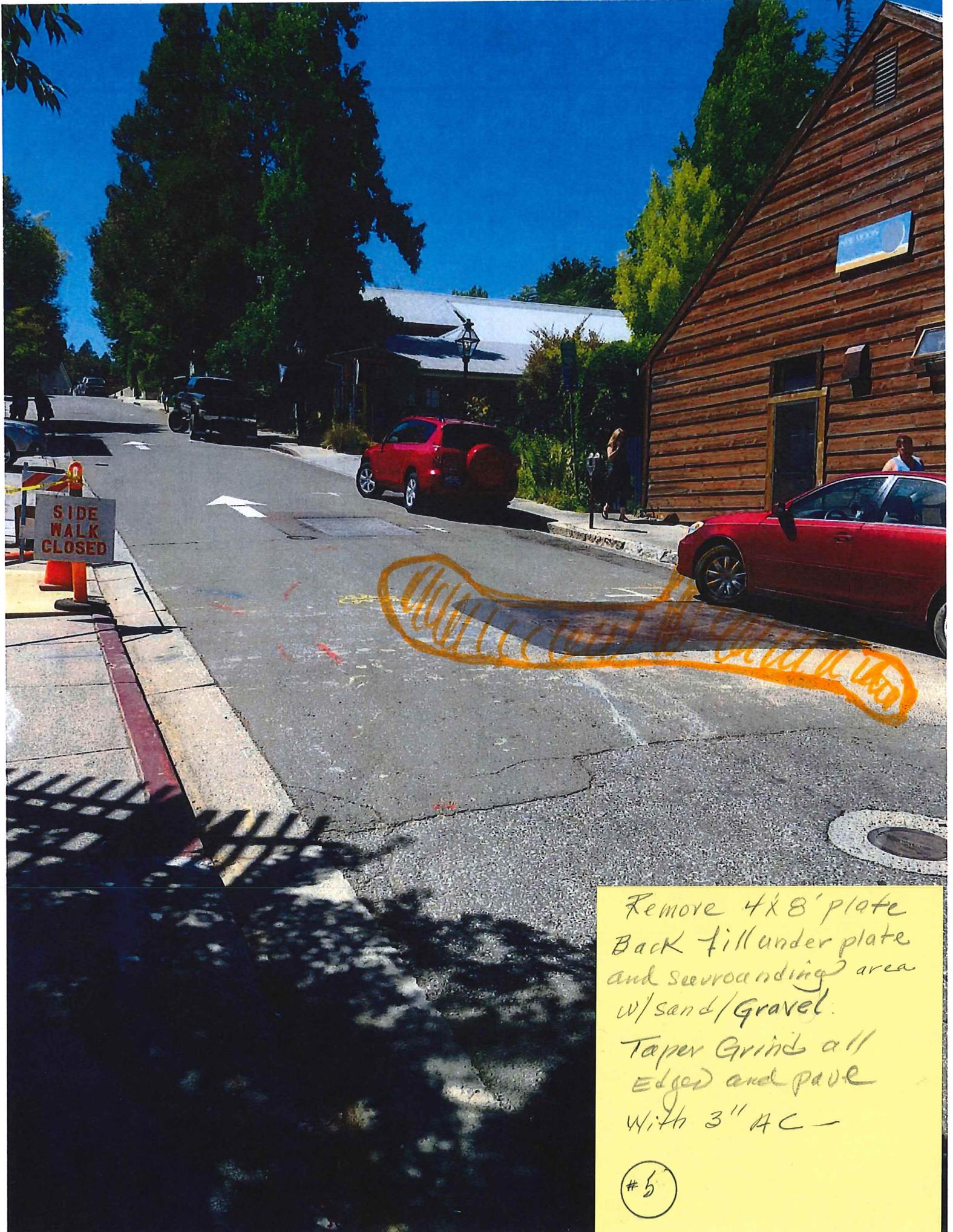
#3

2/20/2



Remove Rock
Patches Pavement
w/ 2" AC around
steps & fire-
hydrant.

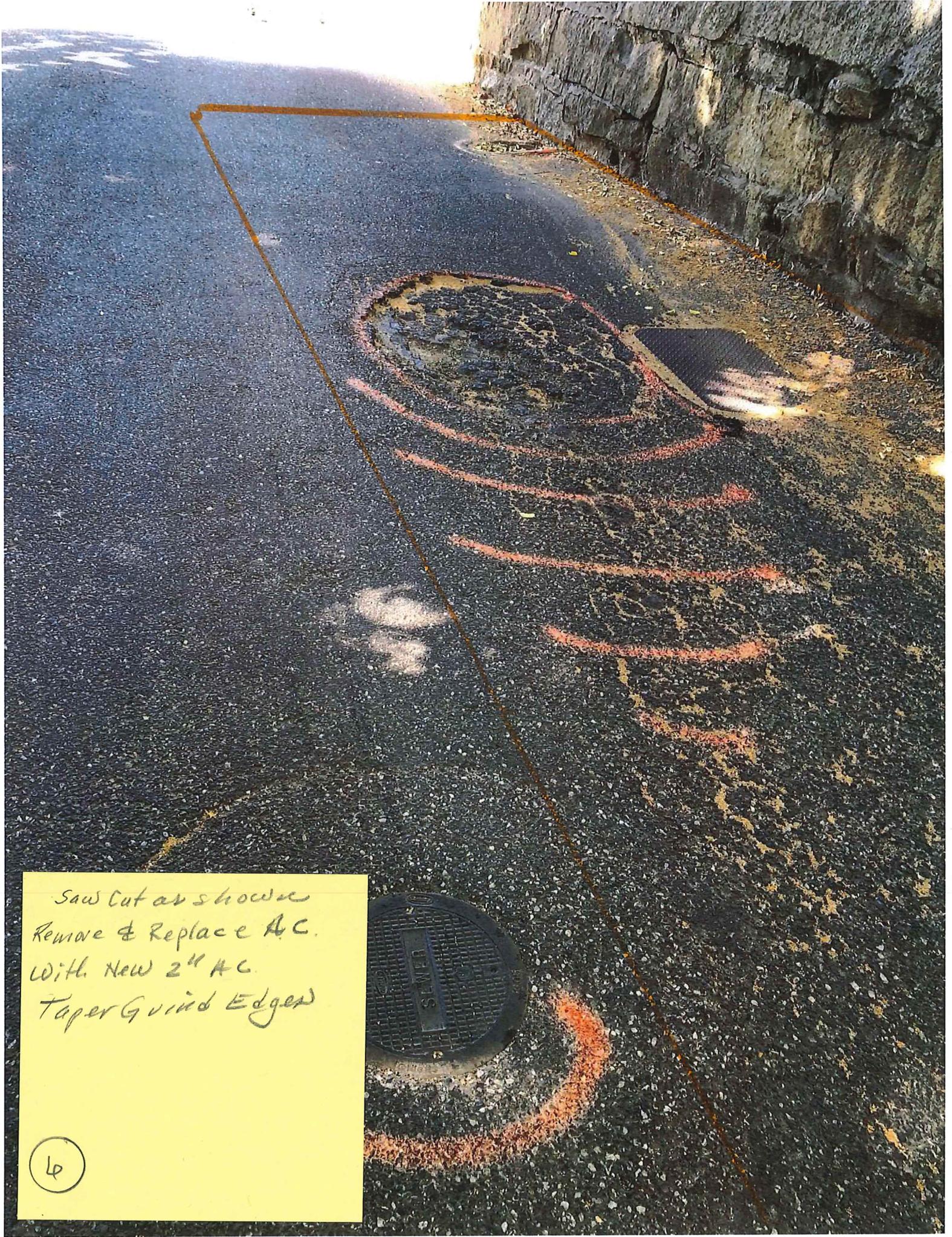
#4



SIDE
WALK
CLOSED

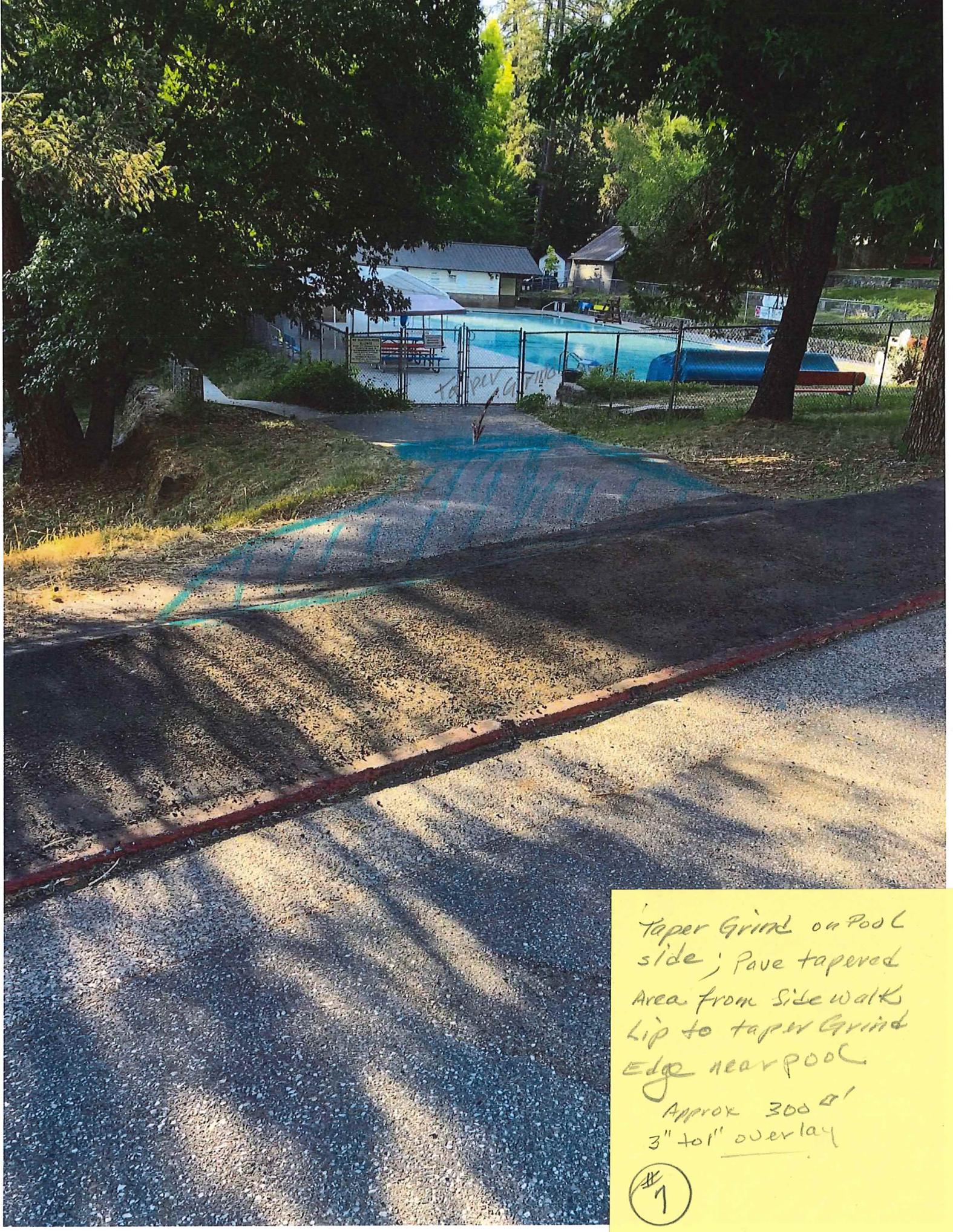
Remove 4x8' plate
Back fill under plate
and surrounding area
w/ sand/Gravel.
Taper Grind all
Edges and pave
With 3" AC -

#5



Saw cut as shown
Remove & Replace A.C.
With New 2" A.C.
Taper Guided Edges

4



Taper Grind on Pool side; Pave tapered Area from Side walk Lip to taper Grind Edge near pool
Approx 300 sq'
3" to 1" overlay

1



Asphalt conform.
Place A.C. Patch.
from Ramp.
Taper as needed
to existing A.C.

#8

10 of 3



Asphalt conform.
Place A.C. Patch
from Ramp.
taper as needed
to Existing A.C.

#8



Asphalt Conform
Place AC patch.
from Ramp. taper
as needed to
existing
AC.

8

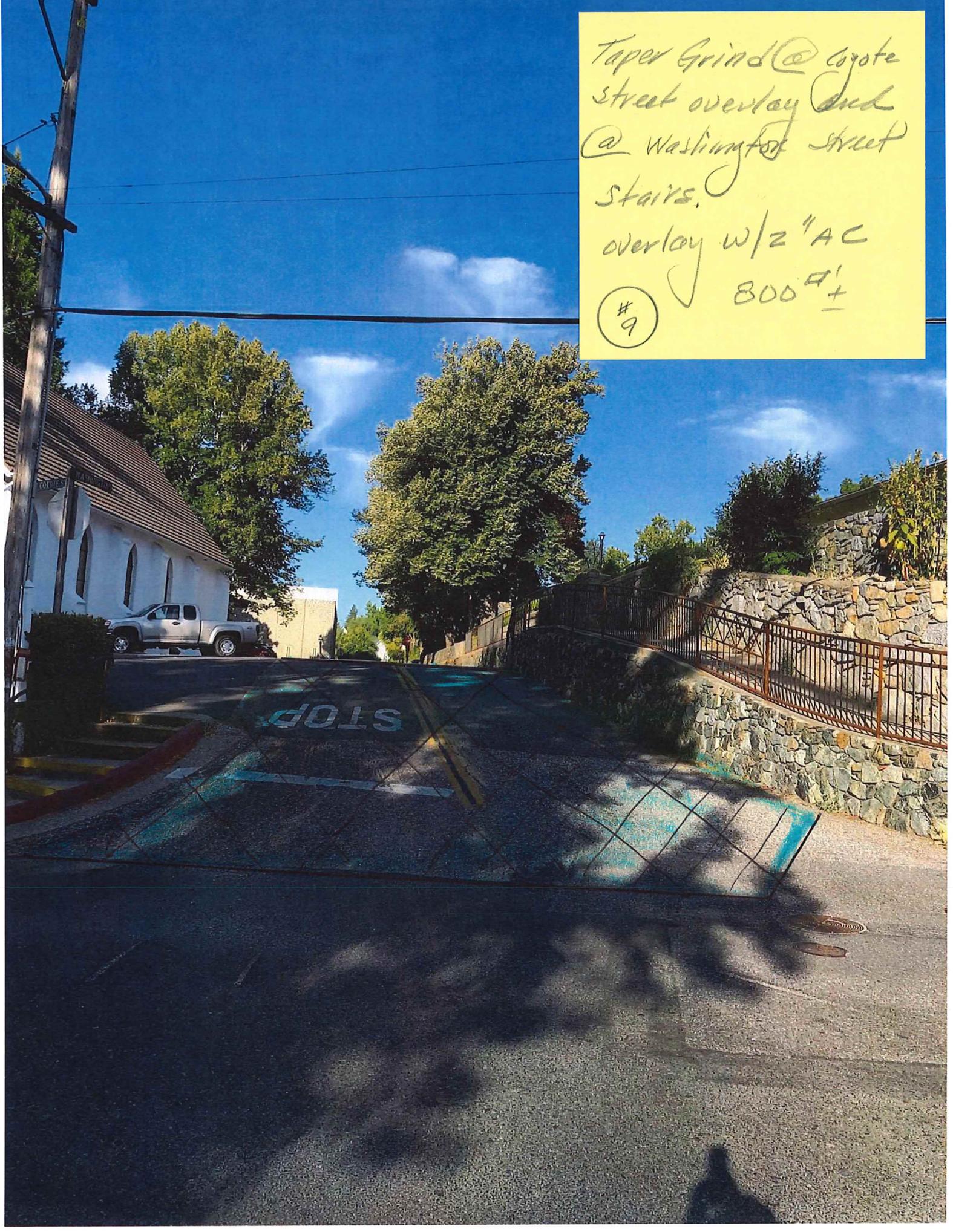
3 of 3.

Taper Grind @ Coyote
street overlay and
@ Washington street
stairs.

overlay w/ 2" AC

800' ±

#9





+/- 52' LENGTH

#10 MAIN STREET

EDGE GRIND

PAVE 2 1/2" ALONG CURB



#11 EAST BROAD ST.
EDGE GRIND
OVERLAY 150' x 15' 4"



CITY OF NEVADA CITY
BID OPENING RESULTS

PROJECT: 2019 Misc Paving

DATE: 20 Sept 2019

TIME OF BID OPENING: 8:00 A.M./P.M.

COMPANY NAME

BID AMOUNT

Central Valley Etcg.

\$ 49,900 -

Simpson & Simpson

\$ 74,398 -

Hansen Bros. Ent.

\$ 74,049 -

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____



CITY OF NEVADA CITY
BID OPENING SIGN-IN SHEET

PROJECT: 2019 Misc Paving DATE: 20 Sept 2019
TIME OF BID OPENING: 3:00 A.M./P.M.

ATTENDEES – Please Sign-in and Print your name

[Signature]
Signature
916-765-1010
Phone #

William J. Falcone
Print Name

[Signature]
Signature
(916) 791-1609
Phone #

Stacey Swank
Print Name Central Valley Engineering & Asphalt, Inc

[Signature]
Signature
530-265-2494
Phone #

William Highsmith
Print Name

[Signature]
Signature
530-265-2496
Phone #

LOREE MCCAY
Print Name

Signature

Phone #

Print Name

Signature

Phone #

Print Name

Signature

Phone #

Print Name

**CITY OF NEVADA CITY
ACTION MINUTES
REGULAR CITY COUNCIL MEETING OF SEPTEMBER 11, 2019**

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 – 6:00 PM

1. Pursuant to Government Code Section 54956.9 the City Manager, Catrina Olson and Consulting City Attorney, Hal DeGraw and Consulting City Attorney, Crystal Hodgson are requesting a closed session conference to confer on litigation involving the City in the case of Jacquelyn Sakioka, Successor in Interest to Estate of Ronson Sakioka v. State of California, County of Nevada, City of Nevada City and Genevieve Dungan, Nevada County Superior Court Case No. CU18-083228.
2. Pursuant to Government Code Section 54956.9 the City Manager, Catrina Olson, Consulting City Attorney, Hal DeGraw and Consulting City Attorney, Crystal Hodgson are requesting a closed session conference to confer on litigation involving the City in the case of Friends of Spring Street vs. Nevada City, et al., Nevada County Superior Court Case No. CIV 1304393, Appellate Case No. C081195.
3. Pursuant to Government Code Section 54956.9 the City Manager, Catrina Olson and Consulting City Attorney, Hal DeGraw and Consulting City Attorney, Crystal Hodgson are requesting a closed session conference to confer on litigation involving the City in the case of Peggy L. Parks v. the City of Nevada City, Nevada County Superior Court Case No. CU19-083760.

Action: Staff is to proceed as directed.

REGULAR MEETING – 6:30 PM - Call to Order

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

PLEDGE OF ALLEGIANCE

PROCLAMATIONS:

PRESENTATIONS: “Bee Heroic” - Nikki Florio <https://www.beeheroic.com>

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 – June, July and August 2019
Recommendation: Receive and file.

B. Subject: Award of Contract for Storm Drain Improvements on East Broad Street
Recommendation: Pass Resolution 2019-54, a Resolution of the City Council of the City of Nevada City to award a contract to PSCE in the amount of \$27,354 plus \$3,000 contingencies for Storm Drain Improvements on East Broad Street in Nevada City and authorize the Mayor to sign.

Action: Motion by Strawser, seconded by Parker to approve consent item 3A as presented. Council Member Strawser pulled item 3B for discussion.

(Approved 5 – 0)

Action: Motion by Strawser, seconded by Parker to approve consent item 3B after discussion occurred regarding adding conduit, if appropriate, when the storm drain is improved.

(Approved 5 – 0)

4. APPROVAL OF ACTION MINUTES:

A. Subject: City Council Meeting – August 28, 2019

Action: Motion by Parker, seconded by Moberg to approve the minutes of August 28, 2019 as presented.

(Approved 5 – 0, Abstention 1)

5. DEPARTMENT REQUESTED ACTION ITEMS AND UPDATE REPORTS:

A. Subject: Results of Hazardous Vegetation Ordinance Enforcement on Private and Public Property

Recommendation: Receive and file.

Action: No action, receive and file.

- B. Subject:** Nevada City Residential Chipping Pilot Program Update
Recommendation: Continue offering the residential chipping program with minor changes to application.

Action: Division Chief Goodspeed was directed to continue offering the chipping program to residents.

- C. Subject:** High/Low Siren Pilot Project Specific to Fire Evacuations
Recommendation: Receive and file.

Action: No action, receive and file.

6. PUBLIC HEARINGS:

- A. Subject:** Ordinance for the Regulation of Wireless Telecommunication Facilities in the City

Recommendation:

1. Adopt Resolution 2019-55, finding that adoption of the Ordinance Amendment is Exempt to amend Chapter 17.150 and renaming it "Wireless Telecommunication Facilities in the City" ("Ordinance") is exempt from review under the California Environmental Quality Act pursuant to California Code of Regulations Section 15061 (b)(3) – Activity is not subject to CEQA because there is no possibility the Ordinance will have a significant effect on the environment.
2. Hold a Public Hearing and introduce by title only, and waive full reading of the Ordinance, for first reading of an Ordinance amending Chapter 17.150 and renaming it "Wireless Telecommunication Facilities in the City".

Action: Motion by Strawser, seconded by Parker to adopt Resolution 2019-55, finding that adoption of the Ordinance amendment is exempt to amend Chapter 17.150 1 and renaming it "Wireless Telecommunication Facilities in the City" ("Ordinance") is exempt from review under the California Environmental Quality Act pursuant to California Code of Regulations Section 15061 (b)(3) – Activity is not subject to CEQA because there is no possibility the Ordinance will have a significant effect on the environment.

(Approved 3 – 1, Abstention 1)

Action: Motion by Strawser, seconded by Parker to introduce by title only, and waive full reading of the Ordinance, for first reading of an Ordinance amending Chapter 17.150 and renaming it "Wireless Telecommunication Facilities in the City".

(Approved 3 – 1, Abstention 1)

7. OLD BUSINESS:

8. NEW BUSINESS:

A. Subject: Priority List of Nevada City's Technological Hardware and Software Needs

Recommendation: Provide staff direction on proceeding with investigating the cost and funding options for the top five citywide priority technological needs with attached timelines for implementation.

Action: Council directed staff to proceed with investigating the cost and funding options for the top five citywide priority technological needs with attached timelines for implementation. Staff noted that one of the top priorities is a new phone system for all City facilities. Based on public comment, the City Manager is to arrange having technological experts from the Economic Resource Council that offered volunteer assistance, come talk with the City's Technology Committee.

9. CORRESPONDENCE:

A. Subject: Thank you for your common sense, resident Susan Reynolds

10. ANNOUNCEMENTS:

11. CITY MANAGER'S REPORT: The City Manager provided a written report that was attached to the agenda packet. In addition, the City Manager provided an update to Council regarding the Courthouse and the Courthouse Committee.

12. ADJOURNMENT: - 9:24 PM

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

September 25, 2019

TITLE: Courthouse Committee Update

RECOMMENDATION: Receive and file.

CONTACT: Catrina Olson, City Manager
Bill Falconi, Consulting City Engineer

BACKGROUND / DISCUSSION:

Recently the Judicial Council's Court Facilities Advisory Committee revised their list of courthouse projects that are in "immediate need" and "critical need". As a result, the long delayed rehabilitation of the Nevada County Courthouse was labeled a "critical need" and ranked as number 11. See the attached article by The Union on August 30, 2019.

Staff has monitored this chain of events and has met with the Nevada County Court Executive Officer, the County Executive Officer and County staff to discuss further needs and steps to progress the process.

The next step will be for the Judicial Council's Court Facilities Advisory Committee to have a final review of updates to (a) Court facility plans, (b) the Statewide List of Capital Projects with scores and (c) the Prioritization Methodology. Once the review has occurred then separate projects and the Judicial Council *may identify* funding upon approval of the final report on the reassessment of capital projects. This process should unfold over the next 4-6 months and staff will keep the city Council up to date as more news becomes available.

In the near future, staff will be reconvening the Courthouse Committee (a standing Citizens Committee set up in 2009 by previous City Manager, Gene Albaugh, City Engineer, Bill Falconi and Paul Matson) with some new members to replace those unable to serve. City staff will continue to update the City Council as the process moves along.

ENVIRONMENTAL CONSIDERATIONS: Not applicable.

FISCAL IMPACT: Not applicable.

ATTACHMENTS:

- ✓ The Union Article, Long Overdue

THE UNION



HIKING
Tahoe's East
trail worth the
OUTDOORS

Friday, August 30, 2019

FOUNDED IN 1864 TO PRESERVE THE UNION ... ONE AND INSEPARABLE



COURTHOUSE

From page A1

of the Judicial Council Facilities Services, said his office examined 213 buildings to create the facility assessment.

Four projects have an immediate need — the highest level. Twenty-five are critical, the next highest. The Nevada County Courthouse falls into that category.

"Funding for an improved courthouse in Nevada County is long overdue," CEO Alison Lehman said in an email. "The current courthouse is functionally deficient, and our community deserves a facility that would improve access, safety and efficiency. The county stands ready to support a project that meets these goals and best serves our community."

THE COURTHOUSE

Galkin said safety and security are the courthouse's primary needs.

Security currently exists, but the Sheriff's Office and contracted front door staff are overtaxed, Galkin said.

"That's a big factor," he added. "Another factor that goes into it is just the age of the building."

The courthouse also has issues with overcrowding and use of space. It needs jury assembly and training rooms. It also suffers from accessibility issues.

"We do our best to make the building as accessible as possible," Galkin said. "We have a significant parking issue, which is true for Nevada City at large."

Galkin emphasized that the \$93.5 million noted in the project list isn't yet guaranteed for the courthouse. The projects must go through the initial approval process, and then be passed by the state Legislature.

Some projects could receive approval and not others. The construction timeline could stretch into years.

"We are long overdue to see this need addressed," Galkin said.

To contact City Editor Alan Riquelmy, email ariquelmy@theunion.com or call 530-477-4239.

PHOTOS BY ELIAS FUNEZ/EFUNEZ@THEUNION.COM

People approach the Nevada County Courthouse in Nevada City Thursday afternoon. The courthouse has recently been labeled a 'critical need' in a revised report of trial court capital outlay projects.

Long overdue

Courthouse rehab
a 'critical need,'
according to new
project list

By Alan Riquelmy
City Editor

The long-delayed rehabilitation of the Nevada County Courthouse has had new life breathed into it, with state officials now labeling it a "critical need."

The project, called "indefinitely delayed" since 2013, appeared Thursday before the Judicial Council's Court Facilities Advisory Committee in San Francisco. It's one of 80 projects listed in a revised report of trial court capital outlay projects — a development that puts it in a much better position to receive funding.

The report estimates the Nevada County Courthouse project at \$93.5 million.

However, no funding is guaranteed and the list could change, said Jason Galkin, court executive officer of Nevada County Superior Court.

"For us, the higher we are ranked, the more likely we get approval, sooner rather than later," Galkin said. "We are in pretty dire need here."

A public comment period about the revised project list is open until Sept. 13. The committee will examine a final report Oct. 1. If approved, the Judicial Council will review the report at a November



Light shines through the windows of the 1930s Nevada County art deco courthouse built on the site of the former historic structure that was demolished.

meeting. The state Legislature should receive it before year's end, said Blaine Corren, a public affairs analyst with the Judicial Council, in an email.

"It's very important," said Paul Matson, head of the Nevada City Courthouse

Committee. "It's important to our court system, which is a function of the state of California. It's incredibly important to Nevada City to maintain the courthouse in its existing location."

PROJECTS

The courthouse, which has had additions over the decades, has been called "unsafe, substandard, overcrowded and functionally deficient" by the state's Administrative Office of the Courts. It was slated for renovation, though money issues and a move by state officials to use construction funds to fill budget shortfalls led in 2013 to the local project being labeled indefinitely delayed.

"There were a handful of projects that were indefinitely delayed," Galkin said.

Then, about 14 months ago, the governor and state Legislature changed how the projects receive funding, said Steven Jahr, a retired Shasta County Superior Court judge, during Thursday's meeting.

These projects now compete with other general fund construction dollars. That means if structures are designed and built effectively, and construction dollars won, the program should be sustained, Jahr said.

Additionally, a new method of analysis was developed to determine the need of the various projects.

Mike Courtney, director

COURTHOUSE, A5

REPORT TO CITY COUNCIL

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

September 25, 2019

TITLE: Parking Committee Update

RECOMMENDATION: Receive and file.

CONTACT: Catrina Olson, City Manager

BACKGROUND:

At the July 23, 2019 City Council meeting the City Council reconsidered the revised parking meter rates established in Resolution 2019-23 that was adopted on June 12, 2019. After consideration of public comment, Council Member Strawser made a motion, which was seconded by Council Member Parker, to suspend Resolution of 2019-23, Revised Parking Meter Rates, until the September 25, 2019 meeting. City Council directed staff to create a committee to evaluate, come up with solutions for parking and parking rate in Nevada City and bring recommendations back to City Council for consideration.

The members were selected to participate on the Committee are; City Manager Catrina Olson, Department of Public Works Superintendent Bubba Highsmith, Executive Director of the Chamber of Commerce of Commerce Cathy Whittlesey, Council Members Strawser and Moberg, Planning Commissioner Peter Van Zant, residents Thomas Nigh and Paul Matson, merchants Pat Dyer of Utopian Stone, Kim Coughlan and Ken Paige of Friar Tucks.

The first Committee had its first meeting September 4, 2019 at 4 p.m. The Committee discussed goals, strategies and timelines to come up with the recommendations for parking rates and parking being requested by the Council from the Committee.

The Committee unanimously agreed with Committee member, Paul Matson to make the first recommendation to Council to increase the meter rates from \$.25 per hour to \$.50 per hour at all current meter locations. The Meter Rate Increase Resolution will be brought forward at the October 9, 2019 meeting, giving time to publish a 10 day Public Hearing Notice.

ENVIRONMENTAL CONSIDERATIONS: Not applicable.

FISCAL IMPACT:

This would increase the average \$10,000 per month collected to approximately \$23,000 per month. (Includes changing the Commercial Street Parking Lot from \$.25 per two hours to \$.50 per hours).

ATTACHMENTS:

- ✓ Draft Notes from the September 4, 2019 Parking Committee Meeting

Parking Committee Task Assignments Meeting Notes: September 4, 2019

The committee unanimously recommends that the meter rates be raised immediately by \$.25 cents/hour to \$.50 cents/hour.

To follow are the task areas of work and study outlined by the Parking Committee to result in specific recommendations to be made to the City Council.

1. Consider new locations for paid parking
 - a. Review available locations
 - b. Review the proposed Clark and Spring Street parking lot improvement plans
2. Address the Nevada City Courthouse parking needs
3. Create a plan for merchant and employee parking
4. Pursue the possibility of creating new parking areas by covering the Freeway
5. Consider raising rates in specific areas
6. Evaluate the sustainability of current parking meters
7. Consider longer term meter rates for some areas
8. Conduct periodic rate reviews
9. Review the technology best suited for our equipment needs
10. Analyze the prospects for pay stations and possible locations
11. Develop a revenue and expenditure plan for and from paid parking
12. Consider a Sales Tax initiative to meet city's revenue needs
13. Review the parking meter fine program
14. Review the effect of proposed Commercial Street improvements on parking availability

Present were: Valerie Moberg, Duane Strawser, Catrina Olson, Bubba Highsmith, Cathy Whittlesey, Kim Coughlan, Thomas Nigh, Peter VanZant, Paul Matson, Ken Paige, and Pat Dyer

REPORT TO CITY COUNCIL

September 25, 2019

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

TITLE: Ordinance for the Regulation of Wireless Telecommunication Facilities in the City

RECOMMENDATION: Introduce by title only, and waive reading the full reading of the Ordinance, second reading of Ordinance 2019-XX amending Chapter 17.150 and renaming it “Wireless Telecommunication Facilities in the City”.

CONTACT: Amy Wolfson, City Planner

BACKGROUND/DISCUSSION:

On September 11, 2019, Council held a public hearing and heard a first reading of an Ordinance amending Chapter 17.150 and renaming it “Wireless Telecommunication Facilities in the City”. Council voted 3 to 1, with 1 abstention to approve the first reading. This Ordinance would replace Ordinance 2019-02, adopted by Council at their February 2, 2019 meeting, which established regulations for telecommunication facilities proposed within the City’s right-of-way. Consulting attorney Baron Bettenhausen, with Jones and Mayer, has worked with representatives of “The Center for Municipal Solutions” to draft the Ordinance in a manner that best protects the City from legal challenge and in a manner that protects against potential adverse safety and aesthetic impacts.

Mayor Senum as provided Ordinance recommendations and feedback that are attached for review. Baron Bettenhausen, which Jones and Mayer, has been provided the recommendations.

PROPOSED ORDINANCE AMENDMENT:

The purpose the draft Ordinance is to provide zoning regulations and standards for the permitting and development of wireless telecommunications facilities within City limits. The amended Ordinance establishes a two-tiered system for the approval of wireless telecommunication facilities within the City including a requirement for either 1) a Conditional Use Permit, or 2) an Administrative Permit. A Conditional Use Permit is required in all instances unless the proposed facility qualifies for administrative review either as a small wireless facility mounted on a utility pole or a new light pole or as a co-located facility that doesn’t rise to the level of “substantial modification.” The Ordinance also includes provisions for permitting multiple telecommunication facilities in a single application with either a Master Deployment Plan Permit (for five or more facility proposals) or a Batched Application (for fewer than five facility proposals).

ENVIRONMENTAL CONSIDERATION:

At the September 11, 2019 meeting, Council voted to adopt Resolution 2019-XX Notice of Exemption adopting a Notice of Exemption (NOE) pursuant to CEQA Guidelines 15061 (b)(3) because the proposed Ordinance will allow for the permitting and regulation of wireless telecommunication facilities within the City in compliance with State and Federal law.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission considered the matter at a meeting held on August 19, 2019. After reviewing the project and considering public testimony, the Planning Commission voted 4-0 (Chair Andrews absent) to recommend that the City Council find the project is exempt from CEQA as provided above, and adopt the Ordinance Amendment as proposed.

FISCAL CONSIDERATIONS:

If adopted, staff will develop a fee resolution and recommend application fees and deposit amounts to provide full cost recovery for all time and materials.

ATTACHMENTS:

- ✓ September 11, 2019 Staff Report
- ✓ Ordinance 2019-XX , Proposed Ordinance Amendment as recommended by Planning Commission
- ✓ Proposed Nevada City Telecom Ordinance Recommendations and Feedback, Mayor Senum
- ✓ Sample Radiofrequency Radiation Request Sheet, Mayor Senum
- ✓ Mill Valley Urgency Ordinance
- ✓ Public Correspondence

REPORT TO CITY COUNCIL

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

September 11, 2019

TITLE: Ordinance for the Regulation of Wireless Telecommunication Facilities in the City

RECOMMENDATION:

1. Adopt Resolution 2019-XX, finding that adoption of the Ordinance Amendment is Exempt to amend Chapter 17.150 and renaming it “Wireless Telecommunication Facilities in the City” (“Ordinance”) is exempt from review under the California Environmental Quality Act pursuant to California Code of Regulations Section 15061 (b)(3) – Activity is not subject to CEQA because there is no possibility the Ordinance will have a significant effect on the environment.
2. Hold a Public Hearing and introduce by title only, and waive full reading of the Ordinance, for first reading of an Ordinance amending Chapter 17.150 and renaming it “Wireless Telecommunication Facilities in the City”.

CONTACT: Amy Wolfson, City Planner

BACKGROUND/DISCUSSION:

The Ordinance for Regulation of Wireless Telecommunications Facilities in the City was placed on the City Council Agenda on for the August 28, 2019 meeting. Mayor Senum, who was unable to attend the meeting, requested that Vice Mayor Minett continue the item to the September 11, 2019 City Council Meeting so that she could participate in the discussion. The Council voted to continue the item to a date certain of September 11, 2019.

On February 23, 2019, the City Council adopted an Ordinance that established provisions for permitting small cell telecommunication facilities within the City right-of-way. Immediately following that decision, Council directed staff to amend the Ordinance in a manner that would make it applicable Citywide and not just applicable to designated public right-of-ways. In order to ensure that the resulting Ordinance is legally defensible, consulting attorney Baron Bettenhausen, with Jones and Mayer, was directed to work with representatives of “The Center for Municipal Solutions” to draft the ordinance in a manner that best protects the City from legal challenge in a manner that protects against potential adverse safety and aesthetic impacts.

PROPOSED ORDINANCE AMENDMENT:

The purpose of the draft Ordinance is to provide zoning regulations and standards for the permitting and development of wireless telecommunications facilities within City limits. Amongst its provisions are standards necessary (1) for the preservation of the public right-of-way, (2) to promote and protect public health and safety, community welfare, visual resources and the aesthetic quality of the, and (3) to provide for efficient development of wireless telecommunications facilities in accordance with state and federal regulations. Staff has summarized pertinent sections of the proposed Ordinance, below.

17.150.040 Wireless Telecommunications Facility Permit Requirements: The proposed amended ordinance establishes a two-tiered system for the approval of wireless telecommunication facilities within the City including a requirement for either 1) a Conditional Use Permit, or 2) an Administrative Permit. Essentially, a Conditional Use Permit is required in all instances unless the proposed facility qualifies for administrative review either as a small wireless facility mounted on a utility pole or a new light pole that meets provisions of

17.150.040 (B)(4), or as a co-located facility that doesn't rise to the level of "substantial modification." An eligible new light pole for administrative review must be located at least 90-feet from an existing light pole. "Substantial Modification" are outlined in the "definitions" section of the Ordinance, and limits significant size expansion of both the telecommunication facility and of ancillary equipment. Any proposed telecommunication facility that doesn't qualify for Administrative permitting review, will be required to go through a discretionary Conditional Use Permit and Public Hearing process. The Ordinance also includes provisions for permitting multiple telecommunication facilities in a single application with either a Master Deployment Plan Permit (for five or more facility proposals) or a Batched Application (for fewer than five facility proposals).

17.150.050 Application for Wireless Telecommunications Facility Permit: This section provides standards for application material and submittal requirements. Requirements vary depending on whether it is a co-located facility, new facility, or small cell facility. All are required to provide general information including facility size, construction details, elevation details, locational information of all facility equipment, structural analysis, proof of installation of a temporary mock-up, and copies of FCC licenses.

The City at its discretion may also retain an independent expert to review applications, which may include a review for compliance with applicable radio frequency emission standards. A Radio Frequency survey may also be conducted for a particular facility if required by the City.

17.150.070 Requirements for Facilities: This section outlines design controls including facility screening and undergrounding to minimize significant view impacts. Standard Conditions of Approval are also included in this section, including controls for lighting and noise, a design with security consideration, facility maintenance and cooperation with the City regarding maintenance of any applicable City feature (such as needed sidewalk repair).

17.150.080 Findings. In addition to making applicable findings associated with approval of a Conditional Use Permit, the following additional findings will be required for approval of a wireless telecommunication facility within the City:

- 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.
- F. 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.

17.150.190 Location Prohibitions and Preferences: Finally, the draft Ordinance rates areas of the City whereby facilities are encouraged or discouraged based on the probability for an aesthetic or safety impact, as provided below:

- 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 facilities shall not be allowed within those portions of the right of way, which are in the 7-Hills Business District, any residential zone or in the Historical Combining District.
- C. Discouraged. Wireless telecommunication facilities are discouraged from being in the Scenic Corridor Combining District. 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.

ENVIRONMENTAL CONSIDERATION:

Adoption of the proposed Ordinance may be considered exempt from the requirements of the California Environmental Quality Act (“CEQA”) pursuant to Title 14, Chapter 3, California Code of Regulations (CEQA Guidelines), Section 15061(b)(3) because the proposed Ordinance will allow for the permitting and regulation of wireless telecommunication facilities within the City in compliance with State and Federal law.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission considered the matter at a meeting held on August 19, 2019. After reviewing the project and considering public testimony, the Planning Commission voted 4-0 (Chair Andrews absent) to recommend that the City Council find the project is exempt from CEQA as provided above, and adopt the Ordinance Amendment as proposed.

FISCAL CONSIDERATIONS: If adopted, staff will develop a fee resolution and recommend application fees and deposit amounts to provide full cost recovery for all time and materials.

ATTACHMENTS:

- ✓ Resolution 2019-XX, a Resolution of the City Council of the City of Nevada City, State of California, Recommending Approval of a Notice of Exemption Adopting a Notice of Exemption (NOE) Pursuant to CEQA Guidelines 15061 (B)(3)
- ✓ Ordinance 2019-XX , An Ordinance of the City of Nevada City Amending Chapter 17.150 to the Municipal Code, and Renaming it “Wireless Telecommunication Facilities in the City”
- ✓ Telecom Correspondence

ORDINANCE NO. 2019-XX

AN ORDINANCE OF THE CITY OF NEVADA CITY AMENDING CHAPTER 17.150 TO THE MUNICIPAL CODE, AND RENAMING IT “WIRELESS TELECOMMUNICATION FACILITIES IN THE CITY”

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, Section 1455 of Title 47 of the United States Code mandates approval by local agencies of certain eligible facilities requests for modification 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, 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;

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 and Renamed. Chapter 17.150 is hereby renamed to be, “Wireless Telecommunications Facilities” and is amended 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, installation, modification, design, operation and maintenance of wireless telecommunications facilities in the city. These

regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with wireless telecommunications facilities. This chapter provides standards necessary (1) for the preservation of the public right-of-way in the city for the maximum benefit and use of the public, (2) to promote and protect public health and safety, community welfare, visual resources and the aesthetic quality of the city consistent with the goals, objectives and policies of the General Plan, and (3) to provide for the orderly, managed and efficient development of wireless telecommunications facilities in accordance with the state and federal laws, rules and regulations.

This chapter is intended solely as a zoning regulation. These requirements are in addition to any other applicable law, such as the requirement to obtain an encroachment permit, and any required authorization from a third party, such as an electric utility.

17.150.020 Definitions.

“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.

“Applicant” means any Wireless service provider submitting an application for a special use permit for Wireless telecommunications facilities.

“Application” means all necessary and required documentation that an Applicant submits in order to receive a special use 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.

“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 System”** means a network of antennas and related fiber optic nodes which provide access and signal transfer for Wireless Telecommunication Service providers. DAS also includes antenna combining technology 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, 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 mounted to the ground, or installed in or under the ground.

“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”** means a facility as defined 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 as 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.

“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 profile, iii) change the RF emissions levels, 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 wireless facilities or collocations or modifications to existing wireless facilities shall require a Conditional Use Permit. See section 17.150.060, below for review procedures.
2. The Planning Commission may refer a conditional use permit to the City Council for approval.
3. 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 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 (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 at least ninety (90) feet away from any existing light pole; 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).

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. 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 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 days between submittals of batched Applications;

3. No more than 4 batched Applications shall be accepted in any thirty (30) consecutive day period

E. 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. Eligible Applicants. Only applicants who have been granted the right to enter the public right-of-way pursuant to state or 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. 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) Identification of the specific applicable federal and State law and rule, including the specific section and subsection, regarding Wireless facilities under which the Application is filed.
- 3) The name, address, phone number and e-mail address of the person preparing the application
- 4) 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.
- 5) 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.
- 6) The zoning district or designation in which the property is situated.
- 7) For all new Facilities, a list of the specific frequency bands to be initially activated immediately upon completion of construction.
- 8) For all new Facilities, a separate list of all frequencies licensed to the carrier not intended to be initially activated.
- 9) A copy of the FCC licenses applicable for all the frequency bands licensed to the carrier to provide service in the City.
- 10) All Applications shall include signed written commitment statements 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 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, its employees, and agents.
- 11) 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.
- 12) 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) Copies of the cut sheets for all antennas.
- 14) 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) 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.

- 16) 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.
- 17) In certain instances, the City may deem it appropriate to have an on-site RF survey of the Facility done after the construction or modification of the Facility. Such survey shall be done under the observation and direction of the City or its designee, and an un-redacted copy of the survey results along with all calculations provided, prior to the issuance of a Certificate of Compliance.
- 18) A signed statement that the Applicant will expeditiously remedy any physical or RF interference with other Wireless devices or services.
- 19) 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) 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) 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) 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) 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 500 feet of the proposed installation. The applicant shall mail a notice regarding installation of the mock-up at least five (5) 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:

- 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) If requested, 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) 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) 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.
- 3) 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) 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) 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) 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) 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) 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.

- 9) 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, but the second date, in case of poor visibility on the initial date, may be on a week day. 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 mail. The Applicant shall bear all costs associated with said notification.
- 10) 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 Use Permit.
- 11) 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. 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) 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.
- 13) Spec Support Structures Prohibited: A building permit shall not be issued for construction of a new Tower 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 matters 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.

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. 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;
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 -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 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 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 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 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.

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 intended purpose. 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 or strand mounted antennas (within 10 feet of pole) shall be permitted in the right-of-way. All other telecommunications towers 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 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.

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 as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, incommode the public's use of the right-of-way, or 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. A Small Wireless Facility shall not be easily recognizable as a wireless facility by a layperson.

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.

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 hundred (500) 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.

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 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 complaint 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 applicant has shown that no other feasible design would be less intrusive upon the values intended to be protected by Chapter 17.150.

F. 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.

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 may grant a limited, one-time exemption from strict compliance subject to the provisions in this section.

B. Required Findings. The Planning Commission 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. 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. 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 shall limit its exemption to the extent to which the applicant demonstrates such exemption is 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.

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. Unless authorized by CUP or otherwise allowed by law, telecommunications facilities shall not be allowed within those portions of the right of way which are in the 7-Hills Business District, any residential zone or in the Historical Combining District.
- C. Discouraged. Wireless telecommunication facilities are discouraged from being in the Scenic Corridor Combining District. 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 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.

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. Effective Date. This ordinance shall become effective on the 31st day after adoption.

SECTION 5. 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. Certification. The City Clerk shall certify to the passage and adoption of this ordinance as required by law.

PASSED AND ADOPTED at the regularly scheduled meeting of the Nevada City Council held on the 28th day of August, 2019 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Reinette Senum, Mayor

ATTEST:

Niel Locke, City Clerk

**Recommended Changes/Feedback to
Nevada City Wireless Telecommunications Facility**
Submitted by Mayor Senum

Location Prohibitions and Preferences:

- Prohibited
- Especially Discouraged
- Discouraged
- Encouraged

This is desirable tiered processing as is BUT does not apply tiering to small cell siting as it does with major microcell facilities.

General Rules: We must have Conditional Use Permit for small cells and not just administrative permitting (over-the-counter). Allowing for administrative permitting eviscerates any real assessment of site-specific impacts of small cells and does not provide for any public input. I strongly argued for Public Hearings, Findings, Conditions, etc not to apply to only cell towers (new and co-located, etc), but to all small cells in PROWs, private, and public property.

Indemnification: It requires that volunteers be indemnified, as well as city officials, etc. However, wireless applicants are NOT insured for RF Injury lawsuits. WHO is covering them when lawsuits occur? How are we, the city, protected??? I want assurance of complete protection.

Findings: are very general, vague and sweeping. Why are there NO FINDINGS for Small Cell installations?

Batched Applications Permissible: Up to 20 applications can be submitted in 30 days, starting the shot clock on multiple sites, where there is no hope of doing any site-specific assessment. This applies to small cells in particular, and affirms adherence to shot clock. Ultimately, the city of Nevada City can have up to 240 small cells installed within ONE YEAR, and annually.

Stealth/Concealed Facilities: I have argued the public should know where these small cells are, visually. How do we notify a passerby of the hidden danger? Distance is our friend in this case. These antennas should be nowhere near the public.

Administrative Permit: Small cell permits and co-locations do not require a Conditional Use Permit (CUP), and will have cursory processing, which defeats the entire reasoning behind new telecom ordinance language. This capitulates on all small cell siting - no site specific aesthetics, distance from sensitive receptors, and is designed to accommodate the shot-clock timetable if done under an Administrative Permit, and up to 20 applications can be submitted every 30 days, ensuring the impossibility of any real analysis. It ENSURES small cell rollout with minimal public input, environmental and public health and safety assessments, etc.

Unless the section on Location Prohibitions and Preferences dominates the permit process - specifically steers small cells to 'encouraged locations' we have no balance.

Americans With Disabilities: Is not strong enough. I encourage we add or change ADA to the Definition Section:

"ADA" means Americans With Disabilities Act of 1990. The Americans with Disabilities Act (ADA) became law in 1990. The ADA is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public (<https://adata.org/faq/does-ada-cover-privateapartments-and-private-homes>).

RF Assessments: I have argued strongly for good RF Data Sheets with technical information to allow an independent expert evaluation of RF levels at various distance from facility. Every section addressing need for RF information is watered down to be meaningless; compliance only, after-construction testing (maybe)... useless. Big loss to knowing what FCC OET 65 formulas predict based on make, model, frequencies, EIRP, elevations, etc.

So, I suggest we STRIKE 17.150.050 - Number 17 which says now:

"In certain instances, the City may deem it appropriate to have an on-site RF survey of the Facility done after the construction or modification of the Facility. Such survey shall be done under the observation and direction of the City or its designee and an un-redacted copy of the survey results along with the calculations provided prior to the issuance of a Certificate of Compliance."

SUBSTITUTE THIS FOR NUMBER 17:

A Radiofrequency Compliance Report documenting compliance with the latest version of the FCC's RF emissions standards as set forth in OET Bulletin 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 filled out by the Applicant and/or their technical RF consultant and submitted with the Application (see RF Compliance Doc attachment). Applications lacking these three documents shall be deemed materially incomplete.

Visual Impacts: Lots of discussion on reducing visual impacts, but it isn't that small cells are so visually intrusive as it is that they produce (or can produce) RF levels equivalent to typical cell towers (on a hilltop) at 600' distance -- but are within 25' to 50' of second story bedrooms and other sensitive receptors. Visual analysis cannot reasonably be done on small cells in the volume of applications anticipated and permitted for submission, with the shot clock requirements, if honored. How do we ensure protection of our residents?

“A small wireless facility small not be easily recognizable as a wireless facility by a layperson.” Why not? What about EHS people? What about children who need to be protected? What about buyers of new homes trying to avoid RF for all kinds of good reasons? What about people with medical/metal implants or neurological diseases or cancer?

Exceptions: “grants a one-time exemption from strict compliance with this ordinance.” *To what does this apply? Per application? Per set of batched applications?* A one-time exemption is good enough to permit something at odds with or out of compliance with this new ordinance. Does it allow EVERYTHING? What qualification?

This ordinance should also include or be considered:

- “Sensitive Areas”- schools, preschools, etc. 1,500 feet from ANY cell antenna.
- No RF Interference allowed with personal property and medical devices.
- We need to include a procedure for the accommodation for people with disabilities in determining locations of cell towers and small cell antennas.
- Currently, there is nothing in the preamble that includes “ensuring the health safety and welfare of the community” and as the ordinance clearly stands we are prevented to consider the health of the community.
- There are far better locations that can provide coverage that is, at least, 1,500 feet away from where people live, sleep, and heal.
- Where there is no Significant Gap in coverage there is no basis for preemption of local authority.
- How do we as a city council ensure there is “no dangerous condition” for our constituents?
- How do we know “least intrusive” if a small cell application is done administratively???
- How can we make any findings in this time of a shot clock? Administrative without being able to honestly make findings sets us up for lawsuit.
- TWO LEVELS OF PERMITS, ALL APPLICATIONS MUST COME UNDER C.U.P. so as to come under our discretion to make a decision.
- Where are the findings for esthetics of small cells that comply with our design guidelines?

The City Council must understand our authority when it comes to placement and operation of cell antennas:

Ordinance Regulating Aesthetics of Wireless in Public Rights of Way OK'd by California Supreme Court - Decision in T-Mobile West LLC v. City and County of San Francisco a Victory for Local Government:

"The state law at issue in this case is California Public Utility Code section 7901. It allows telephone companies to construct and maintain telecommunications antennas along public roads in such a manner as to not "incommode" public use of the road. Additionally, PUC Section 7901.1 states that municipalities "exercise reasonable control as to the time, place, and manner in which roads, highways, and waterways are accessed.

The 9th Circuit Court further supported its decision by noting that the "[California Public Utilities Commission]'s default policy is one of deference to municipalities in matters concerning the design and location of wireless facilities."

This means we can exercise our rights more than what the current proposed ordinance is allowing us. Again, the CA Supreme court says we can we cannot "incommode."

The City DOES have "control over operations and locations" of these antennas. This IS within our legal right. Therefore, I would like to add the additional changes to the Wireless Facility Ordinance:

- *Telcom Industry claims they can put their antennas anywhere, however, we as the City have the full right to zone placement where we want. Small cells can be zoned for Industrial areas ONLY and NOT within 500 to 1,000 feet of a resident no matter WHAT zone.*
- *IF a small cell goes into a PROW then we can regulate each antenna be at a distance of no less than 1,500 feet apart.*
- *WHEN an antenna is installed the City does have the authority to require height and radiated power.... This is a "distance power trade off." We must look at how low or high an antenna can be and the safe maximum output we can have at that respective height. If we are going to have a low hanging antenna then the power output must be low and if the antenna is placed higher it can have higher power output. WE have legal authority over operations of these towers.*

- We should require antennas to be attached to utility poles ONLY.
- It is our responsibility as a Council to “preserve the quiet enjoyment of our streets.” Therefore, we should require that all the equipment be underground and ONLY quiet liquid cooling systems and NO noisy fans allow.

All of this is within the authority of the City.

**RADIOFREQUENCY RADIATION MODELING
DATA REQUEST SHEET**

Please provide the following information on the wireless antenna site at

_____.

Effective Radiated Power from the antenna: _____ watts

Antenna type

Manufacturer

Model No.

Antenna Gain _____ dB

Vertical and Horizontal Radiation Patterns (Diagrams Please)

Beam Tilt

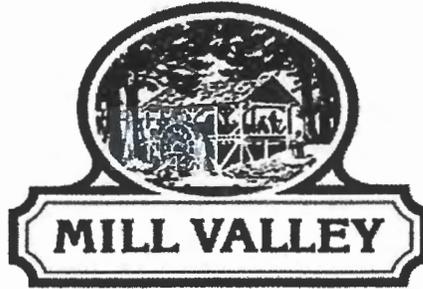
Sectorized? Yes or No

Coverage per sector?

Degrees between sector?

Number of transmit antennas? _____

Antenna height (radiation center) Sectors A,B,C = (feet') AGL
Sector D = (feet') AGL



STAFF REPORT

TO: Mayor and City Council

FROM: Danielle Staude, Senior Planner *DS*

SUBJECT: Introduction of Urgency Ordinance No 18-____ Amending the Mill Valley Municipal Code to add Chapter 20.73 establishing Wireless Telecommunication Facilities Regulations and Amending Mill Valley Municipal Code Sections 11.16.100; 20.24.020; 20.26.020; 20.36.030; 20.40.030; 20.52.020; and 20.56.030 to incorporate Wireless Telecommunication Facilities.

DATE: September 6, 2018

Approved for Forwarding:

James C. McCann
James C. McCann, City Manager

ISSUE:

Consideration of an urgency ordinance modifying Title 20 “Zoning” of the Mill Valley Municipal Code (“Zoning Code”), adding Section 20.73 “Wireless Telecommunications Facilities Regulations” establishing comprehensive regulations for the installation, operation and maintenance of wireless telecommunications within the City on private property and within the City right-of-way.

RECOMMENDATION:

Receive presentation, introduce and adopt the urgency ordinance (ATTACHMENT 1) with a four-fifths vote.

BACKGROUND:

As the wireless telecommunications industry works to meet the growing demand for broadband and data services, service providers are seeking to deploy smaller cell and distributed antenna systems (also known as “DAS”), with many of these facilities installed in the public right-of-way. The Mill Valley Municipal Code does not currently provide regulations specific to the installation, operation and maintenance of wireless telecommunication facilities.

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26 ***Federal Law***

27 Both federal and state laws preempt local authority to regulate certain aspects of wireless
28 telecommunications facilities, including regulations related to:

- 29 • radio frequency or electromagnetic waves that comply with FCC regulations, the
30 collocation on existing wireless telecommunications facilities,
- 31 • certain modifications to existing wireless telecommunications facilities, and
- 32 • the installation of wireless telecommunications facilities on existing utility poles
33 in the public rights of way.

34 Key among these limitations is that local regulations cannot have the effect of prohibiting
35 the provision of personal wireless services. *These laws, however, preserve local authority*
36 *to regulate the placement, construction and aesthetics of wireless telecommunications*
37 *facilities.*

38
39 Federal law also requires the City to act on an application for wireless telecommunication
40 facilities within a limited amount of time. These “shot clocks” provide the City:

- 41 • 60 days to act on an application for an eligible facility that does not substantially
42 change the physical dimensions of the existing wireless telecommunication
43 facilities tower or base station;
- 44 • 90 days to act on an application for a collocation facility; and
- 45 • 150 days to act on all other applications.

46 These timeframes may change with federal laws. As such the actual “shot clock” and/or
47 timeframes are not discussed in the ordinance, but will be provided as part of the
48 application and informational handouts.

49

50 ***Urgency Ordinance***

51 The proposed urgency ordinance is intended to prescribe clear and reasonable criteria to
52 process applications for wireless telecommunications facilities in a consistent and
53 expeditious manner and within the limits of federal and state law.

54

55 This proposed ordinance provides an extensive and comprehensive list of procedures and
56 regulations that allow the community, applicant and internal City Departments to
57 understand how facilities are regulated, installed, maintained and operate within the City.

58 The regulations contained in the proposed ordinance:

- 59 1. Ensures that the FCC standards regulating radio frequency emissions are strictly
60 followed.
- 61 2. Establishes an application process for a conditional use permit (CUP) and design
62 review.
- 63 3. Limits the location of new or updated wireless facilities to private property within
64 commercial zoning districts (outside of single family and multi-family residential
65 districts) and the public right-of-way with an order of preference in terms of
66 location within commercial areas and configuration aimed toward existing
67 facilities.
- 68 4. Limits the installation of new wireless facilities in the public right-of-way to
69 existing poles that must be 1,500 feet away from the nearest facility.

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- 70 5. Establishes design standards for the appearance and maintenance of facilities,
71 including limiting the height and bulk of facilities and requires the concealment of
72 accessory equipment to the extent feasible.
- 73 6. Imposes strict noise standards.
- 74 7. Where feasible, requires upgrades to existing facilities as new technology
75 becomes available to replace larger more visually intrusive facilities with smaller
76 facilities.
- 77 8. Requires the relocation of any facility in the public right-of-way that would
78 interfere with a future public project or improvements.
- 79 9. Requires a performance bond to ensure that facilities are promptly removed when
80 they are no longer permitted or needed.
- 81 10. Requires the permittee to defend and indemnify the City from any liabilities
82 arising from the permits issued by the City and the installation, operation and
83 maintenance of the facilities.
- 84

85 The ordinance is being proposed as an urgency ordinance which would be adopted
86 pursuant to Government Code Section 36937(b). Under that section, ordinances adopted
87 to protect the health, safety, and welfare with a four-fifths vote of the City Council
88 become effective immediately adoption by 4/5ths vote is required by state law). Given
89 the increased interest in construction of small-cell facilities in the public right-of-way, it
90 is critical that the City update its regulations to reflect current federal and state law and
91 recent trends in wireless facilities. The adoption of urgency standards will ensure that the
92 City is able to limit disruption to the public right-of-way as well as impose aesthetic
93 regulations on new facilities.

94

95 Staff is also working to establish permanent regulations which require additional public
96 notice, Planning Commission and City Council review, followed by City Council
97 adoption.

98

99 **DISCUSSION:**

100 The proposed urgency ordinance provides uniform and comprehensive regulations for the
101 permitting, development, siting, installation, design, operation and maintenance of
102 wireless telecommunications facilities in the City. The ordinance is similar to recent
103 regulations enacted in San Anselmo and Ross. The ordinance also imposes some
104 additional requirements on telecommunications facilities that are pole mounted to the
105 existing public utility infrastructure (known as “small cell wireless facilities”) based on
106 community interest and recent regulations established in Petaluma (see staff report, lines
107 171-205).

108

109 ***Applicable Projects (20.73.030)***

110 The urgency ordinance becomes effective immediately. Those applications not approved
111 prior to the effective date of the urgency ordinance will be subject to the regulations. All
112 other wireless facilities currently in operation will also be subject to the new regulations
113 with regard to operation, maintenance and use.

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Conditional Use Permit (CUP) Required (20.73.040)

The permitting process described in the table below reflects the requirements of federal and state law, which mandate ministerial approval of collocations on and minor modifications to existing wireless telecommunications facilities.

Description Wireless Facility	Private Property		Public Right-of Way
	RS, RSP, DR, RM Zoning Districts	All Other Zoning Districts	All Zoning Districts
Roof-mounted facility, building-mounted facility, or facility mounted on an existing pole	Not Permitted	Conditional Use Permit/ Design Review	Conditional Use Permit/ Design Review
Facility mounted on a replacement pole or new telecommunications tower	Not Permitted	Conditional Use Permit/ Design Review	Conditional Use Permit/ Design Review
New wireless telecommunications collocation facility	Not Permitted	Conditional Use Permit/ Design Review	Conditional Use Permit/ Design Review
Eligible facilities request ¹ or application pursuant to California Government Code Section 65850.6 ²	Permitted	Permitted	Permitted
¹ See requirements of section 20.73.140.			
² See requirements of section 20.73.150.			

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Application for CUP Permit (20.73.050)

The proposed ordinance prescribes the content for an application for a wireless telecommunications facility permit. The application requires the submission of detailed site and engineering plans, photographs of facility equipment, a visual impact analysis with photo simulations, a noise study, documentation demonstrating compliance with the FCC standards for radio frequency emissions, and certification that the applicant has a right under state law to install facilities in the public right-of-way if that is the proposed location of the facilities. Also, the City may hire a technical consultant to assist the City in the review of the application at the expense of the applicant.

Based on existing provisions of the City’s Zoning Code, initial wireless facility CUP applications will be heard by the Planning Commission. Smaller subsequent amendments to wireless facility CUPs, such as modifying or collocating equipment, will undergo Zoning Administrator approval. Amendments to CUPs that involve significant design review issues, or are deemed as significant projects by the Planning Director will be heard by Planning Commission. There are also specific design standards, findings and conditions of approval required as part of the approval process for these applications (discussed below).

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144 ***Location and Configuration Preferences (20.73.060)***

145 The proposed ordinance establishes preferences in terms of location and configuration of
146 wireless facilities.

147

148 Configuration preferences are as follows:

- 149 1. Collocation with existing facilities,
- 150 2. Roof-mounted,
- 151 3. Building-mounted,
- 152 4. Mounted on an existing utility pole or a new utility pole that will replace an
153 existing utility pole,
- 154 5. Mounted on a new telecommunication tower.

155

156 Location preferences are as follows:

- 157 1. Commercial zoning districts (CG, CN, CL, CD),
- 158 2. Public right-of-way within commercial zoning districts,
- 159 3. Public right-of-way within RM zoning districts,
- 160 4. Mounted on a new telecommunication tower.

161

162 ***Design and Development Standards for All Facilities (20.73.070)***

163 The proposed ordinance provides specific guidance on the design techniques for
164 camouflaging wireless facilities, and set development standards including the preference in
165 collocating facilities, landscaping screening, signage, lighting, noise restrictions, and
166 security requirements.

167

168 ***Additional Standards for Facilities Outside the Public Right-of-Way (20.73.080)***

169 Additional design and development standards are identified for wireless facility
170 applications that are *outside* the right-of-way including the requirement that the facility
171 cannot interfere with designated parking spaces and additional screening criteria for roof
172 mounted facilities, towers and accessory equipment.

173

174 ***Additional Standards for Facilities in the Public Right-of-Way (20.73.060-090)***

175 Additional design and development standards are identified for wireless facility
176 applications that are *inside* the right-of-way including establishing maximum height
177 limits on utility and streetlight poles for antennas, occupation of space, obtaining an
178 encroachment permit, and adhering to Americans with Disability Act (ADA)
179 Compliance, and specific development standards.

180

181 Additional design and development standards have been incorporated based on the City
182 of Petaluma's recently adopted ordinance, and interest from some community members
183 that are concerned about potential health impacts associated with pole mounted wireless
184 facilities (see ATTACHMENT 2 for public comments). Staff has incorporated a distance
185 requirement (1,500 ft. apart) for pole mounted telecommunications facilities, but has not
186 gone as far as establishing a restriction on the proximity of pole mounted wireless
187 telecommunication to any residence. The City of Petaluma also establishes a 500 foot
188 buffer from any residence as part of its ordinance. Due to the size and scale of Mill
189 Valley, staff recommends moving forward with the following standards, and
190 incorporating a buffer, if legally feasible, as part of the regular ordinance. Additional

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191 research is required to ensure that such a regulation does not essentially create a ban on
192 such facilities within the City and expose the City to potential litigation. In the meantime,
193 the urgency ordinance provides a 1,500 foot buffer from each small cell facility and
194 prohibits such facilities in residential and multi-family zoning districts.
195

196 The requirements indicate that wireless facilities in the right-of-way must:

- 197 1. Connect to an existing utility pole that can support its weight.
- 198 2. Be separated by at least 1,500 feet.
- 199 3. Install all new wires needed to service the telecommunications facility within
200 the width of the existing utility pole so as to not exceed the diameter and
201 height of the existing utility pole.
- 202 4. Underground (flush to the ground, within three (3) feet of the utility pole), all
203 ground-mounted equipment not installed inside the pole.
- 204 5. Conceal all equipment. Aside from the transmitter/antenna itself, no additional
205 equipment may be visible. All cables, including, but not limited to, electrical
206 and utility cables, shall be run within the interior of the telecommunications
207 tower and shall be camouflaged or hidden to the fullest extent feasible without
208 jeopardizing the physical integrity of the tower.
209

210 ***Conditions of Approval (20.73.100-110) and Findings for Approval (20.73.120)***

211 The proposed ordinance outlines findings and conditions of approval for granting the
212 design review and CUP applications, with additional specific conditions for those use
213 permits in the right-of-way. The CUP expires in 10 years unless renewals are approved by
214 the City.
215

216 ***Exceptions (20.73.130)***

217 The proposed ordinance allows an applicant to request an exception from the standards in
218 the event that denial of a permit would violate federal or state law. The applicant has the
219 burden of providing sufficient facts to support the request.
220

221 ***Wireless Telecommunications Facilities Covered under Section 6409(a) of the Middle
222 Class Tax Relief and Job Creation Act (20.73.140)***

223 This Section applies to all collocations or modifications to an existing wireless tower or
224 base station submitted with a written request for approval pursuant to Section 6409(a).
225 Section 6409(a) generally requires that State and local governments "...not deny, and shall
226 approve" requests to collocate, remove or replace transmission equipment at an existing
227 tower or base station. Such applications undergo administrative review, and the proposed
228 ordinance outlines required findings for approval, denial, and appeal procedure.
229

230 ***Collocation Facilities Covered under CA Government Code Section 65850.6 (20.73.150)***

231 This section provides the requirements, standards and regulations for a wireless
232 telecommunications collocation facility for which subsequent collocation is a permitted use
233 pursuant to California law.
234

235 ***Additional Requirements (20.73.160-240)***

236 Additional regulations are established in the remainder of the ordinance including business
237 license and encroachment permit requirements, emergency deployment, operation and

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238 maintenance standards, permit expiration, cessation of use/abandonment, removal of
239 equipment)

240

241 **EFFECTIVE DATE/NEXT STEPS:**

242 The urgency ordinance would become effective immediately. Staff’s intent is to
243 implement the urgency ordinance swiftly due to recent inquiries from the wireless
244 industry to upgrade facilities. Staff intends to utilize the urgency ordinance as a means of
245 communication, and to obtain feedback from interested parties, including the local
246 community and wireless industry, as part of the public hearing process for development
247 of a permanent ordinance. Staff plans to bring the regular ordinance to City Council early
248 in 2019, with a projected effective date of approximately March 2019.

249

250 **RECENT CORRESPONDENCE:**

251 Staff has received over 150 e-mails from the community. Five of the letters are in support
252 of the new wireless technology, the remaining pieces of correspondence express concern
253 about the possible health impacts related to the wireless 4G and 5G technology, and are
254 urging the City to maintaining local control over the placement, maintenance and operation
255 of wireless telecommunications. See ATTACHMENT 2 for details.

256

257 **ENVIRONMENTAL REVIEW:**

258 The proposed amendments to MVMC, Chapter 20 “Zoning” are exempt from the
259 California Environmental Quality Act (“CEQA”). The proposed Ordinance does not
260 constitute a “project” within the meaning of the California Environmental Quality Act of
261 1970 (CEQA) Guidelines Section 15060(c)(2) because there is no potential that small cell
262 facility regulations will result in a direct or reasonably foreseeable indirect physical
263 change in the environment and CEQA Guidelines Section 15378 because they have no
264 potential for either a direct physical change to the environment, or a reasonably
265 foreseeable indirect physical change in the environment. Moreover, even if the proposed
266 Ordinances and Resolution comprise a project for CEQA analysis, the ordinance falls
267 within the “common sense” CEQA exemption set forth in CEQA Guidelines Section
268 15061(b)(3), excluding projects where “it can be seen with certainty that there is no
269 possibility that the activity in question may have a significant effect on the environment.”
270 Adoption of this Ordinance will also enact only minor changes in land use regulations,
271 and it can be seen with certainty that its adoption will not have a significant effect on the
272 environment because it will not allow for the development of any new or expanded
273 wireless telecommunication facilities anywhere other than where they were previously
274 allowed under existing federal, state and local regulations. Finally, the wireless facilities
275 themselves are exempt from CEQA pursuant to CEQA Guidelines Section 15305, which
276 exempts minor encroachment permits, and Section 15303, which exempts the installation
277 of small equipment and facilities in a small structure.

278

279 **FISCAL IMPACT:**

280 The fiscal impacts associated with the Ordinance are the costs associated with the City
281 Attorney and staff time to prepare the Ordinance and staff report. Once the regulations are
282 adopted and implemented, the application fees for a Conditional Use Permit and Design
283 Review would cover the cost of the discretionary approvals.

284 **GENERAL PLAN COMPLIANCE:**

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285 Adoption of this Ordinance is consistent with the City's General Plan. The City's General
286 Plan provides goals and policies to preserve the high-quality design, small-town character,
287 aesthetics and environmental characteristics while also maintaining a strong, healthy
288 economy for its local business and assuring the health and safety of the predominantly
289 residential character of the community. Adoption of this Ordinance will provide uniform
290 and comprehensive regulations and standards for wireless telecommunications facilities in
291 furtherance of these goals and objectives while reducing the potentially negative impacts.

292

293 **ATTACHMENTS:**

294

1. Ordinance

295

2. Recent Correspondence (over 150 e-mails received most of which are form letters,
296 please contact planner to view all emails on file, or download all comments online at
297 <http://www.cityofmillvalley.org/gov/agendas/watchonline.htm>--go to "upcoming
298 meetings", locate the City Council tab and select the September 6, 2018 meeting.

299

CITY OF MILL VALLEY

ORDINANCE NO. 18-_____

AN URGENCY ORDINANCE OF THE CITY OF MILL VALLEY AMENDING TITLE 20 (“ZONING”) OF THE MILL VALLEY MUNICIPAL CODE TO ADD CHAPTER 20.73 AND AMEND SECTIONS 11.16.100; 20.24.020; 20.26.020; 20.36.030; 20.40.030; 20.52.020; and 20.56.030 ESTABLISHING REGULATIONS FOR WIRELESS TELECOMMUNICATION FACILITIES

1 **WHEREAS,** This Ordinance is adopted as an urgency ordinance pursuant to Government
2 Code Section 36937(b). The facts constituting the urgency are as follows:

3
4 (1) The purpose of this Ordinance is to amend the City's Municipal Code to provide
5 uniform and comprehensive standards, regulations and permit requirements for the installation
6 of wireless telecommunications facilities in the City's public right-of-way.

7
8 (2) The wireless telecommunications industry has expressed interest in submitting
9 applications for the installation of “small cell” wireless telecommunications facilities in the
10 City’s public rights-of-way of the City. Other California cities have already received applications
11 for small cells to be located within the public right-of-way.

12
13 (3) Installation of small cell and other wireless telecommunications facilities within
14 the public right-of-way can pose a threat to the public health, safety and welfare, including
15 disturbance to the right-of-way through the installation and maintenance of wireless facilities;
16 traffic and pedestrian safety hazards due to the unsafe location of wireless facilities; impacts to
17 trees where proximity conflicts may require unnecessary trimming of branches or require
18 removal of roots due to related undergrounding of equipment or connection lines; land use
19 conflicts and incompatibilities including excessive height or poles and towers; creation of visual
20 and aesthetic blights and potential safety concerns arising from excessive size, heights, noise or
21 lack of camouflaging of wireless facilities including the associated pedestals, meters, equipment
22 and power generators; and the creation of unnecessary visual and aesthetic blight by failing to
23 utilize alternative technologies or capitalizing on collocation opportunities which may
24 negatively impact the unique quality and character of the City.

25
26 (4) The City currently regulates wireless telecommunications facilities in the public
27 right-of-way through zoning and the encroachment permit process. The existing standards
28 have not been updated to reflect current telecommunications trends or necessary legal
29 requirements. Further the primary focus of the zoning regulations is wireless
30 telecommunications facilities located on private property, and the existing Code provisions
31 were not specifically designed to address the unique legal and practical issues that arise in
32 connection with wireless telecommunications facilities deployed in the public right-of-way.

33 (5) The Federal Telecommunications Act of 1996 preempts and declares invalid all
34 state rules that restrict entry or limit competition in both local and long-distance telephone
35 service.

36
37 (6) The California Public Utilities Commission (CPUC) is primarily responsible for the
38 implementation of local telephone competition and the CPUC issues certificates of public
39 convenience and necessity to new entrants that are qualified to provide competitive local
40 telephone exchange services and related telecommunications service, whether using their own
41 facilities or the facilities or services provided by other authorized telephone corporations.

42
43 (7) Section 234(a) of the California Public Utilities Code defines a “telephone
44 corporation” as “every corporation or person owning, controlling, operating, or managing any
45 telephone line for compensation within this state.”

46
47 (8) Section 616 of the California Public Utilities Code provides that a telephone
48 corporation “may condemn any property necessary for the construction and maintenance of its
49 telephone line.”

50
51 (9) Section 2902 of the California Public Utilities Code authorizes municipal
52 corporations to retain their powers of control to supervise and regulate the relationships
53 between a public utility and the general public in matters affecting the health, convenience,
54 and safety of the general public, including matters such as the use and repair of public streets
55 by any public utility and the location of the poles, wires, mains, or conduits of any public utility
56 on, under, or above any public streets.

57
58 (10) Section 7901 of the California Public Utilities Code authorizes telephone and
59 telegraph corporations to construct telephone or telegraph lines along and upon any public
60 road or highway, along or across any of the waters or lands within this state, and to erect poles,
61 posts, piers, or abatements for supporting the insulators, wires, and other necessary fixtures of
62 their lines, in such manner and at such points as not to incommode the public use of the road
63 or highway or interrupt the navigation of the waters.

64
65 (11) Section 7901.1 of the California Public Utilities Code confirms the right of
66 municipalities to exercise reasonable control as to the time, place, and manner in which roads,
67 highways, and waterways are accessed, which control must be applied to all entities in an
68 equivalent manner, and may involve the imposition of fees.

69
70 (12) Section 50030 of the California Government Code provides that any permit fee
71 imposed by a city for the placement, installation, repair, or upgrading of telecommunications
72 facilities, such as lines, poles, or antennas, by a telephone corporation that has obtained all
73 required authorizations from the CPUC and the FCC to provide telecommunications services,
74 must not exceed the reasonable costs of providing the service for which the fee is charged, and
75 must not be levied for general revenue purposes.

76 (13) State and federal law have changed substantially since the City last adopted
77 regulations for wireless telecommunications facilities in the City. Such changes include
78 modifications to “shot clocks” whereby the City must approve or deny installations within a
79 certain period of time. State and federal laws require local governments to act on permit
80 applications for wireless facilities within a prescribed time period and may automatically deem
81 an application approved when a failure to act occurs. See 47 U.S.C. § 332(c)(7)(B)(iii); 47 C.F.R.
82 §§ 1.40001 et seq.; Cal. Gov’t Code § 65964.1. The Federal Communications Commission (FCC)
83 may require a decision on certain applications in as few as 60 days. See 47 C.F.R.
84 § 1.40001(c)(2); see also In the Matter of Acceleration of Broadband Deployment by Improving
85 Wireless Facilities Siting Policies, Report and Order, 29 FCC Rcd. 12865 (Oct. 17, 2014)
86 [hereinafter “2014 Report and Order”]; In the Matter of Petition for Declaratory Ruling to
87 Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review, Declaratory Ruling, 24
88 FCC Rcd. 13994 (Nov. 18, 2009) [hereinafter “2009 Declaratory Ruling”]. Pursuant to FCC
89 regulations, the City cannot adopt a moratorium ordinance to toll the time period for review for
90 certain type of facilities, even when needed to allow the City to maintain the status quo while it
91 reviews and revises its policies for compliance with changes in state or federal law. See 47
92 C.F.R. § 1.40001(c)(3); 2014 Report and Order, 29 FCC Rcd. at 219, 265. The City is in immediate
93 need of clear regulations for wireless installations in the public right-of-way given the number
94 of anticipated applications and legal timelines upon which the City must act.

95
96 (14) The public right-of-way in the City is a uniquely valuable public resource, closely
97 linked with the City’s natural beauty including the beach and coastline, and significant number
98 residential communities. The reasonably regulated and orderly deployment of wireless
99 telecommunications facilities in the public right-of-way is desirable, and unregulated or
100 disorderly deployment represents an ever-increasing and true threat to the health, welfare and
101 safety of the community.

102
103 (15) The regulations of wireless installations in the public right-of-way are necessary
104 to protect and preserve the aesthetics in the community, as well as the values of properties
105 within the City, and to ensure that all wireless telecommunications facilities are installed using
106 the least intrusive means possible.

107
108 (16) The City finds that in light of more recent developments in federal and state law
109 with respect to the regulation of small cell and other wireless telecommunications facilities,
110 there is a need for the City to update its current ordinances based on current
111 telecommunications trends, updates in laws, as well as aesthetic and location options for
112 wireless facilities. The City Council also finds that the lack of specifically-designed standards
113 and regulations in the Municipal Code for wireless facilities located in the public right-of-way,
114 the increasing requests for information about the City’s regulation of wireless
115 telecommunications facilities, the inability to adopt a temporary moratorium, and the potential
116 liabilities and negative consequences for noncompliance with state and federal regulations
117 (including, without limitation, automatic approvals) present current and immediate threat to
118 the public health, safety and welfare. The City Council further finds and declares that the

119 immediate implementation of the Ordinance is necessary to preserve and protect public health,
120 safety and welfare.

121
122 (17) The City recognizes its responsibilities under the Federal Telecommunications
123 Act of 1996 and state law, and believes that it is acting consistent with the current state of the
124 law in ensuring that irreversible development activity does not occur that would harm the
125 public health, safety, or welfare. The City does not intend that this Ordinance prohibit or have
126 the effect of prohibiting telecommunications service; rather, but includes appropriate
127 regulations to ensure that the installation, augmentation and relocation of wireless
128 telecommunications facilities in the public rights-of-way are conducted in such a manner as to
129 lawfully balance the legal rights of applicants under the Federal Telecommunications Act and
130 the California Public Utilities Code while, at the same time, protect to the full extent feasible
131 against the safety and land use concerns described herein.

132
133 Based on the foregoing, the City Council finds and determines that the immediate
134 preservation of the public health, safety and welfare requires that this Ordinance be enacted as
135 an urgency ordinance pursuant to Government Code Section 36937(b), and take effect
136 immediately upon adoption. Therefore, this Ordinance is necessary for the immediate
137 preservation of the public peace, health, safety and welfare and its urgency is hereby declared.

138
139 **WHEREAS**, adoption of this Ordinance is consistent with the City's General Plan. The
140 City's General Plan provides goals and policies to preserve the high-quality design, small-town
141 character, aesthetics and environmental characteristics while also maintaining a strong,
142 healthy economy for its local business and assuring the health and safety of the predominantly
143 residential character of the community. Adoption of this Ordinance will provide uniform and
144 comprehensive regulations and standards for wireless telecommunications facilities in
145 furtherance of these goals and objectives while reducing the potentially negative impacts.

146
147 **NOW, THEREFORE**, the City of Mill Valley City Council does ordain as follows:

148
149 **Section 1.** The Mill Valley Municipal Code is hereby amended as follows:

150
151 **A.** A new Section 20.73, entitled "Wireless Telecommunications Facilities" is hereby
152 added to Title 18 of the Mill Valley Municipal Code to read as set forth in Exhibit A to this
153 Ordinance, which is hereby incorporated as though set forth in full herein.

154
155 **B.** Section 11.16.100 (Blanket Permits for Certain Applicants) is hereby amended to
156 include the following subsection:

157 "D. Notwithstanding Subsection A of this Section, no Wireless Telecommunications
158 Facility governed by Chapter 20.73 shall be installed or maintained pursuant to a blanket
159 permit."

160

161 C. Section 20.24.020 of Chapter 20.24 (Residential Multifamily (RM-3.5) District) is
162 hereby amended to include the following conditional use:

163 "N. Wireless Telecommunications Facilities as further outlined in 20.73."
164

165 D. Section 20.26.020 of Chapter 20.26 (Downtown Residential (DR) District) is
166 hereby amended to include the following conditional use as part of the proposed table:

167 "Wireless Telecommunications Facilities as further outlined in 20.73."
168

169 E. Section 20.36.030 of Chapter 20.36 (Limited Commercial (C-L) District) is hereby
170 amended to include the following conditional use:

171 "E. Wireless Telecommunications Facilities as further outlined in 20.73."
172

173 F. Section 20.40.030 of Chapter 20.40 (General Commercial (C-G) District) is hereby
174 amended to include the following conditional use:

175 "AA. Wireless Telecommunications Facilities as further outlined in 20.73."
176

177 G. Section 20.52.020 of Chapter 20.52 (Commercial Recreational (C-R) District) is
178 hereby amended to include the following conditional use:

179 "I. Wireless Telecommunications Facilities as further outlined in 20.73."
180

181 H. Section 20.56.030 of Chapter 20.56 (Open Area (O-A) District) is hereby amended
182 to include the following conditional use:

183 "H. Wireless Telecommunications Facilities as further outlined in 20.73."
184

185 **Section 2.** The City Council hereby finds that Adoption of this Ordinance will enact
186 only minor changes in land use regulations, and it can be seen with certainty that its adoption
187 will not have a significant effect on the environment because it will not allow for the
188 development of any new or expanded wireless telecommunication facilities anywhere other
189 than where they were previously allowed under existing federal, state and local regulations.
190 The wireless facilities themselves are exempt from CEQA pursuant to CEQA Guidelines Section
191 15305, which exempts minor encroachment permits, and Section 15303, which exempts the
192 installation of small equipment and facilities in a small structure. The proposed Ordinance also
193 falls within the "common sense" CEQA exemption set forth in CEQA Guidelines Section
194 15061(b)(3), excluding projects where "it can be seen with certainty that there is no possibility
195 that the activity in question may have a significant effect on the environment."
196

197 **Section 3.** **Severability.** If any section, subsection, sentence, clause, phrase, or word
198 of this Ordinance is, for any reason, deemed or held to be invalid or unconstitutional by the
199 decision of any court of competent jurisdiction, or preempted by legislative enactment, such
200 decision or legislation shall not affect the validity of the remaining portions of this Ordinance.
201 The City Council of the City of Mill Valley hereby declares that it would have adopted this
202 Ordinance and each section, subsection, sentence, clause, phrase, or word thereof, regardless

203 of the fact that any one or more sections, subsections, clauses, phrases, or word might
204 subsequently be declared invalid or unconstitutional or preempted by subsequent legislation.

205

206 **Section 4. Notice.** The City clerk shall certify to the passage and adoption of this
207 Ordinance and shall cause this Ordinance to be posted within 15 days after its passage, in
208 accordance with Section 36933 of the Government Code.

209

210 **Section 5. Effective Date.** This ordinance is adopted as an urgency ordinance for
211 the immediate preservation of the public peace, health and safety within the meaning of
212 Government Code Section 36937(b) and therefore shall be passed immediately upon its
213 introduction and shall become effective immediately, and shall be posted in three public places
214 in the City.

215

216 **INTRODUCED** at a regular meeting of the City Council of the City of Mill Valley on the
217 6th day of September, 2018, and

218

219 **PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Mill Valley
220 on this 6th day of September, 2018, by the following vote:

221

222 **AYES:**

223 **NOES:**

224 **ABSENT:**

225

226 **ABSTAIN:**

227

228

229

230

Stephanie Moulton-Peters, Mayor

231

232 **ATTEST:**

233

234

235

236 _____
Kelsey Rogers, City Clerk

Exhibit A
URGENCY ORDINANCE

Chapter 20.73
WIRELESS TELECOMMUNICATIONS FACILITIES

1 **20.73.010 Purpose**

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

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

24 **20.73.020 Definitions.** For the purposes of this chapter, the following defined terms shall have
25 the meaning set forth in this section unless the context clearly indicates or requires a different
26 meaning.

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

31 B. **“Antenna”** means that part of a wireless telecommunications facility designed to radiate or
32 receive radio frequency signals or electromagnetic waves for the provision of services, including, but
33 not limited to, cellular, paging, personal communications services (PCS) and microwave

34 communications. Such devices include, but are not limited to, directional antennas, such as panel
35 antenna, microwave dishes, and satellite dishes; omnidirectional antennas; wireless access points
36 (Wi-Fi); and strand-mounted wireless access points. This definition does not apply to broadcast
37 antennas, antennas designed for amateur radio use, or satellite dishes designed for residential or
38 household purposes.

39 C. **“Base Station”** means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(1), as may be
40 amended, which defines that term as a structure or equipment at a fixed location that enables FCC-
41 licensed or authorized wireless communications between user equipment and a communications
42 network. The term does not encompass a tower as defined in 47 C.F.R. § 1.40001(b)(9) or any
43 equipment associated with a tower. The term includes, but is not limited to, equipment associated
44 with wireless communications services such as private, broadcast, and public safety services, as well
45 as unlicensed wireless services and fixed wireless services such as microwave backhaul. The term
46 includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and
47 backup power supplies, and comparable equipment, regardless of technological configuration
48 (including distributed antenna systems and small-cell networks). The term includes any structure
49 other than a tower that, at the time the relevant application is filed with the State or local
50 government under this section, supports or houses equipment described in 47 C.F.R. §
51 1.40001(b)(1)(i)-(ii) that has been reviewed and approved under the applicable zoning or siting
52 process, or under another State or local regulatory review process, even if the structure was not
53 built for the sole or primary purpose of providing such support. The term does not include any
54 structure that, at the time the relevant application is filed with the State or local government under
55 this section, does not support or house equipment described in 47 C.F.R. § 1.40001(b)(1)(i)-(ii).

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

59 E. **“Cellular”** means an analog or digital wireless telecommunications technology that is based
60 on a system of interconnected neighboring cell sites.

61 F. **“Collocation”** means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(2), as may be
62 amended, which defines that term as the mounting or installation of transmission equipment on an
63 eligible support structure for the purpose of transmitting or receiving radio frequency signals for
64 communications purposes. As an illustration and not a limitation, the FCC's definition effectively
65 means "to add" and does not necessarily refer to more than one wireless telecommunication facility
66 installed at a single site.

67 G. **“Eligible Facilities Request”** means the same as defined by the FCC in 47 C.F.R. §
68 1.40001(b)(3), as may be amended, which defines that term as any request for modification of an
69 existing tower or base station that does not substantially change the physical dimensions of such
70 tower or base station, involving: (i) collocation of new transmission equipment; (ii) removal of
71 transmission equipment; or (iii) replacement of transmission equipment.

- 72 H. **“Eligible Support Structure”** means the same as defined by the FCC in 47 C.F.R. §
73 1.40001(b)(4), as may be amended, which defines that term as any tower or base station as defined
74 in this section, provided that it is existing at the time the relevant application is filed with the State
75 or local government under this section.
- 76 I. **“Existing”** means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(4), as may be
77 amended, which provides that a constructed tower or base station is existing for purposes of the
78 FCC's Section 6409(a) regulations if it has been reviewed and approved under the applicable zoning
79 or siting process, or under another State or local regulatory review process, provided that a tower
80 that has not been reviewed and approved because it was not in a zoned area when it was built, but
81 was lawfully constructed, is existing for purposes of this definition.
- 82 J. **“FCC”** means the Federal Communications Commission or its duly appointed successor
83 agency.
- 84 K. **“Modification”** means any change to an existing wireless telecommunications facility that
85 involves any of the following: collocation, expansion, modification, alteration, enlargement,
86 intensification, reduction, or augmentation, including, but not limited to, a change in size, shape,
87 color, visual design, or exterior material. Modification does not include repair, replacement, or
88 maintenance if those actions do not involve a change to the existing facility involving any of the
89 following: collocation, expansion, modification, alteration, enlargement, intensification, reduction,
90 or augmentation.
- 91 L. **“Monopole”** means a structure consisting of a single pole used to support antennas or
92 related equipment and includes a monopine, monoredwood, and similar monopoles camouflaged to
93 resemble trees or other objects.
- 94 M. **“Personal Wireless Services”** means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as
95 may be amended, which defines the term as commercial mobile services, unlicensed wireless
96 services and common carrier wireless exchange access services.
- 97 N. **“Personal Wireless Service Facilities”** means the same as defined in 47 U.S.C. §
98 332(c)(7)(C)(i), as may be amended, which defines the term as facilities that provide personal
99 wireless services.
- 100 O. **“Zoning administrator”** means the City zoning administrator or the City zoning
101 administrator’s designee.
- 102 P. **“Pole”** means a single shaft of wood, steel, concrete, or other material capable of supporting
103 the equipment mounted thereon in a safe and adequate manner and as required by provisions of
104 the Mill Valley Municipal Code.
- 105 Q. **“Public Right-of-Way or “Right-of-Way”** means any public street, public way, public alley or
106 public place, laid out or dedicated, and the space on, above or below it, and all extensions thereof,
107 and additions thereto, under the jurisdiction of the City.

- 108 R. **“Reviewing Authority”** means the person or body who has the authority to review and
109 either grant or deny a wireless telecommunications facility permit pursuant to this chapter.
- 110 S. **“RF”** means radio frequency or electromagnetic waves between 30 kHz and 300 GHz in the
111 electromagnetic spectrum range.
- 112 T. **“Roof-mounted”** means mounted directly on the roof of any building or structure, above the
113 eave line of such building or structure.
- 114 U. **“Section 6409(a)”** means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act
115 of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. § 1455(a), as such law may be
116 amended from time to time.
- 117 V. **“Section 6409(a) Approval”** means the approval required by Section 6409(a).
- 118 W. **“Site”** means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(6), as may be
119 amended, which provides that for towers other than towers in the public rights-of-way, the current
120 boundaries of the leased or owned property surrounding the tower and any access or utility
121 easements currently related to the site, and, for other eligible support structures, further restricted
122 to that area in proximity to the structure and to other transmission equipment already deployed on
123 the ground.
- 124 X. **“Substantial Change”** means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(7), as
125 may be amended, which defines that term differently based on the particular wireless facility type
126 (tower or base station) and location (in or outside the public right-of-way). For clarity, this definition
127 organizes the FCC’s criteria and thresholds for a substantial change according to the wireless facility
128 type and location.
- 129 1. For towers outside the public rights-of-way, a substantial change occurs when:
- 130 a) the proposed collocation or modification increases the overall height more than 10%
131 or the height of one additional antenna array not to exceed 20 feet (whichever is
132 greater); or
- 133 b) the proposed collocation or modification increases the width more than 20 feet from
134 the edge of the wireless tower or the width of the wireless tower at the level of the
135 appurtenance (whichever is greater); or
- 136 c) the proposed collocation or modification involves the installation of more than the
137 standard number of equipment cabinets for the technology involved, not to exceed
138 four; or
- 139 d) the proposed collocation or modification involves excavation outside the current
140 boundaries of the leased or owned property surrounding the wireless tower,
141 including any access or utility easements currently related to the site.

- 142 2. For towers in the public rights-of-way and for all base stations, a substantial change
143 occurs when:
- 144 a) the proposed collocation or modification increases the overall height more than 10%
145 or 10 feet (whichever is greater); or
- 146 b) the proposed collocation or modification increases the width more than 6 feet from
147 the edge of the wireless tower or base station; or
- 148 c) the proposed collocation or modification involves the installation of any new
149 equipment cabinets on the ground when there are no existing ground-mounted
150 equipment cabinets; or
- 151 d) the proposed collocation or modification involves the installation of any new ground-
152 mounted equipment cabinets that are ten percent (10%) larger in height or volume
153 than any existing ground-mounted equipment cabinets; or
- 154 e) the proposed collocation or modification involves excavation outside the area in
155 proximity to the structure and other transmission equipment already deployed on
156 the ground.
- 157 3. In addition, for all towers and base stations wherever located, a substantial change
158 occurs when:
- 159 a) the proposed collocation or modification would defeat the existing concealment
160 elements of the support structure as determined by the zoning administrator; or
- 161 b) the proposed collocation or modification violates a prior condition of approval,
162 provided however that the collocation need not comply with any prior condition of
163 approval related to height, width, equipment cabinets or excavation that is
164 inconsistent with the thresholds for a substantial change described in this section.

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

172 Y. **“Telecommunications Tower” or “Tower”** means a freestanding mast, pole, monopole,
173 guyed tower, lattice tower, free standing tower or other structure designed and primarily used to
174 support wireless telecommunications facility antennas.

175 Z. **“Transmission Equipment”** means the same as defined by the FCC in 47 C.F.R. §
176 1.40001(b)(8), as may be amended, which defines that term as equipment that facilitates

177 transmission for any FCC-licensed or authorized wireless communication service, including, but not
178 limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power
179 supply. The term includes equipment associated with wireless communications services including,
180 but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless
181 services and fixed wireless services such as microwave backhaul.

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

185 BB. **“Wireless Services”** means any FCC-licensed or authorized wireless communication service
186 transmitted over frequencies in the electromagnetic spectrum.

187 CC. **“Wireless Telecommunications Facility”** means any facility constructed, installed, or
188 operated for wireless service. “Wireless telecommunications facility” includes, but is not limited to,
189 antennas or other types of equipment for the transmission or receipt of such signals,
190 telecommunications towers or similar structures supporting such equipment, related accessory
191 equipment, equipment buildings, parking areas, and other accessory development. “Wireless
192 telecommunications facility” does not mean any of the following:

- 193 1. A facility that qualifies as an amateur station as defined by the FCC, 47 C.F.R. Part 97, of
194 the Commission’s Rules, or its successor regulation.
- 195 2. An antenna facility that is subject to the FCC Over-The-Air-Receiving Devices rule, 47
196 C.F.R. Section 1.4000, or any successor regulation, including, but not limited to, direct-to-
197 home satellite dishes that are less than one meter in diameter, TV antennas used to
198 receive television broadcast signals and wireless cable antennas.
- 199 3. Portable radios and devices including, but not limited to, hand-held, vehicular, or other
200 portable receivers, transmitters or transceivers, cellular phones, CB radios, emergency
201 services radio, and other similar portable devices as determined by the zoning
202 administrator.
- 203 4. Telecommunications facilities owned and operated by any government agency.
- 204 5. Telecommunications facilities owned and operated by any emergency medical care
205 provider.
- 206 6. Mobile services providing public information coverage of news events of a temporary
207 nature.
- 208 7. Any wireless telecommunications facilities exempted from the Mill Valley Municipal Code
209 by federal law or state law.

210 **20.73.030 Applicability**

211 A. This chapter applies to all wireless telecommunications facilities as follows:

212 1. All facilities for which applications were not approved prior to the effective date of this
213 chapter shall be subject to and comply with all provisions of this chapter;

214 2. All facilities, notwithstanding the date approved, shall be subject immediately to the
215 provisions of this chapter governing the operation and maintenance, cessation of use
216 and abandonment, removal and restoration of wireless telecommunications facilities and
217 wireless telecommunications collocation facilities and the prohibition of dangerous
218 conditions or obstructions by such facilities; provided, however, that in the event a
219 condition of approval conflicts with a provision of this chapter, the condition of approval
220 shall control unless and until the permit is amended or revoked.

221 B. Title 20, including but not limited to this chapter 20.73 shall not apply to a wireless
222 telecommunications facility on property owned by the City.

223 C. Notwithstanding any provision of the Mill Valley Municipal Code to the contrary, provisions
224 governing the installation of a public utility facility or accessory equipment shall not apply to
225 wireless telecommunications facilities. This chapter 20.73 shall govern all applications for wireless
226 telecommunications facilities.

227 **20.73.040 Wireless Telecommunications Facility Permit Required**

228 A. **Conditional Use Permit required.** No wireless telecommunications facility shall be located
229 or modified within the City on any property, including the public right-of-way, without the issuance
230 of a permit as required by this chapter as set forth in the table below. Such permit shall be in
231 addition to any other permit required pursuant to the Mill Valley Municipal Code.

232

<i>Description Wireless Facility</i>	<i>Private Property</i>		<i>Public Right-of Way³</i>
	<i>RS, RSP, DR, MFR Zoning Districts</i>	<i>All Other Zoning Districts</i>	<i>All Zoning Districts</i>
Roof-mounted facility, building-mounted facility, or facility mounted on an existing pole	Not Permitted	Conditional Use Permit/ Design Review	Conditional Use Permit/ Design Review
Facility mounted on a replacement pole or new telecommunications tower	Not Permitted	Conditional Use Permit/ Design Review	Conditional Use Permit/ Design Review
New wireless telecommunications collocation facility	Not Permitted	Conditional Use Permit/ Design Review	Conditional Use Permit/ Design Review
Eligible facilities request ¹ or application pursuant to California Government Code Section 65850.6 ²	Permitted	Permitted	Permitted
¹ See requirements of section 20.73.140. ² See requirements of section 20.73.150. ³ For any public right of way not within a zoning district, the location of a wireless telecommunication facility shall be determined based upon the closest district adjacent to the facility's location.			

233

234 B. **Non-exclusive grant.** No approval granted under this chapter shall confer any exclusive
235 right, privilege, license, or franchise to occupy or use the public right-of-way of the City for delivery
236 of telecommunications services or any other purposes. Further, no approval shall be construed as
237 any warranty of title.

238 **20.73.050 Application for Permit**

239 A. **Application content.** All applications for a permit required by this chapter must be made in
240 writing on such form as the zoning administrator prescribes, which shall include the following
241 information, in addition to all other information determined necessary by the zoning administrator
242 as well as all other information required by the City as part of an application for a conditional use
243 permit:

- 244 1. Full name and contact information for the facility owner, facility operator, agent (if any),
245 and property owner, and related letter(s) of authorization.

- 246 2. The type of facility, including a full written description of the proposed facility, its
247 purpose and specifications.
- 248 3. A detailed site and engineering plan of the proposed facility containing the exact
249 proposed location of the facility, created by a qualified licensed engineer and in
250 accordance with requirements set by the zoning administrator.
- 251 4. Photographs of facility equipment and an accurate visual impact analysis with photo
252 simulations.
- 253 5. Completion of an RF exposure guidelines checklist, and proof of all applicable licenses or
254 other approvals required by the FCC.
- 255 6. If the application is for a facility that will be located within the public right-of-way, the
256 applicant shall certify that it is a telephone corporation or state the basis for its claimed
257 right to enter the right-of-way, and provide a copy of its certificate of public convenience
258 and necessity (CPCN), if a CPCN has been issued by the California Public Utilities
259 Commission.
- 260 7. A written description identifying the geographic service area for the subject installation,
261 accompanied by a plan and maps showing anticipated future installations and
262 modifications for the following two years.
- 263 8. A written report that analyzes acoustic levels for the proposed wireless
264 telecommunications facility and all associated equipment including without limitation all
265 environmental control units, sump pumps, temporary backup power generators, and
266 permanent backup power generators in order to demonstrate compliance with chapter
267 7.16 (Noise Control). The acoustic analysis must be prepared and certified by an engineer
268 and include an analysis of the manufacturers' specifications for all noise-emitting
269 equipment and a depiction of the proposed equipment relative to all adjacent property
270 lines. In lieu of a written report, the applicant may submit evidence from the equipment
271 manufacturer that the ambient noise emitted from all the proposed equipment will not,
272 both individually and cumulatively, exceed the applicable limits.
- 273 9. If the applicant claims it requires an exception to the requirements of this chapter, all
274 information and studies necessary for the City to evaluate that claim.
- 275 10. An application and processing fee and a deposit for a consultant review as set forth in
276 paragraph (B) of this section.
- 277 11. Any other studies or information determined necessary by the zoning administrator may
278 be required.
- 279

280 **B. Independent expert.**

281 1. The zoning administrator is authorized to retain on behalf of the City an independent,
282 qualified consultant to review any application for a permit for a wireless
283 telecommunications facility to review the technical aspects of the application, including
284 but not limited to the following matters:

- 285 (a) The accuracy, adequacy, and completeness of submissions,
- 286 (b) Compliance with applicable radio frequency emission standards,
- 287 (c) Whether any requested exception is necessary to close a significant gap in
288 coverage and is the least intrusive means of doing so,
- 289 (d) Technical demonstration of the unavailability of alternative sites, facility
290 designs or configurations, and coverage analysis, and
- 291 (e) The validity of conclusions reached or claims made by applicant.

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

294 **20.73.060 Location and Configuration Preferences**

295 A. **Purpose.** The purpose of this section is to provide guidelines to applicants and the reviewing
296 authority regarding the preferred locations and configurations for wireless telecommunication
297 facilities in the City, provided that nothing in this section shall be construed to permit a wireless
298 telecommunication facility in any location or configuration that it is otherwise prohibited by this
299 chapter.

300 B. **Review of Location and Configuration.** The reviewing authority shall consider the extent to
301 which a proposed wireless telecommunication facility complies with these preferences and whether
302 there are feasible alternative locations or configurations to the proposed facility that are more
303 preferred under this section. If the location or configuration of a proposed facility qualifies for two
304 or more categories of preferred locations or configurations, it shall be deemed to belong to the least
305 preferred category.

306 C. **Order of Preference - Configurations.** The order of preference for the configuration for
307 wireless telecommunication facilities from most preferred to least preferred is:

- 308 1. Collocation with existing facilities,
- 309 2. Roof-mounted,
- 310 3. Building-mounted,

- 311 4. Mounted on an existing pole or utility pole
 - 312 5. Mounted on a new pole or utility pole that will replace an existing pole or utility pole,
 - 313 6. Mounted on a new telecommunication tower.
- 314 D. **Order of Preference - Location.** The order of preference for the location of wireless
315 telecommunications facilities from most preferred to least preferred is:
- 316 1. In the C-G zoning district,
 - 317 2. In the C-N zoning district,
 - 318 3. In the C-L zoning district,
 - 319 4. In the C-D zoning district,
 - 320 5. In the public right-of-way with the closest adjacent district being the C-G district,
 - 321 6. In the public right-of-way with the closest adjacent district being the C-N district,
 - 322 7. In the public right-of-way with the closest adjacent district being the C-L district,
 - 323 8. In the public right-of-way with the closest adjacent district being the C-D district,
 - 324 9. In the public right-of-way with the closest adjacent district being the RM district,
 - 325 10. Any public right-of-way location that abuts the property line of a structure recognized as
326 a local, state or national historic landmark, historic district or on the register of historic
327 places,
- 328 E. **Accessory equipment.** In order of preference from most preferred to least preferred,
329 accessory equipment for wireless telecommunication facilities and wireless telecommunications
330 collocation facilities shall be located underground, within a building or structure, on a screened roof
331 top area or structure, or in a rear yard if not readily visible from surrounding properties and the
332 roadway, unless the reviewing authority finds that another location is preferable under the
333 circumstances of the application.
- 334 **20.73.070 Design and Development Standards for All Facilities**
- 335 A. **Basic requirements.** The design and development standards set forth in this section apply to
336 all wireless telecommunications facilities no matter where they are located. Wireless
337 telecommunications facilities shall be designed and maintained so as to minimize visual, noise, and
338 other impacts on the surrounding community and shall be planned, designed, located, and erected
339 in accordance with the design and development standards in this section.
- 340 B. **No speculative facilities.** A wireless telecommunications facility, wireless

341 telecommunications collocation facility, or a telecommunications tower, which is built on
342 speculation and for which there is no wireless tenant is prohibited within the City.

343 C. **General guidelines.** The applicant shall employ screening and camouflage design techniques
344 in the design and placement of wireless telecommunications facilities in order to ensure that the
345 facility is as visually inconspicuous as possible, to prevent the facility from dominating the
346 surrounding area and to hide the facility from predominant views from surrounding properties, all in
347 a manner that achieves compatibility with the community.

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

350 E. **Antennas.** The applicant shall use the least visible antennas possible to accomplish the
351 coverage objectives. Antenna elements shall be flush mounted, to the extent reasonably
352 feasible. All antenna mounts shall be designed so as not to preclude possible future collocation by
353 the same or other operators or carriers. Antennas shall be situated as to reduce visual impact
354 without compromising their function. Whip antennas need not be screened.

355 F. **Landscaping.** Where appropriate, facilities shall be installed so as to maintain and enhance
356 existing landscaping on the site, including trees, foliage and shrubs, whether or not utilized for
357 screening. Additional landscaping shall be planted, irrigated, and maintained where such vegetation
358 is deemed necessary by the City to provide screening or to block the line of sight between facilities
359 and adjacent uses.

360 G. **Signage.** Wireless telecommunications facilities and wireless telecommunications
361 collocation facilities shall not bear any signs or advertising devices other than certification, warning
362 or other signage required by law or permitted by the City.

363 H. **Lighting.** No wireless telecommunications facility may be illuminated unless either
364 specifically required by the Federal Aviation Administration or other government agency or in
365 association with the illumination of an athletic field on City or school property. Lightning arresters
366 and beacon lights are not permitted unless required by the Federal Aviation Administration or other
367 government agency. Legally required lightning arresters and beacons shall be included when
368 calculating the height of facilities such as telecommunications towers, lattice towers, and
369 monopoles.

370 I. **Noise.**

371 1. Each wireless telecommunications facility and wireless telecommunications collocation
372 facility shall be operated in such a manner so as to minimize any possible disruption
373 caused by noise.

374 2. Backup generators shall only be operated during periods of power outages, and shall not
375 be tested on weekends or holidays, or between the hours of 5:00 p.m. and 7:00 a.m.

376 3. At no time shall equipment noise from any facility exceed an exterior noise level of 50
377 dBA at the facility's property line if the facility is located in a business or commercial zone
378 that permits those uses, provided, however, that for any such facility located within 500
379 feet of any property zoned residential or improved with a residential use, such
380 equipment noise shall at no time be audible at the property line of any such residential
381 property. For any facility located within a residential zone, such equipment noise shall at
382 no time be audible at the property line of any residentially improved or residential zoned
383 property.

384 4. Any equipment, including but not limited to air conditioning units, that may emit noise
385 that would be audible from beyond three feet from the facility in the case of a facility
386 located in the right-of-way, or in the case of other facilities the facility's property line,
387 shall be enclosed or equipped with noise attenuation devices to the extent necessary to
388 ensure compliance with applicable noise limitations under the Mill Valley Municipal
389 Code.

390 J. **Security.** Each wireless telecommunications facility and wireless telecommunications
391 collocation facility shall be designed to be resistant to, and minimize opportunities for, unauthorized
392 access, climbing, vandalism, graffiti and other conditions that would result in hazardous situations,
393 visual blight, or attractive nuisances. The reviewing authority may require the provision of warning
394 signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and
395 vandalism when, because of their location or accessibility, a facility has the potential to become an
396 attractive nuisance.

397 K. **Modification.** At the time of modification of a wireless telecommunications facility, existing
398 equipment shall, to the extent feasible, be replaced with equipment that reduces visual, noise, and
399 other impacts, including, but not limited to, undergrounding the equipment and replacing larger,
400 more visually intrusive facilities with smaller, less visually intrusive facilities.

401 **20.73.080 Additional Design and Development Standards for Facilities Outside the Public Right-**
402 **of-Way**

403 A. **Basic Requirements.** Facilities located outside the public right-of-way are subject to the
404 design and development standards set forth in this section in addition to all design and
405 development standards that apply to all facilities.

406 B. **No parking interference.** In no event shall the installation of facilities replace or interfere
407 with parking spaces in such a way as to reduce the total number of parking spaces below the
408 number that is required.

409 C. **Roof-mounted facilities.** Roof-mounted facilities shall be designed and constructed to be
410 fully concealed or screened in a manner compatible with the existing architecture of the building the
411 facility is mounted to in color, texture, and type of material. Screening shall not increase the bulk of
412 the structure nor alter the character of the structure.

413 D. **Facilities mounted to a telecommunications tower.** Facilities mounted to a
414 telecommunications tower shall be located in close proximity to existing above-ground utilities, such
415 as electrical towers or utility poles (which are not scheduled for removal or under grounding for at
416 least 18 months after the date of application), light poles, trees of comparable heights, and in areas
417 where they will not detract from the appearance of the City.

418 1. Facilities mounted to a telecommunications tower, including, but not limited to, the
419 attached antennas, shall be designed to be the minimum functional height and width
420 required to adequately support the proposed facility and meet FCC requirements. The
421 applicant shall provide documentation satisfactory to the zoning administrator
422 establishing compliance with this paragraph. In any event, facilities mounted to a
423 telecommunications tower shall not exceed the applicable height limit for structures in
424 the applicable zoning district.

425 2. Aside from the antenna itself, no additional equipment may be visible. All cables,
426 including, but not limited to, electrical and utility cables, shall be run within the interior
427 of the telecommunications tower and shall be camouflaged or hidden to the fullest
428 extent feasible without jeopardizing the physical integrity of the tower.

429 3. Monopole installations shall be situated so as to utilize existing natural or man-made
430 features including topography, vegetation, buildings, or other structures to provide the
431 greatest amount of visual screening.

432 4. All antenna components and accessory wireless equipment shall be treated with exterior
433 coatings of a color and texture to match the predominant visual background or existing
434 architectural elements so as to visually blend in with the surrounding development.
435 Subdued colors and non-reflective materials that blend with surrounding materials and
436 colors shall be used.

437 5. Monopoles shall be no greater in diameter or other cross-sectional dimensions than is
438 necessary for the proper functioning of the facility.

439 6. If a faux tree is proposed for the monopole installation, it shall be of a type of tree
440 compatible with those existing in the immediate areas of the installation. If no trees
441 exist within the immediate areas, the applicant shall create a landscape setting that
442 integrates the faux tree with added species of a similar height and type. Additional
443 camouflage of the faux tree may be required depending on the type and design of faux
444 tree proposed.

445 E. **Accessory equipment.** All accessory equipment associated with the operation of any
446 wireless telecommunications facility shall be fully screened or camouflaged, and located in a
447 manner to minimize their visibility to the greatest extent possible utilizing the following methods for
448 the type of installation:

- 449 1. Accessory equipment for roof-mounted facilities shall be installed inside the building to
450 which it is mounted or underground, if feasible. If not feasible, such accessory
451 equipment may be located on the roof of the building that the facility is mounted on,
452 provided that both the equipment and screening materials are painted the color of the
453 building, roof, or surroundings. All screening materials for roof-mounted facilities shall be
454 of a quality and design that is architecturally integrated with the design of the building or
455 structure.
- 456 2. Accessory equipment for facilities mounted to a telecommunications tower shall be
457 visually screened by locating the equipment either within a nearby building, in an
458 underground vault (with the exception of required electrical panels) or in another type of
459 enclosed structure, which shall comply with the development and design standards of
460 the zoning district in which the accessory equipment is located. Such enclosed structure
461 shall be architecturally treated and adequately screened from view by landscape
462 plantings, decorative walls, fencing or other appropriate means, selected so that the
463 resulting screening will be visually integrated with the architecture and landscaping of
464 the surroundings.

465 **20.73.090 Additional Design and Development Standards for Facilities in the Public Right-of-**
466 **Way**

467 A. **Basic Requirements.** Facilities located in the public right-of-way are subject to the design
468 and development standards set forth in this section in addition to all design and development
469 standards that apply to all facilities.

470 B. **Right-of-way authority.** An encroachment permit must be obtained for any work in the
471 public right of way. Only applicants authorized to enter the public right-of-way pursuant to state or
472 federal law or a franchise or other agreement with the City shall be eligible for a permit to install or
473 modify a wireless telecommunications facility in the public right-of-way.

474 C. **Antennas.**

475 1. *Utility poles.* The maximum height of any antenna mounted to an existing utility pole
476 shall not exceed 24 inches above the height of an existing utility pole, nor shall any
477 portion of the antenna or equipment mounted on a pole be less than 18 feet above any
478 drivable road surface. All installations on utility poles shall fully comply with the
479 California Public Utilities Commission general orders, including, but not limited to,
480 General Order 95, as revised.

481 2. *Street light poles.* The maximum height of any antenna mounted to a street light pole
482 shall not exceed seven feet above the existing height of a street light pole in a location
483 with its closest adjacent district being a commercial zoning district and shall not exceed
484 three feet above the existing height of a street light pole in any other zoning district. Any
485 portion of the antenna or equipment mounted on such a pole shall be no less than 18
486 feet above any drivable road surface.

487 D. **Poles.**

488 1. Only pole-mounted antennas shall be permitted in the right-of-way. All other
489 telecommunications towers are prohibited, and no new poles are permitted that are not
490 replacing an existing pole.

491 2. Pole height and width limitations:

492 (a) All poles shall be designed to be the minimum functional height and width
493 required to support the proposed antenna installation and meet FCC
494 requirements. Poles and antennas and similar structures shall be no greater in
495 diameter or other cross-sectional dimensions than is necessary for the proper
496 functioning of the facility.

497 (b) Notwithstanding the above, no facility shall be located on a pole that is less
498 than 26 feet in height and no facility shall exceed 35 feet in height, including,
499 but not limited to the pole and any antenna that protrudes above the pole.

500 (c) Pole mounted equipment shall not exceed six cubic feet in dimension.

501 3. If an applicant proposes to replace a pole in order to accommodate the facility, the pole
502 shall match the appearance of the original pole to the extent feasible, unless another
503 design better accomplishes the objectives of this section. Such replacement pole shall
504 not exceed the height of the pole it is replacing by more than seven feet.

505 4. If an exception is granted for placement of new poles in the right-of-way, new poles shall
506 be designed to resemble existing poles in the right-of-way, including size, height, color,
507 materials and style, with the exception of any existing pole designs that are scheduled to
508 be removed and not replaced, unless another design better accomplishes the objectives
509 of this section. Such new poles that are not replacement poles shall be located no closer
510 than 90 feet to an existing pole.

511 E. **Space occupied.** Facilities shall be designed to occupy the least amount of space in the right-
512 of-way that is technically feasible.

513 F. **Location.**

514 1. Each component part of a facility shall be located so as not to cause any physical or visual
515 obstruction to pedestrian or vehicular traffic, inconvenience to the public's use of the
516 right-of-way, or safety hazards to pedestrians and motorists.

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

- 520 3. Facilities mounted to a telecommunications tower, above-ground accessory equipment,
521 or walls, fences, landscaping or other screening methods shall be setback a minimum of
522 18 inches from the front of a curb.
- 523 4. Each pole mounted wireless telecommunications facility must be separated by at least
524 1,500 feet.
- 525 5. All cables, including, but not limited to, electrical and utility cables, between the pole and
526 any accessory equipment shall be placed underground, if feasible.
- 527 6. All new wires needed to service the wireless telecommunications facility must be
528 installed within the width of the existing utility pole so as to not exceed the diameter and
529 height of the existing utility pole.

530 G. **Americans with Disabilities Act Compliance.** All facilities shall be built in compliance with
531 the Americans with Disabilities Act (ADA).

532 H. **Accessory equipment.** With the exception of the electric meter, which shall be pole-
533 mounted to the extent feasible, all accessory equipment shall be located underground to the extent
534 feasible. When above-ground is the only feasible location for a particular type of accessory
535 equipment and when such accessory equipment cannot be pole-mounted, such accessory
536 equipment shall be enclosed within a structure, and shall not exceed a height of five feet and a total
537 footprint of 15 square feet, and shall be screened and camouflaged to the fullest extent possible,
538 including the use of landscaping or alternate screening. Required electrical meter cabinets shall be
539 adequately screened and camouflaged.

540 I. **Documentation.** The applicant shall provide documentation satisfactory to the zoning
541 administrator establishing compliance with this section 20.73.090.

542 **20.73.100 Conditions of Approval for All Facilities**

543 A. In addition to compliance with the requirements of this chapter, upon approval all facilities
544 shall be subject to each of the following conditions of approval, as well as any modification of these
545 conditions or additional conditions of approval deemed necessary by the reviewing authority:

- 546 1. Before the permittee submits any application for a building permit or other permits
547 required by the Mill Valley Municipal Code, the permittee must incorporate the wireless
548 telecommunication facility permit granted under this chapter, all conditions associated
549 with the wireless telecommunications facility permit and the approved plans and any
550 photo simulations (the "Approved Plans") into the project plans. The permittee must
551 construct, install and operate the wireless telecommunications facility in strict
552 compliance with the Approved Plans. The permittee shall submit an as built drawing
553 within 90 days after installation of the facility.
- 554 2. Where feasible, as new technology becomes available, the permittee shall:

- 555 (a) place above-ground wireless telecommunications facilities below ground,
556 including, but not limited to, accessory equipment that has been mounted to
557 a telecommunications tower or mounted on the ground; and
- 558 (b) replace larger, more visually intrusive facilities with smaller, less visually
559 intrusive facilities, after receiving all necessary permits and approvals required
560 pursuant to the Mill Valley Municipal Code.
- 561 3. The permittee shall submit and maintain current at all times basic contact and site
562 information on a form to be supplied by the City. The permittee shall notify the City of
563 any changes to the information submitted within seven days of any change, including
564 change of the name or legal status of the owner or operator. This information shall
565 include, but is not limited to, the following:
- 566 (a) Identity, including the name, address and 24-hour local or toll free contact
567 phone number of the permittee, the owner, the operator, and the agent or
568 person responsible for the maintenance of the facility.
- 569 (b) The legal status of the owner of the wireless telecommunications facility,
570 including official identification numbers and FCC certification.
- 571 (c) Name, address, and telephone number of the property owner if different than
572 the permittee.
- 573 4. The permittee shall not place any facilities that will deny access to, or otherwise interfere
574 with, any public utility, easement, or right-of-way located on the site. The permittee
575 shall allow the City reasonable access to, and maintenance of, all utilities and existing
576 public improvements within or adjacent to the site, including, but not limited to,
577 pavement, trees, public utilities, lighting and public signage.
- 578 5. At all times, all required notices and signs shall be posted on the site as required by the
579 FCC and California Public Utilities Commission, and as approved by the City. The location
580 and dimensions of a sign bearing the emergency contact name and telephone number
581 shall be posted pursuant to the approved plans.
- 582 6. At all times, the permittee shall ensure that the facility complies with the most current
583 regulatory and operational standards including, but not limited to, radio frequency
584 emissions standards adopted by the FCC and antenna height standards adopted by the
585 Federal Aviation Administration.
- 586 7. If the zoning administrator determines there is good cause to believe that the facility
587 may emit radio frequency emissions that are likely to exceed FCC standards, the zoning
588 administrator may require the permittee to submit a technically sufficient written report
589 certified by a qualified radio frequency emissions engineer, certifying that the facility is in
590 compliance with such FCC standards.

- 591 8. Permittee shall pay for and provide a performance bond, which shall be in effect until the
592 facilities are fully and completely removed and the site reasonably returned to its original
593 condition, to cover permittee's obligations under these conditions of approval and the
594 Mill Valley Municipal Code. The bond coverage shall include, but not be limited to,
595 removal of the facility, maintenance obligations and landscaping obligations. The
596 amount of the performance bond shall be set by the zoning administrator in an amount
597 rationally related to the obligations covered by the bond and shall be specified in the
598 conditions of approval.
- 599 9. Permittee shall defend, indemnify, protect and hold harmless the City, its elected and
600 appointed council members, boards, commissions, officers, officials, agents, consultants,
601 employees, and volunteers from and against any and all claims, actions, or proceeding
602 against the City and its elected and appointed council members, boards, commissions,
603 officers, officials, agents, consultants, employees and volunteers to attack, set aside, void
604 or annul, an approval of the City, Planning Commission or City council concerning this
605 permit and the project. Such indemnification shall include damages, judgments,
606 settlements, penalties, fines, defensive costs or expenses, including, but not limited to,
607 interest, attorneys' fees and expert witness fees, or liability of any kind related to or
608 arising from such claim, action, or proceeding. The City shall promptly notify the
609 permittee of any claim, action, or proceeding. Nothing contained herein shall prohibit
610 City from participating in a defense of any claim, action or proceeding. The City shall have
611 the option of coordinating the defense, including, but not limited to, choosing counsel
612 for the defense at permittee's expense.
- 613 10. All conditions of approval shall be binding as to the applicant and all successors in
614 interest to permittee.
- 615 11. A condition setting forth the permit expiration date in accordance with section 20.73.200
616 shall be included in the conditions of approval.

617 **20.73.110 Additional Conditions of Approval for Facilities in the Public Right-of-Way**

- 618 A. In addition to compliance with the requirements of this chapter, upon approval all facilities
619 in the public right-of-way shall be subject to each of the conditions of approval set forth in section
620 20.73.100, each of the following conditions of approval, and any modification of these conditions or
621 additional conditions of approval deemed necessary by the reviewing authority:
- 622 1. The wireless telecommunications facility shall be subject to such conditions, changes or
623 limitations as are from time to time deemed necessary by the City engineer for the
624 purpose of: (a) protecting the public health, safety, and welfare, (b) preventing
625 interference with pedestrian and vehicular traffic, and (c) preventing damage to the
626 public right-of-way or any property adjacent to it. The City may modify the permit to
627 reflect such conditions, changes or limitations by following the same notice and public
628 hearing procedures as are applicable to the grant of a wireless telecommunications
629 facility permit for similarly located facilities, except the permittee shall be given notice by

630 personal service or by registered or certified mail at the last address provided to the City
631 by the permittee.

632 2. The permittee shall not move, alter, temporarily relocate, change, or interfere with any
633 existing structure, improvement or property without the prior consent of the owner of
634 that structure, improvement or property. No structure, improvement or property owned
635 by the City shall be moved to accommodate a wireless telecommunications facility unless
636 the City determines that such movement will not adversely affect the City or any
637 surrounding businesses or residents, and the permittee pays all costs and expenses
638 related to the relocation of the City's structure, improvement or property. Prior to
639 commencement of any work pursuant to an encroachment permit issued for any facility
640 within the public right-of-way, the permittee shall provide the City with documentation
641 establishing to the City's satisfaction that the permittee has the legal right to use or
642 interfere with any other structure, improvement or property within the public right-of-
643 way to be affected by applicant's facilities.

644 3. The permittee shall assume full liability for damage or injury caused to any property or
645 person by the facility.

646 4. The permittee shall repair, at its sole cost and expense, any damage including, but not
647 limited to subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to
648 City streets, sidewalks, walks, curbs, gutters, trees, parkways, street lights, traffic signals,
649 improvements of any kind or nature, or utility lines and systems, underground utility line
650 and systems, or sewer systems and sewer lines that result from any activities performed
651 in connection with the installation or maintenance of a wireless telecommunications
652 facility in the public right-of-way. The permittee shall restore such areas, structures and
653 systems to the condition in which they existed prior to the installation or maintenance
654 that necessitated the repairs. In the event the permittee fails to complete such repair
655 within the number of days stated on a written notice by the zoning administrator, the
656 zoning administrator shall cause such repair to be completed at permittee's sole cost and
657 expense.

658 5. Prior to issuance of a building permit, the applicant shall obtain the zoning
659 administrator's approval of a tree protection plan prepared by a certified arborist if the
660 installation of the wireless telecommunication facility will be located within the canopy
661 of a street tree, or a protected tree on private property, or within a ten-foot radius of the
662 base of such a tree. Depending on site specific criteria (e.g., location of tree, size, and
663 type of tree, etc.), a radius greater than ten feet may be required by the zoning
664 administrator.

665 6. Should any utility company offer electrical service that does not require the use of a
666 meter cabinet, the permittee shall at its sole cost and expense remove the meter cabinet
667 and any related foundation within 30 days of such service being offered and reasonably
668 restore the area to its prior condition.

- 669 7. The permittee shall modify, remove, or relocate its facility, or portion thereof, without
670 cost or expense to City, if and when made necessary by:
- 671 a) Any public improvement project, including, but not limited to, the construction,
672 maintenance, or operation of any underground or aboveground facilities including
673 but not limited to sewers, storm drains, conduits, gas, water, electric or other utility
674 systems, or pipes owned by City or any other public agency;
- 675 b) Any abandonment of any street, sidewalk, or other public facility;
- 676 c) Any change of grade, alignment or width of any street, sidewalk or other public
677 facility; or
- 678 d) A determination by the zoning administrator that the wireless telecommunications
679 facility has become incompatible with public health, safety or welfare or the public's
680 use of the public right-of-way.
- 681 8. Any modification, removal, or relocation of the facility shall be completed within 90 days
682 of written notification by City unless exigencies dictate a shorter period for removal or
683 relocation. Modification or relocation of the facility shall require submittal, review and
684 approval of a permit amendment pursuant to the Mill Valley Municipal Code. The
685 permittee shall be entitled, on permittee's election, to either a pro-rata refund of fees
686 paid for the original permit or to a new permit, without additional fee, at a location as
687 close to the original location as the standards set forth in the Mill Valley Municipal Code
688 allow. In the event the facility is not modified, removed, or relocated within said period
689 of time, the City may cause the same to be done at the sole cost and expense of
690 permittee. Further, due to exigent circumstances as provided in the Mill Valley Municipal
691 Code, the City may modify, remove, or relocate wireless telecommunications facilities
692 without prior notice to permittee provided permittee is notified within a reasonable
693 period thereafter.

694 **20.73.120 Findings**

- 695 A. Where a wireless telecommunication facility requires a conditional use permit under this
696 chapter, the reviewing authority shall not approve any application unless, in addition to the findings
697 generally applicable to all conditional use permits, all of the following additional findings are made:
- 698 1. The proposed facility complies with all applicable provisions of this chapter.
- 699 2. The proposed facility has been designed and located to achieve compatibility with the
700 community to the maximum extent reasonably feasible.
- 701 3. The applicant has submitted a statement of its willingness to allow other carriers to
702 collocate on the proposed wireless telecommunications facility wherever technically and
703 economically feasible and where collocation would not harm community compatibility.

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

707 B. In addition to the findings in paragraph (A) above, approval of a wireless telecommunications
708 facility permit for a facility that will be located in the public right-of-way may be granted only if the
709 following findings are made by the reviewing authority:

710 1. The applicant has provided substantial written evidence supporting the applicant's claim
711 that it has the right to enter the public right-of-way pursuant to state or federal law, or
712 the applicant has entered into a franchise or other agreement with the City permitting
713 them to use the public right-of-way.

714 2. The applicant has demonstrated that the facility will not interfere with the use of the
715 public right-of-way, existing subterranean infrastructure, or the City's plans for
716 modification or use of such location and infrastructure.

717 **20.73.130 Exceptions**

718 A. Exceptions pertaining to any provision of this chapter, including, but not limited to,
719 exceptions from findings that would otherwise justify denial, may be granted by the reviewing
720 authority if the reviewing authority makes the finding that:

721 1. Denial of the facility as proposed would violate federal law, state law, or both; or

722 2. A provision of this chapter, as applied to applicant, would deprive applicant of its rights
723 under federal law, state law, or both.

724 B. An applicant may only request an exception at the time of applying for a wireless
725 telecommunications facility permit. The request must include both the specific provision(s) of this
726 chapter from which the exception is sought and the basis of the request. Any request for an
727 exception after the City has deemed an application complete shall be treated as a new application.

728 C. Notwithstanding any other provision of this chapter, a conditional use permit shall be
729 required for a facility when an exception is requested.

730 D. The applicant shall have the burden of proving that denial of the facility as proposed would
731 violate federal law, state law, or both, or that the provisions of this chapter, as applied to applicant,
732 would deprive applicant of its rights under federal law, state law, or both, using the evidentiary
733 standards required by that law at issue. The City shall have the right to hire an independent
734 consultant, at the applicant's expense, to evaluate the issues raised by the exception request and
735 shall have the right to submit rebuttal evidence to refute the applicant's claim.

736 **20.73.140 Wireless Telecommunications Facilities Covered under Section 6409(a) of the Middle**
737 **Class Tax Relief and Job Creation Act of 2012**

738 A. **Purpose.** Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L.
739 112-96, codified in 47 U.S.C. § 1455(a), generally requires that State and local governments "may
740 not deny, and shall approve" requests to collocate, remove or replace transmission equipment at an
741 existing tower or base station. Federal Communication Commission regulations interpret this
742 statute and create procedural rules for local review, which generally preempt certain subjective
743 land-use regulations, limit permit application content requirements and provide the applicant with a
744 potential "deemed granted" remedy when the State or local government fails to approve or deny
745 the request within sixty (60) days after submittal (accounting for any tolling periods). Moreover,
746 whereas Section 704 of the Telecommunications Act of 1996, Pub. L. 104-104, codified in 47 U.S.C. §
747 332, applies to only "personal wireless service facilities" (e.g., cellular telephone towers and
748 equipment), Section 6409(a) applies to all "wireless" facilities licensed or authorized by the FCC
749 (e.g., cellular, Wi-Fi, satellite, microwave backhaul, etc.).

750 The overlap between wireless deployments covered under Section 6409(a) and other wireless
751 deployments, combined with the different substantive and procedural rules applicable to such
752 deployments, creates a potential for confusion that harms the public interest in both efficient
753 wireless facilities deployment and carefully planned community development in accordance with
754 local values. A separate permit application and review process specifically designed for compliance
755 with Section 6409(a) contained in a section devoted to Section 6409(a) will mitigate such potential
756 confusion, streamline local review and preserve the City's land-use authority to maximum extent
757 possible.

758 B. **Applicability.** This Section applies to all collocations or modifications to an existing wireless
759 tower or base station submitted with a written request for approval pursuant to Section 6409(a).

760 C. **Approval Required.** Any request to collocate, replace or remove transmission equipment at
761 an existing wireless tower or base station submitted with a written request for a 6409(a) approval
762 shall be subject to the zoning administrator's approval, conditional approval or denial without
763 prejudice pursuant to the standards and procedures contained in this chapter.

764 D. **Other Regulatory Approvals.** No collocation or modification approved under any section
765 6409(a) approval may occur unless the applicant also obtains all other applicable permits or
766 regulatory approvals from the City and state or federal agencies. Furthermore, any section 6409(a)
767 approval granted under this chapter shall remain subject to any and all lawful conditions or
768 requirements associated with such other permits or regulatory approvals from the City and state or
769 federal agencies.

770 E. **Application Requirement.** The City shall not approve any wireless facility subject to this
771 chapter except upon a duly filed application consistent with this Section and any other written rules
772 the City or the zoning administrator may establish from time to time. An application must include
773 the information required by Section 20.73.050 and the following additional information:

774 1. A title report prepared within the six months prior to the application filing date in order
775 for the City verify the property owner's identity. If the applicant does not own the subject
776 property, the application must include a written authorization signed by the property
777 owner that empowers the applicant to file the application and perform all wireless
778 facility construction, installation, operation and maintenance to the extent described in
779 the application.

780 2. A written statement that explains in plain factual detail whether and why Section 6409(a)
781 and the related FCC regulations at 47 C.F.R. § 1.40001 et seq. require approval for the
782 specific project. A complete written narrative analysis will state the applicable standard
783 and all the facts that allow the City to conclude the standard has been met. Bare
784 conclusions not factually supported do not constitute a complete written analysis. As
785 part of this written statement the applicant must also include (i) whether and why the
786 support structure qualifies as an existing tower or existing base station; and (ii) whether
787 and why the proposed collocation or modification does not cause a substantial change in
788 height, width, excavation, equipment cabinets, concealment or permit compliance.

789 F. **Procedures for a Duly Filed Application.** The City shall not review any application unless
790 duly filed in accordance with this Section, as follows:

791 1. *Pre-Submittal Conference.* Before application submittal, applicants must schedule and
792 attend a pre-application meeting with the zoning administrator for all proposed
793 modifications submitted for approval pursuant to Section 6409(a). The pre-submittal
794 conference is intended to streamline the review process through informal discussion that
795 includes, without limitation, the appropriate project classification, including whether the
796 project qualifies for Section 6409(a); any latent issues in connection with the existing
797 tower or base station; potential concealment issues (if applicable); coordination with
798 other City departments responsible for application review; and application completeness
799 issues. To mitigate unnecessary delays due to application incompleteness, applicants are
800 encouraged (but not required) to bring any draft applications or other materials so that
801 City staff may provide informal feedback about whether such applications or other
802 materials may be incomplete or unacceptable. The zoning administrator may, in the
803 zoning administrator's discretion, grant a written exemption to the submittal
804 appointment under Section 20.73.140(F)(2) or for a specific requirement for a complete
805 application to any applicant who (i) schedules, attends and fully participates in any pre-
806 submittal conference and (ii) shows to the zoning administrator's satisfaction that such
807 specific requirement duplicates information already provided in other materials to be
808 submitted or is otherwise unnecessary to the City's review under facts and circumstances
809 in that particular case. Any written exemption will be limited to the project discussed at
810 the pre-submittal conference and will not be extended to any other project.

811 2. *Submittal Appointment.* All applications must be filed with the City at a pre-scheduled
812 appointment. Applicants may generally submit one application per appointment, but
813 may schedule successive appointments for multiple applications whenever feasible and

814 not prejudicial to other applicants. Any application received without an appointment,
815 whether delivered in-person or through any other means, will not be considered duly
816 filed unless the applicant received a written exemption from the zoning administrator at
817 a pre-submittal conference.

818 3. *Appointment Scheduling Procedures.* For any event in the submittal process that requires
819 an appointment, applicants must submit a written request to the zoning administrator.
820 The zoning administrator shall endeavor to provide applicants with an appointment as
821 soon as reasonably feasible and within five business days after a written request is
822 received.

823 4. *Applications Deemed Withdrawn.* To promote efficient review and timely decisions, an
824 application will be automatically deemed withdrawn by the applicant when the applicant
825 fails to tender a substantive response to the City within 90 calendar days after the City
826 deems the application incomplete in a written notice to the applicant. The zoning
827 administrator may, in the zoning administrator's discretion, grant a written extension for
828 up to an additional 30 calendar days when the applicant submits a written request prior
829 to the 90th day that shows good cause to grant the extension. Delays due to
830 circumstances outside the applicant's reasonable control will be considered good cause
831 to grant the extension.

832 5. *Departmental Forms, Rules and Other Regulations.* The City council authorizes the zoning
833 administrator to develop and publish permit application forms, checklists, informational
834 handouts and other related materials that the zoning administrator finds necessary,
835 appropriate or useful for processing requests for section 6409(a) approvals. Without
836 further authorization from the City council, the zoning administrator may from time-to-
837 time update and alter any such permit application forms, checklists, informational
838 handouts and other related materials as the zoning administrator deems necessary,
839 appropriate or useful to respond to regulatory, technological or other changes related to
840 this chapter. The City council authorizes the zoning administrator to establish other
841 reasonable rules and regulations, which may include without limitation regular hours for
842 appointments with applicants, as the zoning administrator deems necessary or
843 appropriate to organize, document and manage the application intake process.

844

845 G. **Administrative Review; Decision Notices.** The zoning administrator shall administratively
846 review an application for a section 6409(a) approval and act on such an application without prior
847 notice or a public hearing. Within five working days after the zoning administrator conditionally
848 approves or denies an application submitted for Section 6409(a) approval or before the FCC
849 timeframe for review expires (whichever occurs first), the zoning administrator shall send a written
850 notice to the applicant. In the event that the zoning administrator determines that an application
851 submitted for approval pursuant to Section 6409(a) does not qualify for approval, the zoning
852 administrator will send written notice to the applicant that includes the reasons to support the
853 review authority's decision and states that the application will be automatically denied without
854 prejudice on the 60th day after the date the application was filed unless the applicant withdraws the
855 application.

856 H. **Required Findings for 6409(a) Approval.** The zoning administrator may approve or
857 conditionally approve an application submitted for Section 6409(a) approval when the zoning
858 administrator finds that the proposed project:

859 1. Involves collocation, removal or replacement of transmission equipment on an existing
860 wireless tower or base station; and

861 2. Does not substantially change the physical dimensions of the existing wireless tower or
862 base station.

863 I. **Criteria for Denial Without Prejudice.** Notwithstanding any other provisions in this chapter,
864 and consistent with all applicable federal laws and regulations, the zoning administrator may deny
865 without prejudice an application submitted for approval pursuant to Section 6409(a) when it finds
866 that the proposed project:

867 1. Does not satisfy the criteria for approval;

868 2. Violates any legally enforceable standard or permit condition reasonably related to
869 public health and safety then in effect; or

870 3. Involves the replacement of the entire support structure.

871 J. **Conditional 6409(a) Approvals.** Subject to any applicable limitations in federal or state law,
872 nothing in this chapter is intended to limit the City's authority to conditionally approve an
873 application for a section 6409(a) approval to protect and promote the public health, safety and
874 welfare.

875 K. **Appeals.** Notwithstanding any provision of the Mill Valley Municipal Code to the contrary,
876 including but not limited to section , an applicant may appeal a decision by the zoning administrator
877 to deny without prejudice a Section 6409(a) application. The appeal must be filed within 10 days
878 from the zoning administrator's decision. The appeal must state in plain terms the grounds for
879 reversal and the facts that support those grounds. The City manager shall serve as the appellate
880 authority for all appeals of all actions of the zoning administrator taken pursuant to this section. The

881 City shall provide notice for an administrative hearing by the City manager. The City manager shall
882 limit its review to whether the project should be approved or denied in accordance with the
883 provisions in paragraphs (H) and (I) of this section. The decision of the City manager shall be final
884 and not subject to any further administrative appeals.

885 L. **Standard Conditions of Approval.** In addition to all other conditions adopted by the zoning
886 administrator, all Section 6409(a) approvals, whether approved by the zoning administrator or
887 deemed approved by the operation of law, shall be automatically subject to the following conditions
888 in this Section; provided, however, that the zoning administrator shall have discretion to modify or
889 amend these conditions on a case-by-case basis as may be necessary or appropriate under the
890 circumstances:

891 1. *Approved Plans.* Before the permittee submits any application for a building permit or
892 other permits required by the Mill Valley Municipal Code, the permittee must
893 incorporate the wireless telecommunications facility permit granted under this section,
894 all conditions associated with the wireless telecommunications facility permit and the
895 approved plans and any photo simulations (the "Approved Plans") into the project plans.
896 The permittee must construct, install and operate the wireless telecommunications
897 facility in strict compliance with the Approved Plans. The permittee shall submit an as
898 built drawing within 90 days after installation of the facility.

899 2. *Permit Term.* The City's grant or grant by operation of law of a Section 6409(a) approval
900 constitutes a federally-mandated modification to the underlying permit or other prior
901 regulatory authorization for the subject tower or base station. The City's grant or grant
902 by operation of law of a section 6409(a) approval will not extend the permit term, if any,
903 for any conditional use permit, or other underlying prior regulatory authorization.
904 Accordingly, the term for a section 6409(a) approval shall be coterminous with the
905 underlying permit or other prior regulatory authorization for the subject tower or base
906 station.

907 3. *Accelerated Permit Terms Due to Invalidation.* In the event that any court of competent
908 jurisdiction invalidates any portion of Section 6409(a) or any FCC rule that interprets
909 Section 6409(a) such that federal law would not mandate approval for any Section
910 6409(a) approval, such 6409(a) approvals shall automatically expire one year from the
911 effective date of the judicial order, unless the decision would not authorize accelerated
912 termination of previously approved section 6409(a) approvals or the zoning
913 administrator grants an extension upon written request from the permittee that shows
914 good cause for the extension, which includes without limitation extreme financial
915 hardship. Notwithstanding anything in the previous sentence to the contrary, the zoning
916 administrator may not grant a permanent exemption or indefinite extension. A permittee
917 shall not be required to remove its improvements approved under the invalidated
918 section 6409(a) approval when it has submitted an application for a conditional use
919 permit for those improvements before the one-year period ends.

- 920 4. *No Waiver of Standing.* The City's grant or grant by operation of law of a Section 6409(a)
921 approval does not waive, and shall not be construed to waive, any standing by the City to
922 challenge Section 6409(a), any FCC rules that interpret Section 6409(a) or any section
923 6409(a) approval.
- 924 5. *Build-out Period.* The section 6409(a) approval will automatically expire one year from
925 the issuance date unless the permittee obtains all other permits and approvals required
926 to install, construct and operate the approved wireless facility, which includes without
927 limitation any permits or approvals required by the any federal, state or local public
928 agencies with jurisdiction over the subject property, the wireless facility or its use. The
929 zoning administrator may grant one written extension to a date certain when the
930 permittee shows good cause to extend the limitations period in a written request for an
931 extension submitted at least 30 days prior to the automatic expiration date in this
932 condition. Any further extensions may be granted by the planning commission.
- 933 6. *Maintenance Obligations; Vandalism.* The permittee shall keep the site, which includes
934 without limitation any and all improvements, equipment, structures, access routes,
935 fences and landscape features, in a neat, clean and safe condition in accordance with the
936 Approved Plans and all conditions in this section 6409(a) approval. The permittee shall
937 keep the site area free from all litter and debris at all times. The permittee, at no cost to
938 the City, shall remove and remediate any graffiti or other vandalism at the site within 48
939 hours after the permittee receives notice or otherwise becomes aware that such graffiti
940 or other vandalism occurred.
- 941 7. *Compliance with Laws.* The permittee shall maintain compliance at all times with all
942 federal, state and local statutes, regulations, orders or other rules that carry the force of
943 law ("Laws") applicable to the permittee, the subject property, the wireless facility or any
944 use or activities in connection with the use authorized in this section 6409(a) approval.
945 The permittee expressly acknowledges and agrees that this obligation is intended to be
946 broadly construed and that no other specific requirements in these conditions are
947 intended to reduce, relieve or otherwise lessen the permittee's obligations to maintain
948 compliance with all Laws.
- 949 8. *Adverse Impacts on Other Properties.* The permittee shall use all reasonable efforts to
950 avoid any and all undue or unnecessary adverse impacts on nearby properties that may
951 arise from the permittee's construction, installation, operation, modification,
952 maintenance, repair, removal or other activities at the site. The permittee shall not
953 perform or cause others to perform any construction, installation, operation,
954 modification, maintenance, repair, removal or other work that involves heavy equipment
955 or machines on any day and at any time prohibited under the Mill Valley Municipal Code.
956 The restricted work hours in this condition will not prohibit any work required to prevent
957 an actual, immediate harm to property or persons, or any work during an emergency
958 declared by the City. The zoning administrator may issue a stop work order for any work
959 that violates this condition.

960 9. *Noise Complaints.* The permittee shall conduct all activities on the site in compliance with
961 the noise standards in the Mill Valley Municipal Code. In the event that any person files a
962 noise complaint and the City verifies that such complaint is valid, the permittee must
963 remedy the violation within 10 days after notice from the City, which may include a
964 demonstration that the permittee has amended its operational guidelines in situations
965 where the violation arises from the permittee's personnel rather than the permittee's
966 equipment.

967 10. *Inspections; Emergencies.* The permittee expressly acknowledges and agrees that the City
968 or its designee may enter onto the site and inspect the improvements and equipment
969 upon reasonable prior notice to the permittee; provided, however, that the City or its
970 designee may, but will not be obligated to, enter onto the site area without prior notice
971 to support, repair, disable or remove any improvements or equipment in emergencies or
972 when such improvements or equipment threatens actual, imminent harm to property or
973 persons. The permittee will be permitted to supervise the City or its designee while such
974 inspection or emergency access occurs.

975 11. *Contact Information.* The permittee shall furnish the City with accurate and up-to-date
976 contact information for a person responsible for the wireless facility, which includes
977 without limitation such person's full name, title, direct telephone number, facsimile
978 number, mailing address and email address. The permittee shall keep such contact
979 information up-to-date at all times.

980 12. *Indemnification.* The permittee and, if applicable, the property owner upon which the
981 wireless facility is installed shall defend, indemnify and hold harmless the City, its agents,
982 officers, officials, employees and volunteers from any and all (1) damages, liabilities,
983 injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs
984 and other actions or proceedings ("Claims") brought against the City or its agents,
985 officers, officials, employees or volunteers to challenge, attack, seek to modify, set aside,
986 void or annul the City's approval of this section 6409(a) approval, and (2) other Claims
987 any kind or form, whether for personal injury, death or property damage, that arise from
988 or in connection with the permittee's or its agents', directors', officers', employees',
989 contractors', subcontractors', licensees', or customers' acts or omissions in connection
990 with this section 6409(a) approval or the wireless facility. In the event the City becomes
991 aware any Claims, the City will use best efforts to promptly notify the permittee and the
992 private property owner and shall reasonably cooperate in the defense. The permittee
993 expressly acknowledges and agrees that the City shall have the right to approve, which
994 approval shall not be unreasonably withheld, the legal counsel providing the City's
995 defense, and the property owner or permittee (as applicable) shall promptly reimburse
996 City for any costs and expenses directly and necessarily incurred by the City in the course
997 of the defense. The permittee expressly acknowledges and agrees that the permittee's
998 indemnification obligations under this condition are a material consideration that
999 motivates the City to approve this section 6409(a) approval, and that such

1000 indemnification obligations will survive the expiration or revocation of this section
1001 6409(a) approval.

1002 13. *Performance Bond.* Before the City issues any construction permit in connection with the
1003 wireless facility, the permittee shall post a performance bond from a surety and in a form
1004 acceptable to the City manager in an amount equal to or greater than a written estimate
1005 from a qualified contractor with experience in wireless facilities removal. The written
1006 estimate must include the cost to remove all equipment and other improvements, which
1007 includes without limitation all antennas, radios, batteries, generators, utilities, cabinets,
1008 mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles,
1009 footings and foundations, whether above ground or below ground, constructed or
1010 installed in connection with the wireless facility. In establishing or adjusting the bond
1011 amount required under this condition, and in accordance with California Government
1012 Code § 65964(a), the City manager shall take into consideration information provided by
1013 the permittee regarding the cost to remove the wireless facility.

1014 14. *Record Retention.* The permittee must maintain complete and accurate copies of all
1015 permits and other regulatory approvals issued in connection with the wireless facility,
1016 which includes without limitation this approval, the approved plans and photo
1017 simulations incorporated into this approval, all conditions associated with this approval
1018 and any ministerial permits or approvals issued in connection with this approval. In the
1019 event that the permittee does not maintain such records as required in this condition,
1020 any ambiguities or uncertainties that would be resolved through an inspection of the
1021 missing records will be construed against the permittee.

1022 15. *Compliance Obligations.* An applicant or permittee will not be relieved of its obligation
1023 to comply with every applicable provision in the Mill Valley Municipal Code, any permit,
1024 any permit condition or any applicable law or regulation by reason of any failure by the
1025 City to timely notice, prompt or enforce compliance by the applicant or permittee.

1026 **20.73.150 Wireless Telecommunications Collocation Facilities Covered under California**
1027 **Government Code Section 65850.6**

1028 A. **Purpose.** The purpose of this section is to comply with an application for a Wireless
1029 Telecommunications Collocation Facility under California Government Code Section 65850.6, for
1030 which a 6509(a) approval is not being requested. This section provides the requirements, standards
1031 and regulations for a wireless telecommunications collocation facility for which subsequent
1032 collocation is a permitted use pursuant to California law. Only those facilities that fully comply with
1033 the eligibility requirements set forth in California Government Code Section 65850.6, or its
1034 successor provision, and which strictly adhere to the requirements and regulations set forth in this
1035 section shall qualify as a wireless telecommunications collocation facility.

1036 B. **Definitions.** For the purposes of this section, the following terms are defined as follows:

- 1037 1. **“Collocation Facility”** means the placement or installation of wireless facilities, including
1038 antennas, and related equipment, on, or immediately adjacent to, a wireless
1039 telecommunications collocation facility.
- 1040 2. **“Wireless Telecommunications Facility”** means equipment and network components
1041 such as towers, utility poles, transmitters, base stations, and emergency power systems
1042 that are integral to providing wireless telecommunications services.
- 1043 3. **“Wireless Telecommunications Collocation Facility”** means a wireless
1044 telecommunications facility that includes collocation facilities.
- 1045 C. **Procedures.** An application for a Wireless Telecommunications Collocation Facility under
1046 California Government Code Section 65850.6 shall be processed in the same manner as an
1047 application for 6409(a) approval is processed, except that where the process requires justification
1048 for the 6409(a) approval, the applicant shall instead provide the justification for a Wireless
1049 Telecommunications Collocation Facility under California Government Code Section 65850.6.
- 1050 D. **Requirements.** All requirements, regulations, and standards set forth in this chapter for a
1051 wireless telecommunications facility shall apply to a wireless telecommunications collocation
1052 facility; provided, however, the following shall also apply to a wireless telecommunications
1053 collocation facility:
- 1054 1. The applicant for a wireless telecommunications collocation facility permit shall describe
1055 or depict:
- 1056 (a) The wireless telecommunications collocation facility as it will be initially built;
1057 and
- 1058 (b) All collocations at full build-out, including, but not limited to, all antennas,
1059 antenna support structures, and accessory equipment.
- 1060 2. Any collocation shall use screening methods substantially similar to those used on the
1061 existing wireless telecommunications facilities unless other optional screening methods
1062 are specified in the conditions of approval.
- 1063 3. A wireless telecommunications collocation facility permit shall not be approved unless an
1064 environmental impact report, negative declaration, or mitigated negative declaration
1065 was prepared and approved for the wireless telecommunications collocation facility.
- 1066 E. **Permitted Use.** Notwithstanding any other provision of this chapter, a subsequent
1067 collocation on a wireless telecommunications collocation facility shall be a permitted use only if all
1068 of the following requirements are satisfied:
- 1069 1. The wireless telecommunications collocation facility:
- 1070 (a) Was approved after January 1, 2007, by discretionary permit;

1071 (b) Was approved subject to an environmental impact report, negative
1072 declaration, or mitigated negative declaration; and

1073 (c) Otherwise complies with the requirements of California Government Code
1074 Section 65850.6(b), or its successor provision, for addition of a collocation
1075 facility to a wireless telecommunications collocation facility, including, but not
1076 limited to, compliance with all performance and maintenance requirements,
1077 regulations and standards in this chapter and the conditions of approval in the
1078 wireless telecommunications collocation facility permit; and

1079 2. The collocations were specifically considered when the relevant environmental
1080 document was prepared for the wireless telecommunications collocation facility.

1081 3. Before collocation, the applicant seeking collocation shall obtain all other applicable non-
1082 discretionary permits, as required pursuant to the Mill Valley Municipal Code.

1083 F. **New or Amended Permit.** Except as otherwise provided above, approval of a new or
1084 amended permit shall be required when the facility is modified other than by collocation in
1085 accordance with this section, or the proposed collocation:

1086 1. Increases the height of the existing permitted telecommunications tower or otherwise
1087 changes the bulk, size, location, or any other physical attributes of the existing permitted
1088 wireless telecommunications collocation facility unless specifically permitted under the
1089 conditions of approval applicable to such wireless telecommunications collocation
1090 facility; or

1091 2. Adds any microwave dish or other antenna not expressly permitted to be included in a
1092 collocation facility by the conditions of approval.

1093 G. **Appeals.** Notwithstanding any provision of the Mill Valley Municipal Code to the contrary,
1094 including but not limited to Section 20.62.060, any applicant may appeal a decision by the zoning
1095 administrator. The appeal must be filed within 10 days from the zoning administrator's decision. The
1096 appeal must state in plain terms the grounds for reversal and the facts that support those grounds.
1097 The City manager shall serve as the appellate authority for all appeals of all actions of the zoning
1098 administrator taken pursuant to this section. The City shall provide notice for an administrative
1099 hearing by the City manager. The City manager shall limit its review to whether the project should
1100 be approved or denied in accordance with the provisions in this section. The decision of the City
1101 manager shall be final and not subject to any further administrative appeals.

1102 **20.73.160 Business License**

1103 A permit issued pursuant to this chapter shall not be a substitute for any business license otherwise
1104 required under the Mill Valley Municipal Code.

1105 **20.73.170 Emergency Deployment**

1106 In the event of a declared federal, state, or local emergency, or when otherwise warranted by
1107 conditions that the zoning administrator deems to constitute an emergency, the zoning
1108 administrator may approve the installation and operation of a temporary wireless
1109 telecommunications facility (e.g., a cell on wheels or "COW"), which is subject to such reasonable
1110 conditions that the zoning administrator deems necessary.

1111 **20.73.180 Operation and Maintenance Standards**

1112 A. All wireless telecommunications facilities must comply at all times with the following
1113 operation and maintenance standards. All necessary repairs and restoration shall be completed by
1114 the permittee, owner, or operator within 48 hours:

1115 1. After discovery of the need by the permittee, owner, operator or any designated
1116 maintenance agent; or

1117 2. After permittee, owner, operator, or any designated maintenance agent receives
1118 notification from a resident or the zoning administrator.

1119 B. All facilities, including, but not limited to, telecommunication towers, poles, accessory
1120 equipment, lighting, fences, walls, shields, cabinets, artificial foliage or camouflage, and the facility
1121 site shall be maintained in good condition, including ensuring the facilities are reasonably free of:

1122 1. General dirt and grease;

1123 2. Chipped, faded, peeling, and cracked paint;

1124 3. Rust and corrosion;

1125 4. Cracks, dents, and discoloration;

1126 5. Missing, discolored, or damaged artificial foliage or other camouflage;

1127 6. Graffiti, bills, stickers, advertisements, litter and debris;

1128 7. Broken and misshapen structural parts; and

1129 8. Any damage from any cause.

1130 C. All trees, foliage or other landscaping elements approved as part of the facility shall be
1131 maintained in good condition at all times, and the permittee, owner and operator of the facility shall
1132 be responsible for replacing any damaged, dead or decayed landscaping. No amendment to any
1133 approved landscaping plan may be made until it is submitted to and approved by the zoning
1134 administrator.

1135 D. The permittee shall replace its facilities, after obtaining all required permits, if maintenance

1136 or repair is not sufficient to return the facility to the condition it was in at the time of installation.

1137 E. Each facility shall be operated and maintained at all times in compliance with applicable
1138 federal regulations, including FCC radio frequency emissions standards.

1139 F. Each facility shall be operated and maintained to comply at all times with the noise
1140 regulations of this chapter and shall be operated and maintained in a manner that will minimize
1141 noise impacts to surrounding residents. Except for emergency repairs, any testing and maintenance
1142 activities that will be audible beyond the property line shall only occur between the hours of 7:00
1143 a.m. and 5:00 p.m. on Monday through Friday, excluding holidays, unless alternative hours are
1144 approved by the zoning administrator. Backup generators, if permitted, shall only be operated
1145 during periods of power outages or for testing.

1146 G. If a flagpole is used for camouflaging a wireless telecommunications facility, flags shall be
1147 flown and shall be properly maintained at all times.

1148 H. Each owner or operator of a facility shall routinely inspect each site to ensure compliance
1149 with the standards set forth in this section and the conditions of approval.

1150 **20.73.190 No Dangerous Conditions or Obstructions Allowed**

1151 No person shall install, use or maintain any wireless telecommunications facility which in whole or in
1152 part rests upon, in or over any public sidewalk or parkway, when such installation, use or
1153 maintenance endangers or is reasonably likely to endanger the safety of persons or property, or
1154 when such site or location is used for public utility purposes, public transportation purposes or other
1155 governmental use, or when such facility unreasonably interferes with or impedes the flow of
1156 pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or
1157 egress from any residence or place of business, the use of poles, posts, traffic signs or signals,
1158 hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects
1159 permitted at or near said location.

1160 **20.73.200 Permit Expiration**

1161 A. A permit for any wireless telecommunications facility shall be valid for a period of 10 years,
1162 unless the Planning commission authorizes a longer period or pursuant to another provision of the
1163 Mill Valley Municipal Code the permit lapses sooner or is revoked. At the end of such period, the
1164 permit shall expire.

1165 B. A permittee may apply for extensions of its permit in increments of no more than ten years
1166 and no sooner than twelve months prior to expiration of the permit.

1167 C. If a permit has not expired at the time an application is made for an extension, the zoning
1168 administrator may administratively extend the term of the permit for subsequent ten-year terms
1169 upon verification of continued compliance with the findings and conditions of approval under which
1170 the application was originally approved, as well as any other applicable provisions of the Mill Valley
1171 Municipal Code that are in effect at the time the permit extension is granted.

1172 1. At the zoning administrator's discretion, additional studies and information may be
1173 required of the applicant.

1174 2. If the zoning administrator determines that the facility is nonconforming or that
1175 additional conditions of approval are necessary to bring the facility into compliance with
1176 the provisions of the Mill Valley Municipal Code that are then in effect at the time of
1177 permit expiration, the zoning administrator shall refer the extension request to the
1178 Planning commission.

1179 D. The request for an extension shall be decided by the Planning commission if the permit
1180 expired before the application is made for an extension or if the zoning administrator refers the
1181 matter to the Planning commission. After notice and a public hearing, the Planning commission may
1182 approve, conditionally approve, or deny the extension.

1183 **20.73.210 Cessation of Use or Abandonment**

1184 A. A wireless telecommunications facility is considered abandoned and shall be promptly
1185 removed as provided herein if it ceases to provide wireless telecommunications services for 90 or
1186 more consecutive days. If there are two or more users of a single facility, then this provision shall
1187 not become effective until all users cease using the facility.

1188 B. The operator of a facility shall notify the City in writing of its intent to abandon or cease use
1189 of a permitted site or a nonconforming site (including unpermitted sites) within ten days of ceasing
1190 or abandoning use. Notwithstanding any other provision herein, the operator of the facility shall
1191 provide written notice to the zoning administrator of any discontinuation of operations of 30 days
1192 or more.

1193

1194 C. Failure to inform the zoning administrator of cessation or discontinuation of operations of
1195 any existing facility as required by this section shall constitute a violation of any approvals and be
1196 grounds for:

1197 1. Prosecution;

1198 2. Revocation or modification of the permit;

1199 3. Calling of any bond or other assurance required by this chapter or conditions of approval
1200 of the permit;

1201 4. Removal of the facilities by the City in accordance with the procedures established under
1202 the Mill Valley Municipal Code for abatement of a public nuisance at the owner's
1203 expense; and

1204 5. Any other remedies permitted under the Mill Valley Municipal Code.

1205 **20.73.220 Removal and Restoration, Permit Expiration, Revocation or Abandonment**

1206 A. **Permittee's removal obligation.** Upon the expiration date of the permit, including any
1207 extensions, earlier termination or revocation of the permit or abandonment of the facility, the
1208 permittee, owner or operator shall remove its wireless telecommunications facility and restore the
1209 site to its natural condition except for retaining the landscaping improvements and any other
1210 improvements at the discretion of the City. Removal shall be in accordance with proper health and
1211 safety requirements and all ordinances, rules, and regulations of the City. The facility shall be
1212 removed from the property within 30 days, at no cost or expense to the City. If the facility is located
1213 on private property, the private property owner shall also be independently responsible for the
1214 expense of timely removal and restoration.

1215 B. **Failure to remove.** Failure of the permittee, owner, or operator to promptly remove its
1216 facility and restore the property within 30 days after expiration, earlier termination, or revocation of
1217 the permit, or abandonment of the facility, shall be a violation of the Mill Valley Municipal Code,
1218 and be grounds for:

1219 1. Prosecution;

1220 2. Calling of any bond or other assurance required by this chapter or conditions of approval
1221 of permit;

1222 3. Removal of the facilities by the City in accordance with the procedures established under
1223 the Mill Valley Municipal Code for abatement of a public nuisance at the owner's
1224 expense; or

1225 4. Any other remedies permitted under the Mill Valley Municipal Code.

1226

1227 C. **Summary removal.** In the event the zoning administrator determines that the condition or
1228 placement of a wireless telecommunications facility located in the public right-of-way constitutes a
1229 dangerous condition, obstruction of the public right-of-way, or an imminent threat to public safety,
1230 or determines other exigent circumstances require immediate corrective action (collectively,
1231 “exigent circumstances”), the zoning administrator may cause the facility to be removed summarily
1232 and immediately without advance notice or a hearing. Written notice of the removal shall be served
1233 upon the person who owns the facility within five business days of removal and all property
1234 removed shall be preserved for the owner’s pick-up as feasible. If the owner cannot be identified
1235 following reasonable effort or if the owner fails to pick-up the property within 60 days, the facility
1236 shall be treated as abandoned property.

1237 D. **Removal of facilities by City.** In the event the City removes a facility in accordance with
1238 nuisance abatement procedures or summary removal, any such removal shall be without any
1239 liability to the City for any damage to such facility that may result from reasonable efforts of
1240 removal. In addition to the procedures for recovering costs of nuisance abatement, the City may
1241 collect such costs from the performance bond posted and to the extent such costs exceed the
1242 amount of the performance bond, collect those excess costs in accordance with the Mill Valley
1243 Municipal Code. Unless otherwise provided herein, the City has no obligation to store such facility.
1244 Neither the permittee nor the owner nor operator shall have any claim if the City destroys any such
1245 facility not timely removed by the permittee, owner, or operator after notice, or removed by the
1246 City due to exigent circumstances.

1247 **20.73.230 Effect on Other Ordinances**

1248 Compliance with the provisions of this chapter shall not relieve a person from complying with any
1249 other applicable provision of the Mill Valley Municipal Code, including but not limited to obtaining
1250 any necessary encroachment or building permits. In the event of a conflict between any provision of
1251 this chapter and other provisions of the Mill Valley Municipal Code, this chapter shall control.

1252 **20.73.240 Effect of State or Federal Law**

1253 In the event that state or federal law prohibits discretionary permitting requirements for certain
1254 wireless telecommunications facilities, the permits required by this chapter for those facilities shall
1255 be deemed to be ministerial permits. For those facilities, in lieu of a conditional use permit, a
1256 ministerial permit shall be required prior to installation or modification of a wireless
1257 telecommunications facility and all provisions of this chapter shall be applicable to any such facility
1258 with the exception that the required permit shall be reviewed and administered as a ministerial
1259 permit by the zoning administrator rather than as a discretionary permit. Any conditions of
1260 approval set forth in this chapter or deemed necessary by the zoning administrator shall be imposed
1261 and administered as reasonable time, place and manner rules.

ATTACHMENT 2: Public Comments

Danielle Staude

From: Katharine Spencer <katharinespencer@hotmail.com>
Sent: Sunday, August 26, 2018 7:02 PM
To: Danielle Staude
Subject: Potential 4G/5G Wireless Telecommunications Facilities

Dear Danielle Staude,

We have recently become aware of the possible arrival of 4G & 5G wireless networks in our neighborhood and we are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from these 4G and 5G Small Cell Towers.

We urge you to please prevent the installment of these dangerous antennae in the City of Mill Valley.

Yours sincerely,

David & Katharine Spencer
138 Kipling Drive
Mill Valley

Danielle Staude

From: Liz Specht <liz@edliz.com>
Sent: Monday, August 27, 2018 11:55 AM
To: Danielle Staude
Subject: Please: No small cell towers

Dear Danielle,

We are concerned about the potential adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers, as proposed by AT&T and Verizon.

Please prevent the installment of these dangerous antennae in the City of Mill Valley until conclusive data is available about health risks.

Sincerely,
Liz and Ed Specht
102 Nelson Avenue
Mill Valley, CA

Danielle Staude

From: Tracy Ferm <rtferm@comcast.net>
Sent: Monday, August 27, 2018 8:34 AM
To: Danielle Staude
Subject: 5 G

Dear Danielle-

I am very concerned about the possible side effects of the 5 G. My husband is a cancer survivor and I have cancer at present. There are power poles right in front of our home on Montford.

PLEASE help to research this. Is there a shark in the water?

Thank-you! Tracy

Danielle Staude

From: Lisa Salkever <lsalkever@gmail.com>
Sent: Monday, August 27, 2018 7:12 AM
To: Danielle Staude
Subject: Please prevent installment of smAll cell phone towers in Mill Valley

Dear Danielle Staude,

I and my family are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installment of these dangerous antennae in the City of Mill Valley.

Thank you,
Lisa Salkever

Danielle Staude

From: Kier Holmes <kierandmatt@gmail.com>
Sent: Monday, August 27, 2018 6:28 AM
To: Danielle Staude
Subject: cell towers

Danielle Staude, I urge you to stop the imminent placement of dangerous 4G and 5G Small Cell Towers on telephone poles in Mill Valley. For the health of our children, please do whatever you can to stop this!

Thank you!

Kier Holmes, and family

Danielle Staude

From: Lynne Frame <lynnef2@comcast.net>
Sent: Monday, August 27, 2018 4:05 AM
To: Danielle Staude
Subject: small cell towers -- please no

Dear Ms. Staude,

I am writing from overseas to register my grave concern about the placement of small cell towers throughout Mill Valley in the coming months — or ever. As a person with several constitutional sensitivities, I work constantly to minimize my exposure to electromagnetic radiation and I am extremely concerned that the introduction of these towers throughout our neighborhoods and in close proximity to homes and schools will make avoiding such exposure nearly impossible for me, my family, and our community. Although we cannot be absolutely sure of the level of harm this will have on various individuals, it is a risk to at least some that is not worth the potential benefits to others.

Please count me as a community member who is strongly opposed to such installations.

Respectfully yours,
Lynne Frame

38 Helens Lane
Mill Valley, CA 94941

Danielle Staude

From: Sarah Wilson <sarah@wilson.tv>
Sent: Sunday, August 26, 2018 9:20 PM
To: Danielle Staude
Subject: 5G cell towers

Hi Danielle,

We are very concerned about the potential adverse health and environmental risks associated with the installment of 5G cell towers around Mill Valley. Please do what you can to stop the installation of these towers.

Thank you,
Sarah & Jason Wilson

send from my iPhone

Danielle Staude

From: Leslie Myers <lesliemyers@yahoo.com>
Sent: Sunday, August 26, 2018 11:01 PM
To: Danielle Staude
Subject: 5G in Mill Valley - Please oppose it!

Dear Senior Planner Danielle Staude,

Regarding placement of 5G Mini Cell Towers in Mill Valley, we are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers.

We do not want high frequency energy waves pumped into our neighborhoods. The long term impact to the health of our residents is unknown.

5G is not necessary. Wired networks, both optical fiber and copper, are a much better option than the potentially harmful 5G wireless networks. Fiber optic cable is faster, more secure, more reliable, more energy efficient, more cost effective, healthier and safer than wireless networks.

Please prevent the installment of these dangerous antennae in the City of Mill Valley.

Thank you!

Best and be well. Leslie Myers

Danielle Staude

From: Pamela Alma Weymouth <pamelaweymouth@gmail.com>
Sent: Sunday, August 26, 2018 10:29 PM
To: Danielle Staude
Subject: No cell towers pls!

Pls don't place cell towers on phone lines near homestead or in mill valley! Let's keep this a healthy green community with less radiation waves!! Please! Mother of twin boys, journalist. Thank you.

We should get to vote on this!

Sent from modern device while negotiating twin truces & juggling flaming knives

Read more masterpieces at:pamela.alma.org

Danielle Staude

From: redmond@mac.com
Sent: Sunday, August 26, 2018 10:16 PM
To: Danielle Staude
Subject: Adverse effects on humans from microwave radiation emitted from 4G and 5G Small Cell Towers

Dear Ms Staude,

We are extremely concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installation of these dangerous antennae in the City of Mill Valley and preserve our healthy environment that has made Mill Valley the wonderful place to live. I am a 40 year resident and I believe that this installation would cause me as well as many other health-conscious residents to move out.

Sincerely,
Pamela Redmond
290 Sycamore Av

Danielle Staude

From: Sarab Stewart <sarabsemail@gmail.com>
Sent: Sunday, August 26, 2018 9:40 PM
To: Danielle Staude
Subject: Please prevent Cell Tower installation in Mill Valley

Dear Ms. Staude, I have been alerted to the plan to install 4G and 5G cell towers in Mill Valley. As a resident, I am very concerned about the serious adverse health risks and environmental impacts caused by the microwave radiation emitted from these towers. Please prevent the installment of these dangerous antennae in all of the of Mill Valley area, including Strawberry. I appreciate your attention to this most serious matter.

Thank you,
Sarab Stewart

Danielle Staude

From: ursula1001@yahoo.com
Sent: Sunday, August 26, 2018 9:14 PM
To: Danielle Staude
Subject: please prevent installment of 4G, 5G Small Cell Towers

Dear Danielle Staude,

I am very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installment of these dangerous antennae in the City of Mill Valley.
Sincerely,

Ursula Hanrahan

Danielle Staude

From: Megan Mokri <megan@bytefoods.co>
Sent: Sunday, August 26, 2018 8:14 PM
To: Danielle Staude
Subject: Small cell towers

Dear Danielle Staude,

I am very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installment of these dangerous antennae in the City of Mill Valley.

Sincerely,
Megan Mokri

Danielle Staude

From: Barbara <barbarabowman4@gmail.com>
Sent: Sunday, August 26, 2018 7:43 PM
To: Danielle Staude
Subject: 5g small cell towers

Dear Danielle Staude, We are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installment of these dangerous antennae in the City of Mill Valley

Barbara Bowman
Resident of mill valley for 18 years

All thumbs
Barbara
Sent from my iPhone

Danielle Staude

From: Victoria Ritchie <Victoriaauranus@aol.com>
Sent: Sunday, August 26, 2018 7:06 PM
To: Danielle Staude
Subject: cell towers in mill valley

Dear Ms Staude,

Absolutely — Mill Valley cannot allow this threat to its residents' health. Can you please do all that you can to stop this action from going forward. I'm sure that a host of others feel the same as I do. This is just to throw my hat into the ring.

Thank you so much.

A Ritchie
downtown mill valley resident

Danielle Staude

From: Alice Torres <alictorres@comcast.net>
Sent: Sunday, August 26, 2018 6:56 PM
To: Danielle Staude
Subject: 4g 5g

NO to 5G and 4G antennae's!!

Sent from my iPhone

Danielle Staude

From: John Feeney <JFeeney@MPBF.com>
Sent: Sunday, August 26, 2018 6:54 PM
To: Danielle Staude
Subject: 4G and 5G Cell Towers

We are opposed to their placement in our residential neighborhoods. John and Joyce Feeney



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Danielle Staude

From: Cory Mason <corymason1220@gmail.com>
Sent: Sunday, August 26, 2018 9:31 AM
To: Danielle Staude
Subject: 4G and 5G Small Cell Towers

Dear Danielle Staude,

We are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installment of these dangerous antennae in the City of Mill Valley.

Sincerely,

Cory Mason

Danielle Staude

From: Anne Smith <anne.smith2@comcast.net>
Sent: Saturday, August 25, 2018 6:39 PM
To: Danielle Staude
Subject: Please keep us safe and healthy

Dear Danielle Staude,

We are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installment of these dangerous antennae in the City of Mill Valley.

Anne, Kelly, Will and Jim Smith
132 Sycamore Ave

Danielle Staude

From: Elizabeth Schumacher <lizschumacher@comcast.net>
Sent: Saturday, August 25, 2018 5:38 PM
To: Danielle Staude
Subject: Small cell towers a health risk

“Dear Danielle Staude,

We are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installment of these dangerous antennae in the City of Mill Valley.

Sincerely,

Elizabeth Schumacher

schumacher interiors
49 Loring Ave
Mill Valley, CA 94941
415 509 2434

Danielle Staude

From: email4brad <email4brad@comcast.net>
Sent: Saturday, August 25, 2018 10:15 AM
To: Danielle Staude
Subject: 4G and 5G small cell towers

lol towers"Dear Danielle Staude,

My wife and I are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installment of these dangerous antennae in the City of Mill Valley.

Sincerely,
Brad Summers

Sent from my iPad

Danielle Staude

From: Stephen Burger <scburger@gmail.com>
Sent: Saturday, August 25, 2018 10:11 AM
To: Danielle Staude
Subject: Wireless Telecom Towers

Dear Ms. Staude,

I was informed that there is a proposal to install 4G and 5G towers in Mill Valley. Until the science on the health effects of these towers is better understood, I am opposed to the installation of these devices in Mill Valley

Thank you,
Stephen Burger
386 E Blithedale, MV

--

Stephen Burger
scburger@gmail.com
LinkedIn: [stephencburger](#)
206-369-5889

Danielle Staude

From: Mitch Wortzman <mwortzman@yahoo.com>
Sent: Saturday, August 25, 2018 9:36 AM
To: Danielle Staude
Subject: Cell Phone Towers

Hi Danielle, I just received an e-mail re: the addition of 4G and 5G cell cabling, transmitters, antennas in the City.

How can I find out exactly what is being planned, and where the antennas are being located?

I successfully led an effort years ago to stop the addition of antennas on the Sequoia theater. I recall that the cell companies may have had Federal rights to expand their antennas, but that there was local ability to protect citizens including precedent to limit towers near schools.

Thanks,

Mitch

Mitch Wortzman
mwortzman@yahoo.com
415-336-4549 cell

Danielle Staude

From: Kris_Doug Saeltzer <dnksaeltzer@msn.com>
Sent: Friday, August 24, 2018 6:21 PM
To: Danielle Staude
Subject: Small Cell Tower

Dear Senior Planner Danielle Staude,

We are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installation of these dangerous antennae in the City of Mill Valley.

Sincerely,

Kris & Doug Saeltzer

8 Meadow Ridge Drive

Corte Madera, CA 94925

Sent from my iPhone

Danielle Staude

From: mprice@the-acorn.com
Sent: Friday, August 24, 2018 1:52 AM
To: Danielle Staude
Subject: RE: Telecommunication: Good background material for our meeting

Hi Danielle,
Just a quick message to thank you for referring Paige and Rachel to me. I have been in email communication with them and attended their meeting tonight. On reviewing all the links they sent me I do share their concerns about the 4 and 5g wireless issue. I will send our MVCAN Eco Team background information on the issue and let them know of the Sept 6 date when the Mill Valley City Council will discuss it.

I hope all is going well for you!
Marilyn Price
415-381-2941

----- Original Message -----

Subject: Telecommunication: Good background material for our meeting
From: Danielle Staude <dstaude@cityofmillvalley.org>
Date: Fri, August 17, 2018 8:21 am
To: Rachel Gaunt <rachel@couragecorps.com>
Cc: Paige Hutson <paige@hutsonconsulting.com>, "mprice@the-acorn.com" <mprice@the-acorn.com>

Hi Marilyn,

I am playing matchmaker. Paige and Rachel (part of this email) are working to get The word out about their concerns about the upcoming move to 4 and 5g for wireless telecommunications and are also working on a campaign to educate the community about healthy households in terms of such issues.

Below is some information, and I know they would be most happy to attend an eco-warrior meeting to explain more.

Cheers,
Danielle Staude

Sent from my i-phone

On Aug 10, 2018, at 4:22 PM, Rachel Gaunt <rachel@couragecorps.com><mailto:rachel@couragecorps.com>> wrote:

Hello Danielle

In case it's useful background, here's the one pager that we sent Kate Sears before our meeting yesterday.

From our email exchange I can tell that you are already up to speed on a lot of the information, but in case there's anything that is new and relevant, I am including it for you and Jill.

Have a great weekend!
our best
Rachel and Paige

Hello Kate,

We hope you are having an enjoyable weekend.

In preparation for our meeting on Thursday, we thought the following "one pager" with related backup studies and data would offer you a greater scope of the science and key issues at hand:

1. There has been an extraordinary rise in our exposure to wireless radiation over the past decade, from smart phones, Wi-Fi, cell towers, iPads and smart meters. (One scientist estimated that this is an increase of a quintillion times the amount of exposure.
2. This wireless exposure is harmful, affecting our bodies on a cellular level and causing disease of all kinds. Thousands of peer reviewed studies worldwide show clear evidence of the harm from wireless exposure, with a significant rise in brain tumors, a clear indicator of the impact.

Related studies: Experts Find "Clear Evidence" of Cancer from Cell Phone Radiation in NTP Study, April 10, 2018 <<https://www.saferemr.com/2018/01/national-toxicology-program-peer-public.html>> and Ramazzini Institute Cell Phone Radiation Study Replicates NTP Study <<https://ehtrust.org/worlds-largest-animal-study-on-cell-tower-radiation-confirms-cancer-link/>> - - March 22, 2018 and The BioInitiative Report: 2017 <<http://www.bioinitiative.org/whats-new-2/>> which offers a comprehensive overview of studies that give a rationale for biologically based exposure standards for low intensity electromagnetic radiation.

3. The wireless industry is aware of the dangers and rather than try to convince us that wireless is safe, they are using "doubt" to confuse and perpetuate the debate. Their industry funded studies are in marked contrast to independent studies which show strong evidence of harm.

Related Article, "How Big Wireless Made Us Think That Cell Phones Are Safe" <<https://www.thenation.com/article/how-big-wireless-made-us-think-that-cell-phones-are-safe-a-special-investigation/>>".

4. There is a race between wireless providers to "own" the public and private space, with Wi-Fi strong enough to stream TV shows on your phone even in the street. 5g is being heralded as the next and wonderful new era by wireless companies with deep pockets, but it represents a significant increase in wireless exposure and is untested.

Related Articles: Environmental Health Trust Fact Sheet on 5G <https://ehtrust.org/wp-content/uploads/5G_What-You-Need-to-Know_V4-1.pdf> and Environmental Health Trust Research on 5G and Health <<https://ehtrust.org/scientific-research-on-5g-and-health/>>

5. AT&T and Verizon are keen to win back market share lost to Comcast and are now entering the Wi-Fi space using Close Proximity Microwave Radiation Antennas (CPMRA) on telephone poles to initially beam 4G DAS and then 5G into our homes, every 2 to 5 poles. They have already been stringing cable and preparing telephone poles in unincorporated Mill Valley with indication that they intend to install CPMRA's within two months, despite having no permits from the County.

Related Article, Wireless Radiation Coming to a Lamppost Near You <<https://www.westonaprice.org/health-topics/environmental-toxins/microwave-radiation-coming-lamppost-near/>>, December, 2017.

6. Firemen have been exempted from having to have these powerful Small Cells, (CPMRA's) next to their station, after a study showing that all the firemen tested had abnormal brain scans after exposure, even at low levels of radiation.

Related article, KPIX news report <https://www.youtube.com/watch?time_continue=2&v=61h_vuBujw0>.

7. Fiber Optic cable is a faster, more secure, more reliable, more energy efficient, healthier and

safer option for us.

- a. There is no radiation exposure
- b. There is less fire risk from overloading telephone poles
- c. There is no danger of loss of connection or communication in a fire if a 5g cell goes down
- d. .Emergency response is faster and more accurate because of better location detection
- e. And in the long run it is much cheaper

Related article, "Reinventing

Wires"<<https://www.businesswire.com/news/home/20180126005137/en/Wireless-Networks-Fast-Secure-Reliable-Energy-Efficient-Wired>>

8. Marin residents need an immediate moratorium on all CPMRA installations, (both 4g DAS and 5g) to give us time to rework and strengthen the current Country Wireless Ordinance to protect ourselves, as the cities of Petaluma and San Jose have successfully done.

We look forward to meeting you and to a productive discussion. Thank you for making the time in your busy schedule to meet with us.

Our Best,

Rachel Gaunt and Paige Hutson

Rachel Gaunt, Co-Founder

COURAGE CORPS<<http://www.couragecorps.com/>> | 415.381.8208

<[Courage_Corps_3Beliefs.png](#)>

Enlightened business, backed by science.

Danielle Staude

From: Marin Oyster Company, Inc. <kt@marinoyster.com>
Sent: Thursday, August 23, 2018 7:50 PM
To: Danielle Staude
Subject: Cell towers in Scott Valley

Ms. Staude, please do not approve small or any more Cellular Transmitters in Scott Valley. Phones work fine anywhere one goes, begging the question why it's being proposed. We are rational here, no tin foil hats. However, radiation from transmission equipment is a documented health problem, closer proximity being the higher risk.

My family is adamant in our opposition to the unnecessary increase in health risks to the community.
Thank you for not approving this.

Toussaint Family
9 Midhill Dr.
707-338-2188 cell

Sent from my iPhone

Danielle Staude

From: Suzanne Leon <suzannels@comcast.net>
Sent: Wednesday, August 22, 2018 6:17 PM
To: Danielle Staude
Cc: Ms. Renee Marler; Lynne Frame; Tim Standing; Mr. & Mrs. Richard Hoskins; Madeleine Sklar; Mr. & Mrs. Scott Sklar; Raushan Akhmedyarova; Gina & Chris Cooper; Robin McKee; Linda Lukas; Cathy Down
Subject: 5G is even more invasive than 4G

San Rafael Residents Speak Out Against 5G Microwave Cell Tower Installations

<http://www.marinij.com/general-news/20180821/san-rafael-residents-take-pre-emptive-strike-against-5g-installations> By Keri Brenner, Marin Independent Journal Packed house at San Rafael City Council Monday night. Many stood and applauded in a show of support for city regulations banning 5G cellphone towers. San Rafael residents have launched a campaign to block cellphone companies from attempting to build 5G towers in Marin. The 5G towers, which would allow for faster and higher-capacity video streaming and other transmissions, could exacerbate health symptoms already suspected as a result of exposure to electromagnetic fields, Vicki Sievers, of the EMF Safety Network, told the San Rafael City Council on Monday. According to the EMF Safety Network website, those symptoms can include fatigue, headaches, sleep problems, anxiety, heart problems, learning and memory disorders, ringing in the ears and increased cancer risk. “We’ve experienced 2G, 3G, 4G and now, on the horizon, is a fifth generation called millimeter wave technology,” Sievers said after her presentation that brought standing applause from about 20 people at the packed meeting. “Around the world, doctors and scientists are gravely alarmed about the biological and physiological effects of that technology.” Sievers said no permits for 5G so-called “small cell” towers have been issued in Marin as of yet — though they have in other Bay Area cities — and she suspects they are being planned in San Rafael and Marin. “(We want) amendments to the current telecommunications ordinance — which has not been reviewed since 2004 — that protect residential areas, schools and parks through setbacks and attention to power profiles,” Sievers said in an email Tuesday. According to Sievers, San Anselmo, Fairfax and Mill Valley are working on strengthening their cell tower ordinances. “Our effort has to do with making pre-emptive strikes before Verizon, AT&T (and others) actually make formal applications to each town and city,” Sievers said. “There are no applications in San Rafael to date, but there surely have been permits granted and installations begun in other Bay Area cities.” In May, Verizon was forced to withdraw its application to build two “small cell” towers in Sebastopol after four months of heavy opposition by residents and attorneys for the EMF Safety Network. “Several of us San Rafael residents went to the (San Rafael) council on Feb. 20 (when the Sebastopol issue arose), urging them to prevent such debacles here,” Sievers said. San Rafael Mayor Gary Phillips said Tuesday he was not aware of any ongoing activity to strengthen or upgrade cell tower regulations in the city and there were no immediate plans for further discussion. “It kind of came a little bit out of the blue,” he said of Monday’s presentation. EMFs include wireless radiation emitted by cell towers, cell and cordless phones, smart meters, smart grid, Wi-Fi and computers, power lines, fluorescent lights, indoor wiring and other electronic devices, according to the EMF Safety Network. According to the U.S. Centers for Disease Control and Prevention, the jury is still out on the health risks of exposure to EMFs. “Studies have shown that some workers exposed to high magnetic fields have increased cancer rates,” the CDC reported on its website. “But such associations do not necessarily show that EMF exposures cause cancer (any more than the springtime association of robins and daffodils shows that one causes the other). Scientists have looked carefully at all the EMF evidence, but they disagree about the health effects of EMFs except to say that better information is needed.” According to the website whatis5g.info, the 5G “small cell” tower “will include the higher millimeter wave frequencies never before used for internet and communications technology. These waves do not travel easily through buildings so 5G will require millions of new cell towers. The wireless telecom industry is aggressively seeking to outfit nearly every lamppost and utility pole around the country with a wireless ‘small cell’ antenna beaming hazardous radiation next to, or into our homes, 24/7.” San Rafael resident Chandu Vyas said Monday he is wary of EMFs after a health challenge about five years ago. He said he developed severe and constant headaches after a smart meter was installed at his

home. The headaches went away after he “opted out” and had the smart meter at his property removed. “I don’t want to go through the same health problem again,” he told the City Council. “I ask your help.” Kiah Bosy of Chi Home Design showed the council how her EMF meters ratcheted up to high pitch when she walked toward a TV screen in front of the council chambers. “It’s serious,” she said. “We’re microwaving each other.”

Danielle Staude

From: js <jscafidimv@aol.com>
Sent: Thursday, August 23, 2018 8:57 AM
To: Danielle Staude
Subject: Action Alert

Danielle Staude

I feel that the 4G and 5G Small Cell Towers should NOT be installed in our community until further research is done and approved that it is 100% safe to do so.

Joe Scafidi
Mill Valley, CA

Danielle Staude

From: holly downes <hollydownes@sbcglobal.net>
Sent: Wednesday, August 22, 2018 1:15 PM
To: Danielle Staude
Subject: 5G towers

Dear Danielle,

Please review your findings about the micro towers and exposure to those living close to them. Scientific studies show the health risks far out weigh the benefits.

I strongly encourage you to decline their placement.

sincerely,

Dr. Holly Downes

Danielle Staude

From: Carol Lenherr <nonnamv@gmail.com>
Sent: Monday, August 20, 2018 8:27 PM
To: Danielle Staude
Subject: NO to Wireless Telecommunications Facilities

Hello Ms. Staude,

We appreciate the work you do on behalf of the residents of Mill Valley.

Though we are unfortunately unable to make the meeting on September 6, we would like to communicate that we do not support the proposed Ordinance for Wireless Telecommunications Facilities.

We are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers.

Please prevent the installment of these dangerous antennae in the City of Mill Valley.

Sincerely,

Carol Lenherr
32 Midhill Drive

Danielle Staude

From: ru4morningsun <ru4morningsun@comcast.net>
Sent: Monday, August 20, 2018 5:19 PM
To: Danielle Staude
Subject: Stop installation of small cell towers

Dear Senior Planner Danielle Staude,

We are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installation of these dangerous antennae in the City of Mill Valley.

Sincerely,

Debbie Alstad
132 Morningsun Ave
Mill Valley

Danielle Staude

From: Suzanne Leon <suzannels@comcast.net>
Sent: Monday, August 20, 2018 4:26 PM
To: Danielle Staude
Subject: Fwd: No on 4G and 5G cell towers around Mill Valley!!!

PS. I am a resident at 8 Lower Dr, Mill Valley

Begin forwarded message:

From: Suzanne Leon <suzannels@comcast.net>
Subject: No on 4G and 5G cell towers around Mill Valley!!!
Date: August 19, 2018 at 10:54:03 PM PDT
To: dstaude@cityofmillvalley.org

Dear Danielle Staude,

I am extremely opposed to the installation of 4G and 5G cell towers around Mill Valley! It's bad enough that our bodies and environment are bombarded by all the toxins and chemicals in our food supply, homes and land along with pollution from our vehicles, jet streams, water, depletion of our ozone layer....but EMFs are a serious health hazard that we haven't begun to fully understand. I was enraged that we had smart meters installed by our utility companies, and we are inundated by wifi, cell phones, etc everywhere. We turn off our wifi at night, we don't have microwaves, bluetooth headsets, smart TVs or other gadgets..... our desktop computers are ethernet connected. We have no control over the rest of the neighborhood, or the rest of society. We chose not to live near power companies or large power lines. I NEVER walk through full body scanners at the airport and always ask for a patdown.

There have been enough cancers in my extended family - do not help create more! PLEASE prevent this insanity!

Yours Truly,

Suzanne Leon

Danielle Staude

From: Gina Cooper <ginacooper06@comcast.net>
Sent: Monday, August 20, 2018 3:45 PM
To: Danielle Staude
Subject: Small cell towers

Dear Danielle Staude,

I am very concerned about the addition of small cell phone towers around my neighborhood in Mill Valley. Please prevent the installation of these towers.

Thankyou,

Gina Cooper
26 Somerset Lane
Mill Valley

Sent from my iPhone

Danielle Staude

From: Graham Brandt <graham.brandt@gmail.com>
Sent: Monday, August 20, 2018 3:41 PM
To: Danielle Staude
Cc: Talia Brandt
Subject: 4G & 5G Small Cell Towers

Dear Danielle Staude,

We are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installment of these dangerous antennae in the City of Mill Valley until such time as they have been further studied and assurances can be made regarding their health and environmental impact.

Sincerely,
Graham & Talia Brandt
3 Upperhill Road

Sent from my gPad

Danielle Staude

From: drkanga@aol.com
Sent: Monday, August 20, 2018 7:23 AM
To: Danielle Staude
Subject: cell towers in mill valley

Dear Danielle:

My family and are very concerned about serious adverse health and environmental impacts due to microwave radiation emitted from cell towers, including 4G and 5g towers. Please do not allow the installation of these dangerous antennae in the City of Mill Valley.

Sincerely,

Benson L. Kaukonen and Family

Danielle Staude

From: Nancy <nglasenk@gmail.com>
Sent: Monday, August 20, 2018 4:46 AM
To: Danielle Staude
Subject: Opposed to 5G Cell towers

Hello Danielle

I am extremely concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. There needs to be far more research and understanding before jumping on this corporate bandwagon.

Please prevent the installment of these dangerous antennae in the City of Mill Valley.

Sincerely
Nancy Glasenk
29 Vasco Drive

Danielle Staude

From: Dorothy McQuown <dr.dorothym@yahoo.com>
Sent: Monday, August 20, 2018 2:45 AM
To: Danielle Staude
Subject: Cell Towers

Dear Marin County Board of Supervisors,

We are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please put this topic on your Agenda and prevent the installation of these dangerous Close Proximity Microwave Radiation Antennae in Unincorporated Marin. Please help us maintain local control in the face of corporate pressure.

Sincerely,

Dorothy MCQuown, Ph. D.

Sent from my iPad

Danielle Staude

From: Suzanne Leon <suzannels@comcast.net>
Sent: Sunday, August 19, 2018 10:54 PM
To: Danielle Staude
Subject: No on 4G and 5G cell towers around Mill Valley!!!

Dear Danielle Staude,

I am extremely opposed to the installation of 4G and 5G cell towers around Mill Valley! It's bad enough that our bodies and environment are bombarded by all the toxins and chemicals in our food supply, homes and land along with pollution from our vehicles, jet streams, water, depletion of our ozone layer...but EMFs are a serious health hazard that we haven't begun to fully understand. I was enraged that we had smart meters installed by our utility companies, and we are inundated by wifi, cell phones, etc everywhere. We turn off our wifi at night, we don't have microwaves, bluetooth headsets, smart TVs or other gadgets..... our desktop computers are ethernet connected. We have no control over the rest of the neighborhood, or the rest of society. We chose not to live near power companies or large power lines. I NEVER walk through full body scanners at the airport and always ask for a patdown.

There have been enough cancers in my extended family - do not help create more! PLEASE prevent this insanity!

Yours Truly,

Suzanne Leon

Danielle Staude

From: Caitlin Greene <caitlinbgreene@gmail.com>
Sent: Sunday, August 19, 2018 10:28 PM
To: Danielle Staude
Subject: Wirelss Telecommuications Facilities

"Dear Danielle Staude,

We are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installment of these dangerous antennae in the City of Mill Valley.

Sincerely,
Caitlin Greene
415-595-6863
26 Azalea Dr.
Mill Valley, CA 94941

Danielle Staude

From: John Palmer <jp@montgomerypartners.net>
Sent: Sunday, August 19, 2018 8:53 PM
To: Danielle Staude
Cc: Jim McCann
Subject: Proposed plan to install 4G and 5G towers on power poles in Mill Valley

Dear Ms Staude,

My family and I are very concerned about the serious adverse health and environmental impacts caused by microwave radiation emitted from 4G and 5G Small Cell Towers.

Please do not permit the installment of these antennae, which are dangerous and unnecessary, in the City of Mill Valley.

Sincerely,

John Palmer
Montgomery Partners
100 Shoreline Highway Suite 160B
Mill Valley, CA 94941
(415) 332 4440 (O)
(415) 272 1728 (C)

Danielle Staude

From: Deena Grady Berger <dgberger22@mindspring.com>
Sent: Sunday, August 19, 2018 8:46 PM
To: Danielle Staude
Subject: Cell Phone 4G & 5G Towers - Mill Valley

Importance: High

Dear Ms. Staude,

My family is opposed to the installation of Small Cell Towers in and around Mill Valley. One of the reasons we chose to live in Mill Valley is that it is a very environmentally-aware and health-conscious community. There could be serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. We DO NOT want to be the “testing ground” or the “lab rats” for this technological advancement. We have seen no concrete evidence that these radiation-emitting towers are safe, only evidence to the contrary. Please prevent the installment of these dangerous antennae in the City of Mill Valley. Thank you!

Very truly yours,

Deena Grady Berger, J.D.
District Leader Volunteer
California Congressional District 2
dgberger22@mindspring.com
t 415.686.8778
humanesociety.org

Celebrating 60 Years



The Humane Society of the United States is the nation's largest and most effective animal protection organization. HSUS and our affiliates provide hands-on care and services to more than 100,000 animals each year. We are the leading animal advocacy organization, seeking a humane world for people and animals alike. We are driving transformational change in the U.S. and around the world by combating large-scale cruelties such as puppy mills, animal fighting, factory farming, seal slaughter, horse cruelty, captive hunts and the wildlife trade.

Danielle Staude

From: Robert Mithun <rmithun@comcast.net>
Sent: Sunday, August 19, 2018 8:41 PM
To: Danielle Staude
Cc: Francine SF
Subject: My Concern RE: 5G Small Cell Phone Towers in MV

Dear Danielle Staude,

I want you to know we are concerned about the possible adverse effects of 5G cell phone towers in Mill Valley on our MV residents as well as local animals. We expect more information about the effects of 5G microwave radiation will be available in the near future and believe a better decision can be made about this then. We understand and appreciate that you are assessing the sentiment of Mill Valley residents regarding this issue.

We do not have a concern about much lower frequency EMF radiation in general, such as AM, FM, Citizens' Band, and amateur radio or earlier generation cell phone radiation. These have been shown not to be harmful to humans in the doses we are usually currently exposed to. These new, much higher frequency, microwave radiation radiations do have very different biologic effects than those lower frequencies and we advise that we NOT act to permit the construction of these towers until we know more accurately what the risks to us would be.

Thank you for your consideration.

Robert J. Mithun, MD
Anne K. Fukutome, MD

Danielle Staude

From: Joel Yanowitz <jyanowitz@gmail.com>
Sent: Sunday, August 19, 2018 8:18 PM
To: Danielle Staude
Subject: 4G and 5G Small Cell Towers

Dear Danielle Staude,

I am very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installment of these dangerous antennae in the City of Mill Valley.

Please keep me informed as to the City's actions around this issue.

Sincerely,

Joel Yanowitz
3 Stanton Way
Mill Valley

Danielle Staude

From: patricia lakner <pslakner@yahoo.com>
Sent: Sunday, August 19, 2018 8:11 PM
To: Danielle Staude
Subject: Cell towers in Mill Valley

Thank you very much for upgrading the cell tower system. Please keep up the good work.

Best,
Pat Lakner

Danielle Staude

From: Joanne Lillich <joannelillich@gmail.com>
Sent: Sunday, August 19, 2018 1:12 PM
To: Danielle Staude
Subject: Cell Towers

Please take notice I understand that 4G and 5G cell towers near us are dangerous, if so I am certainly against it. Thank you in advance, I was made aware of this! Sincerely, Joanne Lillich

Sent from my iPhone

Danielle Staude

From: Catherine Cook MacRae <cookmacrae@comcast.net>
Sent: Sunday, August 19, 2018 12:36 PM
To: Danielle Staude
Subject: no small cell towers please

Dear Danielle,

After reading the recent studies, my family is very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. What we currently have is working just fine and we don't need other towers.

Please prevent the installment of these dangerous antennae in the City of Mill Valley.

Sincerely,
Catherine

Catherine Cook MacRae
106 Ryan Ave
Mill Valley 94941
m 415.260.0453

Danielle Staude

From: Rachel Gaunt <rachel@couragecorps.com>
Sent: Sunday, August 19, 2018 11:30 AM
To: Danielle Staude
Cc: Paige Hutson; Elisa Sarlatte; Jill McNeal; Stephanie Moulton-Peters; julieurban01@gmail.com
Subject: A strong wireless signal is coming from the telephone pole at 400 Summit

Good morning Danielle,

At our meeting on August 13th, Elisa and Jill expressed concern about what was “happening on the streets of Mill Valley” without their knowledge and that they, understandably, had a hard time covering the office and being out in the community “policing” all the AT&T and Verizon work crews to ensure they were compliant with the permitting process. As such, they were open to our “boots on the ground” support. We mentioned the dead oak tree at 400 Summit and have done some follow-up work on it that we are very concerned about and wanted to alert you.

Yesterday, Paige and I measured the levels coming from the equipment on two telephone poles on that corner and the levels were up in the “extreme range” on our meter. The residents in the house have been experiencing significant health issues ever since AT&T put installations up on the poles a few weeks ago - headaches, brain fog, sleep issues and generally feeling ill.

This is an urgent situation and we strongly recommend The City of Mill Valley investigate this situation right away. Unlike readings elsewhere in Mill Valley, where a lot of the prep work is being conducted, these installations are “live” and emitting extreme levels of radiation.

Our questions are:

1. Which company installed the equipment, (we think it is AT&T but are not completely sure)?
2. What type of wireless equipment is it, (4G DAS, 5G, something else?)
3. Did they have permits to put this up?
4. If so, who granted the permits?
5. If not, is this illegal? Or does the current lighting pole agreements allow them to proceed unchecked.

We are deeply concerned **that the same thing could happen anywhere in Mill Valley**, especially if they were proceeding with permits, and would appreciate it if you could look into this as a matter of urgency. (If you want to meet us at the pole at 400 Summit and see the levels with our meters we are happy to meet you there.)

We look forward to hearing back from you.

Warmly,
Rachel and Paige

Rachel Gaunt, Co-Founder
[COURAGE CORPS](#) | 415.381.8208



Enlightened business, backed by science.

Danielle Staude

From: Susan Kirsch <susankirsch@hotmail.com>
Sent: Sunday, August 19, 2018 11:16 AM
To: Danielle Staude
Cc: city council
Subject: No to 5G Small Cell Towers in Mill Valley

Hi Danielle,

I'm concerned about the potential adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers, as proposed by AT&T and Verizon. Please prevent the installment of these dangerous antennae in the City of Mill Valley until conclusive data is available about health risks.

Sincerely,

Susan Kirsch
109 Ryan Avenue
Mill Valley, CA
Member, Freeman Park Neighborhood Association

Danielle Staude

From: mrsstim <mrsstim@gmail.com>
Sent: Saturday, August 18, 2018 2:13 PM
To: Danielle Staude
Subject: 4G/5G small cel

I am very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please put this topic on your Agenda and prevent the installation of these dangerous Close Proximity Microwave Radiation Antennae in Unincorporated Marin.

andrea ross
unincorp marin

Danielle Staude

From: Joan Doc <joan235@comcast.net>
Sent: Monday, August 27, 2018 12:14 PM
To: Danielle Staude
Subject: Small cell towers

I am opposed to the installation of small cell towers in my neighborhood.

Joan Dox

235 Marguerite Ave

Sent from my iPhone

Danielle Staude

From: Heather & Ray Keane <thekeanes@gmail.com>
Sent: Monday, August 27, 2018 12:42 PM
To: Danielle Staude
Subject: No CELL TOWERS in MILL VALLEY PLEASE

Dear Danielle Staude, We are very concerned about the serious adverse health and environmental impacts caused by the microwave radiation emitted from 4G and 5G Small Cell Towers. Please prevent the installment of these dangerous antennae in the City of Mill Valley. We have small children and would hate to fry their little brains. **Thank you in advance** for your consideration!

Kindly,
Heather Keane

--

Warmly,

Heather

Heather Keane
thekeanes@gmail.com

It is important for the public, our public record, and the Nevada City City Council to understand on how the newly approved and deployed 5G "small cells" in Sacramento are going for their residents and now for the city..... I kindly ask that this letter from a Sacramento resident be submitted into the agenda package for the Nevada City City Council meeting on September 25th.

Thank you,

Reinette Senum

Mayor

Hello All.

I have been fighting the 5G roll out here in Sacramento since March, shortly after my family began experiencing health problems that we attribute to the Verizon cell antenna that was installed just 45 feet from our home as part of the 5G testing here in the Pocket area. The antenna was installed on top of a light pole, at roughly the same height as our second story. The antenna has a 360 degree radiation pattern and is emitting directly into my young nieces' bedroom. We hired Eric Windheim to come take measurements in and around our home. The readings inside my nieces' bedroom were some of the highest he had ever measured indoors, 460,000 microwatts per square meter; significantly higher than typical cell antenna exposure. It is no surprise to me now that my nieces (and other family members) started experiencing health problems soon after the antenna was installed. Eric helped us to install shielding in the home and suggested we move the children into a back room away from the antenna. About a week after taking these steps, their symptoms went away and have not returned.

For months our family has been fighting to have the antenna removed and urging our city to take a more cautious approach to the 5G roll out. Up until very recently we have had very little success. However, that might be turning around. We have banded together with other Sacramento residents opposed to unchecked small cell placement and have put enough pressure on the city council that they held a 5G safety discussion at last week's city council meeting. The city hired well known industry mouth piece Jerrold Bushberg to try to convince the public that these antennas would be safe. His presentation was less than convincing, simply citing FCC safety limits and telling us that our exposure was well under those limits. It is the same tired industry playbook and we were ready for it. About 15 speakers opposing 5G dismantled Bushberg's claims and cited our own studies and expert opinion. A video of the meeting can be seen here: <https://www.youtube.com/watch?v=bneKxpr36zM> A local publication

released an article today covering the meeting. <https://www.newsreview.com/sacramento/5g-for-fighting/content?oid=28747617>

The meeting concluded with two council members directing city staff to look into passing a zoning ordinance to restrict placement of the cell antennas similar to ordinances passed by other cities. This could be just for show, but it could also be a tipping point in which members of the council are realizing their decision to make Sacramento residents 5G guinea pigs could have serious repercussions.

I am asking for members of this email group to reach out to the Sacramento city council and staff and urge them to make a decision to protect the health and well being of their constituents. Policy makers need to hear from as many people as possible that 5G represents a serious threat to the environment and to their constituents and that as elected representatives it is their primary duty to protect the people they claim to serve. Here are their email addresses that can be copy pasted into an email:

aashby@cityofsacramento.org,
awarren@cityofsacramento.org,
rjennings@cityofsacramento.org,
jsharris@cityofsacramento.org,
Shansen@cityofsacramento.org,
jschenirer@cityofsacramento.org,
lcarr@cityofsacramento.org,
sawood@cityofsacramento.org,
hchan@cityofsacramento.org,
clerk@cityofsacramento.org,
MayorSteinberg@cityofsacramento.org,
eguerra@cityofsacramento.org

I thank you for taking the time to read this email and to reach out to these public officials who are faced with a pivotal decision holding consequences they are likely not fully aware of.

Noah Davidson
916-838-9266
www.5GAwarenessNow.com

From: [Tache](#)
To: [Catrina Olson](#); [David Parker](#); [Duane Strawser](#); [Erin Ruark-Minett](#); [Valerie Moberg](#)
Subject: 5G Ordinance
Date: Thursday, September 12, 2019 11:48:13 AM

Dear Council Members of Nevada City,

My husband and I were so hopeful that you would be able to create a temporary halt for 5G. When your mayor expressed that there were huge loopholes in the ordinance and asked for 2 weeks, and you all wouldn't give that to her, we were astounded.

What you have done with passing this inferior ordinance is to give your citizens the false assurance that they are protected and that their council is looking out for them. Meanwhile they and we who come to your town almost every day are as vulnerable as ever to the installation of 5G. And it will hurt us.

My thought is that the council members who voted for this ordinance are okaying the takeover of our local governments and our federal government by corporate interests. This is fascism, and it is creeping into all of our lives.

Another thought is that all members who voted for this very flawed ordinance, knowing fully that it will injure all of us, are making themselves individually vulnerable to lawsuits by injured citizens in the future, because we citizens will not be protected. Sadly, I feel that day might come as more and more people over time become sick and injured. This is a giant wave that is about to break on all of us. I can understand feeling timid or overwhelmed, and I share that. But not to allow a little more time to try for some real protection—that I don't understand.

Sincerely,
Jan Taché
Penn Valley

Catrina Olson

From: Tache <tache@together.net>
Sent: Wednesday, September 18, 2019 9:41 AM
To: Catrina Olson
Subject: P.S. to my previous letter re 5G ordinance
Attachments: Additional Input.docx

Dear City Manager Olsen.

Mayor Senum has just completed an additional several steps that apparently the City Council is empowered to add to the ordinance. My family and I really appreciate her dilligence.

I herewith submit the further amendments to the 5G ordinance below to be put on the agenda of the NC City Council.

Thank you!
Janet Taché

From: [Tache](#)
To: [Catrina Olson](#)
Subject: 5G ordinance approved 9/11/19
Date: Wednesday, September 18, 2019 8:39:07 AM
Attachments: [Wireless Telcom Facilities Ordinance Feedback.pdf](#)

Dear City Manager Catrina Olson,

I attended the NC City Council meeting on 9/11 to learn about the wireless ordinance. There are two members of my family, my husband and my daughter, who have serious and painful sensitivities to wireless just as it exists today. Their sufferings made me aware of the entire situation in the first place, beginning with smart meters.

I was very hopeful that the City Council's ordinance would halt the 5G rollout, or at least seriously try. But sadly I learned that the loopholes in the ordinance make it toothless. The mayor, Reinette Senum, who has educated herself thoroughly on the subject, objected vehemently to the passage of the ordinance but was overturned. The council passed the ordinance. Since then, the mayor has made revisions to the ordinance which address the huge loopholes. These revisions would make the ordinance mean something.

Therefore I am requesting that the mayor's suggested revisions to the ordinance be added to the agenda packet of the next meeting of the NC City Council. I have attached below a pdf of her suggestions.

Bottom line, it is absolutely crucial that Nevada City not allow small cells in residential areas!! For homes to be blasted day and night with 5G would be incredibly harmful to residents, and especially terrible for infants and children. The emanations from 5G are literally millions of times faster than the earth and sun energies which have nourished our cells since the beginning of time. As 5G is rolled out, there will be a terrible price to pay. I feel for workers in cities who spend each day in a milieu that is destroying the functioning of their bodies. In time the results will be obvious and known to all.

My family and I visit, shop, dine in Nevada City several times a week, and LOVE the town. We believe in shopping locally and we support our local communities. If 5G comes to the business area, we won't be able to go there anymore. I guess we would have to order everything from our hard-wired computers at home.

We live in Penn Valley just off McCourtney and Indian Springs Road. Already my daughter, who is the most sensitive to emf's, can stay in Nevada City only briefly, and has to completely avoid the Brunswick shopping centers since the pine monopole cell tower was erected nearby. I am fearful of what my family will do if/when the stronger and stronger rollouts, leading to 5G continue. Blood tests reveal that all wireless makes our red blood cells clump together (a prelude to disease) whether we feel it or not. I have spent the last couple years studying everything I can find on the subject.

I understand the scope of the problem and the difficulties faced in opposing the rollout. Unconstitutional laws crafted by the telecom industry and a compliant Congress have been passed to usurp local governance and force upon us all a technology that will ruin our bodies over time. Education is key. What I have learned has made me understand that we must oppose 5G vehemently to save our health, our insects, animals, birds, trees. It is that serious.

Please put the revisions below on the agenda of the next meeting for the Council's consideration.

Thank you.

Sincerely,
Janet Taché
tache@together.net

From: [Johanna Finney](#)
To: [Catrina Olson](#); [Amy Wolfson](#); [duanestrawser@gmail.com](#); [erin4nevadacity@gmail.com](#); [davidsparkyparker569@gmail.com](#); [czechgirl63@gmail.com](#); [nalocke3@gmail.com](#); [Reinette Senum](#)
Subject: Regarding Ordinance for the Regulation of Wireless Telecommunication Facilities in Nevada City
Date: Wednesday, September 18, 2019 9:05:47 PM
Attachments: [Mill Valley Ordinance.pdf](#)
[Wireless Telcom Facilities Ordinance Feedback\(1\).pdf](#)

To Council Members and Staff,

I am writing in support of the comments, revisions and requests stated by Mayor Senum in the attached 6-page file "Wireless Telecom Facilities Ordinance Feedback." Please enter this email into public records as related to the 9/11/19 City Council Meeting if possible.

I believe that those who voted in favor of passing the ordinance as is on the 11th have done a disservice for Nevada City.

Council Member Strawser, while I respect the time you put in on this matter, you state that what has been done is extraordinary and a great service to the community, I disagree. This ordinance should have been strengthened to the extent allowed by the local authority still left to the council, and it was not. One example, the Council could have written the ordinance to protect the community by limiting the antennas in the PROW at a distance of 1500 ft apart. THAT would have been extraordinary. Also, the FCC has not preempted the city's local authority to require the applications for "small cell antennas" in the PROW to undergo the Conditional Use Permit process. It is also not a true statement that this is the best the legal team and experts could have done and the best protection. Look at Palos Verdes's and Mill Valley's ordinances...**Council Member Minett**, you said you would love to see what Mill Valley did. It has been public for a year. See attached. Why did you not read this within the year you were "working" on this ordinance? All of you who speak "we'll change it later" are obviously just giving lip service.

Staff Members Olson and Wolfson, and **Council Member Parker**, have you taken the suggestions that Mayor Senum presented to your legal council and "experts" and have they responded? That is not a rhetorical question. Please confirm. I look forward to your reply.

Please revisit this ordinance at your next meeting and discuss the necessary changes to provide us with the strongest wireless telecom ordinance that Nevada City's public deserves.

Sincerely,
Johanna Finney
19517 Burning Bush Road
Nevada City, CA 95959

Jane Ferris, Ph.D.

Jane A. Ferris, Ph.D.
P.O. Box 2163
Grass Valley, CA 95945
(530) 477-7332
drjaneferris@gmail.com

Catrina Olson

From: Joy Brann <jdbmaui@gmail.com>
Sent: Thursday, September 19, 2019 1:48 PM
To: Katrina Olson
Subject: testimony for 9/25/19 council meeting

Dear Nevada City council members,

I am more than concerned about the 5G ordinance council passed at the last meeting. I question the legality of being unable to openly discuss this issue with your constituents when we are ALL significantly impacted by this ordinance. I have been living with chronic illness from environmental exposures causing multiple chemical and environmental sensitivities. My symptoms are disabling. Having experienced Electromagnetic Hyper-sensitivity, I deserve to know of potentially harmful exposures that I must avoid. The Americans With Disabilities Act of 1990 is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public (<https://adata.org/faq/does-ada-cover-privateapartments-and-private-homes>).

It is illegal for you to allow such an ordinance that discriminates against people with disabilities.

I have learned that we indeed have the legal right to discuss issues of concern to public interest and safety, which is your lawful duty in the position you hold as our representatives.

There are many recommended changes to the ordinance that require public safety protections, which you have decided not to allow. This is a direct violation of your duty to protect the public.

We, the public have a right to be informed about potential impacts of this ordinance. Why have you denied our right to hear public discussion of this issue. After all of Duane's whining about public hearing on the cannabis dispensary adult use rules, why would you deny the same open discussion of this ordinance and its impacts.

There are too many concerns you have not addressed to ensure public safety, specifically:

1. **General Rules:** We need Conditional Use Permit for small cells, not administrative permitting that does not require real assessment of site-specific impacts of small cells and does not provide for any public input. THIS IS UNACCEPTABLE.
2. **Indemnification:** Requires that volunteers be indemnified, as well as city officials, etc. But wireless applicants are NOT insured for RF Injury lawsuits? WHO is covering them when lawsuits occur? How are we, the city, protected? THIS IS UNACCEPTABLE, I want assurance of complete protection, holding you and everyone involved in exposing the public to harmful radiation to be liable for injury.
3. **Findings** are too vague and general. Why do findings not explicitly target impacts of Small Cell installations?
4. **Batched Applications** should NOT be permissible. To allow up to 20 applications to be submitted in 30 days does not allow time for site-specific assessment. It is impossible to assess and monitor potential threats to public safety regarding impacts of small cells in particular. The ordinance you passed allows the city of Nevada City to be saturated with radiation from up to 240 small cells installed within ONE YEAR, and annually. THIS IS UNACCEPTABLE.
5. **Concealed Facilities:** The public has a right to know where these small cells are, visually. This is the same issue with labeling GMOs. No one wants to be exposed to dangerous harmful effects from radiation. These antennas should be nowhere near the public, especially residential areas. I do not consent to being exposed to an effects of this form of radiation and deserve to know when I am being exposed.
6. **Administrative Permit:** Small cell permits and co-locations MUST require a Conditional Use Permit (CUP), to ensure thorough analysis that considers small cell installations receive generous public input, especially regarding environmental and public health and safety assessments, etc.

This ordinance must receive Public Hearings, Findings, Conditions, etc. regarding any cell towers (new and co-located, etc), and specifically all new, novel small cells and placement in PROWs, private, and public property.

Thank you for your service to protect our public interest.

Catrina Olson

From: Jane Ferris <drjaneferris@gmail.com>
Sent: Thursday, September 19, 2019 1:19 PM
To: Catrina Olson
Subject: Nevada City Telcom Ordinance Feedback
Attachments: Nevada City Telcom Ordinance Feedback and Recommendations.pdf

Dear City Council Members,

I am a holistic psychologist living in Nevada County for several years. I myself am electrically sensitive and I work with many who are trying to survive with sensitivities to radiation frequencies. Most of these are considered disabled either by radiation frequencies or have other illnesses that render them deeply effected by exposure to Rfs. These people are limited in their ability to go out in the Nevada County cities already but with more dense cell towers their quality of life will be even more curtailed. I urge you to pay attention to the Americans with Disabilities Act of 1990. The ADA is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life; including jobs, schools, transportation, and all public and private places that are open to the general public. What is being proposed in Nevada City would seriously jeopardize our ability to be part of the community.

ADA <https://adata.org/learn-about-ada>

All of the changes listed in the document below are carefully considered and are imperative to implement immediately! It necessary for you to become thoroughly educated on this matter for the sake of our dear community whose very existence is in great danger with regard to this topic.

Please submit this letter and attached feedback to the city council package.

Sincerely,

Dear City Council Members,

I am a local Nevada County senior citizen writing to express my concerns about 5G, not only in our beautiful county, but for our world!

I moved here to find a safe haven 10 years ago due to EHS (electro-hyper sensitivities) complications, which later became compounded by more health issues including MCS (multiple chemical sensitivities) thyroid and liver issues, and other maladies as well. I truly believe these are the kinds of health issues everyone will be facing if 5G rolls out...among many other life threatening health challenges (cancer, diabetes, dementia to name a few) and I am especially concerned for our children and their futures!!

Many of you may know...there is a simple and safe answer to 5G...and that is for local cities and communities to install wired fiber optics as an alternative to 5G.

I also strongly feel the key at this juncture in time in protecting every single person in this community (and in the entire world) is to create a moratorium on the 5G roll out, **until we know the truth!** And until real studies and results are given!

We must get educated! It is time for all of us -- including those in local government -to lose any beliefs that we are powerless, and to look far and wide at all of the fact based evidence>>> that our lives and our privacy are at stake!

I would like to request our local City Council members please take fiber optics into consideration as a real alternative to 5G. I would also like to suggest you consider reducing the level of permitted radiation allowed coming from all new generation mobile phones, and that you improve **privacy regulations**, as well as assessing the effect on the environment.

There are also deep concerns that the Chinese government could use the 5G network for espionage. Telecom provider KPN signed agreements with Huawei to modernize the radio and antenna network. KPN has apparently said it will use a 'western vendor' to construct the new mobile core network. China is already living under a social crediting system (a complete loss of freedom!)

OUR FREEDOM IS AT STAKE...through this level of surveillance IE: **5G !!**

We have all... local governments included, been systematically fed false information by industry-paid legal consultants, so that we acquiesce to the unprecedented, unlawful land-grab that is 5G.

This has put us all under a spell of thinking we have no power, responsibility or accountability regarding 5G deployments.

BUT THIS IS NOT TRUE. There are already specific court cases and precedents that the telecom industry do NOT want local governments to know about.

It appears that as a result of the telecom industry's propaganda campaign, many concerned people have received letters back from their local reps, saying something like, "The FCC is dictating, and we have no rights." And some received letters back saying, "We don't want 5G either, and we are exploring legal remedy options." And others, such as the Miami-Dade Commissioner says "5G is an absolute mess." Nevada City ...City Council members...please do your research and get educated!

As you know, the topic of electromagnetic field (EMF) dangers has already been the subject of great debate for years, but it has never seemed more pressing than now, as we face this possible transition into high-tech 5G technology. With smart home devices and utility meters becoming part of our daily lives, the potential for harm is significant – as EMFs have already been linked to a massive decline in global health, and has been proven to cause cancer, among many other issues.

I would like to bring up one more thing: Our Dorsey Marketplace appears to be in a designated “Opportunity Zone” which apparently allows investors to invest, and defer or eliminate capital gains taxes. There are two Opportunity Zones in Nevada County, one near Dorsey Drive, and the other in the Bridgeport to North San Juan area.

It sounds as if these “Opportunity Zones” may enable big money to invest in what might include private/public partnership projects, and could very well be used for the infrastructure roll-out for 5G, Smart Cites, etc.

Here is a map that shows all the Opportunity Zones in the US: https://www.cims.cdfifund.gov/preparation/?config=config_nmtc.xml

*Here is more info on Opportunity Zones:
<https://opzones.ca.gov/>*

Thank you for your time and consideration in this life altering matter!

Sincerely,
Denise King

Catrina Olson

From: Paula Orloff <paulaorloff@yahoo.com>
Sent: Thursday, September 19, 2019 12:57 PM
To: Katrina Olson
Subject: Please Submit these Telecom changes to City Council Package
Attachments: Nevada City Telcom Ordinance Feedback and Recommendations.pdf; Nevada City Telcom Ordinance Feedback and Recommendations.docx

City Manager Katrina Olson,
Please submit the attached Nevada City telecom changes to the city council packages for consideration at the next city council meeting. It is important that the council and public find ways to adopt these changes recommended by Mayor Reinette Senum.
Thank you,
Paula Orloff 530 272 7019
Nevada City

REPORT TO CITY COUNCIL

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

September 25, 2019

TITLE: Request for In-Kind Sponsorship of the Wild and Scenic Film Festival and Street Closure Request at York Street

RECOMMENDATION:

Approve request to provide in-kind sponsorship of the Wild and Scenic Film Festival January 16-19, 2020:

1. Waive fees for the use of the Veteran's Building.
2. Waive fees for the use of the City Hall Council Chambers.
3. Approve the street closure request for York Street and waive applicable fees.

CONTACT: Catrina Olson, City Manager

BACKGROUND / DISCUSSION:

The 18th Annual Wild and Scenic Film Festival will occur January 16 – 20, 2020. The Wild and Scenic is organized and produced by the South Yuba River Citizens League (SYRCL). SYRCL is a grassroots organization based in Nevada City, California, that has been building a community to protect and restore the rivers of the regional watershed, from source to sea, since 1983. The Wild & Scenic Film Festival puts the group's local work into the broader environmental and social context, and serves to remind people that they all are participants in a global movement for a more wild and scenic world. The 18th Annual Wild & Scenic Film Festival brings together another incredible selection of films to change your world. Each year, Wild & Scenic draws top filmmakers, celebrities, leading activists, social innovators and well-known world adventurers to the historic downtown areas of Nevada City and Grass Valley, California.

Last year the request for in-kind sponsorship of the Wild and Scenic Film Festival included a street closure at York Street (between Broad Street and Commercial Street) as part of the overall request. For the 2019, Film Festival the City waived the fees for the Veteran's Building and the York Street closure request and allowed use of the City Hall Council Chambers.

In the past, the use of the City Council Chambers for this type of event has not been allowed, but on March 27, 2019, the City Council passed Resolution 2019-11 adopting a fee schedule for use of the City Council Chambers for meetings not related to City business. SYRCL has been granted use in the past (approximately the past 11 years) for festival use. This year that request of use requires waiving fees.

In addition to the aforementioned sponsorship request, SYRCL has asked for permission to have 1 – 3 food trucks downtown during the event, permission to place signage around town and loan of the stage for performances on York Street. In prior years, the City Council has approved all of these requests. Council has noted that; (a) the City's Ordinance in regards to

food trucks be followed (see attached), (b) that SYRCL works with the Department of Public Works and the City Engineer relating to signage location and that a map of the sign locations be provided to the City prior to the event and (c) that SYRCL work with Department of Public Works for stage location.

Staff is looking for Council approval for SYRCL's sponsorship request and fee waivers.

ENVIRONMENTAL CONSIDERATIONS: Not applicable.

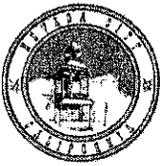
FISCAL IMPACT:

The dates and times that SYRCL has requested for use at the Veteran's Building would require an \$880 rental fee and \$350 for the City Hall Council Chambers.

If facility rental fees are waived, SYRCL will still provide a completed Contract for each space, a \$100 cleaning deposit for the Veteran's Building, \$100 cleaning deposit for City Hall Council Chambers (\$200 total) and proof of insurance for the two facilities.

ATTACHMENTS:

- ✓ Street Closure Request, York Street and Event Description
- ✓ Contract, Veteran's Building
- ✓ Contract, City Hall Council Chambers



CITY OF NEVADA CITY

SPECIAL EVENT APPLICATION / CONTRACT

EVENT NAME: Wild & Scenic Film Festival

EVENT INFORMATION. Please attach a detailed description of your event to this application (e.g. Overall summary, open to the public? How being publicized? Kid/family friendly? Rain or shine? Etc.)

Type of Event (Check all that apply)

Parade/Procession Concert Street Festival/Block Party
 Run/Walk/Bicycle Fundraiser Other: film festival EnviroFair

Has this event been produced before? Yes No
 Is this an annual event? Yes No
 Will there be an admission or entry fee? Yes No
 If yes, fee per adult: \$ _____ Fee per child: \$ _____

Event Date(s) January 17, 18, and 19, 2020

Expected number of:
 Attendees 100-300 Participants 50 Volunteers 5-10
 Units and floats for parade: n/a

Event Hours Start Jan 17, 4pm End Jan 19, 4pm
Set-up Date Jan 17 Time 8am
Break Down Date Jan 19 Time 8pm

Names of street(s), sidewalk(s), alley(s) proposed to be closed (Attach additional pages or a map if necessary). Note that it may be necessary to consult with a Police Lieutenant (265-2626) and/or the Public Works Superintendent (265-2496) to accurately identify requested street closures.

York Street between Commercial & Broad
 _____ between _____ & _____

Additional Facilities Requested

Event organizers may be asked to complete a Facility Rental Contract with details about use of these additional facilities. Rental fees & cleaning deposits may apply.

Robinson Plaza Calanan Park Other: _____

Please note whether your event includes any of the following. If any apply, attach details.

Amplified sound Concessions Food Vendors
 Stages/Platforms Food Cooking Alcohol sales
 Tents/Temporary Structures Animals will be present Temporary Lighting

APPLICANT INFORMATION

Sponsoring Organization/Company South Yuba River Citizens League

Name of Applicant/Responsible Party Melinda Booth

Street Address 313 Railroad Ave Apt/Unit/Suite #101

City Nevada City State CA Zip Code 95959

Email melinda@yubariver.org

Daytime Phone 530-265-5961 x 202 Cell Phone 650-207-0495

Does the sponsoring organization have experience producing similar events? Yes / No (Circle One)

Event Contact for Public Information

Name Jorie Emory Contact Phone 530-265-5961 x 208

Email jorie@wildandscenicfilmfestival.org

Website www.wildandscenicfilmfestival.org

Day of Event Contact Information

On-site Contact Name Jorie Emory

On-site Contact Cell Number 707-499-3912

Day of Event ALTERNATE Contact Information

On-site Contact Name Daniel Belshe

On-site Contact Cell Number 573-253-8105

APPLICATION FEES

The City requires the payment of a non-refundable application fee upon submission of your completed application. Late fees apply to applications filed less than 90 days in advance of an event. The City does not guarantee any application submitted less than 45 days in advance will be able to be submitted to the City Council for consideration prior to the planned event. Please select from the following table the fee(s) that apply to your application:

- \$100 Timely application for single new event OR old event with new sponsor
- \$50 Timely application for repeat of event with same sponsor
- \$25 For each additional application for new event by the same sponsor
- \$10 For each additional application for repeat of event with same sponsor
- \$75 Additional fee for applications filed less than 90 days in advance of an event
- \$100 Rental Fee for Robinson Plaza or Calanan Park
- \$100 Cleaning Deposit for use of Robinson Plaza or Calanan Park

\$ 50 Total Fees waiver requested

APPLICANT AUTHORIZATION AND INDEMNITY

To the extent allowed by law, Applicant agrees to defend, indemnify, and hold harmless the City of Nevada City, its agents, officials, and employees from and against all claims, damages, losses, injuries, illness, accidents relating to, arising out of, or resulting from, the use of this Special Event Application and the information contained therein, and any resulting Contract.

Applicant acknowledges that the information provided in this Application is true and accurate to the best of Applicant's knowledge and belief.

I have read, understand and agree to comply with all the information provided in the Special Event Application (attached) and any resulting permits and Special Event Contract if approved by the City Council.



Signature of Applicant/Responsible Party

9-6-19

Date



CITY OF NEVADA CITY SPECIAL EVENT GUIDELINES

OVERVIEW

Thank you for choosing the City of Nevada City as the location for your event. The City requires the submittal of a Special Event Application as a pre-condition of considering whether to enter into an agreement to grant temporary use of all or any portion of a public street, sidewalk or alley.

Application materials must be completed in full and submitted to the City at least 90 days prior to your event date, and no more than one year in advance of the event date. Applications are accepted on a first-come, first-served basis. A non-refundable application fee must be paid upon submission of your completed application. Use "NA" for "not applicable" to questions or sections that do not apply to your event. Incomplete applications will not be accepted and will delay processing which could affect the availability of your preferred event date or location. Please note the information you provide becomes public information.

City staff review the Application/Contract. Notes from Police, Fire, Public Works and Parks & Recreation will be presented to City Council for consideration. City Council approves or disapproves your Application/Contract at a formal noticed public meeting. Applicants are strongly encouraged to attend the designated City Council meeting in order to discuss their proposed event and answer related questions. Please ensure you have City Council approval before marketing or advertising your event.

EVENT REQUIREMENTS

Alcohol. If alcohol is sold at your event, an Alcohol Permit from California Alcohol Beverage Control (ABC) is required. Please contact ABC at (916) 419-1319.

Amplified Sound. If the event will have amplified sound, applicant is required to have an event staff member responsible for monitoring sound levels to assure compliance with City noise standards when sound/music/noise may be audible beyond the event venue.

Business License. All vendors participating in an event held in Nevada City must obtain a current business license. For information about business license requirements, call City Hall at (530) 265-2496 x100.

Form of Payment. The City accepts payment in the form of cash, personal/business check, money order or cashier's check. Please note there will be a \$25 service charge for all returned checks.

Insurance. The applicant and/or the sponsoring organization is required to provide proof of insurance. A current or valid Certificate of General Liability Insurance in the amount of \$1,000,000 and an endorsement (CG2026 or equivalent) naming the City of Nevada City as additional insured will be required at least 30 days prior to the event.

Event Notification. An event can change the normal flow of residential and business activity potentially causing a negative impact on the community. As the event organizer, you are responsible for notifying those residents and businesses that are adjacent to the planned closure prior to submission of your Application. Applicants must meet the Event Notification requirements unless the event is sponsored by the Nevada City Chamber of Commerce or has been approved and held annually in the same manner for three or more years. The preferred method of notification is the Requested Special Event Notification Form (Addendum A). Unless otherwise exempt, your application materials must include a signed Notification Certification (Addendum B) confirming adjacent residents and businesses were notified of the planned event.

Parking. Applicants will be required to work with the Nevada City Police Department to facilitate ingress/egress requirements for event participants.

Restrooms. Public restrooms are limited to two for downtown events, one at Robinson Plaza and one in the Commercial Street parking lot. If your event is planned for more than 50 people or in an area away from either public restroom, you may be required to provide restroom accommodations and hand washing facilities for event attendees in the quantity prescribed by the City.

Waste Management/Recycling. You are responsible for properly disposing of all waste and garbage throughout the term of your event, and immediately upon conclusion of the event the area must be returned to a clean condition. Therefore, the City may require the applicant to provide trash and recycling containers if the event involves food or drink vendors. Should cleanup be inadequate or damage to City property occurs, you will be billed at full recovery rates, plus overhead for cleanup and repair.

Runs/Walks/Bicycle. If you put chalk, stickers or other directional markings on streets, sidewalks or trails, these markings must all be removed at the end of your event.

CHECKLIST

Before you submit your application to the City of Nevada City, please make sure you have completed the following steps:

Sign AND date your Application/Contract.

Attach a detailed event description and additional information as needed

Secure required insurance for the event.

Include a Notification Certification confirming businesses and residents have been notified of the planned event.

Calculate and include the applicable fee. *wavier requested*

Submit your completed application to:

City of Nevada City, Attn. Special Event Applications, 317 Broad Street, Nevada City, CA 95959

Addendum A – Requested Street Closure/Special Event Notification Form

PLEASE NOTE. You have received this notification because your property/business is located adjacent to a requested temporary street, sidewalk or alley closure that is subject to City Council approval at a future City Council meeting. Please monitor future City Council agendas for consideration of the following request.

STREET CLOSURE/SPECIAL EVENT INFORMATION

Type of Event (Check all that apply)

- Parade/Procession
- Street Festival/Block Party
- Fundraiser
- Concert
- Other: film festival EnviroFair

Event Name/Description South Yuba River Citizens League (SYRCL) will present the 18th annual Wild & Scenic Film Festival on January 16-20, 2020. As part of the festivities, the festival includes a community-focused EnviroFair on York Street in Nevada City. This event is free, open to the public, and will include informational booths, music, performances on January 17, 18, 19.

Event Date(s) Jan 17-19 **Expected Attendance** 300

Event Hours Start Jan 17, 4pm End Jan 19, 4pm

Set-up Date Jan 17 Time 8am

Break Down Date Jan 19 Time 8pm

Names of street(s), sidewalk(s), alley(s) proposed to be closed:

York Street between Commercial & Broad

_____ between _____ & _____

Sponsoring Organization South Yuba River Citizens League

Event Contact Jorie Emory **Phone Number** 530-265-5961 x208

Event Website www.wildandscenicfilmfestival.org

Addendum B – Notification Certification

EVENT INFORMATION

Sponsoring Organization South Yuba River Citizens League

Event Name Wild & Scenic Film Festival EnviroFair

Event Date(s) Jan 17-19, 2020

Event Location York Street

Signature of Sponsor or Authorized Representative

I acknowledge I am responsible for providing notice of my requested event to all adjacent residents and businesses and certify that the entities listed below have been notified of the requested event.

Name (printed) Melinda Booth

Signature 

Name/Business	Address	Method of Notification		
Reiki Kitchen	313 Commercial	<input type="checkbox"/>	Email	<input type="checkbox"/>
		<input type="checkbox"/>	Hand Delivered	<input checked="" type="checkbox"/>
		<input checked="" type="checkbox"/>	Mail	
Ike's Quarter Cafe	401 Commercial	<input type="checkbox"/>	Email	<input type="checkbox"/>
		<input type="checkbox"/>	Hand Delivered	<input checked="" type="checkbox"/>
		<input checked="" type="checkbox"/>	Mail	
SpiritHouse	370 Broad	<input type="checkbox"/>	Email	<input type="checkbox"/>
		<input type="checkbox"/>	Hand Delivered	<input checked="" type="checkbox"/>
		<input checked="" type="checkbox"/>	Mail	
Tiger Alley	400 Broad	<input type="checkbox"/>	Email	<input type="checkbox"/>
		<input type="checkbox"/>	Hand Delivered	<input checked="" type="checkbox"/>
		<input checked="" type="checkbox"/>	Mail	
		<input type="checkbox"/>	Email	<input type="checkbox"/>
		<input type="checkbox"/>	Hand Delivered	<input type="checkbox"/>
		<input type="checkbox"/>	Mail	
		<input type="checkbox"/>	Email	<input type="checkbox"/>
		<input type="checkbox"/>	Hand Delivered	<input type="checkbox"/>
		<input type="checkbox"/>	Mail	

[Attach additional pages as needed]



Event Description

The 18th Annual Wild & Scenic Film Festival will occur January 16-20, 2020. Wild & Scenic is organized and produced by SYRCL, the South Yuba River Citizens League. Since 1983, our growing community protects and restores the rivers of our home watershed from source to sea. The Wild & Scenic Film Festival puts SYRCL's work into the broader environmental and social context. It reminds us that we're participants in a global movement for a more wild and scenic world.

Over the 5-day event which spans Nevada City and Grass Valley, CA, attendees can expect a wide range of high quality programming aimed to inspire activism, including film screenings, workshops, panels, book signings, celebrity appearances, an Enviro Fair, kid-friendly programs, music, gala event, art exhibitions, performances, and much more. There are plenty of programs that are free and open to public in addition to our ticketing events and screenings. The event is heavily publicized locally, regionally, and nationally through social media, newspaper, radio, television, posters, handbills, e-newsletters, and word of mouth. We anticipate an overall attendance of approximately 8,000 people. The film festival not only raises necessary funds for SYRCL, it also brings business to the towns in an economically slow time of year. It also exposes visitors to all that we have to offer in our beautiful mountain communities.

In an effort to respond to attendee feedback, achieve goals in our Strategic Plan, and create an even more robust and inclusive public event, we are hoping to enliven our "street scene" in Nevada City. This would be achieved by a street closure on York St. between Broad and Commercial Streets from Friday through Sunday during the festival. This closure would be effective during the days and would reopen during overnight hours, per Fire Department request. The street closure would remain rain or shine.

By allowing a closure on this section of York St, we would be looking out for public safety while achieving the street scene experience our attendees desire. Our headquarters will be located at the Reiki Kitchen (soon to be Kindred Culinary) for the fourth year in a row, and we plan to post our schedule at a glance on the York St. side of the building as we have in the past. By closing York St. to auto traffic, attendees will have a safe environment to gather, look at the schedule, and make plans for their weekend while enjoying a lively atmosphere.

Last year, we closed York Street for the first time for festival use. York Street served as a venue for our Welcome Ceremony and EnviroFair. We heard positive feedback from attendees, participants, volunteers, and staff that this space offered a valuable gathering place for programming, as well as reduced safety concerns for pedestrians.

We have appreciated the City's support in the past and are grateful for the opportunity to propose this street closure as part of our 18th annual event. Thank you for considering. We would be happy to provide additional information and answer questions as needed.

Thank you,

Jorie Emory, Producer
Wild & Scenic Film Festival

From: [Bubba Highsmith](#)
To: [Catrina Olson](#)
Cc: [Chad Ellis](#); [Sam Goodspeed](#)
Subject: Re: Street Closure Syrd
Date: Friday, September 20, 2019 9:54:16 AM

Public works is ok with the closure

Sent from my iPhone

On Sep 19, 2019, at 15:40, Catrina Olson <Catrina.Olson@nevadacityca.gov> wrote:

I forgot to send it to Tanya to route as it came directly to me. I would like to get the responses in the agenda packet tomorrow. Can you respond back by tomorrow.
Thanks, C

Catrina Olson

City Manager
City of Nevada City
(530) 265-2496 (O)
(530) 265-0187 (F)
catrina.olson@nevadacityca.gov

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<2020 York Street request.pdf>

From: [Sam Goodspeed](#)
To: [Catrina Olson](#)
Subject: RE: Street Closure Syrcl
Date: Thursday, September 19, 2019 7:07:46 PM

Catrina,

The Nevada City Fire Department has the following conditions for the proposed SYRCL Wild and Scenic Film Festival event to be held on January 17, 18 and 19, 2020.

1. Must maintain 14 ft. FIRE LANES.
2. No parking in RED ZONES.
3. No blocking of FIRE HYDRANTS.

Sincerely,

Sam Goodspeed
Division Chief
Grass Valley / Nevada City Fire Department
Office: (530) 265-2351 ext. 11
Mobile: (530) 957-9892
sam.goodspeed@nevadacityca.gov

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From: Catrina Olson <Catrina.Olson@nevadacityca.gov>
Sent: Thursday, September 19, 2019 3:40:33 PM
To: Chad Ellis <Chad.Ellis@nevadacityca.gov>; Sam Goodspeed <Sam.Goodspeed@nevadacityca.gov>; Bubba Highsmith <bubba.highsmith@nevadacityca.gov>
Subject: Street Closure Syrcl

I forgot to send it to Tanya to route as it came directly to me. I would like to get the responses in the agenda packet tomorrow. Can you respond back by tomorrow. Thanks, C

Catrina Olson

City Manager
City of Nevada City
(530) 265-2496 (O)
(530) 265-0187 (F)

catrina.olson@nevadacityca.gov

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From: [Chad Ellis](#)
To: [Catrina Olson](#)
Subject: RE: agenda
Date: Friday, September 20, 2019 8:32:39 AM

Yes, Paul and I have reviewed it and are fine with it with it as submitted. It is generally an event with very little police involvement and a pretty mellow crowd.

Chad

From: Catrina Olson
Sent: Friday, September 20, 2019 8:29 AM
To: Chad Ellis <Chad.Ellis@nevadacityca.gov>
Subject: RE: agenda

Sure. Anytime, I am just working on wrapping this weeks up. Also could you respond to the street closure request for SYRCL. I would like to include that in the packet today. Thanks, C

Catrina Olson

City Manager
City of Nevada City
(530) 265-2496 (O)
(530) 265-0187 (F)
catrina.olson@nevadacityca.gov

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From: Chad Ellis <Chad.Ellis@nevadacityca.gov>
Sent: Friday, September 20, 2019 8:27 AM
To: Catrina Olson <Catrina.Olson@nevadacityca.gov>
Subject: agenda

You want to discuss agenda today? I have a 1000 with the National Hotel people but am free otherwise.

Chad

From:
Parks & Recreation
City of Nevada City
Venue
5302652496129
dawn.zydonis@nevadacityca.gov



Bill To:	Jorie Emory
	jorie@wildandscenicfilmfestival.org
Project:	SYRCL/WSFF (VB)
Type	Event
Date	Jan 16, 2020 - Jan 19, 2020
Time	TBD
Location	Veteran's Building

SYRCL/WSFF (VB) CONTRACT

Version 1

SERVICE CONTRACT

Contact Information

Renter (Organization or Name): South Yuba River Citizens League

yesWe are a non-profit organization. Non-profit number: 68-0171371

Mailing Address: 313 Railroad Ave #101

City/ST/Zip: Nevada City, CA 95959

Contact Person: Jorie Emory

Daytime Phone 530-265-5961 x208

Alternate Phone 530-265-5961 x208

Email address: jorie@wildandscenicfilmfestival.org

Make cleaning deposit refund check out to:

Name: South Yuba River Citizens League

Mailing Address 313 Railroad Ave #101

City/ST/Zip: Nevada City, CA 95959

Event Information

Facility Requested: Veterans Building

Date(s) Requested: Jan 16-19, 2020

Complete the information below for each day's activities. If you are using more than one facility, be sure to clarify what is happening at each facility. For ongoing or repeated events, any changes or additions to the information below must be made in writing.

*See attached page for all dates, times and facilities

Date Jan 16-19, 2020

Set up Start Time Jan 16, 9am

Event Start Time Jan 17, 6pm

Event End Time Jan 19, 8pm

Clean-up End Time Jan 19, 10pm

Insurance Requirement

South Yuba River I understand that I am required to provide Proof of insurance. A current and valid certificate of General Liability Insurance, in the amount of \$1,000,000 and an endorsement (CG2026 or equivalent) naming the City of Nevada City as additional insured will be provided by me at least 30 days prior to my rental date.

If your Insurance will be provided by someone other than the "Renter" listed above please provide the name of the Organization or Person who will be providing insurance.

Insurance will be provided by: Nonprofit Insurance Alliance of CA

Event details

Event Description: Film Festival

1. #of people attending event: 300

2. Will Alcohol Be Served/BYOB? no

Will Alcohol Be Sold? no

Is your event open to the public? yes

If alcohol is served at your event, a City Alcohol Permit will be given to the renter at no additional fee. If alcohol is sold at your event, an Alcohol Permit from California Alcohol Beverage Control (ABC) is required. (916-419-1319) & a copy must be provided to the City.

3. Will you have a bounce house at your event? no If yes, what company are you hiring? _____

The City must have proof of insurance on file from the bounce house company.

4. Will you have amplified music? no If yes, what hours do you plan to have music? no What type of music? _____

You may be required to gather signatures from neighbors.

5. Will you be charging admission to your event? yes Cost: \$8-500 What are the profits used for? SYRCL's year-round work

6. Will there be vendors (food, sales, information, etc.) at your event? no If yes, what type? _____

7. Will you have security guards at your event? no If yes, please provide contact information for security. _____

8. Do you need to leave any equipment overnight at the end of your event? (Fees may apply) no

Other: _____

Waiver for Use

I, the undersigned, have received and read the Use Guidelines for use of the facility. I agree that the Renter will abide by and enforce all of the rules and regulations contained therein and understand that any failure to comply with those rules and regulations or any other provisions of the Rental Contract may result in termination and cancellation of this Rental Contract and any further use of the facility by Renter. I understand that failure to comply with terms of the Contract and/or the rules and regulations as stated in the Use Guidelines may result in termination and cancellation of the Rental Contract. I also understand that in the case of a local disaster the Veteran's Building may become unavailable with little or no notice, as it serves as a location for Emergency Operations. "Renter" further agrees to indemnify and hold harmless the City of Nevada City, it's Officers, Agents and Employees against any and all claims, demands, damages, costs, expenses of whatever nature including litigation costs and attorney fees arising out of, or resulting from the "Renter's" use of the facilities of the City of Nevada City.

Parks & Recreation

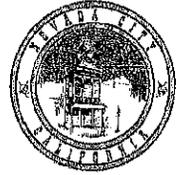
TBD

Melinda Booth

Melinda Booth

Aug 22, 2019

City of Nevada City
Contract and Use Guidelines for use of City Facility
Beryl P. Robinson, Jr Room (Council Chambers)



The following guidelines are for use of the Council Chambers at City Hall.

Before Using the Facility:

- Use of the facility must be approved by City staff. The room is only available for official City use, non-profit meetings related to City business, and other government entities for public meetings and employee trainings. In addition, the room may become unavailable at any time if needed for official City business.
- All building users must have a completed contract and proof of insurance on file with the City.
- The Contact Person, named on the contract, must be at least 21 years of age and monitor the facility throughout the entire use of the facility.
- Any organization using the facility for an event that is fee based must get approval from City staff for use of the facility.

During Use of the Facility:

- Events taking place in the Council Chambers should not be disruptive to business within City Hall.
- **NO SMOKING** is allowed inside City Hall at anytime.
- Tacks may be used on the carpeted walls. Do not use tape, tacks, etc on non-carpeted walls, windows or doors in the room.
- If guidelines are not being followed police have the authority to shut down the event.
- The heat/AC cannot be adjusted during use.
- There is no access to copy machines or office supplies during use of the facility.
- The storage room/kitchen is not available to groups using the Council Chambers.

Before leaving the Facility:

- The premises shall be cleaned and tables and chairs returned to their appropriate spaces before leaving the facility.
- If the building is left unclean or damage occurs within the facility, facility users may be charged a cleaning fee.
- Clean up any spills on tables, chairs and floors.
- Remove all papers, equipment and personal items that do not belong to the City.
- If your group will be using the room for more than one day or needs garbage to be taken out throughout your use of the room, facility users are responsible for removal of garbage.
- Turn off all lights.
- Close and lock ALL doors.

Other:

- No pets are allowed in the building at anytime. (Service animals are the exception.)
- Items lost or left behind are not the responsibility of the City of Nevada City.
- Renters must provide their own supplies (ie: presentation, audiovisual, etc.) Some tables and chairs are available.
- Keys to the facility must be picked up at City Hall, one business day prior to the event. Keys must be returned to City Hall the first business day following the event. Keys can also be returned to the drop box that is located outside the front doors of City Hall. There is a \$100 fee for each lost key.

(OVER)

- The sound system is not available for use by facility users.

Insurance

Proof of insurance is required from all facility users. Insurance must be provided on an Acord Form, in the amount of \$1,000,000, naming the City of Nevada City as additional insured.

All Forms must be mailed or faxed to:

City Hall, 317 Broad Street, Nevada City, CA 95959
 (f) 530-265-0187
 (p) 265-2496

Thank you for your cooperation.

Contact Information

Organization: South Yuba River Citizens League/Wild & Scenic Film Festival
 Mailing Address 313 Railroad Ave. #101 City Nevada City Zip 95959
 Contact Person: Jorie Emory
 Daytime Phone 530-265-5961x208 Alternate Phone 707-499-3912
 Email address: jorie@wildandscenicfilmfestival.org

Event Information

Date(s) Requested: Jan 18-19, 2020
 Event times: Start: 9:30am End: 6:30pm Set-up start time: 8am Clean-up end time: 7:30pm
 Event Description: Festival workshops
 #of people attending event: 100 each session

Keys

The following individuals have permission to pick up keys for our organization's use of the Council Chambers. They have been given a copy of the Use Guidelines.

Name: Fran Murphy Phone #: 916-397-5441
 Name: Daniel Belshe Phone #: 530-265-5961x201
 Name: Cody Wasuta Phone #: 530-265-5961x211
 Name: _____ Phone #: _____

Waiver for Use

I, the undersigned, have read and agree to abide by and enforce all rules and regulations as stated in the Use Guidelines. I understand that the Council Chambers may become unavailable if needed for official City Use. "Renter" further agrees to indemnify and hold harmless the City of Nevada City, it's Officers, Agents and Employees against any and all claims, demands, damages, costs, expenses of whatever nature including litigation costs and attorney fees arising out of, or resulting from the "Renter's" use of the facilities of the City of Nevada City.

Print Name: Julie Pokrandt Signature:  Date: 7/30/19



CITY MANAGER'S UPDATE

SEPTEMBER 20, 2019

The City of Nevada City is working hard on a variety of projects and activities to serve the community. This correspondence provides the City Council and citizens with a periodic update on citywide activities and events.

~ Catrina Olson, City Manager

KUDOS

➤ **Business License Bust**

Thank you to Loree' McCay, Finance and Administration Manager, and the whole crew (Tanya Horton, Desirae Andresen and Gabi Christakes) who all took the initiative to take a letter from the state of suspected past due business licensees and send letters to get the businesses current with their licenses. Staff will be working on updating procedures for making sure the City stays on top of keeping business owners current with licenses.

➤ **Business Owners**

Thank you to all of the Business Owners that have so quickly responded to the letters sent regarding past due licenses and coming in to bring their businesses current.

➤ **Mutual Threat Agreement**

Thanks to Grass Valley Fire Department, Nevada City Fire Department and CAL FIRE Nevada Yuba Placer Unit for completing a mutual threat agreement that will have additional resources dispatched to all reported vegetation fires and other fire types that pose a threat to vegetation. This is reinforced support for our cities during a fire.



➤ **Illegal Dumping at the Old Airport Property**

Thank you to Bubba Highsmith, Department of Public Works Superintendent and his crew for identifying the illegal dumping going on at the Old Airport and trying to find a solution to mitigate this from continuing.

➤ **Awesome Job by Nevada City Police Department**

There was a Global Climate Strike in front of City Hall today, September 20, 2019. Even though protesters blocked the streets, our Police Department handled maintaining public safety at a completely new level. Just keep in mind, to keep everyone safe (including our motorists); it is best for Nevada City streets to remain open during these planned "gatherings". PLEASE STAY ON THE SIDEWALKS!! Thank you NCPD.

COMPLETED AND ONGOING CITY PROJECTS

- **Fire Mitigation and Vegetation Clean-Up**

Heavy work continues to be done at the Old Airport around the perimeter with Division Chief Goodspeed and the Washington Ridge crew since they have returned from being on fires. Department of Public Works is also working on trimming at the Old Airport. There are piles being created up on the property to be burned during the winter months.
- **Community Wide Vegetation Management**

Division Chief Goodspeed gave an update to the City Council with results of Hazardous Vegetation Ordinance enforcement on private and public property at the September 11, 2019 City Council meeting, it can be viewed online.
- **Residential Chipping Program**

Division Chief Goodspeed gave an update to the on the success of the residential chipping program and recommended that the program continue at the September 11, 2019 City Council meeting. There are two to three days of chipping happening per month. Council supported continuing the program, it can be viewed online.
- **Fire Department Activity**

At the City staff, meeting Fire Chief Buttron noted that the rains this week has “slowed” down fire season. The Fire Department has offered positions to two Firefighters to fill two vacancies at Station 54. They will start next week.
- **PG&E Power Line Project**

Division Chief Goodspeed has contacted PG&E regarding a power line that runs through the Deer Creek Canyon west of Nevada City that is lacking fire clearance creating a hazard. The request has been made that it be made a priority to clear the maximum width allowable from Ridge Road to State Highway 49 noting emergency preparedness and public safety. The City is awaiting PG&E’s response.
- **High/Low Sirens Are Almost Here...**

At the September 11, 2019 City Council meeting, the Police Chief and Fire Chief reviewed high/low sirens on safety vehicles for evacuation notification. The Fire and Police Departments at Nevada City and Grass Valley, along with the Nevada County Sheriff’s Office will be releasing a public service announcement about the high/low siren pilot project in approximately two weeks.
- **Unenforced Smoking Areas Pilot Project**

Signs and receptacles are in...the unenforced smoking area pilot project is in full swing. Contact the City Manager with feedback on the program.
- **Expansion of the City’s Telecom Ordinance**

City Council had a public hearing at the September 11, 2019 City Council meeting. The first reading of the Ordinance passed with a 3 – 1 vote and 1 abstention. The second public hearing reading will be heard at the September 25, 2019 meeting.

- **Commercial Street One-Way Pilot Project**
August 5, 2019 the One-Way Pilot Project began. Watch for the one-way and be safe. Staff identified some problems at the Commercial Street Parking Lot during the Constitution day relating to the one way. Staff is currently discussing a resolution. An update on this pilot program will be presented to Council in 3-months.
- **Parking Meter Committee**
The parking committee met September 4, 2019. At the September 25, 2019 City Council meeting the committee will be recommending a \$.25 per hour increase to all existing meters. The next meeting will be in approximately a month to discuss further issues as they relate to citywide parking...including expansion. The committee is made up of City Manager Catrina Olson, Department of Public Works Superintendent Bubba Highsmith, Executive Director of the Chamber of Commerce Cathy Whittlesey, Council Members Strawser and Moberg, Planning Commissioner Peter Van Zant, residents Thomas Nigh and Paul Matson, merchants Pat Dyer of Utopian Stone, Kim Coughlan of Novaks and Ken Paige of Friar Tucks.
- **New Street Sweeper**
There could be a new Nevada City street sweeper coming soon. Department of Public Works Superintendent is currently looking at two different street sweepers to determine the best fit for the City.
- **Cottage Dwelling Ordinance Workshop**
Stay tuned more work being done on this Ordinance before it goes before the Planning Commission again.
- **Water Treatment Plant Idaho Ditch Diversion Project**
This project will begin the week of September 23, 2019.
- **Wastewater Treatment Plant and Water Treatment Plant Activity**
Staff is currently working with the two engineering companies to identify capital projects to create better efficiencies and operations. Staff is also working with the State on applicable compliance projects to improve the Wastewater Plant operations. The City is possibly looking at purchasing its own smoke testing machine to continue to identify INI (inflow and infiltration) issues.
- **Variable Frequency Drive (VFD) Pool Pump**
The pool will be receiving this new pump next week. A VFD is used for adjusting a flow or pressure to the actual demand. It controls the frequency of the electrical power supplied to a pump or a fan. Significant power savings can be achieved when using a VFD.
- **Old Downieville Waterline Replacement**
This project is currently under way.
- **South Pine Street Railing, Sidewalks and Wall Rebuild**
This project is currently under way.
- **City Hall Roof**
The City Hall roof rehabilitation was completed last Friday September 13, 2019. Success.

- **Solar at the Old Airport**
Staff met with members of the 100% renewables committee to discuss refining the components of the solar RFP. Staff has received the revised RFP suggestions to review prior to submitting to the SEED group.
- **Planning**
There were two public hearings at the September 19, 2019 Planning Commission meeting (a) 224 Church Street Use Permit for Ground Floor Office Use, Architectural Review and Signage, (b) 2019-2027 Housing Element final review (now increased to an 8 year cycle). The final Public Hearing for the Housing Element will be heard at the October 9, 2019 City Council meeting for submission to Housing and Community Development.
- **Cannabis Update**
There were three cannabis applications presented at the September 19, 2019 Planning Commission Meeting. The applications were; (a) SYFA 2 – Cannabis Manufacturing and Distribution at 521 Searls Avenue (approved with standard conditions), (b) A&P – Cannabis Processing Facility at 545 Searls Avenue (approved with standard conditions), (c) Nevada City S&M Clone Nursery – Clone Nursery business at 545 Searls Avenue (continued due to principal addition).
- **National Hotel Renovation**
The Planning Commission will be reviewing a variance for a sign facing the highway on the National Hotel at the October 17, 2019 meeting. The application is currently out for review.
- **SB2 Grant**
Staff will be working on submitting an application for SB2 funding through HCD that would assist with technical assistance for planning related items. Using funding for a consultant to prepare a CEQA document for the Cottage Dwelling Ordinance has been discussed.
- **Trails and Greenways Grant/Recreation Trail Program Grant**
The City may be looking to work on a grant opportunity with the County and Bear River Yuba Land Trust for the Sugarloaf Trail.
- **Volunteer Opportunities**
City staff is currently looking into working with Connecting Point for volunteer assistance/opportunities.
- **Courthouse Committee**
This is a standing citizens committee working with the County and the Courts on a rehabilitation project at the Courthouse. An update will be given to City Council at the September 25, 2019 meeting.

UPCOMING CITY PROJECTS

- **Recruitments**
The City is currently recruiting for two Wastewater/Water Treatment Plant Operators and for an Operator in training. Currently there is one open position in the Department of Public Works, which the City will be looking to fill with two temporary employees leading to one full time employment position. Finally...a Code Compliance Officer.

- **Sign Committee**
Council Members, Valerie Moberg and Duane Strawser met with City Manager, Catrina Olson, to discuss “sprucing” up and adding new signage in Nevada City. Staff is working on reviewing intersections on Commercial Street to begin updating signage.
- **Handrails on Boulder Street – Coming September 2019**
Staff will be including parts of sidewalks in the Zion Street area.
- **Handrails on Boulder Street – Coming September 2019**
Staff will be including parts of sidewalks in the Zion Street area.
- **Painting at the Railroad Museum – Coming September 2019**
- **Deck Rehabilitation at City Hall – Coming October 2019**
- **Picnic Area Bathroom Remodel – Coming November 2019**
- **The New Fire Engine is on Schedule – Coming November 2019**
- **Water/Wastewater Underground Utility Replacement at Commercial Street – postponed**
This project is being reviewed by staff to be replaced with rehabilitation of upper Broad Street with SB1 funds
- **Community Development Block Grant (CDBG) Curb Cuts for American Disabilities Act (ADA) – Fall 2019**
- **Nevada Street Bridge Rehabilitation – Spring 2020**

ADMINISTRATION

- **Contract Planning Consultants**
The City received 4 responses to the Planning Consultant RFP that are currently under review by Amy Wolfson, City Planner, Catrina Olson, City Manager and Bryan McAlister, City Engineer.
- **Audit Time**
It’s Finance and Administrations favorite time of year. Audit work continues in coordination with R.J. Ricciardi, Inc. – the City’s new audit firm. Almost complete.
- **Website Refresh...coming soon**
City Manager, Catrina Olson, Administrative Services Manager, Loree’ McCay, and Parks & Recreation Manager, Dawn Zydonis, will be working with MunicipalCMS, LLC. on an update and “refresh” to the Nevada City website.

COMING SOON....

- **Gracie Commons**
12 New units with 4 new second units are getting under way. This project must be complete by February 24, 2021.
- **Pre-Treatment Discharge Ordinance for Wastewater – September 2019**
The City will be looking to setting regulations for discharge related to business/industry that have significant impacts on the Wastewater Treatment Plant. This will help create processing efficiencies for the City's plant facility. The City has sent letters to heavy commercial dischargers to begin the discussion about mitigating impacts on the Wastewater Treatment Plant.
- **Bureau of Land Management (BLM)**
The City has been notified that BLM will be doing fuel reduction on the land surrounding the Water Treatment Plant with grant funding they have received.

DON'T FORGET AND MISCELLANEOUS INFO

- **Appreciation BBQ at Pioneer Park**
Announcement coming soon. The City will be hosting a thank you BBQ at the improved picnic area at Pioneer Park. Members of the County and Board of Supervisors, Planning Commissioners, City Council, and FREED will be asked to join City staff on September 26, 2019.
- **The Pink Patch Project**
Be a supporter of the Nevada City Police Department Pink Patch Project. Proceeds go to the Sierra Nevada Memorial Hospital Breast Cancer Fund.
- ***FINAL IMPORTANT MESSAGE ABOUT PG&E POWER OUTAGES (information provided by Captain Jeffrey Pettitt Nevada County Office of Emergency Services)***
PG&E issued an elevated public safety power shutoff (PSPS) notice PG&E Nevada County zone (5) for Monday (9/23) into Tuesday (9/24). This information is very preliminary and does not mean that the power will be shut off. It just means they are watching the weather and there is an elevated potential at this point. As we move closer to the days in question, they will be able to make a more educated and detailed decision. We do not know what areas, if any, of Nevada County could/would be effected. As the picture becomes clearer and if it looks like we are moving towards a PSPS, I will update this group. This information is also on the PG&E public facing website. The current zones under this status are zones 3, 4, and 5.