



**DEPARTMENT OF PLANNING AND
COMMUNITY DEVELOPMENT**

DATE: JUNE 24, 2011

TO: PLANNING COMMISSION

FROM: ALLISON COOK, PRINCIPAL PLANNER

SUBJECT: WIRELESS TELECOMMUNICATIONS FACILITIES ORDINANCE

Attached for your review and consideration is the Draft Wireless Telecommunications Facilities Ordinance and staff report. This Ordinance is an item on the Planning Commission's agenda for July 1, 2011. The Ordinance and staff report are being provided to you at this time, in advance of the full meeting packet, to allow additional time for your review of the materials.

If you have any questions regarding this item, please feel free to contact me at (818) 597-7310 or at [acook@ci.agoura hills.ca.us](mailto:acook@ci.agoura-hills.ca.us). Thank you.



DEPARTMENT OF PLANNING AND
COMMUNITY DEVELOPMENT

ACTION DATE: July 7, 2011

TO: Planning Commission

APPLICANT: City of Agoura Hills
30001 Ladyface Court
Agoura Hills, CA 91301

CASE NO.: 10-ZOA-001

LOCATION: Citywide

REQUEST: Request for a recommendation to the City Council to adopt an ordinance adding a new Division 11 to Part 2, Chapter 6 of the Article IX (Zoning) of the Agoura Hills Municipal Code. The ordinance provides a uniform and comprehensive set of standards and regulations, along with permit requirements for the installation of wireless telecommunications facilities. These include installations on private property, public property and in the public right-of-way (ROW).

ENVIRONMENTAL DETERMINATION: A Negative Declaration has been prepared pursuant to CEQA Guidelines Article 6.

RECOMMENDATION: Staff recommends that the Planning Commission adopt a resolution recommending that the City Council adopt Ordinance No. 11-387, and the Negative Declaration prepared for the Ordinance, and making environmental findings pursuant to the California Environmental Quality Act.

BACKGROUND

The current Municipal Code provides only one regulation that pertains to wireless telecommunications facilities (facilities). Section 9312.2 permits such facilities with a Conditional Use Permit (CUP) in the following zoning districts only:

- Business Park – Office Retail (BP-OR)*
- Business Park – Manufacturing (BP-M)

* *Only west of Palo Comado Canyon road, and east of Palo Comado Canyon Road on properties that front Dorothy Drive.*

That is the limit of regulation of such facilities in the City. There are no specific development or design standards to which the facilities are subject, rather they must submit to the general development and design standards for all uses and structures in the specific zoning district. For example, a facility is currently limited to a height of 35 feet, as that is the maximum height allowed in the BP-OR and BP-M districts in general for any structure.

There are about twenty (20) permitted facilities in the City at present. Attachment 1 is a map of facility locations in the City as of April 2010. No facilities have been installed since that time. Attachment 2 is an exhibit of photos of currently existing facilities in the City.

On October 14, 2009, the City Council adopted an interim urgency zoning ordinance to establish a temporary moratorium on the approval of permits for wireless telecommunications facilities in the City for 45 days. There was an influx of applications for facilities at that time, reflecting a growing increase in demand for wireless services with additional data transmitting capacity. It was evident that the current regulations regarding wireless telecommunications facilities were limited in scope. The purpose of the moratorium, then, was to prohibit the installation of wireless facilities in the City until the City could conduct sufficient research to determine what conditions and standards should apply to future permits, and consequently update the Municipal Code. During a moratorium, new applications for wireless facilities can be accepted and processed, but not acted upon, and existing facilities can continue with repair, maintenance and replacement activities. On November 10, 2009, the City Council extended the interim urgency zoning ordinance amendment for an additional ten and one-half (10½) months, to September 25, 2010, to accomplish the research needed to prepare an ordinance. The moratorium was extended again on August 25, 2010 by the City Council to complete the ordinance; this extension is set to expire on September 25, 2011, and pursuant to state law, cannot be extended further. Therefore, an ordinance pertaining to wireless telecommunications facilities must be adopted by September 25, 2011; this requires that the introduction of an ordinance be presented to the City Council at the latest on August 10, 2011.

On June 21, 2010, a memorandum from the City Attorney conveyed a “Wireless Telecommunications Facilities Ordinance Summary of Issues” (June 9, 2010) report to the City Council and the Planning Commission. These materials summarized the work of staff to date in preparing the Ordinance, and highlighted the critical issues that the Ordinance would need to address.

The City Council met on July 14, 2010 to provide initial feedback on staff's presented approach to the Ordinance, and the City Council appointed a Subcommittee to work more closely with staff on the content of the Ordinance. On November 4, 2010, the Planning Commission held a workshop to review current and upcoming projects. At that meeting, a summary report was provided to the Commission on the Ordinance, providing background information, status information, and an outline of the next steps to complete the Ordinance. Comments from the Commission at that meeting included the importance of requiring upgrades to the cell facilities as new technology becomes available.

Staff met with the Subcommittee periodically during this past year to receive input on critical items of the Ordinance. For example, staff met with the Subcommittee to get input on the specific outline of the ordinance, including issues to be addressed, and the basic procedures and standards to obtain a permit. Staff also met with the Subcommittee to review quantitative standards, such as height and distance, and to obtain Subcommittee acceptance of the Draft Ordinance prior to releasing it for public review and comment.

STATUS

The availability of the Draft Ordinance for review and comment by the public was provided in a Notice of Availability/Notice of Intent to Adopt the Initial Study/Negative Declaration (IS/ND) prepared for the Ordinance pursuant to the California Environmental Quality Act (CEQA). A copy of the Draft Ordinance was attached to the IS/ND. Please refer to the "ENVIRONMENTAL REVIEW" section of this report for further discussion of the noticing and CEQA public comments. One public comment letter was received by staff. It was received as part of the CEQA public comment period on the IS/ND, but actually pertains to the Ordinance content, and does not discuss the details of the IS/ND. One additional comment letter was received on the Draft Ordinance, as described further under the "PUBLIC COMMENTS" section of this report.

The Ordinance is being brought forward at this time for the Planning Commission's review and recommendation to City Council for adoption. The recommendations and comments of the Planning Commission will be conveyed to the City Council, including differing opinions; therefore, it is not necessary for the Planning Commission to reach consensus on the Ordinance as a whole or components of the Ordinance.

CONTENT OF THE ORDINANCE

The Ordinance that is the subject of this staff report addresses wireless telecommunications facilities (referred to in this report and throughout the Ordinance as "wireless telecommunications facilities," or "facilities"). Section 9661.6 of the Ordinance defines the term "wireless telecommunications facilities." This definition encompasses wireless telecommunications facilities that provide personal wireless services, as defined by the Federal Communications Commission (FCC), and does not include such facilities as amateur radio, certain satellite dishes and TV antennas used to receive television broadcast signals, for example.

Wireless telecommunications collocation facilities (“collocation facilities”) are also covered by the Ordinance, which are defined as a wireless telecommunications facility specifically designed for subsequent collocation as a permitted use as set forth in Section 9661.10. For the most part, the same location, design and development standards apply to collocation facilities, with certain exceptions detailed in Section 9661.10, which will be discussed below under “D. Other.”

The Ordinance was prepared by Planning and Community Development Department staff in conjunction with staff of the City Attorney’s Office in light of the particular conditions and issues of concern in the City of Agoura Hills, as well as federal and state law, and recent court cases. The Ordinance, then, has been written to balance the desire to maintain an attractive and orderly development environment in the City with the mandates of state and federal telecommunications laws. The City has a certain amount of discretion regarding the aesthetics of a wireless telecommunications facility (facility) and can specify certain locations in the City where the facilities may be placed. Nonetheless, the City must also remain flexible about the dimensions and appearance of the facilities, and about where the facilities can be located, so as not to have the effect of prohibiting personal wireless service under federal law.

Effect of the Federal Telecommunications Act of 1996

The Federal Telecommunications Act of 1996 (TCA) was enacted to “promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies” (Senate Bill 652). Under the TCA, the City retains its land use and general police powers authority over the placement, construction and modification of wireless telecommunications facilities. However, those powers are subject to certain limitations set forth in the TCA. The TCA provides that:

The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof –(I) shall not unreasonably discriminate among providers of functionally equivalent services and (II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services. (47 U.S.C. Section 332(7)(B)(i))

A City regulation has the effect of prohibiting wireless services when it prevents a wireless service provider from closing a significant gap in its service coverage or imposes a regulation that effectively prohibits wireless facilities. The “significant gap” analysis is based upon each wireless provider’s service coverage, not overall service coverage in a community. Therefore, coverage by another provider is not sufficient to meet this requirement; each provider is allowed to close its own significant gap in service. The burden is on the service provider to show there is a significant gap in its service. If the provider makes the required showing, the provider must “show that the manner in which it proposes to fill the significant gap in services is the least intrusive on the values that the denial sought to serve” (MetroPCS vs. City and County of San Francisco, 400 F.3d 715.734 (9th Cir. 2005)). This requires an inquiry into alternative facilities or site locations.

The TCA also provides in part that:

No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions. (47 U.S.C. Section 332(7)(B)(iv))

Radio frequency (RF) emissions standards are established by the Federal Communications Commission (FCC). The City cannot regulate RF emissions beyond the standards set by the FCC; the City, however, can require proof of compliance to ensure that the RF emissions standards are being met.

The following summarizes the main components of the Ordinance. At the meeting, Planning staff and City Attorney staff will be available to answer questions and provide further discussion of the Ordinance. The Ordinance is included as Attachment 3 to this report.

A. Location

As previously noted, at present, wireless telecommunications facilities may be located in the BP-M zone and portions of the BP-OR zone (see map in Attachment 4). In the proposed Ordinance, there are two overarching categories that the facilities may be located within:

- Non public right-of-way (see Section 9661.5)
- Public right-of-way (see Section 9661.6)

Separate standards and requirements apply for these two categories. Note that public rights-of-way (ROWs) in the City take on the zoning of the adjacent non-ROW properties, and the zoning is split down the roadway centerline.

These two overarching categories are contained within four distinct “tiers.” The tiers indicate where the facilities (including different types of facilities) may be located, and the permitting requirements and reviewing authority for the facilities, the latter of which is described in further sections of this report. The allowed locations in each tier are listed below.

Tier I (Minor CUP Required) applies to facilities that are mounted on the sides or roofs of buildings in the Business Park-Manufacturing (BP-M) zone, or facilities that are collocated or mounted on existing cell towers in the BP-M zone. (See Attachment 2, Photos 1 – 4 for examples of building side- or roof-mounted facilities).

Tier II (CUP Permit Required) pertains to ground mounted facilities (i.e., mounted to a telecommunications tower) in the BP-M zone. The BP-M is the only zone that is split between tiers, depending upon the type of facility (e.g., building side- or roof-mounted, or ground mounted). In the following other zones, building side- or roof-mounted facilities, and new ground mounted facilities and facilities collocated or mounted on an existing tower (except if the ground mounted facility is located within 100 feet of a residential district or if it is within a local street ROW within 100 feet of a residential zone) are allowed with a CUP: Business Park-Office

Retail (BP-OR), Commercial Retail Service (CRS), Commercial Shopping Center (CS), Commercial Recreation (CR), Specific Plan (SP), Utility (U) and School (SH). Tier II also applies to facilities added to an existing pole in the arterial ROW, and a new pole if it is replacing an existing pole in the arterial ROW. The permissibility of locating in any of the zones listed in this paragraph is subject to certain further restrictions discussed below under Tier IV.

Roadway classification is provided in the General Plan Mobility Element (Figure M-1). Arterials include Kanan Road, Agoura Road, Thousand Oaks Boulevard, Reyes Adobe Road, Liberty Canyon Road, portions of Canwood Street, and portions of Palo Comado Canyon Road. Collector roads include Driver Avenue, Chesebro Road, portions of Canwood Street, and portions of Palo Comado Canyon Road. A copy of General Plan Figure M-1 is included as Attachment 5 to this report.

Tier III (Exceptions Only) consists of exceptions to the Ordinance. An exception request must be filed with a CUP application, and can be granted in any zoning district for any provision of the Ordinance, including location, except Tier IV locations (see below). An exception must be granted if the Planning Commission finds that denial of a proposed facility would deprive the applicant of its rights under state or federal law, or a provision of Division 11, as applied to the applicant, would deprive the applicant of its rights under state and/or federal law. The applicant bears the burden of proof. (See Section 9661.19). Particular locations within the City that would only be allowed with the granting of an exception include the following zones: Open Water (OW), Open Space (OS), and Park (P). Additionally, an exception can be granted for any facility located in a collector ROW, and in a local street ROW if not in a residential zone. An exception can be granted for a new (non-replacement pole) in the arterial ROW. An exception can be given to locate building- or roof-mounted facilities in a residential zone on a building that is owned in common by a homeowners' association. Lastly, an exception can be granted to locate ground-mounted facilities within 100 feet of a residential district (excluding the arterial and collector ROWs, which are permitted in Tier II).

Tier IV (Not Allowed) locations include those that cannot receive exceptions under any condition. They are locations within a residential district, other than arterial and collector ROWs and those locations on an HOA building, as noted in Tier III above. Facilities cannot be located in the public ROW of local streets in non-residential districts if within one hundred (100) feet from a residential district. This essentially prohibits public ROW ground mounted facilities within one hundred (100) feet of a residential zone, even though the facility itself is not within a residential zone. Locations that would significantly obstruct or diminish scenic corridors (as defined in the General Plan Natural Resources Element), or on or near a ridgeline such that the facility would appear silhouetted against the sky, are prohibited. Scenic road segments identified in the General Plan include: Reyes Adobe Road from Thousand Oaks Boulevard to Agoura Road; Thousand Oaks Boulevard from the westerly City limits to the easterly City limits; Agoura Road from westerly City limits to easterly City limits; and Kanan Road from Agoura Road south to the City limits. Lastly, in the Specific Plan (SP) zone, facilities are prohibited if they are prohibited by the individual specific plan, or other similar regulatory document, for the area.

As indicated in the above paragraphs, within the non public right-of-way category, preferred locations are those in the manufacturing zone (BP-M). Preferred locations are incentivized by a

relatively simpler permitting process. In non-preferred locations, the discretionary review process is more in-depth and additional application materials of a technical nature may be required to be submitted. See Section "C. Permitting" for further discussion of the permitting and reviewing authority for these tiers.

The most protected zones are residential, open space, open water, and parks. No facilities may be located on a residential lot, unless it is on a building owned in common by an HOA. In this case, homeowners can decide if they want to allow an application for a facility on a commonly owned building (e.g., clubhouse), and an exception to the Ordinance would need to be granted. In the open space zones, an applicant must obtain an exception to the Ordinance, and also comply with Code Sections 9487 and 9821.5, which require a two-thirds vote of approval of the voters of the City who are voting on the question to add or change an allowed use in the OS district. A wireless telecommunications facility is not an allowed use in the OS zone presently. For OW and P zones, the review process is more extensive than in the Tier I and II categories, since the locations require an exception from the Ordinance to be granted.

Facilities may be located on properties zoned SH (School). Wireless telecommunications facilities have traditionally been allowed on school property in the City, and the schools and wireless carriers have coordinated with the City in seeking approvals. Such facilities currently exist on school property, such as Agoura High School. Locating the facilities on school property represents an opportunity for the school to generate revenue. Many school districts contend that this type of use of property is not within the City's zoning authority. By allowing them on School zoned land, the City and school district can work cooperatively to ensure that a wireless telecommunications facility meets the intent of the Ordinance, including design and development standards.

Overall, the proposed Ordinance opens up more locations in the City to facilities than is currently provided in the Municipal Code. The reason for this is to allow for enough locations to satisfy a demonstrated need by a carrier for wireless telecommunications services. With the exception of the freeway corridor and the shopping centers clustered along Kanan Road near Thousand Oaks Boulevard, most of the City is occupied by residential uses north of the freeway. Under the current Municipal Code, since facilities can only be located in the BP-M zone and portions of the BP-O zone, the only place at this time to locate facilities north of the freeway is on school property, and there are only a few schools. It was clear in preparing the Ordinance that additional locations for facilities needed to be allowed particularly in the northern portion of the City in order to ensure adequate wireless telecommunications services. Allowing them in the shopping centers only would likely not be adequate, since these centers are congregated in one discrete area along Kanan Road. By allowing facilities within the public right-of-way (ROW), the predominantly residential portions of the City are available to wireless service through transportation corridors only, and residential lots can be excluded.

Agoura Hills is surrounded by tall mountains, and there are steep slopes within the urban area of the City as well. Such topography often presents more challenges to providing service in that it can block transmission of data. In some cases, more facilities may be needed to provide the wireless service, since the transmission can be blocked over longer areas. Also, with more advanced technology and increases in higher speed bandwidth, there will likely be a greater need

for cell sites to be located closer together. The higher the speed, often the closer the user must be to the cell site.

Yet, while the Ordinance allows the facilities in potentially more locations, it also sets up a system of preferred and non-preferred locations, and those that are never permitted. Also, the Ordinance establishes new design criteria, new permitting protocol, new maintenance standards, and permit expiration timeframes, as discussed further in this report.

It is important to note that in the proposed General Plan Implementation Measures Ordinance, currently being reviewed by the Planning Commission, two new zoning districts are proposed to ensure that the General Plan and Zoning Code are consistent. These are the Commercial Neighborhood (CN) zone and the Commercial Shopping Center-Mixed Use (CS-MU) zone. These two zones correspond to the two new land use designations in the General Plan. It is staff's intent to propose that these two new zones allow wireless telecommunications facilities similar to the CS zone. The properties to be zoned CN and CS-MU currently are zoned CS, which would allow the facilities under the proposed Ordinance. However, since these two zones have not yet been adopted in the Code, the Wireless Telecommunications Facilities Ordinance cannot yet address them. Additionally, in the General Plan Implementation Measures Ordinance, the Specific Plan (SP) zone is being replaced with the Planned Development (PD) zone; both zones refer the reader to the particular specific plan or other regulatory document that guides the area. Therefore, SECTION 4 of the Ordinance addresses this situation by identifying the changes that should automatically occur once the General Plan Implementation Measures Ordinance is adopted. The two ordinances would then be codified together in the Municipal Code. In conclusion, once both Ordinances are adopted, facilities would be allowed in the CN and CS-MU zones similar to the CS zone, and the SP zone would be replaced with the PD, with all standards and regulations applicable to the SP zone also applying to the PD zone.

The following table summarizes where the facilities would be allowed to locate. Also, Attachment 6 displays where the allowed locations are found throughout the City in the Tier I and Tier II categories. Refer also to Attachment 2 for photos of the various types of facilities found in the City.

TABLE 1: LOCATIONS

Zone	Tier I (Minor CUP)	Tier II (CUP)	Tier III (Exception w/CUP)	Tier IV*
BP-M (Excluding ROW)	Side- or roof-mounted on building.	Ground-mounted–new.	Ground- mounted/tower facilities within 100 feet of a residential district.	See ROW.
	Collocated or mounted on existing towers.			
BP-OR (Excluding ROW)	No	Side; roof; ground new; collocated or mounted on existing towers.	Ground- mounted/tower facilities within 100 feet of a residential district.	See ROW.
CRS (Excluding ROW)	No	Side; roof; ground new; collocated or mounted on existing towers.	Ground- mounted/tower facilities within 100 feet of a residential district.	See ROW.
CS (Excluding ROW)	No	Side; roof; ground new; collocated or mounted on existing towers.	Ground- mounted/tower facilities within 100 feet of a residential district.	See ROW.
CR (Excluding ROW)	No	Side; roof; ground new; collocated or mounted on existing towers.	Ground- mounted/tower facilities within 100 feet of a residential district.	See ROW.
SP	Only as allowed by individual specific plan or other regulatory document for the given area.	Only as allowed by individual specific plan or other regulatory document for the given area.	Only as allowed by individual specific plan or other regulatory document for the given area.	Not permitted if prohibited by individual specific plan or other regulatory document for the given area.
U (Excluding ROW)	No	Side; roof; ground new; collocated or mounted on existing towers.	Ground- mounted/tower facilities within 100 feet of a residential district.	See ROW.

TABLE 1: LOCATIONS

Zone	Tier I (Minor CUP)	Tier II (CUP)	Tier III (Exception w/CUP)	Tier IV*
SH (Excluding ROW)	No	Side; roof; ground new; collocated or mounted on existing towers.	Ground-mounted/tower facilities within 100 feet of a residential zone.	See ROW.
OS (Excluding ROW)	No	No	Yes, but also need 2/3 voter approval.	See ROW.
P (Excluding ROW)	No	No	Yes	See ROW.
OW (Excluding ROW)	No	No	Yes	See ROW.
Resid.	No	Only in ROW – see below.	In ROW – see below.	Not allowed on a local street ROW in residential zone.
			If mounted on commonly owned HOA building.	Not allowed on any residential lot except on HOA building (see Tier III).
ROW	No	Arterial ROW if added to existing pole, or if new pole replaces existing pole.	Arterial ROW – new pole not replacing existing.	Not allowed in a local street ROW in a residential zone. Not allowed in a local street ROW within 100 feet of a residential zone.
			Collector ROW – any type.	
			Local street ROW non-residential zone – any type, except not allowed within 100 feet of a residential zone.	

*In Tier IV, no facilities are allowed where they would significantly obstruct or diminish scenic corridors, or be located on or near a ridgeline such that the facility would appear silhouetted against the sky.

B. Appearance

Currently, the Code does not specifically address the design of wireless telecommunications facilities; under the CUP, however, the City currently has discretion regarding the appearance of the facilities, but on a case-by-case basis. The Ordinance proposes comprehensive design and development standards to use to assess each application for a facility to minimize visual and noise impacts on the community. In addition, the City would still retain discretionary authority over design, since all facilities would require the approval of a CUP (See Section “C. Permitting,” below). There is flexibility built into the Ordinance, allowing the City to take into account the specific conditions of the application and the site when determining appropriate design.

The design standards in the Ordinance differ somewhat between the ROW locations and locations outside of the ROW, and so are addressed separately below.

Locations Not within the Public ROW (Section 9661.5.B.)

The general guidelines of the proposed Ordinance require screening and camouflaging in the design and placement of facilities outside of the public ROW to make them as visually inconspicuous as possible, and to hide them from predominant views from surrounding properties. The screening must be designed to be architecturally compatible with surrounding structures, including in terms of color, size, proportion, building materials, style and quality. For example, colors must be subdued, and non-reflective materials used. Existing vegetation and topography need to be preserved, unless such disturbance would result in less visual impact of the site on the surrounding area. The facilities would need to be designed such that existing vegetation, topography, buildings and other structures offer the greatest amount of screening. Aside from the general design guidelines, the following paragraphs summarize the specific design requirements by type of wireless facility.

Antennas – The antenna is the part of the wireless telecommunications facility designed to radiate or receive radio frequency signals. An antenna may be mounted to a new or existing tower or pole, or be a component of a wireless telecommunications facility attached to the side or top of a building. The Ordinance requires the antenna elements to be flush mounted, to the extent feasible, and they must be selected with the objective of being the least visible antenna possible to accomplish the wireless telecommunications coverage objectives. Antennas must be situated as close to the ground as possible to reduce visual impacts without compromising their function. They must also be designed to not preclude possible future collocation by the same or other operators or carriers. (Section 9661.5.B.4.).

Building-Mounted – Facilities on a building must be designed and constructed to be camouflaged, concealed or screened to be compatible with the architecture of the building, matching the color, texture and type of materials. Photo 2 in Attachment 2 is an example of a fully concealed, side-mounted facility currently in the City, which is consistent with the Ordinance. The type of camouflaging, concealing or screening required would be determined during discretionary review, and would depend on the building design, the facility, and the visibility of the mounting from passers-by; in some cases concealment within the building may be necessary, and in others, an architectural element added to a building to house the facility may be sufficient. A side-mounted facility must extend no more than 18 inches out from the façade or other support structure of the building, unless it is architecturally integrated with the design of the structure and then it can be larger. Lastly, the Ordinance states that for buildings within 100 feet of a residential zone, the facility needs to be placed as far on the building from the nearest residential use as possible. (Section 9661.5.B.5).

Roof-Mounted – All roof mounted wireless telecommunications facilities are required to be camouflaged, concealed or screened from view. The Ordinance achieves this by requiring that roof-mounted equipment on a flat roof either not exceed the top of the parapet or the top of the mansard (depending on the type of roof) measured from the roofline. For a slope roof, the

facilities must not extend above the top of roofline. If visible from higher elevations, the facility must also be screened from above. Photos 3 and 4 in Attachment 2 show screened wireless telecommunications facilities on parapet roofs currently in the City, which are consistent with the Ordinance. Similar to that of the building-mounted facilities, if a roof-mounted facility is located within 100 feet of a residential district, it shall be located on the portion of the roof that is furthest from the nearest residential use as feasible. (Section 9661.5.B.5).

Ground-Mounted – The Ordinance allows ground mounted (i.e., mounted to a tower, which includes a freestanding mast, pole, etc.) facilities to the extent that they blend with the surroundings as much as possible. For example, ground-mounted facilities are to be located in close proximity to existing above-ground utilities (e.g., utility or light poles), trees of comparable height, and in others areas where they will not detract from the appearance of the City. The facility must be designed to be the minimum functional height, width, and diameter. In the design of ground-mounted facilities, context is predominant. For example, the height of the facility must be no higher than the surrounding existing poles, structures and trees. However, there is an ultimate limit to height, in that no ground-mounted facility may be more than sixty (60) feet high. The facilities must be situated to utilize existing natural or man-made features, such as topography, vegetation, buildings, or other structures, to provide the greatest amount of visual screening. In the case of disguising the ground-mounted facility as a tree (i.e., faux tree), the type of tree shall be compatible with those existing in the immediate area of the installation, and, if no tree exists in the immediate area, a landscape setting that integrates the faux tree with added species of a similar height and type shall be required. (Section 9661.5.B.6).

Other

All of the types of wireless telecommunications facilities identified above require accessory equipment. Accessory equipment can consist of cables, generators, air conditioning units, electrical panels, equipment cabinets, meters, vaults, etc. Photo 9 of Attachment 2 shows accessory equipment. The Ordinance requires that the visibility of the accessory equipment be minimized. For building side- or roof-mounted facilities, the accessory equipment may be located: (1) underground, (2) inside the building, or (3) on the roof of the building as long as both the equipment and screening materials match the color of the building and surroundings, and their quality and design match that of the building. For ground-mounted facilities, the accessory equipment must be screened by locating the equipment within a nearby building or in an underground vault, except for electrical panels. If there is no building located near the facility or placement of the equipment in an existing building is not feasible from a technical perspective, accessory equipment may be located in an enclosed structure which shall be designed to comply with the design and development standards of the particular zoning district. For example, the structure must be architecturally treated and screened from view by landscaping, walls, fences, etc. (Section 9661.5.7.)

Other design elements related to the installation of wireless telecommunications facilities include landscaping, signage, and lighting. Facilities can also be designed to minimize noise and ensure a secure facility. Landscaping is required where necessary to provide screening to block the line of sight from adjacent uses; existing landscape is to be retained and maintained on the site. No signs are permitted on the facilities, except that related to security/safety. Also, no facility may be

illuminated unless specifically required by a government agency, such as the Federal Aviation Administration; any required lighting must be shielded to eliminate impacts on surrounding neighborhoods. The Ordinance requires that the facilities be designed to minimize opportunities for unauthorized access, vandalism, graffiti, etc., to prevent public nuisance conditions from occurring.

To minimize the effect of noise from the facilities, the Ordinance requires that at no time shall equipment noise exceed the exterior noise level of 55 dBA three feet from the source of the noise if the facility is located in a business, commercial, manufacturing, utility or school zone, or a specific plan zone that permits those uses. However, in the case of facilities located within 500 feet of any property zoned residential or improved with a residential use, the equipment cannot be audible at the property line of the residential property.

Locations within the Public ROW (Section 9661.6.B.)

The general guidelines of the proposed Ordinance pertaining to facilities in the public ROW are similar to those for facilities outside of the public ROW. Facilities in the ROW must be screened and camouflaged to make them as visually inconspicuous as possible, and to hide them from predominant views from surrounding properties. The screening must be designed to be architecturally compatible with surrounding structures, including in terms of color, size, proportion, building materials, style and quality. Methods to blend the facility with the surrounding environment, including through landscaping and color, are required; for example, the facilities must have subdued colors and non-reflective materials.

Poles (Section 9661.6.B.5.)

Only pole-mounted antennas are permitted in the ROW. So, towers such as lattice towers or guyed towers, are not allowed. (Photos 10 and 11 in Attachment 2 are examples of these). As noted in Section "A. Location," facilities can be mounted on existing poles (e.g., light poles, utility poles), and new poles can only be constructed if they are to replace an existing pole that is being removed. The purpose of this requirement is to minimize the visual impacts of clustering poles, including different types of poles, in the ROW. In the case of replacement poles, the pole must match the appearance of the original pole as much as possible. In the event that a new pole, not replacing an existing, is granted an exception to the Ordinance, the new pole must be located at least ninety (90) feet from any existing pole, as feasible, to prevent pole clustering. Similarly, the new pole must be designed to resemble the surrounding poles as much as possible in height, size, color, materials and style.

The Ordinance outlines the allowed dimensions and height of poles, and their accessory equipment, in the ROW. No facility can be located on a pole that is less than twenty five (25) feet high. Utility poles are commonly higher than light poles; therefore, height standards for antennas differ between these two types. For utility poles, the maximum antenna height is twenty-four (24) inches above the height of the existing pole, while for light poles the antenna must not exceed six (6) feet above the height of the existing light pole. Equipment mounted on the pole is required to be no more than six (6) cubic feet in dimension. Photo 6 of Attachment 2 is an example of a replacement pole in a ROW.

Accessory Equipment (Section 9661.6.B.13)

The Ordinance requires that all accessory equipment in the ROW be located underground, with the exception of the electrical meter, which should be pole-mounted to the extent possible. Undergrounding of accessory equipment usually occurs within sidewalks and parkways. Photo 8 of Attachment 2 shows an example of a well-designed above ground accessory equipment, consistent with the Ordinance. If undergrounding accessory equipment is not feasible, and the equipment can also not be mounted on the pole, then an exception may be granted (see “C. Permitting” below). In this case, the Ordinance stipulates design standards for the above ground equipment, including dimensions. The equipment must be enclosed within a structure which cannot exceed a height of five (5) feet and a total square footage of fifteen (15). The structure must be fully screened and/or camouflaged with landscaping, architectural treatment, etc.

Traffic Safety (Section 9661.6.B)

The Ordinance includes many provisions to ensure the facilities in the ROW do not pose traffic safety concerns. For example, no component of a facility can be located where it would cause a physical or visual obstruction to pedestrian or vehicular traffic, inconvenience to the public’s use of the ROW, or safety hazards to pedestrians and motorists. Additionally, the facility must not interfere with access to fire hydrants, water valves, etc.

Other

For poles in the ROW, no signs are permitted on the facilities, except that related to security/safety. Also, no facility may be illuminated unless specifically required by a government agency, such as the Federal Aviation Administration; any required lighting must be shielded to eliminate impacts on surrounding neighborhoods. The Ordinance requires that the facilities be designed to minimize opportunities for unauthorized access, vandalism, graffiti, etc., to prevent public nuisance conditions from occurring. In the installation of the ROW poles, where appropriate, existing landscaping must be maintained and enhanced, whether or not used for screening. Additional landscaping may be required to provide screening or to block the line-of-sight between facilities and adjacent uses.

To minimize the effect of noise from the facilities, the Ordinance requires for ROW facilities that at no time shall equipment noise exceed the exterior noise level of 55 dBA three feet from the noise if the facility is located in a business, commercial, manufacturing, utility or school zone, or a specific plan zone that permits those uses. However, in the case of facilities located within 500 feet of any property zoned residential or improved with a residential use, the equipment cannot be audible at the property line of the residential property.

C. Permitting

As identified in TABLE 1: LOCATIONS, the Ordinance is structured so that the types of facilities that are often less intrusive visually involve a simpler permitting process. For example,

building side- or roof-mounted facilities and facilities mounted on an existing tower in the BP-M are Tier I, and these same types of facilities in other zones (BP-OR, CRS, CS-MU, CS, CR, U and SH), as well as most new towers not in the ROW, are Tier II. However, a new pole that doesn't replace an existing pole in the ROW, and a non-ROW pole within one hundred (100) feet of a residential district, can only be allowed in Tier III (with an exception).

Tiers I, II and III

As mentioned in Section "A. Location," in the current Municipal Code, all wireless telecommunications facilities require a CUP, which is reviewed by the Planning Commission. The proposed Ordinance continues to require a CUP for new facilities, but also creates a "Minor CUP" for Tier I facilities as an incentive to encourage placement of facilities in the BP-M zone and facilities that are building mounted or mounted on existing towers. For a Minor CUP, the Director of Planning and Community Development is the reviewing body. The Minor CUP is a discretionary permit, and the same conditions of approval, findings, and application materials would be required for both Minor CUPs and other CUPs. The Minor CUP would require a noticed hearing, but in front of the Director. The Minor CUP, then, presents a relatively simpler process for an applicant. Tiers II and III require CUPs for new facilities, which would be reviewed by the Planning Commission. The Tier II process involves a higher level of discretionary review, as the reviewing body is the Planning Commission. The same process in Tier II also applies to Tier III; however, with Tier III, the applicant must also provide further information and has a "burden of proof" to demonstrate, as discussed further below.

A modification to a permitted facility requires either an amendment to a Minor CUP or an amendment to a CUP (depending on the original type of permit that would be required for the existing facility). The term "modification" is defined in Section 9661.1 of the Ordinance. It includes changes to an existing facility, such as expansion, collocation, alteration, augmentation, reduction, intensification, etc. If the facility to be modified would fall under Tier I, then an amendment to a Minor CUP would be required, and would be reviewed by the Director. Amendments to CUPs in Tiers II and III would be reviewed by the Planning Commission.

Exceptions – Review Process (Section 9661.19)

The Ordinance allows exceptions to be granted for any provisions of the Ordinance, unless the exception is listed as not allowed in Tier IV. (Tier IV includes facilities and locations that are specifically called out in the Ordinance as being not allowed). Exceptions can be granted for type of facility, design standards (e.g., color, height), findings, application materials, etc., if the Planning Commission finds that denial of a proposed facility would deprive the applicant of its rights under state or federal law, or a provision of Division 11, as applied to the applicant, would deprive the applicant of its rights under state and/or federal law. The applicant has the burden of proving the denial of the facility as proposed would violate state and/or federal law or deprive the applicant of his/her rights under state and/or federal law. The Ordinance permits the City to hire an independent consultant, at the applicant's expense, to evaluate the issues raised by the exception request, and the City can submit information to refute the applicant's claim.

Section "A. Location" of this report identifies the locations where an exception may be granted (see also Ordinance Section 9661.20). For Section "B. Appearance" above, an exception can be granted for any of the development and design standards described. However, the request for an exception may only be made at the time the application for a permit is submitted, not after.

All exceptions to the Ordinance require the issuance of a CUP by the Planning Commission. An amendment to a CUP facility that was approved as an exception to the Ordinance must also be reviewed by the Planning Commission.

Tier IV - No Exception Allowed (Section 9661.20.B.)

As previously noted in Section "A. Locations," there are certain conditions under which a facility may not be permitted. Some areas within residential districts are not allowed. For example, facilities cannot be located on residential lots, unless on the roof or side of an HOA building (see above discussion). The only other locations in the residential districts where facilities would be allowed are on arterial and collector ROWs. Additionally, a facility cannot be located within 100 feet of a residential district, except under the situations noted in the previous two sentences, and if it is building side-mounted, or building roof-mounted, or ground mounted not within the public ROW, in the commercial, business park, utility or school zones. If a facility would significantly obstruct or diminish a view in the scenic corridor, it is not allowed. The ROW segments in the City that are considered scenic are listed in Section "A. Location." While there are several ROWs considered scenic in the City, it is not expected that many facilities would be considered to significantly obstruct or diminish views. The views in the City are primarily to Ladyface Mountain, which is massive; the line-of-sight from facilities to this resource could likely be protected in most cases. If a facility would be located on or near a ridgeline such that it would appear silhouetted against the sky, it would not be allowed. Again, these situations are not likely to be frequent. Most of the ridgelines (shown on Figure NR-1 of the General Plan) are either within residential lots (not allowed, except for HOA buildings) or within Open Space zones; in the case of the latter, the placement of a facility would require an exception and a vote of the citizens of the City.

The following TABLE 2: PERMIT PROCESS summarizes the permits required for facilities that fall within Tiers I through IV.

TABLE 2: PERMIT PROCESS				
	Tier I	Tier II	Tier III	Tier IV
New Facility				
Permit Type	Minor CUP	CUP	CUP (and exception)	Not Allowed
Reviewing Body	Director	Planning Commission	Planning Commission	
Modification to Facility				
Permit Type	Amendment to Minor CUP	Amendment to CUP	Amendment to CUP	Not Allowed
Reviewing Body	Director	Planning Commission	Planning Commission	

Application Requirements (Section 9661.4)

The application submittal requirements for facilities outside of, and within, the ROW are the same. In addition to the normal CUP application form and required materials, a supplemental application is required, specific to wireless telecommunications facilities (Section 9661.4.C.). The items required as part of the supplemental application are listed in the Ordinance, and include, among other items, a visual impact analysis; noise study; maintenance and monitoring program; written description of the geographic service area for the facility and a master plan identifying the location of the proposed facility in relation to existing and planned facilities maintained by the same applicant/owner/operator; and, if not “categorically excluded” by the FCC, an RF emissions report certified by a qualified radio frequency engineer assessing the amount of emissions from the proposed facility, as well as the cumulative impacts of other facilities at the site, and stating that the emissions will not exceed FCC standards. The Ordinance stipulates that the City may retain an independent, qualified consultant to review any application from a technical standpoint at the applicant’s cost (e.g., the validity of conclusions reached or claims made by the applicant; compliance with RF standards; and technical demonstration regarding whether there are feasible alternative sites or configurations).

Findings (Section 9661.7)

For a Minor CUP or CUP, the Director or Planning Commission (whoever has the authority for the requested permit) must make the findings normally necessary to approve a CUP, and the following additional findings specific to wireless telecommunications facilities:

- The proposed facility has been designed and located in compliance with all applicable provisions of this division.

- The proposed facility has been designed and located to achieve compatibility with the community.
- The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.
- Noise generated by equipment will not be excessive, annoying nor be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in this division.

For a facility within the ROW, the Planning Commission must also make these findings before approving the CUP:

- The applicant has provided substantial written evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise agreement with the city permitting them to use the public right-of-way.
- The applicant has demonstrated that the facility will not interfere with the use of the public right-of-way and existing subterranean infrastructure and will not interfere with the city's plans for modification of such location and infrastructure.

As noted previously in the discussion under "*Exceptions – Review Process* (Section 9661.19)," for Tier III, yet another set of special findings is required (Section 9661.19.A.).

Standard Conditions of Approval

Conditions of project approval identified in the Ordinance differ for those facilities in the ROW (Section 9661.6.C.) and outside of the ROW (Section 9661.5.C.). All conditions of approval listed for facilities outside the ROW also apply to facilities within the ROW, and some of these include: providing as-built drawings; posting a performance bond; and allowing the City to hire a noise consultant at the owner's expense to verify noise emissions if there is a complaint. Additional conditions for facilities in the ROW cover mostly issues of repair and maintenance; insurance and indemnification; tree protection; procedures on relocation; and stipulations that the facility is subject to conditions, changes and limitations that may be deemed necessary by the City, including, for example, to protect the public health, safety and welfare, and to protect the public ROW. The decision-making body may also modify and add to these standard conditions, in consideration of the type of application and its location.

Written Agreement – Public ROW

For facilities within the public ROW, the Ordinance requires that a special written agreement be executed between the City and the applicant. The agreement establishes the particular terms and provisions, including: inspection and maintenance requirements; waiver of monetary damages

against the City; insurance requirements and indemnification; removal, restoration and clean-up requirements; and the requirement to pay possessory interest taxes, if any.

Expiration (Section 9661.15)

A permit is valid for ten years, unless it is revoked or lapses sooner, and after the ten (10) years, it expires. However, permit extensions may be granted in increments of ten (10) years. With the extension, additional studies and information may be required of the applicant, and additional conditions of approval may be applied.

Non-Conforming Facilities (Section 9711)

Upon adoption of the Ordinance and it becoming effective, some of the existing facilities in the City would become non-conforming with the Ordinance. Non-conforming facilities are required to be made conforming within ten (10) years after the Ordinance adoption. This requirement may be appealed to the City Council if an owner believes that the ten-year amortization period is not reasonable, and the City Council may set an alternate amortization period. Factors for the City Council's consideration in deciding the appeal are included in the Ordinance. If the owner requests an expansion or modification to the non-conforming facility during the ten-year period, however, the facility would need to be brought into conformance at that time.

D. Other

The Ordinance covers additional items to address a variety of possible situations pertaining to application approvals and ongoing operations of wireless telecommunications facilities. The following items are worth noting in this staff report:

Radiofrequency Emissions (Section 9661.13)

Radiofrequency (RF) emissions were described and addressed earlier in this report, particularly regarding how the City may address RF emissions and application submittal requirements. The Ordinance aims to ensure the RF safety of wireless telecommunications facilities to the extent allowed by federal law. In addition to the required RF report during application submittal, the Ordinance requires the submittal of an RF monitoring report within ninety (90) days of the facility beginning operation, and every two (2) years from the date the facility began operations. The reports must demonstrate that the facility is in compliance with applicable federal regulations pertaining to RF emissions, as well as that the facility is in compliance with all sections of the Municipal Code and its conditions of approval.

Maintenance and Operations Standards (Section 9661.12)

The Ordinance outlines how a facility is to be maintained and operated to ensure safety and prevent public nuisance conditions from occurring, as well as ensure compatibility with the surrounding area and the community. This section of the Ordinance addresses such items as graffiti, damage and wear-and-tear to the facility, noise emissions, and landscaping. It specifies

the time period for conducting the necessary repairs and restoration, which is forty-eight (48) hours after the discovery of the need.

Cessation of Use or Abandonment, Removal and Restoration (Sections 9661.16 and 9661.17)

These sections of the Ordinance ensure that facilities no longer being used, or those with expired or revoked permits, be properly handled. They address the required timeframe for removing the facility, and measures to be used if the facility is not removed (i.e., calling of bonds, prosecution), as well as the expectations for restoration of the site upon removal of the facility. The site must be restored to its natural condition except for retaining the landscaping improvements and any other improvements the City determines should stay.

Future Technology

The Ordinance addresses wireless telecommunications facilities that are currently being employed and may soon be more prevalent in the future. For example a Distributed Antenna System (DAS), consists of a series of small antennas, often located on light or utility poles in the ROW, spread out over a certain geographic area, which are connected to a central power source, usually by fiber optics. The DAS is becoming a popular method of providing wireless telecommunications service in various communities. The proposed Ordinance would regulate the use of the DAS, and the Ordinance's provisions would apply to DASs, even though the DAS is not specifically called out in the Ordinance. Nonetheless, since technology is changing rapidly, and it is not prudent to create an Ordinance that addresses hypothetical technology, the Ordinance has been written with the understanding that amendments will be necessary on a regular basis so that the Ordinance continues to be vital and effective as technology changes.

Wireless Telecommunications Collocation Facilities (Section 9661.10)

California Government Code Section 65850.6 addresses "wireless telecommunications collocation facilities." This term refers to a wireless telecommunications collocation facility that was approved after January 1, 2007 by discretionary permit; that was approved subject to an Environmental Impact Report (EIR), Negative Declaration (ND), or Mitigated Negative Declaration (MND); and that otherwise complies with the Government Code Section. This initial permit may be discretionary, according to the Government Code, but no discretionary permits for wireless facilities may be required of the applicant for future collocation on the existing facility.

The Ordinance incorporates the requirements of the Government Code. Nonetheless, there are no "wireless telecommunications collocation facilities" currently approved within the City. Per the Ordinance, in the event an application is submitted to the City for an initial wireless telecommunications collocation facility, the applicant is required to obtain either a minor CUP or a CUP, and an EIR, ND or MND must be prepared. The same requirements, regulations and standards established in the Ordinance for a wireless telecommunications facility would also apply to the wireless telecommunications collocation facility. Once approved, future collocations on the facility are permitted without discretionary review.

E. Conclusion

In summary, the Ordinance provides more locations to place wireless telecommunications facilities, and then allows the City to carefully regulate the appearance of the facilities, control effects like noise, and continue to monitor RF emissions, to the extent allowed by federal law. It also provides for maintenance and monitoring, outlines terms for cessation of use and abandonment, and establishes a tiered permitting protocol. The Ordinance encourages some locations over others and some types of facilities over others (e.g., BP-M, building mounted instead of towers in neighborhoods). Nonetheless, exceptions to the Ordinance may be granted if provisions of the Ordinance are found to prohibit the provision of wireless service by a carrier.

GENERAL PLAN CONSISTENCY

The intent of the General Plan is to provide for quality telecommunication systems in the City. The Ordinance can be found consistent with the General Plan. In particular, the following goal and policies of the General Plan were considered in creating the Ordinance.

Goal U-6: Telecommunication System. Quality communication systems that meet the demands of new and existing developments in the City.

Policy U-6.1: Access and Availability. Work with service providers to ensure access to and availability of a wide range of state-of-the-art telecommunications systems and services for households, businesses and institutions throughout the City.

Policy U-6.2: Design and Siting of Facilities. Require that the installation of telecommunications infrastructure, such as cellular sites and towers, be designed in a manner to minimize visual impacts on the surrounding environment and neighborhood, and to be as unobtrusive as possible.

ENVIRONMENTAL REVIEW AND OTHER PUBLIC COMMENTS

An Initial Study/Negative Declaration was prepared for the Ordinance, pursuant to the California Environmental Quality Act (CEQA) (Attachment 7). A copy of the Draft Ordinance was attached to the IS/ND. Notices of the availability of the IS/ND (including Draft Ordinance) were sent to relevant local, state and federal agencies; City HOAs; environmental and interest groups; and wireless carriers and organizations that had asked to be placed on a mailing list for information regarding the Ordinance. The notice was published in the Acorn, and posted at City Hall, the Agoura Hills Library, and the City Recreation Center. The Draft Ordinance and IS/ND were made available for review on the City's website, and copies were available at the City Hall Planning Counter and the Agoura Hills Library. The public comment period for the IS/ND ran from May 5, 2011 to June 6, 2011.

One public comment letter, from AT&T, was received on June 6, 2011. While the letter was received during the CEQA public comment period, with the exception of a statement noting that the IS/ND does not analyze the reasonably foreseeable impacts of the proposed project (Ordinance), the comments pertain to policy issues in the Ordinance itself. The letter does not describe any specific inadequacies of the IS/ND as a CEQA document or expand upon the statement that it is inadequate. Nonetheless, the letter and a response to the IS/ND comment is

included in the Final IS/ND in the "Response to Comments" section. No changes to the Ordinance or IS/ND were deemed necessary as a result of the CEQA comment in the letter. Additionally, staff is preparing a separate response to the policy items in the letter for the Planning Commission's consideration. The AT&T letter is included in the Final IS/ND, which is Attachment 7 to this report. A response to the policy items in the letter will be provided to the Planning Commission under separate cover.

In addition to the letter provided to the City as part of the CEQA process, described above, one letter has been submitted by the California Wireless Association (CalWA), dated June 10, 2011, that addresses policy items in the Ordinance. The letter, and a response to the comments in the letter, will be provided to the Planning Commission under separate cover.

Minor changes to the Ordinance have been made based on the policy comments in the AT&T and CalWA letters. The changes have been incorporated into Attachment 3 (Draft Wireless Telecommunications Facilities Ordinance No. 11-387). The version of the Ordinance that shows the revisions in "track changes mode" is included within the Final IS/ND (Attachment 7).

RECOMMENDATION

Staff recommends that the Planning Commission adopt a resolution recommending that: (1) the City Council adopt Ordinance No. 11-387; and (2) the City Council adopt the Negative Declaration, and make environmental findings pursuant to the California Environmental Quality Act.

Attachments:

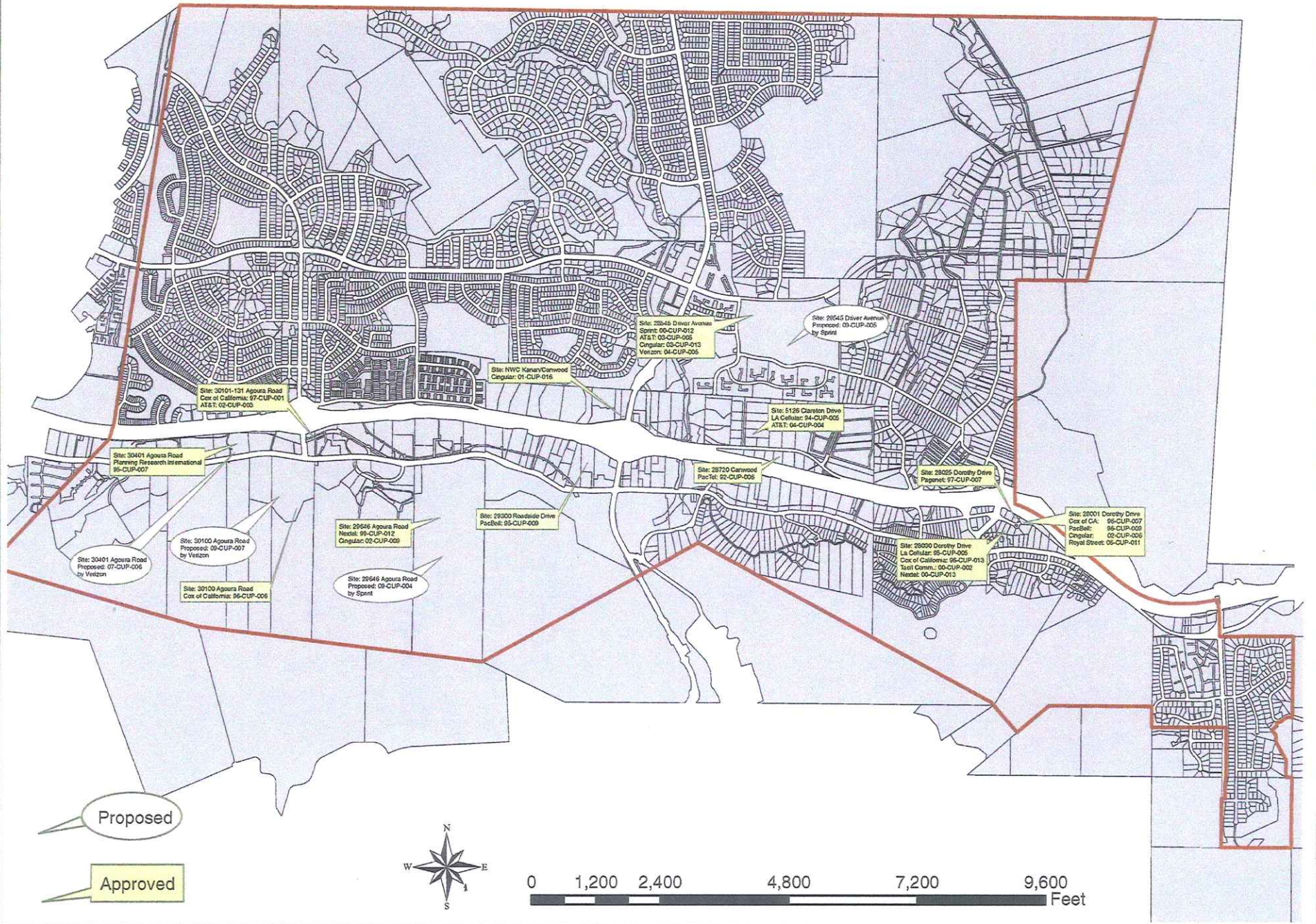
1. Map of Approved and Proposed Wireless Telecommunications Facilities.
2. Photos of Types of Facilities.
3. Draft Wireless Telecommunications Facilities Ordinance No. 11-387.
4. Currently Allowed Locations – Wireless Telecommunications Facilities.
5. General Plan Figure M-1 (Roadway Classifications).
6. Tiers I and II Locations – Wireless Telecommunications Facilities Ordinance.
7. Final Initial Study/Negative Declaration for the Wireless Telecommunications Facilities Ordinance.
8. Resolution No. _____.

Case Planner: Allison Cook, Principal Planner

Attachment 1

**Map of Approved and Proposed
Wireless Telecommunications Facilities**

Approved and Proposed Wireless Telecommunication Facilities (As of April 2010)



Attachment 2
Photos of Types of Facilities

Types of Wireless Facilities

Side Mounted on Building



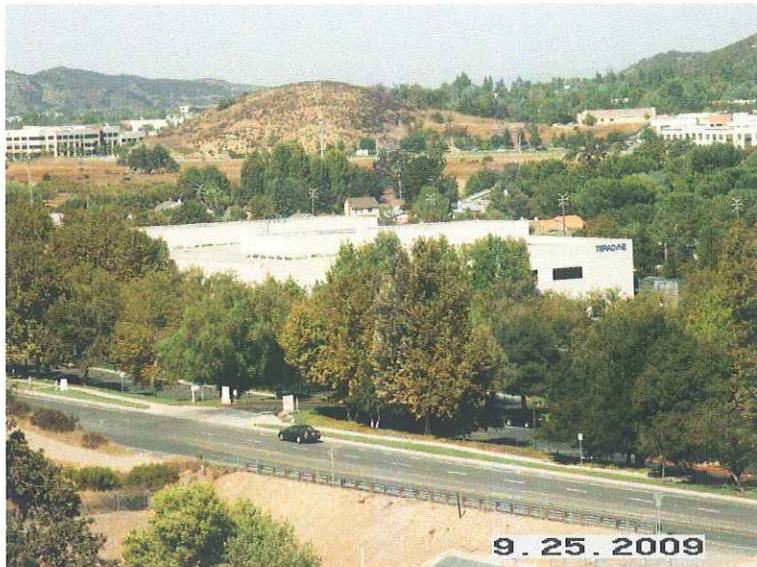
1 - White panels side mounted on Agoura Town Center Building wall.

Enclosed in Building



2 - Facility to right of Renaissance Hotel sign, fully enclosed in building.

Roof Mounted Behind Parapet of Building



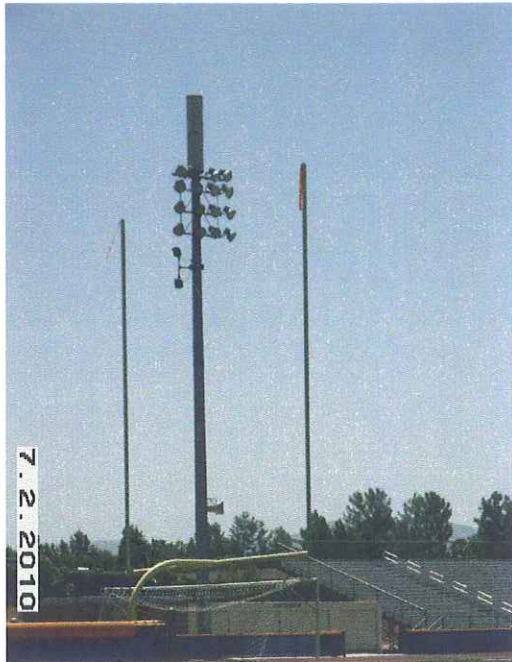
3 - Equipment screened by roof parapet wall on former Teradyne building.

Roof Mounted - Part of Architecture



4 - Equipment enclosed behind parapet wall above "For Lease" sign, and a whip antenna at far corner of building, near trees.

Utility Pole



5 - Facility enclosed in cylinder on top of stadium lighting at Agoura High School.

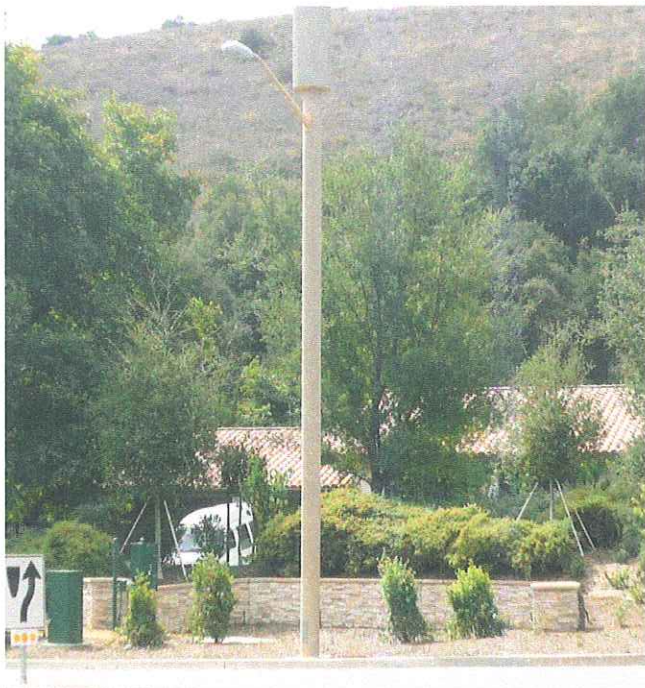


6 - Facility enclosed in cylinder on top of light pole in Newbury Park. Note regular light pole to right of one in foreground. The accessory equipment is underground, except for electrical meter and vents.

Accessory Equipment



7 – Detail of accessory equipment underground, except for electrical meter and vents. Retaining wall protects structure.



8 - Facility enclosed in cylinder on top of light pole in ROW in City of Thousand Oaks. The accessory equipment is underground, except for electrical meter and vents, and includes decorative wall and landscaping.

Other Towers



9 – Example of guyed tower – not in City.



10 – Example of lattice tower – not in City.



11 – Example of lattice tower – not in City.

Attachment 3

Wireless Telecommunications Ordinance

DRAFT ORDINANCE NO. 11-387

AN ORDINANCE OF THE CITY OF AGOURA HILLS, CALIFORNIA, ADDING A NEW DIVISION 11 ENTITLED "WIRELESS TELECOMMUNICATIONS FACILITIES" TO PART 2, CHAPTER 6 OF ARTICLE IX (ZONING) OF THE AGOURA HILLS MUNICIPAL CODE TO PROVIDE UNIFORM AND COMPREHENSIVE REGULATIONS AND STANDARDS, ALONG WITH PERMIT REQUIREMENTS, FOR THE INSTALLATION OF WIRELESS TELECOMMUNICATIONS FACILITIES, INCLUDING INSTALLATIONS IN THE PUBLIC RIGHT-OF-WAY, MAKING CONFORMING AMENDMENTS TO ARTICLE IX OF THE AGOURA HILLS MUNICIPAL CODE, AND REPEALING ORDINANCE NO. 09-369U, AN INTERIM URGENCY ORDINANCE RELATING TO WIRELESS COMMUNICATION FACILITIES

A. Recitals.

(i) The purpose of this Ordinance is to amend the City's Municipal Code to provide uniform and comprehensive standards and regulations, along with permit requirements, for the installation of wireless telecommunications facilities in the City, including installations on private property, public property and in the public right-of-way.

(ii) On October 14, 2009, the City Council adopted Ordinance No. 09-369U establishing a moratorium on wireless communication facilities in the City. On November 10, 2009, Ordinance No. 09-370U extended that moratorium through September 25, 2010. On August 25, 2010, Ordinance No. 10-378U further extended that moratorium, which is scheduled to expire on September 25, 2011.

(iii) On _____, the Planning Commission of the City of Agoura Hills held a duly noticed public hearing to consider Ordinance 11-387, and received testimony from City staff and all interested parties regarding the proposed amendments. Following the close of the public hearing, the Planning Commission adopted Resolution No. 11-___ recommending approval of Ordinance 11-387.

(iv) On _____, the City Council of the City of Agoura Hills conducted and concluded a duly noticed public hearing concerning the zoning code amendments contained herein as required by law, and received testimony from City staff and all interested parties regarding the proposed amendments.

(v) All legal prerequisites to the adoption of the Ordinance have occurred.

B. Ordinance.

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

SECTION 1. The facts set forth in the Recitals, Part A of this Ordinance, are true and correct.

SECTION 2. Environmental Review

A. Pursuant to the California Environmental Quality Act ("CEQA"), as amended, the CEQA Guidelines promulgated thereunder, and the City's local CEQA Guidelines, City staff prepared an Initial Study of the potential environmental effects of this proposed Ordinance and the Municipal Code amendments contained herein (the "project"). On the basis of the Initial Study, City staff for the City of Agoura Hills, acting as Lead Agency, determined that there was no substantial evidence that the project could have a significant effect on the environment; as a result, City staff prepared a Negative Declaration for the project and provided public notice of the public comment period and of the intent to adopt the Negative Declaration.

B. The City Council has independently reviewed (1) the Negative Declaration and Initial Study (both of which are attached hereto as Exhibit "A" and incorporated by this reference) and (2) all comments received, both written and oral, regarding the Negative Declaration and Initial Study, and based upon the whole record before it finds that those documents were prepared in compliance with CEQA, the CEQA Guidelines and the City's local CEQA Guidelines, that City staff has correctly concluded that there is no substantial evidence that the project will have a significant effect on the environment, and that the findings contained therein represent the independent judgment and analysis of the City Council. Based on these findings, the City Council hereby approves and adopts the Negative Declaration for this project.

C. The custodian of records for the Initial Study, Negative Declaration and all materials which constitute the record of proceedings upon which the City Council's decision was based is the City Clerk of the City of Agoura Hills. Those documents are available for public review in the Office of the City Clerk located at 30001 Ladyface Court, Agoura Hills, California 91301.

SECTION 3. Ordinance No. 09-369U establishing a moratorium on wireless communication facilities and Ordinance Nos. 09-370U and 10-378U extending that moratorium are hereby repealed as of the effective date of this Ordinance.

SECTION 4. The "W" list in Section 9312.2 Commercial Use Table 1, Part 2, Chapter 3, Article IX of the Agoura Hills Municipal Code is hereby amended by replacing the "W" list in its entirety as follows:

W.	USE, SERVICE OR FACILITY	COMMERCIAL			BUSINESS PARK	
		CS	CRS	CR	BP-OR	BP-M
1.	Watches, sale, repair	X	X		E, G, U	G
2.	Welding shop					J
3.	Wholesale distributor's service					J
4.	Wholesale store		X			X
5.	Wig sales and service	X	X			
6.	Wireless telecommunications collocation facility	BB	BB	BB	BB	BB
7.	Wireless telecommunications facility	BB	BB	BB	BB	BB
8.	Winery sales facility/tasting room	W	W			W

The City Council is currently considering adoption of Ordinance No. 11-388. On the date that Ordinance No. 11-388 becomes effective, all references in Division 11 of the Agoura Hills Municipal Code to the "Specific Plan," or "SP" district shall be changed to "Planned Development" or "PD"; zoning districts "Commercial Neighborhood," or "CN," and "Commercial Shopping Center-Mixed Use," or "CS-MU," shall be added to the list of zoning districts in Sections 9661.5.A.2., 9661.5.A.2.a., 9661.20.A.1., 9661.20.A.3., and 9661.20.B.2.; and Items 7 and 8 of the "W" list in Section 9312.2 Commercial Use Table 1, Part 2, Chapter 3, Article IX of the Agoura Hills Municipal Code shall be replaced with the following:

W.	USE, SERVICE OR FACILITY	COMMERCIAL					BUSINESS PARK	
		CS	CRS	CR	CN	CS-MU	BP-OR	BP-M
7.	Wireless telecommunications collocation facility	BB	BB	BB	BB	BB	BB	BB
8.	Wireless telecommunications facility	BB	BB	BB	BB	BB	BB	BB

SECTION 5. Item 19 in the "P" list in Section 9312.2 Commercial Use Table 1, Part 2, Chapter 3, Article IX of the Agoura Hills Municipal Code is hereby amended by deleting "a. Wireless Telecommunication Facilities" and "b. Other" and replacing Item 19 in its entirety as follows:

19.	USE, SERVICE OR FACILITY	COMMERCIAL			BUSINESS PARK	
		K	K	K	K, U	K
	Public utility and public service					

SECTION 6. Paragraph BB of Section 9312.3. Special conditions, Part 2, Chapter 3, Article IX of the Agoura Hills Municipal Code is amended by replacing "BB" in its entirety as follows:

- BB. Permitted subject to issuance of either a minor conditional use permit or a conditional use permit as specified in Division 11 "Wireless Telecommunications Facilities" of this Part, beginning at section 9661 and subject to the required findings as stated in that Division.

SECTION 7. Division 11 "Wireless Telecommunications Facilities" is hereby added to Part 2, Chapter 6, Article IX of the Agoura Hills Municipal Code beginning at Section 9661 to read as follows:

"DIVISION 11. WIRELESS TELECOMMUNICATIONS FACILITIES

9661. Purpose.

The purpose and intent of this division is to provide a uniform and comprehensive set of regulations and standards for the permitting, development, siting, installation, 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 division provides standards necessary (1) for the preservation of land uses and the public right-of-way in the city, (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, (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, and (4) to encourage new and more efficient technology in the provision of wireless telecommunications facilities.

9661.1 Definitions.

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

“Antenna” means that part of a wireless telecommunications facility designed to radiate or receive radio frequency signals.

“Building-Mounted” means mounted to the side of a building, to the façade of a building, or similar structure, but not to include the roof of any structure.

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

“Collocation” means the addition of wireless telecommunications facilities to an existing wireless telecommunications facility so that one site is shared amongst the same or different carrier.

“COW” means a “cell on wheels,” which is a wireless telecommunications facility temporarily rolled in or temporarily installed.

“Facility(ies)” means both wireless telecommunications facilities and wireless telecommunications collocation facilities, unless the context specifically limits it to one or the other.

“Ground-Mounted” means mounted to a telecommunications tower.

“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: collocation, expansion, alteration, enlargement, intensification, reduction, or augmentation.

“Monopole” means a structure composed of a single spire, pole, or tower used to support antennas or related equipment. A monopole also includes a monopine, monopalm and similar monopoles camouflaged to resemble faux trees or other faux objects attached on a monopole.

“Mounted” means attached or supported.

"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.

"Public right-of-way" means any public street or public way now laid out or dedicated, and the space on, above or below it, and all extensions thereof, and additions thereto, under the jurisdiction of the city.

"Reviewing Authority" means the director or the planning commission, as applicable, who has the authority to review and either grant or deny a permit required by this division prior to installation or modification of a wireless telecommunications facility or wireless telecommunications collocation facility.

"Roof-Mounted" means mounted directly on the roof of any building or structure.

"Telecommunications 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.

"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 collocation facility" means a wireless telecommunications facility specifically designed for subsequent collocation as a permitted use as set forth in section 9661.10.

"Wireless telecommunications facility" means any facility that transmits and/or receives electromagnetic waves. 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.

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

(a) A facility that qualifies as an amateur station as defined by the FCC, 47 C.F.R. Part 97, of the Commission's Rules, or its successor regulation.

(b) Any antenna facility that is subject to the FCC Over-The-Air-Receiving Devices rule, 47 C.F.R. Section 1.4000, or its successor regulation, including, but not limited to, direct-to-home satellite dishes that are less than one meter (39.37") in diameter, TV antennas used to receive television broadcast signals and wireless cable antennas.

(c) Portable radios and devices including, but not limited to, hand-held, vehicular, or other portable receivers, transmitters or transceivers, cellular phones, CB radios, emergency services radio, and other similar portable devices as determined by the Director.

- (d) Government owned and operated telecommunications facilities.
- (e) Emergency medical care provider-owned and operated telecommunications facilities.
- (f) Mobile services providing public information coverage of news events of a temporary nature.
- (g) Any wireless telecommunications facilities exempted from this Code by federal law or state law.

“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 as defined in the federal Telecommunications Act of 1996 at 47 U.S.C. §332(c)(7)(C) or its successor statute, cellular service, personal communication service, and/or data radio telecommunications.

9661.2 Applicability.

This division applies to all wireless telecommunications facilities and wireless telecommunications collocation facilities, as follows:

- A. All facilities for which applications were not approved prior to _____, shall be subject to and comply with all provisions of this division;
- B. All facilities for which applications were approved by the city prior to _____ shall not be required to obtain a new or amended permit until such time as a provision of this Code so requires. Any wireless telecommunication facility or wireless telecommunications collocation facility that was lawfully constructed prior to _____ that does not comply with the standards, regulations and/or requirements of this division, shall be deemed a nonconforming use and shall also be subject to the provisions of section 9711.
- C. All facilities, notwithstanding the date approved, shall be subject immediately to the provisions of this division governing the operation and maintenance (section 9661.12), radio frequency emissions monitoring (section 9661.13), cessation of use and abandonment (section 9661.16), removal and restoration (section 9661.17) of wireless telecommunications facilities and wireless telecommunications collocation facilities and the prohibition of dangerous conditions or obstructions by such facilities (section 9661.14); provided, however, that in the event a condition of approval conflicts with a provision of this division, the condition of approval shall control until the permit is amended or revoked.
- D. Notwithstanding (B) above, no modification shall be made to any facility that was approved prior to _____, unless the permits required by this division have been obtained from the city.

9661.3 Wireless Telecommunications Facility Permit Requirements.

- A. *Permit Required.* No wireless telecommunications facility or wireless telecommunications collocation facility shall be located within the city on any property, including the public right-of-way, unless the permits required by this division have been obtained from the city. No modification to a wireless telecommunications facility or wireless telecommunications collocation facility shall be made unless the permits required by this division have been obtained from the city.
- B. *Type of Permit Required.* Either a minor conditional use permit or a conditional use permit is required, depending upon location and type of facility proposed, as set forth in sections 9661.5, 9661.6, and 9661.10. If a facility has been permitted pursuant to a minor conditional use permit or a conditional use permit, any modification to the facility shall require either an amended permit, or if the type of permit required has changed, a new permit of the type set forth in this division.
- C. A wireless telecommunications facility, wireless telecommunications collocation facility, and/or a telecommunications tower or other wireless telecommunications support structure, which is built on speculation and for which there is no wireless tenant is prohibited within the city.

9661.4 Application for Permit.

- A. *Purpose.* This section sets forth the application submittal requirements for all permits required by this division. The purpose of this section is, in part, to ensure that this division is implemented to the full extent permitted by the Telecommunications Act of 1996.
- B. *Supplemental Application.* In addition to the information required of an applicant for a minor conditional use permit or conditional use permit, each applicant requesting approval of the installation or modification of a wireless telecommunications facility or a wireless telecommunications collocation facility, regardless of location, shall fully and completely submit to the city a written supplemental application on a form prepared by the director.
- C. *Supplemental Application Contents.* The supplemental application form shall request the following information, in addition to all other information determined necessary by the director:
 - 1. The name, address and telephone number of the owner and the operator of the proposed facility, if different from the applicant.
 - 2. The type of facility.
 - 3. If the applicant is an agent, a letter of authorization from the owner of the facility. If the owner will not directly provide wireless telecommunications services, a letter of authorization from the person or entity that will provide those services.

4. If the facility will be located on the property of someone other than the owner of the facility, written authorization by any and all property owners authorizing the placement of the facility on the property owner's property.
5. A full written description of the proposed facility, its purpose, and specifications, including the height and diameter of the facility, together with evidence that demonstrates that the proposed facility has been designed to the minimum height and diameter required from a technological standpoint for the proposed site.
6. A detailed engineering plan of the proposed facility created by a qualified licensed engineer and in accordance with requirements set by the director, including a photograph and model name and number of each piece of equipment included.
7. A site plan containing the exact proposed location of the facility.
8. If the applicant requests an exception to the requirements of this division, the applicant shall provide all information and studies necessary for the city to evaluate that request.
9. An accurate visual impact analysis showing the maximum silhouette, viewshed analysis, color and finish palette and proposed screening for the facility, including scaled photo simulations.
10. Completion of the radio frequency (RF) emissions exposure guidelines checklist contained in Appendix A to the Federal Communications Commission's (FCC) "Local Government Official's Guide to Transmitting Antenna RF Emission Safety" to determine whether the facility will be "categorically excluded" as that term is used by the FCC.
11. For a facility that is not categorically excluded, the applicant shall also provide a technically detailed report certified by a qualified radio frequency engineer indicating the amount of radio frequency emissions expected from the proposed facility and associated accessory equipment, as well as the cumulative impacts of the other existing facilities at the site to the extent permitted by federal law, including co-located facilities, and stating that emissions from the proposed facility individually and combined with the cumulative emissions of on-site facilities will not exceed standards set by the Federal Communications Commission.
12. Documentation certifying that the applicant has obtained all applicable licenses or other approvals required by the Federal Communications Commission to provide the services proposed in connection with the application.
13. A noise study prepared by a qualified acoustic engineer documenting the level of noise to be emitted by the proposed facility and its potential effects on surrounding uses.

14. A conceptual landscape plan showing existing trees and vegetation and all proposed landscaping, concealment, screening and proposed irrigation with a discussion of how the chosen material at maturity will screen the site.
15. A description of the maintenance and monitoring program for the facility.
16. A written description identifying the geographic service area for the subject installation, accompanied by a master plan, including maps, that identifies the location of the proposed facility in relation to all existing and planned facilities maintained within the city by each of the applicant, operator, and owner, if different entities. The master plan shall reflect all locations anticipated for new construction and/or modifications to existing facilities, including collocation, within two years of submittal of the application. Longer range conceptual plans for a period of five years shall also be provided, if available.
17. A written statement of the applicant's willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and aesthetically desirable.
18. If the application is for a facility that will be located within the public right-of-way, the applicant shall certify that it is a telephone corporation or state the basis for its claimed right to enter the right-of-way. If the applicant has a certificate of public convenience and necessity (CPCN) issued by the California Public Utilities Commission, it shall provide a copy of its CPCN.
19. An application fee, a deposit for a consultant's review as set forth in paragraph D of this section, and a deposit for review by the city's attorney, in an amount set by resolution by the City Council.
20. Any other information and/or studies determined necessary by the director may be required.

D. *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 or wireless telecommunications collocation facility. The review is intended to be a review of technical aspects of the proposed wireless telecommunications facility or wireless telecommunications collocation facility and shall address any or all of the following:

1. Compliance with applicable radio frequency emission standards;
2. Whether any requested exception is necessary to close a significant gap in coverage and is the least intrusive means of doing so;
3. The accuracy and completeness of submissions;
4. Technical demonstration of the unavailability of alternative sites or configurations and/or coverage analysis;

5. The applicability of analysis techniques and methodologies;
6. The validity of conclusions reached or claims made by applicant;
7. The viability of alternative sites and alternative designs; and
8. Any other specific technical issues designated by the city.

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

E. *Story Poles.* At the discretion of the director, the applicant may be required to erect temporary story poles to demonstrate the height and mass of a potential facility.

9661.5 Requirements for Facilities Not within the Public Right-of-Way.

The provisions of this section shall apply to wireless telecommunications facilities and wireless telecommunications collocation facilities that are located outside the public right-of-way.

A. Permit Required.

1. BP-M District.
 - a. In addition to any other permit required pursuant to this Code, the installation or modification of a wireless telecommunications facility or wireless telecommunications collocation facility, which will be building-mounted or roof-mounted in the BP-M district, or mounted to an existing telecommunications tower in the BP-M district, except for those locations listed in section 9661.20, shall require a minor conditional use permit.
 - b. In addition to any other permit required pursuant to this Code, the installation or modification of a wireless telecommunications facility or wireless telecommunications collocation facility, which will be mounted to a new telecommunications tower in the BP-M district, except for those locations listed in section 9661.20, shall require a conditional use permit.
2. BP-OR, CRS, CS, CR, SP, U, and SH districts.
 - a. In addition to any other permit required pursuant to this Code, the installation or modification of a wireless telecommunications facility or wireless telecommunications collocation facility in the BP-OR, CRS, CS, CR, SP, U, and SH districts, except for those locations listed in section 9661.20, shall require a conditional use permit.
3. All other districts, areas and locations.

- a. In addition to any other permit required pursuant to this Code, the installation or modification of a wireless telecommunications facility or wireless telecommunications collocation facility, which will be located in a location listed in section 9661.20(A), shall require a conditional use permit and approval of an exception.
- B. *Design and Development Standards.* All wireless telecommunications facilities and wireless telecommunications collocation facilities that are located outside the public right-of-way shall be designed and maintained so 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 and camouflage design techniques in the design and placement of wireless telecommunications facilities and wireless telecommunication collocation facilities in order to ensure that the facility is as visually inconspicuous as possible, to prevent the facility from dominating the surrounding area, and to hide the facility from predominant views from surrounding properties, all in a manner that achieves compatibility with the community.
 - b. Screening shall be designed to be architecturally compatible with surrounding structures using appropriate techniques to camouflage, disguise, and/or blend into the environment, including landscaping, color, and other techniques to minimize the facility's visual impact as well as be compatible with the architectural character of the surrounding buildings or structures in terms of color, size, proportion, style, and quality.
 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.
 - a. All facilities shall have subdued colors and non-reflective materials that blend with the materials and colors of the surrounding area and structures.
 - b. Site location and development shall preserve the pre-existing character of the site as much as possible, and facilities shall be designed and located where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening to minimize the visual impact and be compatible with existing architectural elements, building materials and other site characteristics.
 - c. Existing vegetation shall be preserved or improved, and disturbance of the existing topography of the site shall be minimized, unless such disturbance would result in less visual impact of the site on the surrounding area.

4. Antennas. The applicant shall use the least visible antennas possible to accomplish the coverage objectives. Antenna elements shall be flush mounted, to the extent feasible. All antenna mounts shall be designed so as not to preclude possible future collocation by the same or other operators or carriers. Antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their function.

5. Building-Mounted and Roof-Mounted Facilities. Building-mounted and roof-mounted facilities shall be designed and constructed to be camouflaged, concealed or screened in a manner compatible with the existing architecture of the building the wireless telecommunications facility or the wireless telecommunications collocation facility is mounted to in color, texture and type of material.
 - a. Each building-mounted facility shall be incorporated into the design elements of the building architecture.
 - i. The width and height of the facility shall be the minimum functionally necessary.
 - ii. Each facility shall not exceed more than eighteen (18) inches out from the building façade or other support structure, and no cable or antenna mounting brackets or any other associated equipment or wires shall be visible above, below, or to the side of the facility.
 - iii. The reviewing authority may consider a projection of more than eighteen (18) inches if the projection is architecturally integrated with the design of the building or structure or if it is otherwise designed to minimize its visibility.
 - iv. Any building-mounted facility that is within one hundred (100) feet of a residential district shall be located on the building or structure as far from the nearest residential use as is feasible.
 - b. Each roof-mounted facility shall be located and designed in an area of the roof where the visual impact is minimized and shall be no taller than necessary to meet the operator's service requirements.
 - i. In no case shall roof-mounted equipment on a flat roof exceed the top of the parapet or the top of the mansard measured from the roofline, and on a slope roof shall not extend above the top of roofline.
 - ii. Each roof-mounted facility shall also be screened from above if visible from higher elevations.

- iii. Any roof-mounted facility that is within one hundred (100) feet of a residential district shall be located on the roof of the building or structure as far from the nearest residential use as is feasible.

6. Ground-Mounted Facilities.

- a. Each ground-mounted facility shall be located in close proximity to existing above-ground utilities, such as electrical tower or utility poles (which are not scheduled for removal or under grounding for at least 18 months after the date of application), light poles, trees of comparable heights, and in areas where they will not detract from the appearance of the city.
- b. Each ground-mounted facility shall be designed to be the minimum functional height and width required to adequately support the proposed facility and meet Federal Communications Commission requirements, and shall be no higher than the existing poles, structures or trees near the placement of the proposed ground-mounted facility location. Even if existing poles, structures or trees are higher, no ground-mounted facility shall exceed sixty (60) feet.
- c. All installations shall be properly engineered to withstand high wind loads; an evaluation of high wind load capacity shall include the impact of modification of an existing facility.
- d. All cables, including, but not limited to, electrical and utility cables, shall be run within the interior of the telecommunications tower and/or shall be fully camouflaged or hidden.
- e. Each ground-mounted installation shall be situated so as to utilize existing natural or man-made features including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening.
- f. Monopoles and antennas and similar structures shall be no greater in diameter or other cross-sectional dimensions than is necessary for the proper functioning of the facility. The applicant shall provide documentation satisfactory to the director establishing compliance with this subsection.
- g. If a faux tree is proposed for the monopole installation, it shall be of a type of tree compatible with those existing in the immediate areas of the installation. If no trees exist within the immediate areas, the applicant shall create a landscape setting that integrates the faux tree with added species of a similar height and type. Additional camouflage of the faux tree may be required depending on the type and design of faux tree proposed.

7. Accessory Equipment. All accessory equipment associated with the operation of any wireless telecommunications facility or wireless telecommunications collocation facility shall be located and screened in a manner that is designed to minimize its visibility to the greatest extent possible, including utilizing the following screening methods for the type of installation:
 - a. Accessory equipment for building-mounted or roof-mounted facilities may be located underground, inside the building, or on the roof of the building that the facility is mounted on, provided that both the equipment and screening materials are painted the color of the building, roof, and/or surroundings. All screening materials for each roof-mounted facility shall be of a quality and design that is architecturally integrated with the design of the building or structure.
 - b. Accessory equipment for ground-mounted facilities shall be visually screened by locating the equipment within a nearby building or in an underground vault, with the exception of required electrical panels. If a building is not located near the facility or placement of the equipment in an existing building is not technically feasible, accessory equipment shall be located in an enclosed structure, and shall comply with the development and design standards of the zoning district in which the accessory equipment is located. The enclosed structure shall be architecturally treated and/or adequately screened from view by landscape plantings, walls, fencing or other appropriate means, selected so that the resulting screening will be visually integrated with the architecture and landscaping of the surroundings.
8. Landscaping. Where appropriate, each facility shall be installed so as to maintain and enhance existing landscaping on the site, including trees, foliage and shrubs, whether or not utilized for screening. Additional landscaping shall be planted, irrigated and maintained by applicant where such vegetation is deemed necessary by the city to provide screening or to block the line of sight between facilities and adjacent uses.
9. 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.
10. Lighting. No facility may be illuminated unless specifically required by the Federal Aviation Administration or other government agency. Lightning arresters and beacon lights are not permitted unless required by the Federal Aviation Administration or other government agency. Legally required lightning arresters and beacons shall be included when calculating the height of facilities. Any required lighting shall be shielded to eliminate, to the maximum extent possible, impacts on the surrounding neighborhoods, and a lighting study shall be prepared by a qualified lighting professional to evaluate potential impacts to adjacent properties.

11. Noise.

- a. Each facility shall be operated in such a manner so as to minimize any possible disruption caused by noise.
- b. 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.
- c. At no time shall equipment noise from any facility exceed an exterior noise level of fifty-five (55) dBA at the facility's property line if the facility is located in a business, commercial, manufacturing, utility or school zone or a specific plan zone that permits those uses, 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 at no time be audible at the property line of such residential property. For any facility located within a residential zone, such equipment noise shall at no time be audible at the property line of any residentially improved or residential zoned property.
- d. All air conditioning units and any other equipment that may emit noise that would be audible from beyond the facility's property line shall be enclosed or equipped with noise attenuation devices to the extent necessary to ensure compliance with applicable noise limitations under this Code.

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

13. Modification. At the time of modification of a wireless telecommunications facility or wireless telecommunications collocation 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.

C. *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, as well as any modification of these conditions or additional conditions of approval deemed necessary by the reviewing authority:

1. The permittee shall submit an as built drawing within ninety (90) days after installation of the facility.

2. 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 seven (7) 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, including official identification numbers and Federal Communications Commission certification.
 - c. Name, address and telephone number of the property owner if different than the permittee.
3. Upon any transfer or assignment of the permit, the director may require submission of any supporting materials or documentation necessary to determine that the proposed use is in compliance with the existing permit and all of its conditions of approval including, but not limited to, statements, photographs, plans, drawings, models, and analysis by a qualified radio frequency engineer demonstrating compliance with all applicable regulations and standards of the Federal Telecommunications Commission and the California Public Utilities Commission. If the director determines that the proposed operation is not consistent with the existing permit, the director shall notify the permittee who shall either revise the application or apply for modification of the permit pursuant to the requirements of the Agoura Hills Municipal Code.
4. The permittee shall not place any facilities that will deny access to, or otherwise interfere with, any public utility, easement, or right-of-way located on the site. The permittee shall allow the city reasonable access to, and maintenance of, all utilities and existing public improvements within or adjacent to the site, including, but not limited to, pavement, trees, public utilities, lighting and public signage.
5. At all times, all required notices and signs shall be posted on the site as required by the Federal Communications Commission and California Public Utilities Commission, 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.
6. At all times, the permittee shall ensure that the facility complies with the most current regulatory and operational standards including, but not limited to, radio frequency emissions standards adopted by the Federal Communications Commission and antenna height standards adopted by the Federal Aviation Administration, and shall timely submit all monitoring reports required pursuant to section 9661.13 of the Agoura Hills Municipal Code.

7. If the director determines there is good cause to believe that the facility may emit radio frequency emissions that are likely to exceed Federal Communications Commission standards, the director may require post-installation testing, at permittee's expense, or the director may require the permittee to submit a technically sufficient written report certified by a qualified radio frequency emissions engineer at other than the regularly required intervals specified in Section 9661.13 of the Agoura Hills Municipal Code, certifying that the facility is in compliance with such FCC standards.
8. Permittee shall pay for and provide a performance bond, 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 the City of Agoura Hills Municipal Code. The bond coverage shall include, but not be limited to, removal of the facility, maintenance obligations and landscaping obligations. (The amount of the performance bond shall be set by the director in an amount rationally related to the obligations covered by the bond and shall be specified in the conditions of approval.)
9. If a nearby property owner registers a noise complaint and such complaint is verified as valid by the city, the city may hire a consultant to study, examine and evaluate the noise complaint and the permittee shall pay the fee for the consultant. 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 that condition on the project after notice and a public hearing. (A condition incorporating the applicable noise limitations of this Chapter shall also be included in the conditions of approval.)
10. 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, 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 for the defense at permittee's expense.
11. "Permittee" shall include the applicant and all successors in interest to this permit.