



DATE: October 20, 2010

TO: Honorable Mayor and City Councilmembers

FROM: Development Services Department/Planning Division

SUBJECT: **CONSIDERATION OF ZONE AMENDMENT (ZA-10-00001) AND LOCAL COASTAL PLAN AMENDMENT (LCPA-10-00001) INTRODUCING ARTICLE 39 – WIRELESS COMMUNICATIONS FACILITY, SATELLITE DISH, AND ANTENNA STANDARDS – TO THE CURRENT OCEANSIDE ZONING ORDINANCE, AS WELL AS THE OCEANSIDE ZONING ORDINANCE IN EFFECT ON MAY 8, 1985; AND REPEALING SECTION 3025 – RECEPTION ANTENNAS AND COMMUNICATION FACILITIES – FROM THE CURRENT ZONING ORDINANCE – TELECOMMUNICATIONS ORDINANCE – APPLICANT: CITY OF OCEANSIDE**

**SYNOPSIS**

Staff recommends that the City Council: (1) adopt an urgency ordinance or introduce an ordinance for Zone Amendment (ZA-10-00001) amending the Zoning Ordinance by adding Article 39 – Wireless Communications Facility, Satellite Dish, and Antenna Standards – to the current Oceanside Zoning Ordinance, as well as the Oceanside Zoning Ordinance in effect on May 8, 1985; and repealing Section 3025 – Reception Antennas and Communication Facilities – from the current Zoning Ordinance for implementation Citywide, with the exception of the Redevelopment Area; and (2) adopt a resolution approving a Local Coastal Program Amendment (LCPA-10-00001) and Negative Declaration establishing the above-referenced Article as zoning regulations to be applied within the Coastal Zone.

Staff recommends that the ordinance be adopted as an urgency ordinance, to take effect upon adoption, pursuant to Government Code section 36937(b), which requires a four-fifths vote of the City Council. Absent a supermajority vote to adopt the ordinance as an urgency ordinance, staff recommends that the City Council introduce the ordinance, to be followed by adoption of the ordinance at the next regular Council meeting.

**BACKGROUND**

On October 21, 2009, the City Council directed staff to form an Ad Hoc Committee consisting of two members of the Planning Commission and two members of the Telecommunications Committee in order to make recommendations on an update to the

City's Telecommunications Ordinance (Oceanside Zoning Ordinance [OZO] Section 3025) and the design guidelines for cellular facilities in the public rights of way.

An Ad Hoc Committee was duly formed and was comprised of two members of the Telecommunications Committee (Bob Ross and Jimmy Knott) and two members of the Planning Commission (Tom Rosales and Jay Scrivener). The Ad Hoc Committee meetings were noticed and open to the public. Staff support included individuals from Information Technologies, Economic and Community Development, City Attorney and Development Services. The Committee developed a comprehensive Ordinance that requires commercial applicants to demonstrate both the need for a particular site as well as to identify all of the potential impacts of the site, and demonstrate compliance with all federal emissions regulations. The goal was to encourage telecommunications facility sites that are as unobtrusive as possible and located away from residential districts whenever possible. The Committee reviewed other cities' recent ordinances, consulted with industry experts and obtained extensive community input. Ultimately, the Committee decided to recommend repealing the existing section and creating a new, more comprehensive article that addresses not only commercial telecommunications activities, but also other antenna and communications structures.

The resultant Article 39 is to be inserted in both the existing Oceanside Zoning Ordinance and the previous Zoning Ordinance in effect in 1985 at the time the Local Coastal Plan was adopted. The LCP Amendment will ensure the same standards apply both in and out of the coastal zone. The new article will apply in all areas of the City, with the exception of the Redevelopment Area.

The Telecommunications Committee has recommended approval of proposed Article 39. The Ad Hoc Committee met on June 22, 2010, to review the draft Article 39 and recommended that it be presented to the Planning Commission for consideration. The Planning Commission considered the proposed ordinance at its August 23, 2010, meeting. A redlined version of proposed Article 39, showing changes made to the version considered by the Planning Commission, is attached.

## **ANALYSIS**

The new Article addresses several types of Facilities, including satellite dishes, television antennas, amateur radio antennas and commercial facilities. The only facilities that would not be regulated by this Article are those facilities exempt by state or federal laws, City-owned facilities, and certain non-commercial radio, television, citizen band and satellite antennas, provided such antennas do not exceed a maximum height and otherwise comply with all of the development standards of the zoning district in which they are located.

Most facilities would require a Conditional Use Permit, including amateur radio antennas that exceed the height limitations described in the previous section. Facilities that will be located on City-owned property, temporary facilities, or co-located facilities will require administrative conditional use permits. Facilities located in the rights-of-way will

require encroachment agreements and will be subject to the jurisdiction of the Engineering Division.

Article 39 includes specific application submittal requirements, including floor plans, photo simulations, landscape and maintenance plans, proof of existing gaps in coverage, a justification study indicating the rationale for selection of the proposed site, documentation that the proposed facility complies with all applicable FCC rules, regulations and standards, a description of the facility's capacity for future co-location, and a description of the services that will be offered in conjunction with the facility. The new Article 39 also gives the City Planner discretion to hire an independent technical consultant to evaluate technical aspects of the proposed facility, the costs of which shall be borne by the applicant.

In addition to the general findings required by Article 41, Article 39 adds a number of specific findings that will have to be made by the City Planner or Planning Commission before a conditional use permit or administrative conditional use permit can be issued. There are also a number of standard conditions of approval that will be placed on each conditional use permit. Additionally, each facility operator must adhere to stringent operational and maintenance standards, including the execution of a maintenance and facility removal agreement signed by the operator and property owner.

The Ad Hoc Committee considered many different locational and siting criteria, and decided on a locational siting standard that utilized a zoning "order of preference". In devising this structure, the Ad Hoc Committee intended to provide incentives for commercial carriers to place facilities on City-owned, industrial and commercial properties before public, open space, agricultural and residential districts. Thus, if an operator applies for a facility in a residential zone, the operator would have to provide evidence that there were no other reasonable choices in any of the other districts, and the facility must be a stealth facility.

The Ordinance also includes safety and monitoring standards, including demonstrated compliance with FCC regulations for RF emissions, as well as compliance with the noise and sign ordinances. It encourages technology upgrades for sites by granting the City Planner or his designee the ability to administratively approve equipment upgrades if certain criteria are met. Further, it anticipates future "green" technologies, by allowing deviations from specific design requirements of the Article on a case-by-case basis if the facility has no carbon footprint or produces power through solar- or wind-generated means.

The Ad Hoc Committee introduced the new Article at the June 2010 Telecommunications Committee meeting. Public comments elicited at the meeting are included in the public record. Subsequent to that meeting, the Ad Hoc Committee met again and made some adjustments to the draft Article in response to public comment. The Ad Hoc committee believes this ordinance adequately addresses the areas of citizen concern, while still allowing sufficient siting for commercial facilities. The ordinance is also designed to regulate and provide design guidance for other non-commercial types of antenna, including satellite dishes and amateur radio antennas.

## Amateur Radio Facilities

There has been significant public input objecting to the inclusion of amateur radio facilities in proposed Article 39. A review of Article 39 demonstrates that most of its provisions do not apply to amateur radio station antenna structures. Specifically, Section 3903.B.4 provides that the requirements of Article 39 apply only to amateur radio antennas and support structures that exceed certain height limits. Thus, a CUP is required only if an amateur radio tower is higher than the greater of (a) 36 feet above existing grade, or (b) ten feet above the height of any building on which the tower is attached, or (c) ten feet above the maximum allowable height for structures in the applicable zone where the tower is located. These height limits are actually greater than what is currently allowed under Section 3025.

Concerns were also raised about the fee for a CUP or ACUP, in the limited circumstances where such a permit would be required for an amateur radio antenna structure. The Planning Commission has recommended that City Council adopt a reduced fee for amateur radio facility permits. As described below, after the adoption of Article 39 and repeal of Section 3025, staff will present for City Council consideration a resolution revising the permit fee schedule to include a reduced amount for amateur radio facilities. To further mitigate the expense of a permit for an amateur radio tower, staff proposes that City Council Policy No. 300-14 (Enhanced Notification Program) be revised to require that—for amateur radio tower projects—notice be provided to residents living within 300 feet (rather than 1,500 feet) from the project site.

## Environmental Determination

The Negative Declaration for the project was prepared in accordance with the California Environmental Quality Act (CEQA) and was distributed for public review between July 7 and August 9, 2010. The Negative Declaration determined that there will not be a significant adverse impact upon the environment due to implementation of proposed Article 39. Numerous public comments were received regarding the new ordinance and CEQA review, which are attached to this staff report. One of the main comments was a request that there be a moratorium on approval of new cell sites until Article 39 is approved. In lieu of a moratorium, staff has expedited the processing of the new ordinance that will be heard by the City Council at its October 20, 2010 meeting and recommends that the ordinance be adopted as an urgency measure, to take effect immediately upon adoption. Under the provisions of the CEQA, the City Council will need to consider the Negative Declaration during its hearing on the project.

In response to the Notice of Intent to Adopt a Negative Declaration, staff received a letter dated August 9, 2010, from Channel Law Group, LLP, on behalf of American Tower Corporation (“ATC”) attached. ATC contends that the Initial Study does not analyze the reasonably foreseeable effects of the proposed ordinance on the environment. Specifically, ATC notes that existing facilities will become subject to the provisions of the proposed ordinance upon expiration of an existing use permit, and contends that for such facilities that exceed the maximum height limits, more stringent

findings will be required to allow the facilities to remain. The proposed ordinance, ATC claims, “would theoretically require the height of existing stand-alone facilities to be reduced when the permits for those facilities come up for renewal,” and this reduction in height would reduce coverage, thereby impacting the environment.

CEQA requires the preparation of an EIR whenever it can be fairly argued on the basis of substantial evidence that the project may have significant environmental impact. However, substantial evidence “is not argument, speculation, unsubstantiated opinion or narrative...” (§ 21080, subd. (e)(2); see also CEQA Guidelines, § 15384, subd. (a).) Mere uncorroborated opinion or rumor does not constitute substantial evidence.

Staff believes the ATC has not established substantial evidence of a fair argument of an environmental impact. ATC’s argument is based upon pure speculation that existing wireless facilities that exceed the zoning district’s height limit will likely be forced to be taken down. Nothing in the record supports this conclusion. Under the proposed ordinance, wireless communication facilities higher than ten feet above the maximum height allowed in the applicable zoning district are allowable if, among other findings, the height is found to be reasonably necessary for the co-location of facilities for the efficient operation of the proposed facility. The current ordinance has similar requirements for exceeding the maximum height allowed in the applicable zone. Applications for new CUPs for existing co-located facilities that exceed the height limits could make the showing necessary to meet the requirements of proposed section 3907.B.2. Such facilities could also be allowed under proposed section 3920 if strict application of the ordinance would prohibit coverage.

Nevertheless, to address ATC’s stated concerns, the proposed ordinance has been revised to allow an exception to the height limit for existing stand-alone facilities that are otherwise in compliance with conditions of approval and all other applicable laws.

**COMMISSION/COMMITTEE REVIEW**

The Telecommunications Committee reviewed proposed Article 39 on June 4, 2010, and recommended by a 6-0 vote that the City Council approve Article 39. The Ad Hoc Committee reviewed proposed Article 39 on June 22, 2010, and recommended that it be presented to the Planning Commission for consideration.

On August 23, 2010, the Planning Commission held a public hearing on the subject Oceanside Zoning Ordinance amendments and voted 6-0 to recommend approval to the City Council, with the following additional recommendations:

1. That the City Council adopt an urgency ordinance to ensure immediate implementation of the Telecommunications Ordinance.
2. That a provision be added to the proposed Telecommunication Ordinance requiring wireless telecommunication facilities located in any zone district adjacent to a residential zone district to be set back an appropriate distance from the residential property line.

3. That a provision be added to the Telecommunications Ordinance requiring a monetary penalty for wireless communication facilities that continue to operate after their conditional use permit (CUP) or administrative conditional use permit (ACUP) has expired.
4. That a provision be added to the Telecommunications Ordinance allowing reduced application fees for amateur or HAM radio operators requiring a CUP for additional height for their antenna support structures.

The Planning Commission's additional recommendations have been addressed as follows:

1. As previously noted, the Ordinance is proposed as an urgency measure.
2. Staff has added a new subsection 3911.E, which imposes setback requirements—a "fall zone"—for standalone facilities in zones adjacent to residential zones.
3. The Administrative Remedies procedures set forth in Chapter 1 of the City Code can be used where necessary to impose monetary penalties, as applicable, for non-compliance with Article 39, including operating a wireless facility without a current CUP or ACUP.
4. Permit application fees are set by Council resolution. After City Council's adoption of the Ordinance, staff will present to Council for consideration a revised fee schedule, including a reduced application fee for amateur radio facilities that require a CUP. At the same time, staff will propose that City Council Policy No. 300-14 (Enhanced Notification Program) be amended to provide for noticing to property owners and tenants residing within 300 feet (as opposed to 1,500 feet) from an amateur radio tower project site.

### **CITY ATTORNEY'S ANALYSIS**

Pursuant to Zoning Ordinance Article 4506, the City Council is authorized to hold a public hearing on the proposed Zone Amendment and Local Coastal Program Amendment. Consideration of the zoning code amendments should be based on the recommendation of the Planning Commission, the record of the Planning Commission public hearing, public input, and any other evidence introduced at the public hearing on this matter. Consideration of the Local Coastal Program Amendment should be based on evidence introduced at the public hearing including public input.

After conducting the public hearing, the Council shall affirm, modify, or reject the Planning Commission's recommendation with regard to the Zone Amendment. Adoption of the Zone Amendment as an urgency ordinance requires a four-fifths vote of City Council. After conducting the public hearing the Council shall approve, modify or reject the proposed Local Coastal Program Amendment. A modification not previously considered by the Commission shall be referred to the Commission for review and report prior to adoption of the proposed Zone Amendment.

**RECOMMENDATION**

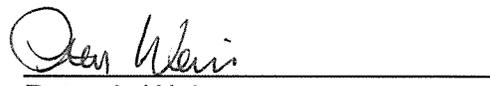
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Staff recommends that the ordinance be adopted as an urgency ordinance, to take effect upon adoption, pursuant to Government Code section 36937(b), which requires a four-fifths vote of the City Council. Absent a supermajority vote to adopt the ordinance as an urgency ordinance, staff recommends that the City Council introduce the ordinance, to be followed by adoption of the ordinance at the next regular Council meeting.

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ATTACHMENTS/EXHIBITS:

- 1. Exhibit "A" - Zoning Ordinance Text Amendment
- 2. Ordinance Introducing Article 39 to the Zoning Ordinance
- 3. City Council Resolution Amending the Local Coastal Program
- 4. Planning Commission Resolution No. 2009-P28
- 5. Planning Commission Staff Report dated August 23, 2010
- 6. Exhibit "B" - Written Communications Received to Date

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**ARTICLE 39**

**Wireless Communications Facility, Satellite Dish and Antenna Standards**

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**3901 Purpose and Intent**

This Article is intended to promote and provide for the following:

- A. Establish development standards for Wireless Communications Facilities, Satellite Dish Antennas and all other forms of antennas and accessory wireless equipment consistent with federal and state law taking into account the general welfare of City residents and visual compatibility with the existing surroundings while effectively serving the communication needs of the community.
- B. Require all Wireless Communications Facilities to be as unobtrusive as possible, minimizing the number of freestanding and non-camouflaged Communications Facilities and establishing standards and policies to ensure that Wireless Communications Facilities within the City are developed in harmony with the surrounding environment through regulation of location and design.
- C. The provisions of this Article are not intended and shall not be interpreted to prohibit or to have the effect of prohibiting wireless communications services, nor shall this Article be applied in such a manner as to unreasonably discriminate among providers of functionally equivalent wireless communications services.

**3902 Definitions**

*Antenna.* A device used in communications which radiates and/or receives any radio or television signals for commercial purposes, including but not limited to, commercial cellular, personal communication service, wireless model signals, and/or data radio signals.

*Antenna Array.* Two or more antennas having active elements extending in one (1) or more directions, and directional antennas mounted upon and rotated through a vertical mast or tower interconnecting the beam and antenna support, all of which elements are deemed to be part of the antenna.

*Antenna, Building Mounted.* Antennas which are mounted to or above a building; or mounted upon or to the side of another facility or structure such as church steeples, clock towers, sports field lighting, etc.

*Antenna Height.* The vertical distance measured from the adjacent existing ground surface to the tip of the highest point of the proposed structure.

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*Antenna Support Structure.* A pole or similar structure that supports an antenna.

*Cabinet.* Enclosure containing equipment used by telecommunication providers, or providing electricity or telephone service to a facility.

*Camouflage or Camouflaged Facility.* A Wireless Communications Facility in which the antenna, monopole, uni-pole, and/or tower, and as possible the support equipment, are hidden from public view, or effectively disguised as may reasonably be determined by the City Planner or Planning Commission as applicable, in a faux tree, monument, cupola, or other concealing structure which either mimics or which also serves as a natural or architectural feature. Concealing communications facilities in a ways that which do not mimic or appear as a natural or architectural features to the average observer are is not within the meaning of this definition.

*Co-location.* The placement or installation of Wireless Communications Facilities on existing structures upon which communications facilities already exist.

*"COW" (Cell on Wheels).* A mobile wireless telecommunications site that consists of a cellular antenna tower and electronic radio transceiver equipment on a truck or trailer, designed to be a part of a cellular network. Other types of temporary, mobile wireless telecommunications sites are included in this definition.

*Distributed Antenna Systems (DAS).* A telephone corporation operating pursuant to a Certificate of Public Convenience and Necessity issued by the California Public Utilities Commission in the business of installing distributed antenna system equipment and connecting facilities including without limitation fiber optic cables, powering locations, and hub locations.

*District.* A zoning district as defined in the Zoning Ordinance of the City of Oceanside.

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*FCC.* The Federal Communications Commission or any successor to that agency.

*Front-yard Visibility.* The facility is visible from the front yard of any existing residential unit. Except that, a wireless facility located within the public right-of-way along rear yards of residential units is not considered to have "front yard visibility" even if a portion of the facility can be viewed from a front yard. To qualify under this exception, a solid wall or fence at least five feet in height must exist between the wireless facility and the rear yard of the residential unit.

*Lattice Tower.* An open framework freestanding structure used to support one (1) or more antennas, typically with three (3) or four (4) support legs on main vertical load-bearing members.

*Mast.* Same as Antenna support structure.

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*Monopole.* A structure composed of a single pole used to support antennas or related equipment.

*Mounted.* Attached or supported.

*Nonresidential Use.* Uses such as churches, schools, residential care facilities that are not a residential use but may be allowed in a residential zone typically with a conditional use permit.

*Operator or Telecom Operator.* Any person, firm, corporation, company or other entity that directly or indirectly owns, leases, runs, manages, or otherwise controls a telecom facility or facilities within the City.

*Radio Frequency.* Electromagnetic waves in the frequency range of three hundred (300) kHz (three hundred thousand cycles per second) to 300 Ghz (three hundred billion cycles per second).

*Radome.* A visually opaque, radio frequency transparent material which may be flat or cylindrical in design and is used to visually hide antennas.

*Roof Mounted.* Mounted above the eave line of a building.

*Search Ring.* The area of service deficiency within which a new facility is proposed to address the network deficiency.

*Stealth Facility.* A Wireless Communications Facility designed to blend into the surrounding environment and to be minimally visible. It may appear as a natural feature, such as a tree or rock or other natural feature or may be incorporated into an architectural feature such as a steeple, parapet wall, light standard, or be screened by an equipment screen, landscaping or other equally suitable method.

*Support Equipment.* The physical, electrical and/or electronic equipment included within a Wireless Communications Facility used to house, power, and/or process signals to or from the facility's antenna(s).

*Telecommunications Facility, Telecom Facility, Wireless Telecommunications Facility, Wireless Communications Facility or Facility.* An installation that sends and/or receives wireless radio frequency signals or electromagnetic waves, including, but not limited to, directional, omni-directional and parabolic antennas, structures or towers to support receiving and/or transmitting devices, supporting equipment and structures, and the land or structure on which they are all situated. The term does not include mobile transmitting devices, such as vehicle or hand-held radios/telephones and their associated transmitting antennas.

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*Uni-pole.* A monopole that does not have antenna elements other than the pole itself or the antenna elements are concealed inside a radome of the same diameter as the pole or exceeding the pole diameter by no greater than six (6) inches.

### 3903 Applicability

This Article shall apply to all Wireless Communications Facilities providing voice and/or data transmission, including but not limited to, mobile telephone services, fixed microwave services, mobile data services, and limited digitized video transmissions and services, except as provided below:

- A. Exempt by State and/or Federal Regulations. A Wireless Communications Facility shall be exempt from the provisions of this Article if and to the extent state or federal law preempts local regulation of the Facility.
- B. Exempt Subject to Locational Requirements. The following are exempt from the provisions of this Article if such facilities meet all required setbacks and development standards as outlined in the particular zoning district in which the facility will be sited.
  - 1. Radio or Television Antenna. Any single ground or building mounted receive-only radio or television antenna for the sole use of owners or occupants of the parcel or common interest development on which such antenna is located. The maximum height of such antenna shall not exceed ten (10) feet higher than the building height prescribed for the zone in which the antenna is located.
  - 2. Satellite Dish Antenna. Up to three (3) ground or building mounted receive-only radio or television satellite dish antennas, not exceeding one meter in diameter for the sole use of owners or occupants of the parcel or unit in the common interest development, apartment building or mobile home park on which the antenna is located.
  - 3. Citizen Band Antenna. Any ground or building-mounted citizens' band radio antenna not exceeding thirty-six (36) feet above existing grade, including any mast.
  - 4. Amateur Radio Antenna. Any antenna support structure such as a mast, tower and/or building, and including the antenna(s) affixed thereto used by authorized amateur radio stations licensed by the FCC provided that the maximum height shall not exceed the greater of (a) thirty-six (36) feet above existing grade or (b) ten (10) feet above the height of the building to which the antenna and/or mast is attached, or (c) ten feet above the maximum structure height prescribed for the zone in which the antenna is located.
- C. City Antennas. Antennas, antenna masts, and ancillary structures owned and operated by the City.

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D. D.—Wireless Communication Facilities located within the public right-of-way, except as provided in Section 3910.

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### 3904 Conditional Use Permit Required

A. A Wireless Communications Facility that is not exempt pursuant to Section 3903, or other provision of this Article, shall be required to obtain one or more Conditional Use Permits pursuant to Article 41 and in accordance with this Article as follows:

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1. Wireless Communications Facilities located on parcels in any zoning designation in the City unless such Facilities are entirely located in a public right-of-way, are co-located, or are sited on parcels owned or controlled by the City.
2. Amateur Radio Antennas, including the antenna support structure such as a mast, tower and/or building, and including the antenna(s) affixed thereto, that exceed in height the greater of (a) thirty-six (36) feet above ground level or (b) ten (10) feet above the height of the building to which the antenna and/or mast is attached, or (c) ten feet above the maximum structure height for the zoning district in which the antenna will be located. Provided that, in order to issue such a Conditional Use Permit, the Planning Commission, in addition to any other required findings, must also find that:
  - a. The application is submitted by an amateur radio operator licensed by the FCC;
  - b. The permitted location is listed by the FCC as the address associated with the amateur radio operator or is the primary residence of the amateur radio operator;
  - c. Allowance of the additional height and/or width is necessary to reasonably accommodate amateur radio service communications;
  - d. Based on technical showings by the amateur radio operator applicant no lesser antenna heights and no alternative antenna structures (such as retractable antennas support structures) would reasonably accommodate the amateur radio operator's needs;
  - e. The regulation constitutes the minimum practicable regulation to accomplish the city's goal of promoting public health and safety;
  - f. The regulation does not preclude amateur radio service communications;
  - g. The installation will comply with adopted Building Codes and all other adopted health and safety codes and shall be subject to inspection by the City to determine compliance therewith;
  - h. A permit for an Amateur Radio Antenna shall be personal to the amateur radio operator to whom the permit is granted, and shall not run with the

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land, and shall only be transferrable to another amateur radio licensee taking possession of the property where the permitted Amateur Radio Antenna is located upon prior application to and non-discretionary approval by the City;

- i. A Conditional Use Permit for an Amateur Radio Antenna shall automatically terminate and the permitted facilities shall be removed within 90 days thereafter if the permittee:
  - (1) Has his or her amateur radio license revoked by the FCC, or
  - (2) voluntarily cancels or forfeits his or her amateur radio license, or
  - (3) does not renew his or her amateur radio license within three months after its expiration.

B. Amateur Radio Antennas shall comply with all other applicable provisions of this Article except where specifically exempted.

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### **3905 Administrative Conditional Use Permit**

Unless a Wireless Communication Facility is exempt pursuant to Section 3903 or requires one or more Conditional Use Permits pursuant to Section 3904, an Administrative Conditional Use Permit shall be required for all other proposed Wireless Communications Facilities, including, but not limited to, the following:

- A. Wireless Communication Facilities located on property owned or controlled by the City.
- B. Temporary facilities operated by Wireless Communication Providers, such as Cell on Wheel (COW) or other temporary and mobile facilities, for a maximum period of 60 days.
- C. Co-located wireless facilities located on an approved Wireless Communication Facility, except as may be permitted by Government Code section 65850.6(a).

### **3906 Application Submittal Requirements**

In addition to other application submittal requirements that are imposed by this Article, the City Planner shall develop and update as necessary an application form to permit the City to develop a suitable written administrative record in wireless planning cases. The form shall include, but not be limited to, the following for any application for a Wireless Communications Facility:

- A. Site plan, drawn to scale, indicating all existing and proposed features of the proposed site;
- B. A complete project description, including the following information regarding the proposed Wireless Communication Facility:
  1. Number, size and approximate orientation of antennas;

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2. Heights of proposed facilities;
  3. Equipment enclosure type and size;
  4. Construction timeframe for equipment enclosure;
  5. Materials and colors of antennas;
  6. Description of structures necessary to support the proposed antennas and to house ancillary equipment;
  7. Description of lighting;
  8. Description of noise/acoustical information for equipment such as air conditioning units and back-up generators;
  9. Description of identification and safety signage;
  10. Description of access to the facility;
  11. Description of utility line extensions needed to serve the facility;
  12. Backup power sources, if proposed;
  13. Proposed radio frequency emissions information.
- C. Floor plans, elevations and cross-sections of any proposed equipment shelter or other appurtenant structure at a scale no smaller than one-fourth inch equals one foot with clear indication of all exterior materials and colors. Paint and materials samples shall be provided.
  - D. Photo simulations depicting the actual size of the proposed Facility, including all antennas and equipment shelters, shall be submitted for review. The number of photo simulations required to fully depict the impact of the facility on the surrounding area shall be at the discretion of the City Planner.
  - E. A landscape plan including but not limited to landscaping or vegetation replacement and maintenance consistent with the type of facility proposed and the zone in which it is located.
  - F. A plan for maintenance of the site, including trash removal, graffiti removal within 48 hours, and facility upkeep.
  - G. Proof of any existing gap(s) in coverage, and the radius of area from which an antenna may be located to eliminate the gap(s).
  - H. A justification study with a search ring indicating the rationale for selection of the proposed site, in view of the relative merits of any feasible alternative site within the service area. This study shall also include the applicant's master plan which indicates the proposed site in relation to the provider's existing and proposed network of sites within the City and surrounding areas, including map and narrative description of each site. For modifications or alterations to existing facilities, the applicant shall submit a justification study limited to the need to modify, alter or expand the facility.
  - I. Documentation that the proposed Facility complies with all applicable FCC rules, regulations and standards.

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- J. A statement that includes a declaration regarding the facility's capacity for future co-location, supporting information regarding why the proposed wireless facility location is required, and an explanation as to why the site was not co-located. In the case of non co-located ground-mounted facilities, applications shall state the alternative sites considered and provide substantial evidence why they were rejected. The applicant shall demonstrate good faith to co-locate on exiting facilities.
- K. A description of services offered in conjunction with the proposed facility.
- L. At the discretion of the City Planner, the City may hire an independent, qualified consultant (the "Technical Consultant") to evaluate any technical aspect of the proposed Communication Facility, including but not limited to: drive test data that indicate current site coverages and proposed coverages; potential for interference with existing or planned public safety emergency response telecommunication facilities; analysis of feasibility of alternate screening methods or devices; or, alternate (more suitable) locations. Where the City Planner elects to hire a Technical Consultant, the applicant shall deposit with the City a sum equal to the expected fee of the Technical Consultant and shall promptly reimburse the City for all reasonable costs associated with the consultation exceeding the expected fee. Any unexpended deposit held by the City at the time of withdrawal or final action on the application shall be promptly returned to the applicant.
- M. Any additional items deemed necessary by the City Planner to make the findings required in Section 3907.

### 3907 Findings For Approval

- A. In addition to any general findings otherwise required by this Article or any other provision of the Zoning Ordinance, the following findings must be made prior to the approval of a Conditional Use Permit or Administrative Conditional Use Permit for Wireless Communications Facilities (except for Amateur Radio Antennas):
  1. The placement, construction, or modification of a Wireless Communications Facility in the proposed location is necessary for the provision of wireless services to City residents, businesses, and their owners, customers, guests or other persons traveling in or about the City;
  2. The proposal demonstrates a reasonable attempt to minimize stand-alone facilities, is designed to protect the visual quality of the City, and will not have an undue adverse impact on historic resources, scenic views, or other natural or man-made resources;
  3. Where an applicant claims a significant gap in its coverage, that gap must be geographically defined and the gap proved by clear and convincing evidence.

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The burden of objectively proving a significant gap in its coverage rests solely with the applicant. Where a significant gap in the applicant's coverage is so proven, the applicant must also prove by clear and convincing evidence that the facility proposed is the least intrusive means of closing the significant gap in coverage;

4. That at least one of the following is true:
  - a. All applicable requirements and standards of this Article have been met;
  - b. A variance has been granted from any requirement or standard of this Article which has not been met; or
  - c. Strict compliance with the requirements and standards of this Article would prevent a Telecom Operator from closing a proven significant gap in its service, not provide for adequate radio frequency signal reception and that no other alternative and less intrusive design of the facility that would meet the development standards is feasible; or
  - d. Strict compliance with the requirements and standards of this Article would prohibit or have the effect of prohibiting the provision of personal wireless services or would unreasonably discriminate among providers of functionally equivalent wireless communications services.

B. The following additional findings must be made prior to approving a Conditional Use Permit increasing the allowable height as provided in this Article (except amateur radio antennas):

1. Alternatives have been provided to staff, including but not limited to additional and/or different locations and designs, and staff has determined that the application as approved would have a lesser impact on the aesthetics and welfare of the surrounding community as compared to other alternatives;
2. Based on evidence presented the additional height greater than ten (10) feet above the maximum building height for the applicable zone is reasonably necessary for co-location of facilities for the efficient operation of the proposed facility. (This finding is not applicable to stand-alone Facilities that exist on the effective date of this Ordinance and that are in full compliance with the conditions of approval and all other applicable federal, state and local laws.); and
3. Any negative impacts of the proposed facility are properly mitigated.

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### **3908 Standard Conditions of Approval**

Each Wireless Communications Facility or antenna which is approved through a conditional use permit shall be subject to the following standard conditions of approval, in addition to any other condition deemed appropriate by the City Planner or Planning Commission, as the case may be:

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- A. The Wireless Communications Facility permitted by this Section shall be erected, operated and maintained in compliance with this Article.
- B. Within ~~30~~ thirty (30) calendar days following the installation of any Wireless Communications Facility permitted by this Article, the applicant shall provide FCC documentation to the City Planner indicating that the unit has been inspected and tested in compliance with FCC standards. Such documentation shall include the make and model (or other identifying information) of the unit tested, the date and time of the inspection, the methodology used to make the determination, the name and title of the person(s) conducting the tests, and a certification that the unit is properly installed and working within applicable FCC standards. As to DAS installations, the required FCC documentation certification shall be made only by the wireless carrier(s) using the DAS system rather than the DAS system provider.
- C. The installation of any Wireless Communications Facility shall be in compliance with all applicable provisions of the State Building Standards Code and any applicable local amendments thereto.
- D. Any substantial change in the type of antenna and/or facility installed in a particular location shall require the prior approval of the City Planner or his designee. Failure to obtain the prior approval of the City Planner or his designee may be grounds for institution of use permit revocation proceedings as well as grounds to institute any other enforcement action available under federal, state or local law.
- E. Co-location of Wireless Communications Facilities pursuant to this Article shall be required whenever feasible.

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### 3909 Operation and Maintenance Standards

Wireless Communication Facilities shall comply with the following operation and maintenance standards at all times. Failure to comply shall be considered a violation of the conditions of approval and constitute a violation of this Article subject to any remedy available under the Zoning Ordinance or other applicable law as well as a basis for institution of revocation proceedings of a permit pursuant to this Article, Article 41 and Article 47.

- A. ~~A.~~ Except for exempt facilities, a maintenance and facility removal agreement shall be executed by the operator and the property owner (if other than the City). No permit shall become effective until such agreement has been executed. Said agreement shall bind the operator and property owner and their successors and assigns to the facility to the following:

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- 1. ~~1.~~ Maintain the appearance of the facility;

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2. ~~2.~~—Remove the facility when required by this Article or by any condition of approval, or when it is determined that the facility will not have been used during any current consecutive six month period, or if the facility will be abandoned;
  3. ~~3.~~—(Except for Amateur Radio Antennas) Pay all costs the City reasonably incurs to monitor a facility's compliance with conditions of approval and applicable law;
  4. ~~4.~~—Reimburse the City for any and all costs incurred for work required by this Article, applicable law, or the conditions of a permit issued by the City for the Facility which the operator and property owner fail to perform within 30 days after written notice from the City to do so or sooner if required by the City for good cause;
  5. ~~5.~~—In the case of a freestanding tower or monopole (except for an Amateur Radio Antenna) the agreement shall obligate the operator and owner to lease space on the tower, at a fair market rent, to other Wireless Communication providers to the maximum extent consistent with the operational requirements of the facility, and shall further require that the permittee shall not prohibit the installation of other Wireless Communications Facilities on the same property;
  6. ~~6.~~—Where the City Planner or Planning Commission or City Council, as the case may be, determines that it is necessary to ensure compliance with the conditions of approval or otherwise provide for removal of a Facility that is temporary in nature or upon its disuse, the operator or owner may be required to post a performance bond, cash or a letter of credit or other security acceptable to the City Planner in the amount of ten thousand dollars (\$10,000), or such higher amount as the City Planner reasonably determines is necessary to ensure compliance with the maintenance and facility removal agreement. This requirement shall not apply to an amateur radio antenna.
- B. ~~B.~~—Each Wireless Communication Facility shall include signage approved by the City Planner identifying the name and phone number of a party to contact in the event of an emergency. Such signage must comply with any applicable provisions of this Article and Article 33 (sign ordinance).
- C. ~~C.~~—Wireless Communication Facilities and the sites on which they are located shall be maintained in good repair, free from trash, debris, litter and graffiti and other forms of vandalism. Any damage from any cause shall be corrected within five days of written notice by the City. Graffiti shall be removed as soon as practicable, and in no event longer than 48 hours after notice by the City.
- D. ~~D.~~—The owner or operator of a Wireless Communication Facility shall maintain landscaping in accordance with an approved landscape plan and shall replace

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dying or dead trees, foliage or other landscape elements shown on the approved plans within 30 days of written notification by City. Amendments or modifications of the approved landscape plan shall not be made without written City approval.

- E. E.—A Wireless Communication Facility shall be operated to minimize noise impacts to surrounding residents and persons using nearby facilities and recreation areas. All equipment that may emit noise in excess of the levels permitted by Article 38 of the City Municipal Code (noise ordinance) shall be enclosed. Backup generators shall only be used during periods of power outages or for testing.
- F. F.—Temporary power may be allowed during the initial construction or major repair of a Facility for the minimal amount of time necessary to complete the work. The operator shall provide a timeline to the City Planner and keep staff updated as to the time of completion.
- G. G.—Radio Frequency Emissions Safety. No Wireless Communication Facility may, by itself or in conjunction with other Wireless Communication Facilities generate radio frequency emissions in excess of the standards for permissible human exposure, as provided by applicable federal regulations including 47 C.F.R. 1.1307 *et seq.*

### 3910 Public Rights-of-Way

- A. Wireless Communication Facilities located in the City Rights-of-Way shall be required to obtain an encroachment agreement permit prior to installation and shall be subject to the jurisdiction of the City Engineer or his designee who shall, consistent with California Public Utility Code Sections 7901 and 7901.1, determine the time, place and manner of construction for all facilities located within public rights-of-way. If the City Engineer determines that a substantial portion of the Facility will be located outside the right-of-way, then the Facility shall be required to comply with this Article.
- B. Placement of a Wireless Communication Facility in a public right-of-way shall require approval of an encroachment agreement by the City Council. No encroachment agreement shall be approved where the applicant fails to satisfy the City Council, in its sole discretion, that the standards set forth in Section 3907.A.1 through 3907.A.3 are met.

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### 3911 Wireless Communication Facility Standards

The following development and design standards shall be used to review any application for a Conditional Use Permit or Administrative Conditional Use Permit for Wireless Communication Facility pursuant to this Article and Article 41. Additionally, if any facility is proposed to be sited in the Coastal Zone as defined by the Local Coastal

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Program (LCP), such facility must also comply with all applicable provisions of the LCP. All Wireless Communication Facilities (except amateur radio antennas) shall be planned, designed, located, erected, operated, and maintained in accordance with the following standards:

- A. Wireless Communication Facilities shall comply with all development standards within the applicable zoning district of the subject site, except parking and landscape coverage.
- B. Height limits for all Wireless Communication Facilities shall be in accordance with this Article.
- C. All Wireless Communication Facilities and Accessory Wireless Equipment shall comply with the applicable provisions of Articles 33 (sign ordinance) and 38 (noise ordinance) of the City's Municipal Code.
- D. Visual Impact Screening Standards: All Wireless Communication Facilities shall to the greatest extent reasonably possible employ Camouflage Design Techniques to minimize visual impacts and provide appropriate screening. The Facility shall be maintained at all times in a "like new" condition and such techniques shall be employed to make the installation, operation and appearance of the facility as visually inconspicuous as possible. Depending on the proposed site and surroundings, certain Camouflage Design Techniques may be deemed by the City as ineffective or inappropriate and alternative techniques may be required. The following Camouflage Design Techniques shall be considered based on different installation situations.

1. For building-mounted installations.

- a. Screening materials matched in color, size, proportion, style, texture, and quality with the exterior design and architectural character of the structure and the surrounding visual environment.
- b. Facility components, including all antenna panels, shall be mounted either inside the structure or behind the proposed screening elements and not on the exterior face of the structure.
- c. The Camouflage Design Techniques applied shall result in an installation that is camouflaged and prevents the facility from visually dominating the surrounding area. Camouflage Design Techniques should be used to hide the installation from predominant views from surrounding properties.

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2. For Structure-Mounted Installations excluding Monopole Installations

- a. All antenna panels and accessory components mounted on the exterior of the structure shall be painted and textured or otherwise coated to match the predominant color and surface texture of the mounting structure.

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- b. When required by the City, antenna panels shall be located and arranged on the structure so as to replicate the installation and appearance of the equipment already mounted to the structure.
- c. The Camouflage Design Techniques applied shall result in an installation that is camouflaged and prevents the facility from visually dominating the surrounding area. Camouflage Design Techniques should be used to hide the installation from direct view from surrounding properties.
- d. Antennas shall not be mounted on above ground water storage tanks.

### 3. For Monopole Installations

- a. Monopole installations 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.
- b. All antenna components and support equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background and/or adjacent architecture so as to visually blend in with the surrounding development. Subdued colors and non-reflective materials that blend with surrounding materials and colors shall be used.
- c. In certain conditions, such as locations that are readily visible from residential or open space areas where there is heightened sensitivity for visual impacts and compatibility, the measures described above may not be sufficient to create an effectively camouflaged installation. In these cases, additional measures may be required by the City, including but not limited to enclosing the Wireless Communications Facility entirely within a vertical screening structure (suitable architectural feature such as a clock tower, bell tower, icon sign, lighthouse, windmill, etc.) may be required through the permit process. All facility components, including the antennas, shall be mounted inside the structure.
- d. Camouflage Design Techniques employed shall result in an installation that either will blend in with the predominant visual backdrop or will disguise the facility so it appears to be a decorative or attractive architectural feature. If Camouflage Design Techniques for monopoles do not adequately hide or prevent direct viewing of the facility, then the permit may be denied.

- 4. Co-location Facilities. Co-location installation shall use screening methods similar to those used on the existing Wireless Communication Facility. If the City Planner determines existing screening methods do not conform to the Camouflage Design standards herein, additional screening methods may be

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required for the co-located facilities. Use of other appropriate screening methods may be considered through the substantial conformity process.

5. "Cell on Wheels" (COW): A COW or other similar temporary and mobile Wireless Communications Facility installation may require screening to reduce visual impacts depending on the duration of the permit and the setting of the proposed site. If screening methods are determined to be necessary, the appropriate screening methods, considering the temporary nature and length of the permitted use, will be determined through the Conditional Use Permit or administrative review (including but not limited to the Administrative Conditional Use Permit or Substantial Conformity process.)
6. For Accessory Wireless Equipment: All accessory wireless equipment associated with the operation of any Wireless Communication Facility shall be screened. The following screening techniques shall be considered based on the type of installation:

- a. Accessory wireless equipment for building mounted facility 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 roof-mounted facilities shall be of a quality and design that is architecturally compatible and consistent with the design of the building or structure.
- b. Accessory wireless equipment for freestanding facilities, not mounted on a building, may be visually screened by locating the equipment within a fully enclosed building or in an underground vault. For above ground installations not within an enclosed building, screening shall consist of walls, landscaping, or walls combined with landscaping to effectively screen the facility at the time of installation. All wall and landscaping materials shall be selected so that the resulting screening will be visually integrated with the architecture and landscape architecture of the surrounding area.
- c. All accessory wireless equipment shall be placed and mounted in the least visually obtrusive location possible.

- e.E. All freestanding Wireless Communication Facilities to be located in any zone district adjacent to a residential zone district shall be located on a site so as to provide a minimum distance equal to 110 percent of the height of the facility from the residential property line.

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### 3912 Locational and Siting Standards

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- A. General. Wireless Communications Facilities (except amateur radio antennas) shall be installed on properties in the following order of preference (the greatest preference is listed first):
1. City-owned or controlled property;
  2. Parcels located in Industrial Districts;
  3. Parcels located in Commercial Districts;
  4. Parcels located within Public and Semi Public Districts;
  5. Parcels located in Open Space Districts;
  6. Parcels located in Agricultural Districts, \*subject to the locational criteria described herein (i.e., not on or near primary residences);
  7. Parcels located in Residential Districts.
- B. Wireless Communication Facility installation in a less-preferred zone shall not be permitted unless the applicant demonstrates by clear and convincing evidence that it would be infeasible to install the facility in a more preferred zone and still close a proven significant gap in coverage by the least intrusive means.
- C. Wireless Communication Facilities shall be co-located where technologically feasible and where co-location would be visually superior to the otherwise necessary non-co-located facility.
- D. Wireless Communication Facilities located on vacant lots shall be considered temporary and when the site is developed, the city may require such facilities be removed, and if appropriate, replaced, with building-mounted facilities.
- E. Restricted Locations. No Wireless Communication Facility (except amateur radio antennas) shall be permitted in any of the residential zones or areas designated as within the coastal zone (excluding rights-of-way) unless:
1. The facility is designed as a stealth facility; and
  2. The law otherwise requires the City to permit such location

### 3913 Site Development Standards

A. A.—General Development Standards. All Wireless Communication Facilities shall comply with the following:

1. 4.—The maximum height of any Wireless Communication Facility, other than roof mounted facilities and amateur radio antennas, located on private property shall be ten feet above the maximum height allowed in the zoning district in which the facility is located. A Conditional Use Permit may be granted to exceed the height limitation as described in Article 41 and Section 3707.

2. 2.—Height shall be measured as follows:

a. a.—Ground mounted antennas. The height of the antenna structure shall be measured from the natural undisturbed ground surface below the center of the base of the antenna support (i.e., tower) to the top of the

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tower or from the top of the highest antenna or piece of equipment attached thereto, whichever is higher.

- b. ~~b.~~—Building mounted antennas. The height of the antenna structure shall be measured from the top of the building roof the antenna is mounted on to the top of the antenna or screening structure, whichever is higher.
- c. ~~e.~~—Utility Tower/Pole Mounted Antennas. The height of the antenna structure shall be measured from the base of the utility tower/pole, not the grade of the climbing leg foundation of the structure if the climbing leg foundation of the utility tower/pole structure is not at grade due to exposed footings.
3. ~~3.~~—Facilities located on properties owned or controlled by the City shall not exceed fifteen (15) feet above the height prescribed for the zone in which the antenna is located.
4. ~~4.~~—Wireless Communication Facilities shall conform to all building setback requirements, and all equipment associated with their operation shall comply with the development standards for the zone in which they are located.
5. ~~5.~~—Monopoles, antennas, and support structures for antennas shall be no greater in diameter or any other cross-sectional dimension that is reasonably necessary for the proper functioning and physical support of the Wireless Communication Facility.
6. ~~6.~~—All Wireless Communication Facilities must at least meet all current standards and regulations of the FCC as to radio frequency emissions, or any successor agency, and any other agency of the state or federal government with the authority to regulate Wireless Telecommunication Facilities.
7. ~~7.~~—All Wireless Telecommunication Facilities shall be designed, located and operated to avoid interference with the quiet enjoyment of adjacent properties, and at a minimum shall be subject to the noise standards of Article 38 of the Municipal Code. If the City Planner or Planning Commission as the case may be finds that the noise of such facility may have a detrimental effect on an adjacent property, they may require an independent acoustical analysis, at the applicant's expense, to identify appropriate mitigation measures.
8. ~~8.~~—Excluding amateur radio antennas and those facilities that are co-located, located within the public rights-of-way, ~~amateur radio antennas~~, or located on publicly owned or controlled property or utility infrastructure, Wireless Communication Facilities shall be separated from each other as follows, unless the applicant proves by clear and convincing evidence that the separation requirement would prevent the provider from closing a significant gap in its coverage:

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B. Any new ground mounted Wireless Telecommunication Facility located within a quarter mile (1,320 feet) of an existing ground-mounted facility must be of camouflaged design, regardless of the zone in which it is located.

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### 3914 Safety and Monitoring Standards

A. A.—At all times, Wireless Communications Facilities shall comply with the most current regulatory and operational standards including but not limited to radio frequency (RF) radiation exposure standards adopted by the FCC as provided in 47 C.F.R. § 1.1307, et seq. and FCC Office of Engineering & Technology Bulletin 65 and antenna height standards adopted by the Federal Aviation Administration (FAA). The applicant shall maintain the most current information from the FCC regarding allowable RF emissions and all other applicable regulations and standards. The applicant shall file an annual report to the permit file advising the City of any regulatory changes that require modifications to the Wireless Communication Facility and of the measures taken by the applicant to comply with such regulatory changes.

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B. B.—Upon or prior to installation, and prior to activation, of any Wireless Communications Facility the applicant shall submit to the City certification in a form acceptable to the City that the Facility will operate in compliance with all applicable FCC regulations including, but not limited to radio frequency (RF) emissions limitations. Thereafter, upon any proposed increase of at least ten percent in the effective radiated power or any proposed change in frequency use, the applicant shall submit updated certifications for review by the City. Both the initial and update certifications shall be subject to review and approval by the City Planner. At the City's sole discretion, a qualified independent radio frequency engineer, selected by and under contract to the City, may be retained to review said certifications for compliance with FCC regulations. All costs associated with the City's review of these certifications shall be the responsibility of the applicant. Absent any modifications to a Wireless Communications Facility that would cause a change to the effective radiated power or frequency use, the applicant shall submit an annual letter to the Community Development Department certifying that no such changes have been made to the site and that the facility continues to operate within the range allowed by FCC regulations.

C. C.—A Wireless Communication Facility is to be installed and maintained in compliance with the requirements of the Uniform Building Code, National Electrical Code, noise ordinance and other applicable codes, as well as other restrictions specified in this Article. The Facility operator and the property owner shall be responsible for maintaining the facility in good condition, which shall include but not be limited to regular cleaning, painting, and general upkeep and maintenance of the site.

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- D. ~~D.~~—Public access to a Wireless Communication Facility shall be restricted. Required security measures may include but not be limited to fencing, screening, and security signage, climbing prevention systems, as deemed appropriate by the City.
- E. ~~E.~~—Safety lighting or colors, if prescribed by the City or other approving agency (i.e. FAA) may be required for antenna support structures.

## 3915 Duration, Revocation And Discontinuance

- A. ~~A.~~—Two-year expiration. A permit for a Wireless Communication Facility shall expire two years after permit approval unless the applicant has obtained a Building Permit and has requested an initial building inspection.
- B. ~~B.~~—Duration of Permits and Approval.
  - 1. ~~1.~~—Permits for Wireless Communications Facilities shall be valid for an initial period of ten (10) years from the date of approval unless for a shorter period as authorized by California Government Code section 65964(b), or as specified by the approving body.
  - 2. ~~2.~~—A permit issued pursuant to this Article may be extended at the discretion of the City Planner for a maximum of three two-year terms by the City Planner upon the applicant proving by clear and convincing evidence that the facility continues to comply with all conditions of approval under which the permit was originally approved.
  - 3. ~~3.~~—A permit may be revoked pursuant to Article 47 of the Zoning Ordinance.
  - 4. ~~4.~~—All costs reasonably incurred by the City in verifying compliance and in extending or revoking an approval shall be borne by the applicant and/or permit holder.
- C. ~~C.~~—Abandonment or Discontinuance of Use. Any ~~Provider~~Telecom Operator who intends to abandon or discontinue the use of any wireless facility shall notify the City of such intention no less than 60 days prior to the final day of use.
- ~~D.~~—Wireless ~~F~~facilities with use discontinued shall be considered abandoned 90 days following the final day of use.
- D. ~~D.~~—
- E. ~~E.~~—All abandoned facilities shall be physically removed by the ~~Provider~~Telecom Operator no more than 90 days following the final day of use or of determination that the facility has been abandoned, whichever occurs first. When a wireless facility has been abandoned, but not removed, the City may cause such facilities to be removed and charge all expenses incurred in such removal to the provider.

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## 3916 Existing Facilities

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All equipment and improvements associated with a Wireless Communication Facility permitted as of the date of the adoption of this Article may continue as they presently exist, but shall constitute a legal nonconforming use to the extent they do not conform to the standards of this Article. Routine maintenance on existing, operational equipment and facilities at a legal non-conforming Wireless Facility shall not require compliance with this Article. However, replacement of any mainlines, jumpers, antennas, primary or secondary equipment or modification of any kind from a legal non-conforming Wireless Facility or expiration of an existing Conditional Use Permit or Administrative Conditional Use Permit shall require issuance of a permit pursuant to, and in compliance with this Article.

### **3917 Upgrades With New Technology**

The City finds that the technology associated with Wireless Communications equipment is subject to rapid changes and upgrades as a result of industry competition and customer demands, and anticipates that telecommunications antennas and related equipment with reduced visual impacts will be available from time to time with comparable or improved coverage and capacity capabilities. The City further finds that it is in the interest of the public health, safety, and welfare that telecommunications providers be required to replace older facilities with newer equipment of equal or greater capabilities and reduced visual impacts as technological improvements become available. Therefore, any modifications requested to an existing facility shall permit the City Planner or his designee to review the carrier's existing facility to determine whether requiring newer equipment or applying new screening techniques that reduce visual impacts is appropriate if technically feasible.

### **3918 Green Technology**

The City anticipates that the design of "green" sites (i.e., facilities that utilize alternative energy sources and/or employ technologies that leave a smaller carbon footprint than traditional methods) will be introduced as a design alternative in the near future. New facilities that are proposed using "green" technology may not be capable of strictly complying with this Article. To accommodate these facilities and therefore balance the multiple needs of the community for energy efficiency, adequate telecommunications service and aesthetics, the City may consider factors such as whether the facility has no carbon footprint and/or whether the facility produces power through solar or wind generated means.

However, any such proposals shall not eliminate the need to comply with any or all sections of this Article and even "green" facilities shall require a Conditional Use Permit or Administrative Use Permit, as appropriate. Staff shall review each "green" application on a case by case basis and in an appropriate case, may endorse deviations from the specific design requirements of this Article when staff finds that the benefit of being "green" outweighs the potential negative impacts of not meeting all requirements of this Article.

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Notwithstanding the endorsement of staff, the Planning Commission shall remain the decision-making body for all Conditional Use Permits, including those determined to be "green," unless the matter is appealed to, or called for review by the City Council, in which case the City Council shall be the decision-making body.

### **3919 Distributed Antenna Systems**

Distributed Antenna Systems Installations shall conform to the requirements of this Article.

### **3920 Federal Preemption**

Notwithstanding any other provision of this Article to the contrary, if any provision(s) of this Article would give rise to a claim by an applicant that a proposed action by the City would "prohibit or have the effect of prohibiting the provision of personal wireless services" within the meaning of 47 U.S.C. Section 332(c)(7) or would "prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service" within the meaning of 47 U.S.C. Section 253 then, at or prior to the public hearing on the application, the applicant shall submit clear and convincing evidence attesting to all specifics of the claim. If such evidence is submitted, the decision-making body shall determine if this is the case, and if so, shall, as much as possible, keep the intent of the ordinance the same while applying the provisions in such a manner as to avoid any violation of federal law. If that is not possible, the decision-making body shall find that the provision(s) cannot be implemented in a manner that does not violate federal law, and shall override the offending provisions to the extent necessary to comply with federal law.



**ORDINANCE NO.****AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF OCEANSIDE FOR ZONE AMENDMENT (ZA-10-00001)  
TO MODIFY SECTIONS OF THE OCEANSIDE ZONING  
ORDINANCE REGULATING WIRELESS  
TELECOMMUNICATIONS FACILITIES, SATELLITE  
DISHES, AND ANTENNA STANDARDS****(City of Oceanside – Applicant)**

WHEREAS, Article 30, Section 3025 of the 1992 Oceanside Zoning Ordinance established a zoning permit and land use review process for the siting of telecommunications facilities within the City of Oceanside;

WHEREAS, the City Council has determined that said Section 3025 should be updated to address and reflect changes in technology and the law;

WHEREAS, an ad hoc committee of Oceanside residents was formed for this purpose and developed a comprehensive ordinance establishing development standards for wireless communication facilities, satellite dishes and antennas in order to ensure that the residents of Oceanside are protected from the potential visual effects of such facilities;

WHEREAS, the City Council has decided that said Section 3025 be repealed and replaced by a new Article 39, and Article 39 should be added to the 1986 Oceanside Zoning Ordinance for areas in the Coastal Zone regarding regulations for Wireless Telecommunication Facilities, Satellite Dishes, and Antenna Standards;

WHEREAS, on June 4, 2010, the Telecommunications Committee of the City of Oceanside reviewed the subject requested Zoning Ordinance text amendment and voted 6-0 with one abstention to forward a recommendation of approval to the City Council for final action;

WHEREAS, on June 22, 2010, the ad hoc committee met to review the subject Zoning Ordinance and recommended that it be forwarded to the Planning Commission for consideration and approval;

1           WHEREAS, on August 23, 2010, the Planning Commission of the City of Oceanside,  
2 after holding a duly advertised public hearing as required by law, adopted Resolution No. 2010-  
3 P27 recommending approval of Zone Amendment ZA-10-00001, with recommendation of  
4 adoption of an urgency ordinance, setback of wireless facilities from residential zone districts,  
5 penalty for expired facilities, and reduced fees for Amateur Radio Operators, to the City  
6 Council for final action;

7           WHEREAS, on October 20, 2010, the City Council of the City of Oceanside  
8 held a duly advertised public hearing to consider said Zone Amendment application and the  
9 recommendation of the Planning Commission thereon and heard and considered written  
10 evidence and oral testimony by all persons regarding the proposed Zone Amendment;

11           WHEREAS, a Negative Declaration was prepared by the Resource Officer of the City of  
12 Oceanside for this project pursuant to the California Environmental Quality Act of 1970 and the  
13 State Guidelines thereto amended to date; and

14           WHEREAS, based upon such evidence, testimony and staff reports, this Council finds  
15 as follows:

16           1.     The Zoning Amendment conforms to the General Plan and Local Coastal  
17 Program of the City of Oceanside.

18           2.     The adoption of the subject Ordinance as an urgency measure is necessary for  
19 the immediate preservation of the public peace, health or safety, in that the subject Ordinance  
20 contains provisions authorizing more specific oversight and review by the City in the placement  
21 of wireless facilities, which specific provisions are not contained in existing regulations  
22 (Section 3025). Immediate adoption of the Ordinance will allow these specific provisions to be  
23 applied to pending permit applications that have not been deemed complete as of the date the  
24 Ordinance is adopted. As of October 6, 2010, 35 such permit applications had been submitted  
25 but not deemed complete.

26 //

27 //

1 NOW, THEREFORE, the City Council of the City of Oceanside does ordain as follows:

2 1. That Zone Amendment Application ZA-10-00001, amending the text of the  
3 Zoning Ordinance as specified in Exhibit "A" is hereby approved and the City Planner is hereby  
4 directed to amend the Zoning Ordinance text as specified by this Ordinance.

5 2. Article 30, Section 3025 of the 1992 Oceanside Zoning Ordinance is hereby  
6 repealed.

7 3. Notice is hereby given that the time within which judicial review must be sought on  
8 this decision is governed by Govt.C. Section 65009(c).

9 4. This Ordinance shall not be codified.

10 5. The City Clerk of the City of Oceanside is hereby directed to publish the title of this  
11 Ordinance and the text of Exhibit "A" once within fifteen (15) days after its passage in the  
12 North County Times, a newspaper of general circulation published in the City of Oceanside.  
13 This Ordinance shall take effect and be in force on the thirtieth (30th) day from and after its  
14 final passage.

15 ADOPTED as an urgency measure at a regular meeting of the City Council of the City  
16 of Oceanside, California, held on the 20th day of October, 2010, by the following vote:

17 AYES:

18 NAYS:

19 ABSENT:

20 ABSTAIN:

21  
22 \_\_\_\_\_  
Mayor of the City of Oceanside

23 ATTEST:

24 \_\_\_\_\_  
City Clerk

25 APPROVED AS TO FORM:

26 \_\_\_\_\_  
27 *Robert J. Smith, ASST.*  
28 City Attorney

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## ARTICLE 39

### **Wireless Communications Facility, Satellite Dish and Antenna Standards**

#### **3901 Purpose and Intent**

This Article is intended to promote and provide for the following:

- A. Establish development standards for Wireless Communications Facilities, Satellite Dish Antennas and all other forms of antennas and accessory wireless equipment consistent with federal and state law taking into account the general welfare of City residents and visual compatibility with the existing surroundings while effectively serving the communication needs of the community.
- B. Require all Wireless Communications Facilities to be as unobtrusive as possible, minimizing the number of freestanding and non-camouflaged Communications Facilities and establishing standards and policies to ensure that Wireless Communications Facilities within the City are developed in harmony with the surrounding environment through regulation of location and design.
- C. The provisions of this Article are not intended and shall not be interpreted to prohibit or to have the effect of prohibiting wireless communications services, nor shall this Article be applied in such a manner as to unreasonably discriminate among providers of functionally equivalent wireless communications services.

#### **3902 Definitions**

*Antenna.* A device used in communications which radiates and/or receives any radio or television signals for commercial purposes, including but not limited to, commercial cellular, personal communication service, wireless model signals, and/or data radio signals.

*Antenna Array.* Two or more antennas having active elements extending in one (1) or more directions, and directional antennas mounted upon and rotated through a vertical mast or tower interconnecting the beam and antenna support, all of which elements are deemed to be part of the antenna.

*Antenna, Building Mounted.* Antennas which are mounted to or above a building; or mounted upon or to the side of another facility or structure such as church steeples, clock towers, sports field lighting, etc.

*Antenna Height.* The vertical distance measured from the adjacent existing ground surface to the tip of the highest point of the proposed structure.

*Antenna Support Structure.* A pole or similar structure that supports an antenna.

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*Cabinet.* Enclosure containing equipment used by telecommunication providers, or providing electricity or telephone service to a facility.

*Camouflage or Camouflaged Facility.* A Wireless Communications Facility in which the antenna, monopole, uni-pole, and/or tower, and as possible the support equipment, are hidden from public view, or effectively disguised as may reasonably be determined by the City Planner or Planning Commission as applicable, in a faux tree, monument, cupola, or other concealing structure which either mimics or which also serves as a natural or architectural feature. Concealing communications facilities in ways that do not mimic or appear as natural or architectural features to the average observer is not within the meaning of this definition.

*Co-location.* The placement or installation of Wireless Communications Facilities on existing structures upon which communications facilities already exist.

*“COW” (Cell on Wheels).* A mobile wireless telecommunications site that consists of a cellular antenna tower and electronic radio transceiver equipment on a truck or trailer, designed to be a part of a cellular network. Other types of temporary, mobile wireless telecommunications sites are included in this definition.

*Distributed Antenna Systems (DAS).* A telephone corporation operating pursuant to a Certificate of Public Convenience and Necessity issued by the California Public Utilities Commission in the business of installing distributed antenna system equipment and connecting facilities including without limitation fiber optic cables, powering locations, and hub locations.

*District.* A zoning district as defined in the Zoning Ordinance of the City of Oceanside.

*FCC.* The Federal Communications Commission or any successor to that agency.

*Front-yard Visibility.* The facility is visible from the front yard of any existing residential unit. Except that, a wireless facility located within the public right-of-way along rear yards of residential units is not considered to have “front yard visibility” even if a portion of the facility can be viewed from a front yard. To qualify under this exception, a solid wall or fence at least five feet in height must exist between the wireless facility and the rear yard of the residential unit.

*Lattice Tower.* An open framework freestanding structure used to support one (1) or more antennas, typically with three (3) or four (4) support legs on main vertical load-bearing members.

*Mast.* Same as Antenna support structure.

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*Monopole.* A structure composed of a single pole used to support antennas or related equipment.

*Mounted.* Attached or supported.

*Nonresidential Use.* Uses such as churches, schools, residential care facilities that are not a residential use but may be allowed in a residential zone typically with a conditional use permit.

*Operator or Telecom Operator.* Any person, firm, corporation, company or other entity that directly or indirectly owns, leases, runs, manages, or otherwise controls a telecom facility or facilities within the City.

*Radio Frequency.* Electromagnetic waves in the frequency range of three hundred (300) kHz (three hundred thousand cycles per second) to 300 Ghz (three hundred billion cycles per second).

*Radome.* A visually opaque, radio frequency transparent material which may be flat or cylindrical in design and is used to visually hide antennas.

*Roof Mounted.* Mounted above the eave line of a building.

*Search Ring.* The area of service deficiency within which a new facility is proposed to address the network deficiency.

*Stealth Facility.* A Wireless Communications Facility designed to blend into the surrounding environment and to be minimally visible. It may appear as a natural feature, such as a tree or rock or other natural feature or may be incorporated into an architectural feature such as a steeple, parapet wall, light standard, or be screened by an equipment screen, landscaping or other equally suitable method.

*Support Equipment.* The physical, electrical and/or electronic equipment included within a Wireless Communications Facility used to house, power, and/or process signals to or from the facility's antenna(s).

*Telecommunications Facility, Telecom Facility, Wireless Telecommunications Facility, Wireless Communications Facility or Facility.* An installation that sends and/or receives wireless radio frequency signals or electromagnetic waves, including, but not limited to, directional, omni-directional and parabolic antennas, structures or towers to support receiving and/or transmitting devices, supporting equipment and structures, and the land or structure on which they are all situated. The term does not include mobile transmitting devices, such as vehicle or hand-held radios/telephones and their associated transmitting antennas.

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*Uni-pole.* A monopole that does not have antenna elements other than the pole itself or the antenna elements are concealed inside a radome of the same diameter as the pole or exceeding the pole diameter by no greater than six (6) inches.

## **3903 Applicability**

This Article shall apply to all Wireless Communications Facilities providing voice and/or data transmission, including but not limited to, mobile telephone services, fixed microwave services, mobile data services, and limited digitized video transmissions and services, except as provided below:

- A. Exempt by State and/or Federal Regulations. A Wireless Communications Facility shall be exempt from the provisions of this Article if and to the extent state or federal law preempts local regulation of the Facility.
- B. Exempt Subject to Locational Requirements. The following are exempt from the provisions of this Article if such facilities meet all required setbacks and development standards as outlined in the particular zoning district in which the facility will be sited.
  - 1. Radio or Television Antenna. Any single ground or building mounted receive-only radio or television antenna for the sole use of owners or occupants of the parcel or common interest development on which such antenna is located. The maximum height of such antenna shall not exceed ten (10) feet higher than the building height prescribed for the zone in which the antenna is located.
  - 2. Satellite Dish Antenna. Up to three (3) ground or building mounted receive-only radio or television satellite dish antennas, not exceeding one meter in diameter for the sole use of owners or occupants of the parcel or unit in the common interest development, apartment building or mobile home park on which the antenna is located.
  - 3. Citizen Band Antenna. Any ground or building-mounted citizens' band radio antenna not exceeding thirty-six (36) feet above existing grade, including any mast.
  - 4. Amateur Radio Antenna. Any antenna support structure such as a mast, tower and/or building, and including the antenna(s) affixed thereto used by authorized amateur radio stations licensed by the FCC provided that the maximum height shall not exceed the greater of (a) thirty-six (36) feet above existing grade or (b) ten (10) feet above the height of the building to which the antenna and/or mast is attached, or (c) ten feet above the maximum structure height prescribed for the zone in which the antenna is located.
- C. City Antennas. Antennas, antenna masts, and ancillary structures owned and operated by the City.

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- D. Wireless Communication Facilities located within the public right-of-way, except as provided in Section 3910.

## **3904 Conditional Use Permit Required**

- A. A Wireless Communications Facility that is not exempt pursuant to Section 3903, or other provision of this Article, shall be required to obtain one or more Conditional Use Permits pursuant to Article 41 and in accordance with this Article as follows:
  - 1. Wireless Communications Facilities located on parcels in any zoning designation in the City unless such Facilities are entirely located in a public right-of-way, are co-located, or are sited on parcels owned or controlled by the City.
  - 2. Amateur Radio Antennas, including the antenna support structure such as a mast, tower and/or building, and including the antenna(s) affixed thereto, that exceed in height the greater of (a) thirty-six (36) feet above ground level or (b) ten (10) feet above the height of the building to which the antenna and/or mast is attached, or (c) ten feet above the maximum structure height for the zoning district in which the antenna will be located. Provided that, in order to issue such a Conditional Use Permit, the Planning Commission, in addition to any other required findings, must also find that:
    - a. The application is submitted by an amateur radio operator licensed by the FCC;
    - b. The permitted location is listed by the FCC as the address associated with the amateur radio operator or is the primary residence of the amateur radio operator;
    - c. Allowance of the additional height and/or width is necessary to reasonably accommodate amateur radio service communications;
    - d. Based on technical showings by the amateur radio operator applicant no lesser antenna heights and no alternative antenna structures (such as retractable antennas support structures) would reasonably accommodate the amateur radio operator's needs;
    - e. The regulation constitutes the minimum practicable regulation to accomplish the city's goal of promoting public health and safety;
    - f. The regulation does not preclude amateur radio service communications;
    - g. The installation will comply with adopted Building Codes and all other adopted health and safety codes and shall be subject to inspection by the City to determine compliance therewith;
    - h. A permit for an Amateur Radio Antenna shall be personal to the amateur radio operator to whom the permit is granted, and shall not run with the land, and shall only be transferrable to another amateur radio licensee

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taking possession of the property where the permitted Amateur Radio Antenna is located upon prior application to and non-discretionary approval by the City;

- i. A Conditional Use Permit for an Amateur Radio Antenna shall automatically terminate and the permitted facilities shall be removed within 90 days thereafter if the permittee:
  - (1) Has his or her amateur radio license revoked by the FCC, or
  - (2) voluntarily cancels or forfeits his or her amateur radio license, or
  - (3) does not renew his or her amateur radio license within three months after its expiration.
- B. Amateur Radio Antennas shall comply with all other applicable provisions of this Article except where specifically exempted.

### **3905 Administrative Conditional Use Permit**

Unless a Wireless Communication Facility is exempt pursuant to Section 3903 or requires one or more Conditional Use Permits pursuant to Section 3904, an Administrative Conditional Use Permit shall be required for all other proposed Wireless Communications Facilities, including, but not limited to, the following:

- A. Wireless Communication Facilities located on property owned or controlled by the City.
- B. Temporary facilities operated by Wireless Communication providers, such as Cell on Wheel (COW) or other temporary and mobile facilities, for a maximum period of 60 days.
- C. Co-located wireless facilities located on an approved Wireless Communication Facility, except as may be permitted by Government Code section 65850.6(a).

### **3906 Application Submittal Requirements**

In addition to other application submittal requirements that are imposed by this Article, the City Planner shall develop and update as necessary an application form to permit the City to develop a suitable written administrative record in wireless planning cases. The form shall include, but not be limited to, the following for any application for a Wireless Communications Facility:

- A. Site plan, drawn to scale, indicating all existing and proposed features of the proposed site;
- B. A complete project description, including the following information regarding the proposed Wireless Communication Facility:
  1. Number, size and approximate orientation of antennas;
  2. Heights of proposed facilities;

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3. Equipment enclosure type and size;
  4. Construction timeframe for equipment enclosure;
  5. Materials and colors of antennas;
  6. Description of structures necessary to support the proposed antennas and to house ancillary equipment;
  7. Description of lighting;
  8. Description of noise/acoustical information for equipment such as air conditioning units and back-up generators;
  9. Description of identification and safety signage;
  10. Description of access to the facility;
  11. Description of utility line extensions needed to serve the facility;
  12. Backup power sources, if proposed;
  13. Proposed radio frequency emissions information.
- C. Floor plans, elevations and cross-sections of any proposed equipment shelter or other appurtenant structure at a scale no smaller than one-fourth inch equals one foot with clear indication of all exterior materials and colors. Paint and materials samples shall be provided.
  - D. Photo simulations depicting the actual size of the proposed Facility, including all antennas and equipment shelters, shall be submitted for review. The number of photo simulations required to fully depict the impact of the facility on the surrounding area shall be at the discretion of the City Planner.
  - E. A landscape plan including but not limited to landscaping or vegetation replacement and maintenance consistent with the type of facility proposed and the zone in which it is located.
  - F. A plan for maintenance of the site, including trash removal, graffiti removal within 48 hours, and facility upkeep.
  - G. Proof of any existing gap(s) in coverage, and the radius of area from which an antenna may be located to eliminate the gap(s).
  - H. A justification study with a search ring indicating the rationale for selection of the proposed site, in view of the relative merits of any feasible alternative site within the service area. This study shall also include the applicant's master plan which indicates the proposed site in relation to the provider's existing and proposed network of sites within the City and surrounding areas, including map and narrative description of each site. For modifications or alterations to existing facilities, the applicant shall submit a justification study limited to the need to modify, alter or expand the facility.
  - I. Documentation that the proposed Facility complies with all applicable FCC rules, regulations and standards.
  - J. A statement that includes a declaration regarding the facility's capacity for future co-location, supporting information regarding why the proposed wireless facility

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location is required, and an explanation as to why the site was not co-located. In the case of non co-located ground-mounted facilities, applications shall state the alternative sites considered and provide substantial evidence why they were rejected. The applicant shall demonstrate good faith to co-locate on existing facilities.

- K. A description of services offered in conjunction with the proposed facility.
- L. At the discretion of the City Planner, the City may hire an independent, qualified consultant (the "Technical Consultant") to evaluate any technical aspect of the proposed Communication Facility, including but not limited to: drive test data that indicate current site coverages and proposed coverages; potential for interference with existing or planned public safety emergency response telecommunication facilities; analysis of feasibility of alternate screening methods or devices; or, alternate (more suitable) locations. Where the City Planner elects to hire a Technical Consultant, the applicant shall deposit with the City a sum equal to the expected fee of the Technical Consultant and shall promptly reimburse the City for all reasonable costs associated with the consultation exceeding the expected fee. Any unexpended deposit held by the City at the time of withdrawal or final action on the application shall be promptly returned to the applicant.
- M. Any additional items deemed necessary by the City Planner to make the findings required in Section 3907.

### **3907 Findings For Approval**

- A. In addition to any general findings otherwise required by this Article or any other provision of the Zoning Ordinance, the following findings must be made prior to the approval of a Conditional Use Permit or Administrative Conditional Use Permit for Wireless Communications Facilities (except for Amateur Radio Antennas):
  1. The placement, construction, or modification of a Wireless Communications Facility in the proposed location is necessary for the provision of wireless services to City residents, businesses, and their owners, customers, guests or other persons traveling in or about the City;
  2. The proposal demonstrates a reasonable attempt to minimize stand-alone facilities, is designed to protect the visual quality of the City, and will not have an undue adverse impact on historic resources, scenic views, or other natural or man-made resources;
  3. Where an applicant claims a significant gap in its coverage, that gap must be geographically defined and the gap proved by clear and convincing evidence. The burden of objectively proving a significant gap in its coverage rests solely with the applicant. Where a significant gap in the applicant's coverage is so

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proven, the applicant must also prove by clear and convincing evidence that the facility proposed is the least intrusive means of closing the significant gap in coverage;

4. That at least one of the following is true:
  - a. All applicable requirements and standards of this Article have been met;
  - b. A variance has been granted from any requirement or standard of this Article which has not been met;
  - c. Strict compliance with the requirements and standards of this Article would prevent a Telecom Operator from closing a proven significant gap in its service, and no other alternative and less intrusive design of the facility that would meet the development standards is feasible; or
  - d. Strict compliance with the requirements and standards of this Article would prohibit or have the effect of prohibiting the provision of personal wireless services or would unreasonably discriminate among providers of functionally equivalent wireless communications services.
- B. The following additional findings must be made prior to approving a Conditional Use Permit increasing the allowable height as provided in this Article (except amateur radio antennas):
  1. Alternatives have been provided to staff, including but not limited to additional and/or different locations and designs, and staff has determined that the application as approved would have a lesser impact on the aesthetics and welfare of the surrounding community as compared to other alternatives;
  2. Based on evidence presented the additional height greater than ten (10) feet above the maximum building height for the applicable zone is reasonably necessary for co-location of facilities for the efficient operation of the proposed facility. (This finding is not applicable to stand-alone Facilities that exist on the effective date of this Ordinance and that are in full compliance with the conditions of approval and all other applicable federal, state and local laws.); and
  3. Any negative impacts of the proposed facility are properly mitigated.

### **3908 Standard Conditions of Approval**

Each Wireless Communications Facility or antenna which is approved through a conditional use permit shall be subject to the following standard conditions of approval, in addition to any other condition deemed appropriate by the City Planner or Planning Commission, as the case may be:

- A. The Wireless Communications Facility permitted by this Section shall be erected, operated and maintained in compliance with this Article.

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- B. Within thirty (30) calendar days following the installation of any Wireless Communications Facility permitted by this Article, the applicant shall provide FCC documentation to the City Planner indicating that the unit has been inspected and tested in compliance with FCC standards. Such documentation shall include the make and model (or other identifying information) of the unit tested, the date and time of the inspection, the methodology used to make the determination, the name and title of the person(s) conducting the tests, and a certification that the unit is properly installed and working within applicable FCC standards. As to DAS installations, the required FCC documentation certification shall be made only by the wireless carrier(s) using the DAS system rather than the DAS system provider.
- C. The installation of any Wireless Communications Facility shall be in compliance with all applicable provisions of the State Building Standards Code and any applicable local amendments thereto.
- D. Any substantial change in the type of antenna and/or facility installed in a particular location shall require the prior approval of the City Planner or his designee. Failure to obtain the prior approval of the City Planner or his designee may be grounds for institution of use permit revocation proceedings as well as grounds to institute any other enforcement action available under federal, state or local law.
- E. Co-location of Wireless Communications Facilities pursuant to this Article shall be required whenever feasible.

### **3909 Operation and Maintenance Standards**

Wireless Communication Facilities shall comply with the following operation and maintenance standards at all times. Failure to comply shall be considered a violation of the conditions of approval and constitute a violation of this Article subject to any remedy available under the Zoning Ordinance or other applicable law as well as a basis for institution of revocation proceedings of a permit pursuant to this Article, Article 41 and Article 47.

- A. Except for exempt facilities, a maintenance and facility removal agreement shall be executed by the operator and the property owner (if other than the City). No permit shall become effective until such agreement has been executed. Said agreement shall bind the operator and property owner and their successors and assigns to the facility to the following:
  - 1. Maintain the appearance of the facility;
  - 2. Remove the facility when required by this Article or by any condition of approval, or when it is determined that the facility will not have been used

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- during any current consecutive six month period, or if the facility will be abandoned;
3. (Except for Amateur Radio Antennas) Pay all costs the City reasonably incurs to monitor a facility's compliance with conditions of approval and applicable law;
  4. Reimburse the City for any and all costs incurred for work required by this Article, applicable law, or the conditions of a permit issued by the City for the Facility which the operator and property owner fail to perform within 30 days after written notice from the City to do so or sooner if required by the City for good cause;
  5. In the case of a freestanding tower or monopole (except for an Amateur Radio Antenna) the agreement shall obligate the operator and owner to lease space on the tower, at a fair market rent, to other Wireless Communication providers to the maximum extent consistent with the operational requirements of the facility, and shall further require that the permittee shall not prohibit the installation of other Wireless Communications Facilities on the same property;
  6. Where the City Planner or Planning Commission or City Council, as the case may be, determines that it is necessary to ensure compliance with the conditions of approval or otherwise provide for removal of a Facility that is temporary in nature or upon its disuse, the operator or owner may be required to post a performance bond, cash or a letter of credit or other security acceptable to the City Planner in the amount of ten thousand dollars (\$10,000), or such higher amount as the City Planner reasonably determines is necessary to ensure compliance with the maintenance and facility removal agreement. This requirement shall not apply to an amateur radio antenna.
- B. Each Wireless Communication Facility shall include signage approved by the City Planner identifying the name and phone number of a party to contact in the event of an emergency. Such signage must comply with any applicable provisions of this Article and Article 33 (sign ordinance).
  - C. Wireless Communication Facilities and the sites on which they are located shall be maintained in good repair, free from trash, debris, litter and graffiti and other forms of vandalism. Any damage from any cause shall be corrected within five days of written notice by the City. Graffiti shall be removed as soon as practicable, and in no event longer than 48 hours after notice by the City.
  - D. The owner or operator of a Wireless Communication Facility shall maintain landscaping in accordance with an approved landscape plan and shall replace dying or dead trees, foliage or other landscape elements shown on the approved

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- plans within 30 days of written notification by City. Amendments or modifications of the approved landscape plan shall not be made without written City approval.
- E. A Wireless Communication Facility shall be operated to minimize noise impacts to surrounding residents and persons using nearby facilities and recreation areas. All equipment that may emit noise in excess of the levels permitted by Article 38 of the City Municipal Code (noise ordinance) shall be enclosed. Backup generators shall only be used during periods of power outages or for testing.
  - F. Temporary power may be allowed during the initial construction or major repair of a Facility for the minimal amount of time necessary to complete the work. The operator shall provide a timeline to the City Planner and keep staff updated as to the time of completion.
  - G. Radio Frequency Emissions Safety. No Wireless Communication Facility may, by itself or in conjunction with other Wireless Communication Facilities generate radio frequency emissions in excess of the standards for permissible human exposure, as provided by applicable federal regulations including 47 C.F.R. 1.1307 *et seq.*

### **3910 Public Rights-of-Way**

- A. Wireless Communication Facilities located in the City rights-of-way shall be required to obtain an encroachment agreement prior to installation and shall be subject to the jurisdiction of the City Engineer or his designee who shall, consistent with California Public Utility Code Sections 7901 and 7901.1, determine the time, place and manner of construction for all facilities located within public rights-of-way. If the City Engineer determines that a substantial portion of the Facility will be located outside the right-of-way, then the Facility shall be required to comply with this Article.
- B. Placement of a Wireless Communication Facility in a public right-of-way shall require approval of an encroachment agreement by the City Council. No encroachment agreement shall be approved where the applicant fails to satisfy the City Council, in its sole discretion, that the standards set forth in Section 3907.A.1 through 3907.A.3 are met.

### **3911 Wireless Communication Facility Standards**

The following development and design standards shall be used to review any application for a Conditional Use Permit or Administrative Conditional Use Permit for Wireless Communication Facility pursuant to this Article and Article 41. Additionally, if any facility is proposed to be sited in the Coastal Zone as defined by the Local Coastal Program (LCP), such facility must also comply with all applicable provisions of the LCP.

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All Wireless Communication Facilities (except amateur radio antennas) shall be planned, designed, located, erected, operated, and maintained in accordance with the following standards:

- A. Wireless Communication Facilities shall comply with all development standards within the applicable zoning district of the subject site, except parking and landscape coverage.
- B. Height limits for all Wireless Communication Facilities shall be in accordance with this Article.
- C. All Wireless Communication Facilities and Accessory Wireless Equipment shall comply with the applicable provisions of Articles 33 (sign ordinance) and 38 (noise ordinance) of the City's Municipal Code.
- D. Visual Impact Screening Standards: All Wireless Communication Facilities shall to the greatest extent reasonably possible employ Camouflage design techniques to minimize visual impacts and provide appropriate screening. The Facility shall be maintained at all times in a "like new" condition and such techniques shall be employed to make the installation, operation and appearance of the facility as visually inconspicuous as possible. Depending on the proposed site and surroundings, certain Camouflage design techniques may be deemed by the City as ineffective or inappropriate and alternative techniques may be required. The following Camouflage design techniques shall be considered based on different installation situations.
  1. For building-mounted installations.
    - a. Screening materials matched in color, size, proportion, style, texture, and quality with the exterior design and architectural character of the structure and the surrounding visual environment.
    - b. Facility components, including all antenna panels, shall be mounted either inside the structure or behind the proposed screening elements and not on the exterior face of the structure.
    - c. The Camouflage design techniques applied shall result in an installation that is camouflaged and prevents the facility from visually dominating the surrounding area. Camouflage design techniques should be used to hide the installation from predominant views from surrounding properties.
  2. For Structure-Mounted Installations excluding Monopole Installations
    - a. All antenna panels and accessory components mounted on the exterior of the structure shall be painted and textured or otherwise coated to match the predominant color and surface texture of the mounting structure.

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- b. When required by the City, antenna panels shall be located and arranged on the structure so as to replicate the installation and appearance of the equipment already mounted to the structure.
  - c. The Camouflage design techniques applied shall result in an installation that is camouflaged and prevents the facility from visually dominating the surrounding area. Camouflage design techniques should be used to hide the installation from direct view from surrounding properties.
  - d. Antennas shall not be mounted on above ground water storage tanks.
3. For Monopole Installations
- a. Monopole installations 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.
  - b. All antenna components and support equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background and/or adjacent architecture so as to visually blend in with the surrounding development. Subdued colors and non-reflective materials that blend with surrounding materials and colors shall be used.
  - c. In certain conditions, such as locations that are readily visible from residential or open space areas where there is heightened sensitivity for visual impacts and compatibility, the measures described above may not be sufficient to create an effectively camouflaged installation. In these cases, additional measures may be required by the City, including but not limited to enclosing the Wireless Communications Facility entirely within a vertical screening structure (suitable architectural feature such as a clock tower, bell tower, icon sign, lighthouse, windmill, etc.) may be required through the permit process. All facility components, including the antennas, shall be mounted inside the structure.
  - d. Camouflage design techniques employed shall result in an installation that either will blend in with the predominant visual backdrop or will disguise the facility so it appears to be a decorative or attractive architectural feature. If Camouflage design techniques for monopoles do not adequately hide or prevent direct viewing of the facility, then the permit may be denied.
4. Co-location Facilities. Co-location installation shall use screening methods similar to those used on the existing Wireless Communication Facility. If the City Planner determines existing screening methods do not conform to the Camouflage design standards herein, additional screening methods may be

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- required for the co-located facilities. Use of other appropriate screening methods may be considered through the substantial conformity process.
5. “Cell on Wheels” (COW): A COW or other similar temporary and mobile Wireless Communications Facility installation may require screening to reduce visual impacts depending on the duration of the permit and the setting of the proposed site. If screening methods are determined to be necessary, the appropriate screening methods, considering the temporary nature and length of the permitted use, will be determined through the Conditional Use Permit or administrative review (including but not limited to the Administrative Conditional Use Permit or Substantial Conformity process.)
  6. For Accessory Wireless Equipment: All accessory wireless equipment associated with the operation of any Wireless Communication Facility shall be screened. The following screening techniques shall be considered based on the type of installation:
    - a. Accessory wireless equipment for building mounted facility 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 roof-mounted facilities shall be of a quality and design that is architecturally compatible and consistent with the design of the building or structure.
    - b. Accessory wireless equipment for freestanding facilities, not mounted on a building, may be visually screened by locating the equipment within a fully enclosed building or in an underground vault. For above ground installations not within an enclosed building, screening shall consist of walls, landscaping, or walls combined with landscaping to effectively screen the facility at the time of installation. All wall and landscaping materials shall be selected so that the resulting screening will be visually integrated with the architecture and landscape architecture of the surrounding area.
    - c. All accessory wireless equipment shall be placed and mounted in the least visually obtrusive location possible.
  - E. All freestanding Wireless Communication Facilities to be located in any zone district adjacent to a residential zone district shall be located on a site so as to provide a minimum distance equal to 110 percent of the height of the facility from the residential property line.

### 3912 Locational and Siting Standards

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- A. General. Wireless Communications Facilities (except amateur radio antennas) shall be installed on properties in the following order of preference (the greatest preference is listed first):
  - 1. City-owned or controlled property;
  - 2. Parcels located in Industrial Districts;
  - 3. Parcels located in Commercial Districts;
  - 4. Parcels located within Public and Semi Public Districts;
  - 5. Parcels located in Open Space Districts;
  - 6. Parcels located in Agricultural Districts, \*subject to the locational criteria described herein (i.e., not on or near primary residences);
  - 7. Parcels located in Residential Districts.
- B. Wireless Communication Facility installation in a less-preferred zone shall not be permitted unless the applicant demonstrates by clear and convincing evidence that it would be infeasible to install the facility in a more preferred zone and still close a proven significant gap in coverage by the least intrusive means.
- C. Wireless Communication Facilities shall be co-located where technologically feasible and where co-location would be visually superior to the otherwise necessary non-co-located facility.
- D. Wireless Communication Facilities located on vacant lots shall be considered temporary and when the site is developed, the city may require such facilities be removed, and if appropriate, replaced, with building-mounted facilities.
- E. Restricted Locations. No Wireless Communication Facility (except amateur radio antennas) shall be permitted in any of the residential zones or areas designated as within the coastal zone (excluding rights-of-way) unless:
  - 1. The facility is designed as a stealth facility; and
  - 2. The law otherwise requires the City to permit such location

## **3913 Site Development Standards**

- A. General Development Standards. All Wireless Communication Facilities shall comply with the following:
  - 1. The maximum height of any Wireless Communication Facility, other than roof mounted facilities and amateur radio antennas, located on private property shall be ten feet above the maximum height allowed in the zoning district in which the facility is located. A Conditional Use Permit may be granted to exceed the height limitation as described in Article 41 and Section 3707.
  - 2. Height shall be measured as follows:
    - a. Ground mounted antennas. The height of the antenna structure shall be measured from the natural undisturbed ground surface below the center of the base of the antenna support (i.e., tower) to the top of the tower or from

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- the top of the highest antenna or piece of equipment attached thereto, whichever is higher.
- b. Building mounted antennas. The height of the antenna structure shall be measured from the top of the building roof the antenna is mounted on to the top of the antenna or screening structure, whichever is higher.
  - c. Utility Tower/Pole Mounted Antennas. The height of the antenna structure shall be measured from the base of the utility tower/pole, not the grade of the climbing leg foundation of the structure if the climbing leg foundation of the utility tower/pole structure is not at grade due to exposed footings.
3. Facilities located on properties owned or controlled by the City shall not exceed fifteen (15) feet above the height prescribed for the zone in which the antenna is located.
  4. Wireless Communication Facilities shall conform to all building setback requirements, and all equipment associated with their operation shall comply with the development standards for the zone in which they are located.
  5. Monopoles, antennas, and support structures for antennas shall be no greater in diameter or any other cross-sectional dimension that is reasonably necessary for the proper functioning and physical support of the Wireless Communication Facility.
  6. All Wireless Communication Facilities must at least meet all current standards and regulations of the FCC as to radio frequency emissions, or any successor agency, and any other agency of the state or federal government with the authority to regulate Wireless Telecommunication Facilities.
  7. All Wireless Telecommunication Facilities shall be designed, located and operated to avoid interference with the quiet enjoyment of adjacent properties, and at a minimum shall be subject to the noise standards of Article 38 of the Municipal Code. If the City Planner or Planning Commission as the case may be finds that the noise of such facility may have a detrimental effect on an adjacent property, they may require an independent acoustical analysis, at the applicant's expense, to identify appropriate mitigation measures.
  8. Excluding amateur radio antennas and those facilities that are co-located, located within the public rights-of-way, or located on publicly owned or controlled property or utility infrastructure, Wireless Communication Facilities shall be separated from each other as follows, unless the applicant proves by clear and convincing evidence that the separation requirement would prevent the provider from closing a significant gap in its coverage:
    - B. Any new ground mounted Wireless Telecommunication Facility located within a quarter mile (1,320 feet) of an existing ground-mounted facility must be of camouflaged design, regardless of the zone in which it is located.

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## **3914 Safety and Monitoring Standards**

- A. At all times, Wireless Communications Facilities shall comply with the most current regulatory and operational standards including but not limited to radio frequency (RF) radiation exposure standards adopted by the FCC as provided in 47 C.F.R. § 1.1307, et seq. and FCC Office of Engineering & Technology Bulletin 65 and antenna height standards adopted by the Federal Aviation Administration (FAA). The applicant shall maintain the most current information from the FCC regarding allowable RF emissions and all other applicable regulations and standards. The applicant shall file an annual report to the permit file advising the City of any regulatory changes that require modifications to the Wireless Communication Facility and of the measures taken by the applicant to comply with such regulatory changes.
- B. Upon or prior to installation, and prior to activation, of any Wireless Communications Facility the applicant shall submit to the City certification in a form acceptable to the City that the Facility will operate in compliance with all applicable FCC regulations including, but not limited to radio frequency (RF) emissions limitations. Thereafter, upon any proposed increase of at least ten percent in the effective radiated power or any proposed change in frequency use, the applicant shall submit updated certifications for review by the City. Both the initial and update certifications shall be subject to review and approval by the City Planner. At the City's sole discretion, a qualified independent radio frequency engineer, selected by and under contract to the City, may be retained to review said certifications for compliance with FCC regulations. All costs associated with the City's review of these certifications shall be the responsibility of the applicant. Absent any modifications to a Wireless Communications Facility that would cause a change to the effective radiated power or frequency use, the applicant shall submit an annual letter to the Community Development Department certifying that no such changes have been made to the site and that the facility continues to operate within the range allowed by FCC regulations.
- C. A Wireless Communication Facility is to be installed and maintained in compliance with the requirements of the Uniform Building Code, National Electrical Code, noise ordinance and other applicable codes, as well as other restrictions specified in this Article. The Facility operator and the property owner shall be responsible for maintaining the facility in good condition, which shall include but not be limited to regular cleaning, painting, and general upkeep and maintenance of the site.
- D. Public access to a Wireless Communication Facility shall be restricted. Required security measures may include but not be limited to fencing, screening, and security signage, climbing prevention systems, as deemed appropriate by the City.

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- E. Safety lighting or colors, if prescribed by the City or other approving agency (i.e. FAA) may be required for antenna support structures.

### **3915 Duration, Revocation And Discontinuance**

- A. Two-year expiration. A permit for a Wireless Communication Facility shall expire two years after permit approval unless the applicant has obtained a Building Permit and has requested an initial building inspection.
- B. Duration of Permits and Approval.
  - 1. Permits for Wireless Communications Facilities shall be valid for an initial period of ten (10) years from the date of approval unless for a shorter period as authorized by California Government Code section 65964(b), or as specified by the approving body.
  - 2. A permit issued pursuant to this Article may be extended at the discretion of the City Planner for a maximum of three two-year terms by the City Planner upon the applicant proving by clear and convincing evidence that the facility continues to comply with all conditions of approval under which the permit was originally approved.
  - 3. A permit may be revoked pursuant to Article 47 of the Zoning Ordinance.
  - 4. All costs reasonably incurred by the City in verifying compliance and in extending or revoking an approval shall be borne by the applicant and/or permit holder.
- C. Abandonment or Discontinuance of Use. Any Telecom Operator who intends to abandon or discontinue the use of any wireless facility shall notify the City of such intention no less than 60 days prior to the final day of use.
- D. Wireless Facilities with use discontinued shall be considered abandoned 90 days following the final day of use.
- E. All abandoned facilities shall be physically removed by the Telecom Operator no more than 90 days following the final day of use or of determination that the facility has been abandoned, whichever occurs first. When a wireless facility has been abandoned, but not removed, the City may cause such facilities to be removed and charge all expenses incurred in such removal to the provider.

### **3916 Existing Facilities**

All equipment and improvements associated with a Wireless Communication Facility permitted as of the date of the adoption of this Article may continue as they presently exist, but shall constitute a legal nonconforming use to the extent they do not conform to the standards of this Article. Routine maintenance on existing, operational equipment and facilities at a legal non-conforming Wireless Facility shall not require compliance with this Article. However, replacement of any mainlines, jumpers, antennas, primary or

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secondary equipment or modification of any kind from a legal non-conforming Wireless Facility or expiration of an existing Conditional Use Permit or Administrative Conditional Use Permit shall require issuance of a permit pursuant to, and in compliance with this Article.

### **3917 Upgrades With New Technology**

The City finds that the technology associated with Wireless Communications equipment is subject to rapid changes and upgrades as a result of industry competition and customer demands, and anticipates that telecommunications antennas and related equipment with reduced visual impacts will be available from time to time with comparable or improved coverage and capacity capabilities. The City further finds that it is in the interest of the public health, safety, and welfare that telecommunications providers be required to replace older facilities with newer equipment of equal or greater capabilities and reduced visual impacts as technological improvements become available. Therefore, any modifications requested to an existing facility shall permit the City Planner or his designee to review the carrier's existing facility to determine whether requiring newer equipment or applying new screening techniques that reduce visual impacts is appropriate if technically feasible.

### **3918 Green Technology**

The City anticipates that the design of "green" sites (i.e., facilities that utilize alternative energy sources and/or employ technologies that leave a smaller carbon footprint than traditional methods) will be introduced as a design alternative in the near future. New facilities that are proposed using "green" technology may not be capable of strictly complying with this Article. To accommodate these facilities and therefore balance the multiple needs of the community for energy efficiency, adequate telecommunications service and aesthetics, the City may consider factors such as whether the facility has no carbon footprint and/or whether the facility produces power through solar or wind generated means.

However, any such proposals shall not eliminate the need to comply with any or all sections of this Article and even "green" facilities shall require a Conditional Use Permit or Administrative Use Permit, as appropriate. Staff shall review each "green" application on a case by case basis and in an appropriate case, may endorse deviations from the specific design requirements of this Article when staff finds that the benefit of being "green" outweighs the potential negative impacts of not meeting all requirements of this Article.

Notwithstanding the endorsement of staff, the Planning Commission shall remain the decision-making body for all Conditional Use Permits, including those determined to be "green," unless the matter is appealed to, or called for review by the City Council, in which case the City Council shall be the decision-making body.

### **3919 Distributed Antenna Systems**

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Distributed Antenna Systems Installations shall conform to the requirements of this Article.

## **3920 Federal Preemption**

Notwithstanding any other provision of this Article to the contrary, if any provision(s) of this Article would give rise to a claim by an applicant that a proposed action by the City would “prohibit or have the effect of prohibiting the provision of personal wireless services” within the meaning of 47 U.S.C. Section 332(c)(7) or would “prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service” within the meaning of 47 U.S.C. Section 253 then, at or prior to the public hearing on the application, the applicant shall submit clear and convincing evidence attesting to all specifics of the claim. If such evidence is submitted, the decision-making body shall determine if this is the case, and if so, shall, as much as possible, keep the intent of the ordinance the same while applying the provisions in such a manner as to avoid any violation of federal law. If that is not possible, the decision-making body shall find that the provision(s) cannot be implemented in a manner that does not violate federal law, and shall override the offending provisions to the extent necessary to comply with federal law.

## RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
OCEANSIDE MODIFYING THE LOCAL COASTAL PROGRAM  
WITH AMENDMENTS TO VARIOUS SECTIONS OF THE 1986  
OCEANSIDE ZONING ORDINANCE TO REGULATE WIRELESS  
COMMUNICATION FACILITIES, SATELLITE DISHES, AND  
ANTENNA STANDARDS AND REQUESTING CALIFORNIA  
COASTAL COMMISSION CERTIFICATION OF SAID  
AMENDMENT

(City of Oceanside –Applicant)  
(LCPA-10-00001)

WHEREAS, the California Coastal Act (Public Resources Code §30000, et seq.) (the "Coastal Act") requires that the City adopt a Local Coastal Program (LCP) which meets the requirements of the Coastal Act at the local level and implements its provisions and policies;

WHEREAS, on January 25, 1985, the California Coastal Commission ("Commission") approved, with suggested modifications, the City's Land Use Plan ("LUP") and, pursuant to Public Resources Code §30512.2, found the City's LUP to be consistent with the policies and requirements of Chapter 3 of the Coastal Act and to meet the basic stated goals specified in Public Resources Code §30001.5;

WHEREAS, On August 23, 2010, the Planning Commission conducted a duly advertised public hearing as prescribed by law to consider said application;

WHEREAS, on October 20, 2010, the City Council conducted a duly noticed public hearing as prescribed by law to amend the Local Coastal Program (LCPA-10-00001) through the adoption of zoning amendments applicable to the Zoning Ordinance, as specified within Exhibit "A", and as attached hereto and incorporated herein by reference;

///

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1           WHEREAS, a Negative Declaration was prepared by the Resource Officer of the City of  
2 Oceanside for this project pursuant to the California Environmental Quality Act of 1970 and the  
3 State Guidelines thereto as amended to date and hereby approved by the Planning Commission  
4 in conjunction with its recommendations on the application; and

5           WHEREAS, the City Council finds that the Local Coastal Program Amendment (LCPA-  
6 10-00001) conforms with and is adequate to carry out the land use plan of the Local Coastal  
7 Program.

8           NOW, THEREFORE, the Oceanside City Council of the City of Oceanside DOES  
9 RESOLVE as follows:

10           1. Pursuant to Public Resources Code §30510(a), the Oceanside City Council  
11 hereby certifies that the Local Coastal Program Amendment (LCPA-10-00001) is intended to be  
12 carried out in a manner fully in conformity with the Coastal Act.

13           2. Pursuant to the California Environmental Quality Act of 1970, and the State  
14 Guidelines thereto amended to date, a Negative Declaration has been issued for the project by  
15 the Resource Officer for the City of Oceanside.

16           3. Pursuant to Coastal Commission Local Coastal Program Regulations 14 CCR  
17 §13551(b), this amendment shall take effect upon Coastal Commission approval.

18           4. Notice is hereby given that the time within which judicial review must be sought  
19 on the decision is governed by Public Resources Code §30801.

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1 PASSED AND ADOPTED by the Oceanside City Council this \_\_\_\_\_ day of  
2 \_\_\_\_\_, 2010, by the following vote:

3 AYES:

4 NAYS:

5 ABSENT:

6 ABSTAIN:

7  
8 \_\_\_\_\_  
Mayor of the City of Oceanside

9  
10 ATTEST:

APPROVED AS TO FORM:

11  
12 \_\_\_\_\_  
City Clerk

11  
12   
13 \_\_\_\_\_  
City Attorney

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23  
24 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE MODIFYING THE LOCAL  
25 COASTAL PROGRAM WITH AMENDMENTS TO VARIOUS SECTIONS OF THE 1986 OCEANSIDE  
26 ZONING ORDINANCE TO REGULATE WIRELESS COMMUNICATION FACILITIES, SATELLITE  
27 DISHES, AND ANTENNA STANDARDS AND REQUESTING CALIFORNIA COASTAL COMMISSION  
28 CERTIFICATION OF SAID AMENDMENT

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## ARTICLE 39

### **Wireless Communications Facility, Satellite Dish and Antenna Standards**

#### **3901 Purpose and Intent**

This Article is intended to promote and provide for the following:

- A. Establish development standards for Wireless Communications Facilities, Satellite Dish Antennas and all other forms of antennas and accessory wireless equipment consistent with federal and state law taking into account the general welfare of City residents and visual compatibility with the existing surroundings while effectively serving the communication needs of the community.
- B. Require all Wireless Communications Facilities to be as unobtrusive as possible, minimizing the number of freestanding and non-camouflaged Communications Facilities and establishing standards and policies to ensure that Wireless Communications Facilities within the City are developed in harmony with the surrounding environment through regulation of location and design.
- C. The provisions of this Article are not intended and shall not be interpreted to prohibit or to have the effect of prohibiting wireless communications services, nor shall this Article be applied in such a manner as to unreasonably discriminate among providers of functionally equivalent wireless communications services.

#### **3902 Definitions**

*Antenna.* A device used in communications which radiates and/or receives any radio or television signals for commercial purposes, including but not limited to, commercial cellular, personal communication service, wireless model signals, and/or data radio signals.

*Antenna Array.* Two or more antennas having active elements extending in one (1) or more directions, and directional antennas mounted upon and rotated through a vertical mast or tower interconnecting the beam and antenna support, all of which elements are deemed to be part of the antenna.

*Antenna, Building Mounted.* Antennas which are mounted to or above a building; or mounted upon or to the side of another facility or structure such as church steeples, clock towers, sports field lighting, etc.

*Antenna Height.* The vertical distance measured from the adjacent existing ground surface to the tip of the highest point of the proposed structure.

*Antenna Support Structure.* A pole or similar structure that supports an antenna.

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*Cabinet.* Enclosure containing equipment used by telecommunication providers, or providing electricity or telephone service to a facility.

*Camouflage or Camouflaged Facility.* A Wireless Communications Facility in which the antenna, monopole, uni-pole, and/or tower, and as possible the support equipment, are hidden from public view, or effectively disguised as may reasonably be determined by the City Planner or Planning Commission as applicable, in a faux tree, monument, cupola, or other concealing structure which either mimics or which also serves as a natural or architectural feature. Concealing communications facilities in ways that do not mimic or appear as natural or architectural features to the average observer is not within the meaning of this definition.

*Co-location.* The placement or installation of Wireless Communications Facilities on existing structures upon which communications facilities already exist.

*“COW” (Cell on Wheels).* A mobile wireless telecommunications site that consists of a cellular antenna tower and electronic radio transceiver equipment on a truck or trailer, designed to be a part of a cellular network. Other types of temporary, mobile wireless telecommunications sites are included in this definition.

*Distributed Antenna Systems (DAS).* A telephone corporation operating pursuant to a Certificate of Public Convenience and Necessity issued by the California Public Utilities Commission in the business of installing distributed antenna system equipment and connecting facilities including without limitation fiber optic cables, powering locations, and hub locations.

*District.* A zoning district as defined in the Zoning Ordinance of the City of Oceanside.

*FCC.* The Federal Communications Commission or any successor to that agency.

*Front-yard Visibility.* The facility is visible from the front yard of any existing residential unit. Except that, a wireless facility located within the public right-of-way along rear yards of residential units is not considered to have “front yard visibility” even if a portion of the facility can be viewed from a front yard. To qualify under this exception, a solid wall or fence at least five feet in height must exist between the wireless facility and the rear yard of the residential unit.

*Lattice Tower.* An open framework freestanding structure used to support one (1) or more antennas, typically with three (3) or four (4) support legs on main vertical load-bearing members.

*Mast.* Same as Antenna support structure.

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*Monopole.* A structure composed of a single pole used to support antennas or related equipment.

*Mounted.* Attached or supported.

*Nonresidential Use.* Uses such as churches, schools, residential care facilities that are not a residential use but may be allowed in a residential zone typically with a conditional use permit.

*Operator or Telecom Operator.* Any person, firm, corporation, company or other entity that directly or indirectly owns, leases, runs, manages, or otherwise controls a telecom facility or facilities within the City.

*Radio Frequency.* Electromagnetic waves in the frequency range of three hundred (300) kHz (three hundred thousand cycles per second) to 300 Ghz (three hundred billion cycles per second).

*Radome.* A visually opaque, radio frequency transparent material which may be flat or cylindrical in design and is used to visually hide antennas.

*Roof Mounted.* Mounted above the eave line of a building.

*Search Ring.* The area of service deficiency within which a new facility is proposed to address the network deficiency.

*Stealth Facility.* A Wireless Communications Facility designed to blend into the surrounding environment and to be minimally visible. It may appear as a natural feature, such as a tree or rock or other natural feature or may be incorporated into an architectural feature such as a steeple, parapet wall, light standard, or be screened by an equipment screen, landscaping or other equally suitable method.

*Support Equipment.* The physical, electrical and/or electronic equipment included within a Wireless Communications Facility used to house, power, and/or process signals to or from the facility's antenna(s).

*Telecommunications Facility, Telecom Facility, Wireless Telecommunications Facility, Wireless Communications Facility or Facility.* An installation that sends and/or receives wireless radio frequency signals or electromagnetic waves, including, but not limited to, directional, omni-directional and parabolic antennas, structures or towers to support receiving and/or transmitting devices, supporting equipment and structures, and the land or structure on which they are all situated. The term does not include mobile transmitting devices, such as vehicle or hand-held radios/telephones and their associated transmitting antennas.

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*Uni-pole.* A monopole that does not have antenna elements other than the pole itself or the antenna elements are concealed inside a radome of the same diameter as the pole or exceeding the pole diameter by no greater than six (6) inches.

### **3903 Applicability**

This Article shall apply to all Wireless Communications Facilities providing voice and/or data transmission, including but not limited to, mobile telephone services, fixed microwave services, mobile data services, and limited digitized video transmissions and services, except as provided below:

- A. Exempt by State and/or Federal Regulations. A Wireless Communications Facility shall be exempt from the provisions of this Article if and to the extent state or federal law preempts local regulation of the Facility.
- B. Exempt Subject to Locational Requirements. The following are exempt from the provisions of this Article if such facilities meet all required setbacks and development standards as outlined in the particular zoning district in which the facility will be sited.
  - 1. Radio or Television Antenna. Any single ground or building mounted receive-only radio or television antenna for the sole use of owners or occupants of the parcel or common interest development on which such antenna is located. The maximum height of such antenna shall not exceed ten (10) feet higher than the building height prescribed for the zone in which the antenna is located.
  - 2. Satellite Dish Antenna. Up to three (3) ground or building mounted receive-only radio or television satellite dish antennas, not exceeding one meter in diameter for the sole use of owners or occupants of the parcel or unit in the common interest development, apartment building or mobile home park on which the antenna is located.
  - 3. Citizen Band Antenna. Any ground or building-mounted citizens' band radio antenna not exceeding thirty-six (36) feet above existing grade, including any mast.
  - 4. Amateur Radio Antenna. Any antenna support structure such as a mast, tower and/or building, and including the antenna(s) affixed thereto used by authorized amateur radio stations licensed by the FCC provided that the maximum height shall not exceed the greater of (a) thirty-six (36) feet above existing grade or (b) ten (10) feet above the height of the building to which the antenna and/or mast is attached, or (c) ten feet above the maximum structure height prescribed for the zone in which the antenna is located.
- C. City Antennas. Antennas, antenna masts, and ancillary structures owned and operated by the City.

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- D. Wireless Communication Facilities located within the public right-of-way, except as provided in Section 3910.

### **3904 Conditional Use Permit Required**

- A. A Wireless Communications Facility that is not exempt pursuant to Section 3903, or other provision of this Article, shall be required to obtain one or more Conditional Use Permits pursuant to Article 41 and in accordance with this Article as follows:
1. Wireless Communications Facilities located on parcels in any zoning designation in the City unless such Facilities are entirely located in a public right-of-way, are co-located, or are sited on parcels owned or controlled by the City.
  2. Amateur Radio Antennas, including the antenna support structure such as a mast, tower and/or building, and including the antenna(s) affixed thereto, that exceed in height the greater of (a) thirty-six (36) feet above ground level or (b) ten (10) feet above the height of the building to which the antenna and/or mast is attached, or (c) ten feet above the maximum structure height for the zoning district in which the antenna will be located. Provided that, in order to issue such a Conditional Use Permit, the Planning Commission, in addition to any other required findings, must also find that:
    - a. The application is submitted by an amateur radio operator licensed by the FCC;
    - b. The permitted location is listed by the FCC as the address associated with the amateur radio operator or is the primary residence of the amateur radio operator;
    - c. Allowance of the additional height and/or width is necessary to reasonably accommodate amateur radio service communications;
    - d. Based on technical showings by the amateur radio operator applicant no lesser antenna heights and no alternative antenna structures (such as retractable antennas support structures) would reasonably accommodate the amateur radio operator's needs;
    - e. The regulation constitutes the minimum practicable regulation to accomplish the city's goal of promoting public health and safety;
    - f. The regulation does not preclude amateur radio service communications;
    - g. The installation will comply with adopted Building Codes and all other adopted health and safety codes and shall be subject to inspection by the City to determine compliance therewith;
    - h. A permit for an Amateur Radio Antenna shall be personal to the amateur radio operator to whom the permit is granted, and shall not run with the land, and shall only be transferrable to another amateur radio licensee

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taking possession of the property where the permitted Amateur Radio Antenna is located upon prior application to and non-discretionary approval by the City;

- i. A Conditional Use Permit for an Amateur Radio Antenna shall automatically terminate and the permitted facilities shall be removed within 90 days thereafter if the permittee:
  - (1) Has his or her amateur radio license revoked by the FCC, or
  - (2) voluntarily cancels or forfeits his or her amateur radio license, or
  - (3) does not renew his or her amateur radio license within three months after its expiration.
- B. Amateur Radio Antennas shall comply with all other applicable provisions of this Article except where specifically exempted.

## **3905 Administrative Conditional Use Permit**

Unless a Wireless Communication Facility is exempt pursuant to Section 3903 or requires one or more Conditional Use Permits pursuant to Section 3904, an Administrative Conditional Use Permit shall be required for all other proposed Wireless Communications Facilities, including, but not limited to, the following:

- A. Wireless Communication Facilities located on property owned or controlled by the City.
- B. Temporary facilities operated by Wireless Communication providers, such as Cell on Wheel (COW) or other temporary and mobile facilities, for a maximum period of 60 days.
- C. Co-located wireless facilities located on an approved Wireless Communication Facility, except as may be permitted by Government Code section 65850.6(a).

## **3906 Application Submittal Requirements**

In addition to other application submittal requirements that are imposed by this Article, the City Planner shall develop and update as necessary an application form to permit the City to develop a suitable written administrative record in wireless planning cases. The form shall include, but not be limited to, the following for any application for a Wireless Communications Facility:

- A. Site plan, drawn to scale, indicating all existing and proposed features of the proposed site;
- B. A complete project description, including the following information regarding the proposed Wireless Communication Facility:
  - 1. Number, size and approximate orientation of antennas;
  - 2. Heights of proposed facilities;

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3. Equipment enclosure type and size;
  4. Construction timeframe for equipment enclosure;
  5. Materials and colors of antennas;
  6. Description of structures necessary to support the proposed antennas and to house ancillary equipment;
  7. Description of lighting;
  8. Description of noise/acoustical information for equipment such as air conditioning units and back-up generators;
  9. Description of identification and safety signage;
  10. Description of access to the facility;
  11. Description of utility line extensions needed to serve the facility;
  12. Backup power sources, if proposed;
  13. Proposed radio frequency emissions information.
- C. Floor plans, elevations and cross-sections of any proposed equipment shelter or other appurtenant structure at a scale no smaller than one-fourth inch equals one foot with clear indication of all exterior materials and colors. Paint and materials samples shall be provided.
- D. Photo simulations depicting the actual size of the proposed Facility, including all antennas and equipment shelters, shall be submitted for review. The number of photo simulations required to fully depict the impact of the facility on the surrounding area shall be at the discretion of the City Planner.
- E. A landscape plan including but not limited to landscaping or vegetation replacement and maintenance consistent with the type of facility proposed and the zone in which it is located.
- F. A plan for maintenance of the site, including trash removal, graffiti removal within 48 hours, and facility upkeep.
- G. Proof of any existing gap(s) in coverage, and the radius of area from which an antenna may be located to eliminate the gap(s).
- H. A justification study with a search ring indicating the rationale for selection of the proposed site, in view of the relative merits of any feasible alternative site within the service area. This study shall also include the applicant's master plan which indicates the proposed site in relation to the provider's existing and proposed network of sites within the City and surrounding areas, including map and narrative description of each site. For modifications or alterations to existing facilities, the applicant shall submit a justification study limited to the need to modify, alter or expand the facility.
- I. Documentation that the proposed Facility complies with all applicable FCC rules, regulations and standards.
- J. A statement that includes a declaration regarding the facility's capacity for future co-location, supporting information regarding why the proposed wireless facility

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location is required, and an explanation as to why the site was not co-located. In the case of non co-located ground-mounted facilities, applications shall state the alternative sites considered and provide substantial evidence why they were rejected. The applicant shall demonstrate good faith to co-locate on existing facilities.

- K. A description of services offered in conjunction with the proposed facility.
- L. At the discretion of the City Planner, the City may hire an independent, qualified consultant (the "Technical Consultant") to evaluate any technical aspect of the proposed Communication Facility, including but not limited to: drive test data that indicate current site coverages and proposed coverages; potential for interference with existing or planned public safety emergency response telecommunication facilities; analysis of feasibility of alternate screening methods or devices; or, alternate (more suitable) locations. Where the City Planner elects to hire a Technical Consultant, the applicant shall deposit with the City a sum equal to the expected fee of the Technical Consultant and shall promptly reimburse the City for all reasonable costs associated with the consultation exceeding the expected fee. Any unexpended deposit held by the City at the time of withdrawal or final action on the application shall be promptly returned to the applicant.
- M. Any additional items deemed necessary by the City Planner to make the findings required in Section 3907.

### **3907 Findings For Approval**

- A. In addition to any general findings otherwise required by this Article or any other provision of the Zoning Ordinance, the following findings must be made prior to the approval of a Conditional Use Permit or Administrative Conditional Use Permit for Wireless Communications Facilities (except for Amateur Radio Antennas):
  1. The placement, construction, or modification of a Wireless Communications Facility in the proposed location is necessary for the provision of wireless services to City residents, businesses, and their owners, customers, guests or other persons traveling in or about the City;
  2. The proposal demonstrates a reasonable attempt to minimize stand-alone facilities, is designed to protect the visual quality of the City, and will not have an undue adverse impact on historic resources, scenic views, or other natural or man-made resources;
  3. Where an applicant claims a significant gap in its coverage, that gap must be geographically defined and the gap proved by clear and convincing evidence. The burden of objectively proving a significant gap in its coverage rests solely with the applicant. Where a significant gap in the applicant's coverage is so

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proven, the applicant must also prove by clear and convincing evidence that the facility proposed is the least intrusive means of closing the significant gap in coverage;

4. That at least one of the following is true:
  - a. All applicable requirements and standards of this Article have been met;
  - b. A variance has been granted from any requirement or standard of this Article which has not been met;
  - c. Strict compliance with the requirements and standards of this Article would prevent a Telecom Operator from closing a proven significant gap in its service, and no other alternative and less intrusive design of the facility that would meet the development standards is feasible; or
  - d. Strict compliance with the requirements and standards of this Article would prohibit or have the effect of prohibiting the provision of personal wireless services or would unreasonably discriminate among providers of functionally equivalent wireless communications services.
- B. The following additional findings must be made prior to approving a Conditional Use Permit increasing the allowable height as provided in this Article (except amateur radio antennas):
  1. Alternatives have been provided to staff, including but not limited to additional and/or different locations and designs, and staff has determined that the application as approved would have a lesser impact on the aesthetics and welfare of the surrounding community as compared to other alternatives;
  2. Based on evidence presented the additional height greater than ten (10) feet above the maximum building height for the applicable zone is reasonably necessary for co-location of facilities for the efficient operation of the proposed facility. (This finding is not applicable to stand-alone Facilities that exist on the effective date of this Ordinance and that are in full compliance with the conditions of approval and all other applicable federal, state and local laws.); and
  3. Any negative impacts of the proposed facility are properly mitigated.

### **3908 Standard Conditions of Approval**

Each Wireless Communications Facility or antenna which is approved through a conditional use permit shall be subject to the following standard conditions of approval, in addition to any other condition deemed appropriate by the City Planner or Planning Commission, as the case may be:

- A. The Wireless Communications Facility permitted by this Section shall be erected, operated and maintained in compliance with this Article.

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- B. Within thirty (30) calendar days following the installation of any Wireless Communications Facility permitted by this Article, the applicant shall provide FCC documentation to the City Planner indicating that the unit has been inspected and tested in compliance with FCC standards. Such documentation shall include the make and model (or other identifying information) of the unit tested, the date and time of the inspection, the methodology used to make the determination, the name and title of the person(s) conducting the tests, and a certification that the unit is properly installed and working within applicable FCC standards. As to DAS installations, the required FCC documentation certification shall be made only by the wireless carrier(s) using the DAS system rather than the DAS system provider.
- C. The installation of any Wireless Communications Facility shall be in compliance with all applicable provisions of the State Building Standards Code and any applicable local amendments thereto.
- D. Any substantial change in the type of antenna and/or facility installed in a particular location shall require the prior approval of the City Planner or his designee. Failure to obtain the prior approval of the City Planner or his designee may be grounds for institution of use permit revocation proceedings as well as grounds to institute any other enforcement action available under federal, state or local law.
- E. Co-location of Wireless Communications Facilities pursuant to this Article shall be required whenever feasible.

### **3909 Operation and Maintenance Standards**

Wireless Communication Facilities shall comply with the following operation and maintenance standards at all times. Failure to comply shall be considered a violation of the conditions of approval and constitute a violation of this Article subject to any remedy available under the Zoning Ordinance or other applicable law as well as a basis for institution of revocation proceedings of a permit pursuant to this Article, Article 41 and Article 47.

- A. Except for exempt facilities, a maintenance and facility removal agreement shall be executed by the operator and the property owner (if other than the City). No permit shall become effective until such agreement has been executed. Said agreement shall bind the operator and property owner and their successors and assigns to the facility to the following:
  - 1. Maintain the appearance of the facility;
  - 2. Remove the facility when required by this Article or by any condition of approval, or when it is determined that the facility will not have been used

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during any current consecutive six month period, or if the facility will be abandoned;

3. (Except for Amateur Radio Antennas) Pay all costs the City reasonably incurs to monitor a facility's compliance with conditions of approval and applicable law;
  4. Reimburse the City for any and all costs incurred for work required by this Article, applicable law, or the conditions of a permit issued by the City for the Facility which the operator and property owner fail to perform within 30 days after written notice from the City to do so or sooner if required by the City for good cause;
  5. In the case of a freestanding tower or monopole (except for an Amateur Radio Antenna) the agreement shall obligate the operator and owner to lease space on the tower, at a fair market rent, to other Wireless Communication providers to the maximum extent consistent with the operational requirements of the facility, and shall further require that the permittee shall not prohibit the installation of other Wireless Communications Facilities on the same property;
  6. Where the City Planner or Planning Commission or City Council, as the case may be, determines that it is necessary to ensure compliance with the conditions of approval or otherwise provide for removal of a Facility that is temporary in nature or upon its disuse, the operator or owner may be required to post a performance bond, cash or a letter of credit or other security acceptable to the City Planner in the amount of ten thousand dollars (\$10,000), or such higher amount as the City Planner reasonably determines is necessary to ensure compliance with the maintenance and facility removal agreement. This requirement shall not apply to an amateur radio antenna.
- B. Each Wireless Communication Facility shall include signage approved by the City Planner identifying the name and phone number of a party to contact in the event of an emergency. Such signage must comply with any applicable provisions of this Article and Article 33 (sign ordinance).
- C. Wireless Communication Facilities and the sites on which they are located shall be maintained in good repair, free from trash, debris, litter and graffiti and other forms of vandalism. Any damage from any cause shall be corrected within five days of written notice by the City. Graffiti shall be removed as soon as practicable, and in no event longer than 48 hours after notice by the City.
- D. The owner or operator of a Wireless Communication Facility shall maintain landscaping in accordance with an approved landscape plan and shall replace dying or dead trees, foliage or other landscape elements shown on the approved

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- plans within 30 days of written notification by City. Amendments or modifications of the approved landscape plan shall not be made without written City approval.
- E. A Wireless Communication Facility shall be operated to minimize noise impacts to surrounding residents and persons using nearby facilities and recreation areas. All equipment that may emit noise in excess of the levels permitted by Article 38 of the City Municipal Code (noise ordinance) shall be enclosed. Backup generators shall only be used during periods of power outages or for testing.
  - F. Temporary power may be allowed during the initial construction or major repair of a Facility for the minimal amount of time necessary to complete the work. The operator shall provide a timeline to the City Planner and keep staff updated as to the time of completion.
  - G. Radio Frequency Emissions Safety. No Wireless Communication Facility may, by itself or in conjunction with other Wireless Communication Facilities generate radio frequency emissions in excess of the standards for permissible human exposure, as provided by applicable federal regulations including 47 C.F.R. 1.1307 *et seq.*

### **3910 Public Rights-of-Way**

- A. Wireless Communication Facilities located in the City rights-of-way shall be required to obtain an encroachment agreement prior to installation and shall be subject to the jurisdiction of the City Engineer or his designee who shall, consistent with California Public Utility Code Sections 7901 and 7901.1, determine the time, place and manner of construction for all facilities located within public rights-of-way. If the City Engineer determines that a substantial portion of the Facility will be located outside the right-of-way, then the Facility shall be required to comply with this Article.
- B. Placement of a Wireless Communication Facility in a public right-of-way shall require approval of an encroachment agreement by the City Council. No encroachment agreement shall be approved where the applicant fails to satisfy the City Council, in its sole discretion, that the standards set forth in Section 3907.A.1 through 3907.A.3 are met.

### **3911 Wireless Communication Facility Standards**

The following development and design standards shall be used to review any application for a Conditional Use Permit or Administrative Conditional Use Permit for Wireless Communication Facility pursuant to this Article and Article 41. Additionally, if any facility is proposed to be sited in the Coastal Zone as defined by the Local Coastal Program (LCP), such facility must also comply with all applicable provisions of the LCP.

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All Wireless Communication Facilities (except amateur radio antennas) shall be planned, designed, located, erected, operated, and maintained in accordance with the following standards:

- A. Wireless Communication Facilities shall comply with all development standards within the applicable zoning district of the subject site, except parking and landscape coverage.
- B. Height limits for all Wireless Communication Facilities shall be in accordance with this Article.
- C. All Wireless Communication Facilities and Accessory Wireless Equipment shall comply with the applicable provisions of Articles 33 (sign ordinance) and 38 (noise ordinance) of the City's Municipal Code.
- D. Visual Impact Screening Standards: All Wireless Communication Facilities shall to the greatest extent reasonably possible employ Camouflage design techniques to minimize visual impacts and provide appropriate screening. The Facility shall be maintained at all times in a "like new" condition and such techniques shall be employed to make the installation, operation and appearance of the facility as visually inconspicuous as possible. Depending on the proposed site and surroundings, certain Camouflage design techniques may be deemed by the City as ineffective or inappropriate and alternative techniques may be required. The following Camouflage design techniques shall be considered based on different installation situations.
  1. For building-mounted installations.
    - a. Screening materials matched in color, size, proportion, style, texture, and quality with the exterior design and architectural character of the structure and the surrounding visual environment.
    - b. Facility components, including all antenna panels, shall be mounted either inside the structure or behind the proposed screening elements and not on the exterior face of the structure.
    - c. The Camouflage design techniques applied shall result in an installation that is camouflaged and prevents the facility from visually dominating the surrounding area. Camouflage design techniques should be used to hide the installation from predominant views from surrounding properties.
  2. For Structure-Mounted Installations excluding Monopole Installations
    - a. All antenna panels and accessory components mounted on the exterior of the structure shall be painted and textured or otherwise coated to match the predominant color and surface texture of the mounting structure.

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- b. When required by the City, antenna panels shall be located and arranged on the structure so as to replicate the installation and appearance of the equipment already mounted to the structure.
  - c. The Camouflage design techniques applied shall result in an installation that is camouflaged and prevents the facility from visually dominating the surrounding area. Camouflage design techniques should be used to hide the installation from direct view from surrounding properties.
  - d. Antennas shall not be mounted on above ground water storage tanks.
3. For Monopole Installations
- a. Monopole installations 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.
  - b. All antenna components and support equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background and/or adjacent architecture so as to visually blend in with the surrounding development. Subdued colors and non-reflective materials that blend with surrounding materials and colors shall be used.
  - c. In certain conditions, such as locations that are readily visible from residential or open space areas where there is heightened sensitivity for visual impacts and compatibility, the measures described above may not be sufficient to create an effectively camouflaged installation. In these cases, additional measures may be required by the City, including but not limited to enclosing the Wireless Communications Facility entirely within a vertical screening structure (suitable architectural feature such as a clock tower, bell tower, icon sign, lighthouse, windmill, etc.) may be required through the permit process. All facility components, including the antennas, shall be mounted inside the structure.
  - d. Camouflage design techniques employed shall result in an installation that either will blend in with the predominant visual backdrop or will disguise the facility so it appears to be a decorative or attractive architectural feature. If Camouflage design techniques for monopoles do not adequately hide or prevent direct viewing of the facility, then the permit may be denied.
4. Co-location Facilities. Co-location installation shall use screening methods similar to those used on the existing Wireless Communication Facility. If the City Planner determines existing screening methods do not conform to the Camouflage design standards herein, additional screening methods may be

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required for the co-located facilities. Use of other appropriate screening methods may be considered through the substantial conformity process.

5. “Cell on Wheels” (COW): A COW or other similar temporary and mobile Wireless Communications Facility installation may require screening to reduce visual impacts depending on the duration of the permit and the setting of the proposed site. If screening methods are determined to be necessary, the appropriate screening methods, considering the temporary nature and length of the permitted use, will be determined through the Conditional Use Permit or administrative review (including but not limited to the Administrative Conditional Use Permit or Substantial Conformity process.)
6. For Accessory Wireless Equipment: All accessory wireless equipment associated with the operation of any Wireless Communication Facility shall be screened. The following screening techniques shall be considered based on the type of installation:
  - a. Accessory wireless equipment for building mounted facility 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 roof-mounted facilities shall be of a quality and design that is architecturally compatible and consistent with the design of the building or structure.
  - b. Accessory wireless equipment for freestanding facilities, not mounted on a building, may be visually screened by locating the equipment within a fully enclosed building or in an underground vault. For above ground installations not within an enclosed building, screening shall consist of walls, landscaping, or walls combined with landscaping to effectively screen the facility at the time of installation. All wall and landscaping materials shall be selected so that the resulting screening will be visually integrated with the architecture and landscape architecture of the surrounding area.
  - c. All accessory wireless equipment shall be placed and mounted in the least visually obtrusive location possible.
- E. All freestanding Wireless Communication Facilities to be located in any zone district adjacent to a residential zone district shall be located on a site so as to provide a minimum distance equal to 110 percent of the height of the facility from the residential property line.

### **3912 Locational and Siting Standards**

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- A. General. Wireless Communications Facilities (except amateur radio antennas) shall be installed on properties in the following order of preference (the greatest preference is listed first):
  - 1. City-owned or controlled property;
  - 2. Parcels located in Industrial Districts;
  - 3. Parcels located in Commercial Districts;
  - 4. Parcels located within Public and Semi Public Districts;
  - 5. Parcels located in Open Space Districts;
  - 6. Parcels located in Agricultural Districts, \*subject to the locational criteria described herein (i.e., not on or near primary residences);
  - 7. Parcels located in Residential Districts.
- B. Wireless Communication Facility installation in a less-preferred zone shall not be permitted unless the applicant demonstrates by clear and convincing evidence that it would be infeasible to install the facility in a more preferred zone and still close a proven significant gap in coverage by the least intrusive means.
- C. Wireless Communication Facilities shall be co-located where technologically feasible and where co-location would be visually superior to the otherwise necessary non-co-located facility.
- D. Wireless Communication Facilities located on vacant lots shall be considered temporary and when the site is developed, the city may require such facilities be removed, and if appropriate, replaced, with building-mounted facilities.
- E. Restricted Locations. No Wireless Communication Facility (except amateur radio antennas) shall be permitted in any of the residential zones or areas designated as within the coastal zone (excluding rights-of-way) unless:
  - 1. The facility is designed as a stealth facility; and
  - 2. The law otherwise requires the City to permit such location

### **3913 Site Development Standards**

- A. General Development Standards. All Wireless Communication Facilities shall comply with the following:
  - 1. The maximum height of any Wireless Communication Facility, other than roof mounted facilities and amateur radio antennas, located on private property shall be ten feet above the maximum height allowed in the zoning district in which the facility is located. A Conditional Use Permit may be granted to exceed the height limitation as described in Article 41 and Section 3707.
  - 2. Height shall be measured as follows:
    - a. Ground mounted antennas. The height of the antenna structure shall be measured from the natural undisturbed ground surface below the center of the base of the antenna support (i.e., tower) to the top of the tower or from

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- the top of the highest antenna or piece of equipment attached thereto, whichever is higher.
- b. Building mounted antennas. The height of the antenna structure shall be measured from the top of the building roof the antenna is mounted on to the top of the antenna or screening structure, whichever is higher.
  - c. Utility Tower/Pole Mounted Antennas. The height of the antenna structure shall be measured from the base of the utility tower/pole, not the grade of the climbing leg foundation of the structure if the climbing leg foundation of the utility tower/pole structure is not at grade due to exposed footings.
3. Facilities located on properties owned or controlled by the City shall not exceed fifteen (15) feet above the height prescribed for the zone in which the antenna is located.
  4. Wireless Communication Facilities shall conform to all building setback requirements, and all equipment associated with their operation shall comply with the development standards for the zone in which they are located.
  5. Monopoles, antennas, and support structures for antennas shall be no greater in diameter or any other cross-sectional dimension that is reasonably necessary for the proper functioning and physical support of the Wireless Communication Facility.
  6. All Wireless Communication Facilities must at least meet all current standards and regulations of the FCC as to radio frequency emissions, or any successor agency, and any other agency of the state or federal government with the authority to regulate Wireless Telecommunication Facilities.
  7. All Wireless Telecommunication Facilities shall be designed, located and operated to avoid interference with the quiet enjoyment of adjacent properties, and at a minimum shall be subject to the noise standards of Article 38 of the Municipal Code. If the City Planner or Planning Commission as the case may be finds that the noise of such facility may have a detrimental effect on an adjacent property, they may require an independent acoustical analysis, at the applicant's expense, to identify appropriate mitigation measures.
  8. Excluding amateur radio antennas and those facilities that are co-located, located within the public rights-of-way, or located on publicly owned or controlled property or utility infrastructure, Wireless Communication Facilities shall be separated from each other as follows, unless the applicant proves by clear and convincing evidence that the separation requirement would prevent the provider from closing a significant gap in its coverage:
    - B. Any new ground mounted Wireless Telecommunication Facility located within a quarter mile (1,320 feet) of an existing ground-mounted facility must be of camouflaged design, regardless of the zone in which it is located.

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## **3914 Safety and Monitoring Standards**

- A. At all times, Wireless Communications Facilities shall comply with the most current regulatory and operational standards including but not limited to radio frequency (RF) radiation exposure standards adopted by the FCC as provided in 47 C.F.R. § 1.1307, et seq. and FCC Office of Engineering & Technology Bulletin 65 and antenna height standards adopted by the Federal Aviation Administration (FAA). The applicant shall maintain the most current information from the FCC regarding allowable RF emissions and all other applicable regulations and standards. The applicant shall file an annual report to the permit file advising the City of any regulatory changes that require modifications to the Wireless Communication Facility and of the measures taken by the applicant to comply with such regulatory changes.
- B. Upon or prior to installation, and prior to activation, of any Wireless Communications Facility the applicant shall submit to the City certification in a form acceptable to the City that the Facility will operate in compliance with all applicable FCC regulations including, but not limited to radio frequency (RF) emissions limitations. Thereafter, upon any proposed increase of at least ten percent in the effective radiated power or any proposed change in frequency use, the applicant shall submit updated certifications for review by the City. Both the initial and update certifications shall be subject to review and approval by the City Planner. At the City's sole discretion, a qualified independent radio frequency engineer, selected by and under contract to the City, may be retained to review said certifications for compliance with FCC regulations. All costs associated with the City's review of these certifications shall be the responsibility of the applicant. Absent any modifications to a Wireless Communications Facility that would cause a change to the effective radiated power or frequency use, the applicant shall submit an annual letter to the Community Development Department certifying that no such changes have been made to the site and that the facility continues to operate within the range allowed by FCC regulations.
- C. A Wireless Communication Facility is to be installed and maintained in compliance with the requirements of the Uniform Building Code, National Electrical Code, noise ordinance and other applicable codes, as well as other restrictions specified in this Article. The Facility operator and the property owner shall be responsible for maintaining the facility in good condition, which shall include but not be limited to regular cleaning, painting, and general upkeep and maintenance of the site.
- D. Public access to a Wireless Communication Facility shall be restricted. Required security measures may include but not be limited to fencing, screening, and security signage, climbing prevention systems, as deemed appropriate by the City.

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- E. Safety lighting or colors, if prescribed by the City or other approving agency (i.e. FAA) may be required for antenna support structures.

### **3915 Duration, Revocation And Discontinuance**

- A. Two-year expiration. A permit for a Wireless Communication Facility shall expire two years after permit approval unless the applicant has obtained a Building Permit and has requested an initial building inspection.
- B. Duration of Permits and Approval.
  - 1. Permits for Wireless Communications Facilities shall be valid for an initial period of ten (10) years from the date of approval unless for a shorter period as authorized by California Government Code section 65964(b), or as specified by the approving body.
  - 2. A permit issued pursuant to this Article may be extended at the discretion of the City Planner for a maximum of three two-year terms by the City Planner upon the applicant proving by clear and convincing evidence that the facility continues to comply with all conditions of approval under which the permit was originally approved.
  - 3. A permit may be revoked pursuant to Article 47 of the Zoning Ordinance.
  - 4. All costs reasonably incurred by the City in verifying compliance and in extending or revoking an approval shall be borne by the applicant and/or permit holder.
- C. Abandonment or Discontinuance of Use. Any Telecom Operator who intends to abandon or discontinue the use of any wireless facility shall notify the City of such intention no less than 60 days prior to the final day of use.
- D. Wireless Facilities with use discontinued shall be considered abandoned 90 days following the final day of use.
- E. All abandoned facilities shall be physically removed by the Telecom Operator no more than 90 days following the final day of use or of determination that the facility has been abandoned, whichever occurs first. When a wireless facility has been abandoned, but not removed, the City may cause such facilities to be removed and charge all expenses incurred in such removal to the provider.

### **3916 Existing Facilities**

All equipment and improvements associated with a Wireless Communication Facility permitted as of the date of the adoption of this Article may continue as they presently exist, but shall constitute a legal nonconforming use to the extent they do not conform to the standards of this Article. Routine maintenance on existing, operational equipment and facilities at a legal non-conforming Wireless Facility shall not require compliance with this Article. However, replacement of any mainlines, jumpers, antennas, primary or

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secondary equipment or modification of any kind from a legal non-conforming Wireless Facility or expiration of an existing Conditional Use Permit or Administrative Conditional Use Permit shall require issuance of a permit pursuant to, and in compliance with this Article.

### **3917 Upgrades With New Technology**

The City finds that the technology associated with Wireless Communications equipment is subject to rapid changes and upgrades as a result of industry competition and customer demands, and anticipates that telecommunications antennas and related equipment with reduced visual impacts will be available from time to time with comparable or improved coverage and capacity capabilities. The City further finds that it is in the interest of the public health, safety, and welfare that telecommunications providers be required to replace older facilities with newer equipment of equal or greater capabilities and reduced visual impacts as technological improvements become available. Therefore, any modifications requested to an existing facility shall permit the City Planner or his designee to review the carrier's existing facility to determine whether requiring newer equipment or applying new screening techniques that reduce visual impacts is appropriate if technically feasible.

### **3918 Green Technology**

The City anticipates that the design of "green" sites (i.e., facilities that utilize alternative energy sources and/or employ technologies that leave a smaller carbon footprint than traditional methods) will be introduced as a design alternative in the near future. New facilities that are proposed using "green" technology may not be capable of strictly complying with this Article. To accommodate these facilities and therefore balance the multiple needs of the community for energy efficiency, adequate telecommunications service and aesthetics, the City may consider factors such as whether the facility has no carbon footprint and/or whether the facility produces power through solar or wind generated means.

However, any such proposals shall not eliminate the need to comply with any or all sections of this Article and even "green" facilities shall require a Conditional Use Permit or Administrative Use Permit, as appropriate. Staff shall review each "green" application on a case by case basis and in an appropriate case, may endorse deviations from the specific design requirements of this Article when staff finds that the benefit of being "green" outweighs the potential negative impacts of not meeting all requirements of this Article.

Notwithstanding the endorsement of staff, the Planning Commission shall remain the decision-making body for all Conditional Use Permits, including those determined to be "green," unless the matter is appealed to, or called for review by the City Council, in which case the City Council shall be the decision-making body.

### **3919 Distributed Antenna Systems**

# DRAFT 10.6.10

Distributed Antenna Systems Installations shall conform to the requirements of this Article.

## **3920 Federal Preemption**

Notwithstanding any other provision of this Article to the contrary, if any provision(s) of this Article would give rise to a claim by an applicant that a proposed action by the City would "prohibit or have the effect of prohibiting the provision of personal wireless services" within the meaning of 47 U.S.C. Section 332(c)(7) or would "prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service" within the meaning of 47 U.S.C. Section 253 then, at or prior to the public hearing on the application, the applicant shall submit clear and convincing evidence attesting to all specifics of the claim. If such evidence is submitted, the decision-making body shall determine if this is the case, and if so, shall, as much as possible, keep the intent of the ordinance the same while applying the provisions in such a manner as to avoid any violation of federal law. If that is not possible, the decision-making body shall find that the provision(s) cannot be implemented in a manner that does not violate federal law, and shall override the offending provisions to the extent necessary to comply with federal law.

PLANNING COMMISSION  
RESOLUTION NO. 2010-P28

A RESOLUTION OF THE PLANNING COMMISSION OF THE  
CITY OF OCEANSIDE, CALIFORNIA RECOMMENDING  
APPROVAL OF AMENDMENTS TO THE 1986 AND 1992  
ZONING ORDINANCES TO MODIFY BUILDING HEIGHT  
STANDARDS

---

APPLICATION NO: ZA09-00001/LCPA10-00002  
APPLICANT: City of Oceanside  
LOCATION: Citywide

---

THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES  
RESOLVE AS FOLLOWS:

WHEREAS, on December 8, 2008, the California Coastal Commission (CCC) established with the City of Oceanside that development proposals in those portions of the Coastal Zone located outside of the Downtown Redevelopment Area would be reviewed for consistency under the standards of the City's 1986 Zoning Ordinance, in light of the fact that the previously applicable 1992 Zoning Ordinance had never received CCC certification; and

WHEREAS, on May 11, 2009, the City acknowledged in correspondence to the CCC a legal obligation to use the 1986 Zoning Ordinance as the standard for review of development proposals within those portions of the Coastal Zone located outside of the Downtown Redevelopment Area; and

WHEREAS, on May 10, 2010, the Planning Commission conducted a public workshop to solicit community input on the subject of building height standards within those portions of the Coastal Zone located outside of the Downtown Redevelopment Area; and

WHEREAS, in response to input received from both the Planning Commission and the community at-large, the Planning Division prepared recommendations for text amendments to both the 1986 and the 1992 Zoning Ordinances ; and

WHEREAS, the Planning Commission did, on the 26th day of July, 2010, conduct a duly advertised public hearing as prescribed by law to consider said recommendations; and

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1 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby  
2 recommend approval of Zone Amendment (ZA09-00001) and Local Coastal Plan Amendment  
3 (LCPA10-00002), as represented in the attached Exhibit "A". These zoning text amendments are  
4 intended to reconcile the residential building height standards of the 1986 Zoning Ordinance with  
5 those of the previously-applicable 1992 Zoning Ordinance, with additional parking requirements  
6 for single-family homes containing more than five bedrooms and additional setback requirements  
7 for upper floors on both front and rear elevations. These amendments would apply to residential  
8 development within those portions of the Coastal Zone located outside of the Downtown  
9 Redevelopment Area.

10 PASSED AND ADOPTED Resolution No. 2010-P28 on September 13, 2010 by the  
11 following vote, to wit:

12 AYES: Rosales, Martinek, Troisi and Bertheaud

13 NAYS: Neal, Balma, Scrivener

14 ABSENT: None

15 ABSTAIN: None

16   
17 Robert Neal, Chairperson  
18 Oceanside Planning Commission

19 ATTEST:

20   
21 Jerry Hittleman, Secretary

22 I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that  
23 this is a true and correct copy of Resolution No. 2010-P28.

24 Dated: September 13, 2010

## Proposed Text Amendments to the 1986 Zoning Ordinance Regarding Building Height and Parking Standards

Section 211: BUILDING HEIGHT. “Building height” means the vertical ~~distance~~ dimension measured from ~~the average level of the highest and lowest point of that portion of the building-site covered by the building to the ceiling of the uppermost story~~ existing grade to the uppermost point of a structure.

Section 234: GRADE. “Grade” means ~~the average of the finished ground level at the center of all walls of a building. In case[s] [where] walls are parallel to and within five feet of a sidewalk, the above-ground level shall be measured at the sidewalks.~~ For purposes of building height measurement, “grade” means the surface of the ground or pavement at the stated location as it exists prior to disturbance in preparation for a project regulated by this ordinance. When ambiguity exists as to what constitutes existing grade, the City Planner shall determine existing grade on the basis of available topographic exhibits and/or field assessments.

Section 1701: FRONT YARD. The following minimum front yard setback requirements shall be met: (for special conditions and exceptions, see further provisions in this article).

- (a) Every lot in the R-A, R-1, R-2, R-3, R-P and S-P zones shall maintain a front yard setback of twenty (20) feet. Additionally, floors above the ground floor shall be set back from the floor immediately below by an average of five (5) feet.
- (b) Every lot which allows apartment development and is located west of Interstate 5 shall have a minimum front yard setback of not less than fifteen (15) feet. Additionally, floors above the ground floor shall be set back from the floor immediately below by an average of five feet.

### **(No other proposed changes to Section 1701)**

Section 1703: REAR YARDS. The following minimum rear yard setbacks shall be met: (for special conditions and exceptions see further provisions in this Article).

- (a) Every lot in the R-A, R-1, R-2, R-3 and SP zones shall maintain a minimum rear yard setback of fifteen (15) feet except for the following:
  - (1) A minimum rear yard setback of ten (10) feet shall be maintained for enclosed patios and patio awnings.
  - (2) Lot which rear upon an alley shall maintain a five (5) foot setback.

**Exhibit A: ZA09-00001/LCPA10-00002**

- (3) When two lots are separated by a slope bank of twenty (2) feet or more the uphill lot need not provide any setback provided that all building codes and grading ordinance provisions are met and that a five (5) foot high fence be built on the property.
- (4) Lots which rear upon land to be permanently maintained as open space need not have a rear setback.
- (5) In addition to any required rear yard setback for ground floor development on residentially zoned properties, floors above the ground floor shall be set back from the floor immediately below by an average of five feet.

**(No other proposed changes to Section 1703)**

Section 1709: HEIGHT. No buildings or structures shall be erected or enlarged unless such building or structure complies with the height regulations for the zone in which the building or structure is located or proposed to be located. For purposes of determining the height of a building or structure, ~~the average finished grade of the parcel on which the building or structure is located shall be used~~ existing grade from all points on the site to a warped plane an equal height above all points on the site, with the following exception:

Where a finished grade elevation, different than the existing grade elevation, is approved as part of a discretionary application such as a Tentative Map, Development Plan, Use Permit, Variance, or Coastal Permit, height shall be measured from the approved finished grade elevation at all points on the site to a warped plan an equal height above all points on the site. In approving a finished grade elevation that is different than the existing grade elevation, compatibility with the existing elevation of adjacent and surrounding properties shall be considered.

The maximum permitted height of any building or structure shall be as follows:

- (a) No building or structure located in the R-A, R-1, R-2, PRD or SP zone shall exceed a height of ~~35~~ 27 feet or two stories, whichever is less.
- (b) No building or structure used for residential purposes in the R-3, O-P, R-T, R-C, PRD, or SP zones shall exceed a height of ~~35~~ 27 feet or ~~three~~ two stories, whichever is less.
- (c) No building or structure in the R-C, O-P, C-1, C-2, M-1, M-2, or PC zones shall exceed a height of 45 feet or four stories, whichever is less.

**Exhibit A: ZA09-00001/LCPA10-00002**

Penthouses or roof structures for the housing of elevators, stairways, ventilator fans, air conditioning or similar equipment required to operate and maintain the building, fire or parapet walls, skylights, towers, church steeples, flag poles, chimneys, antennas and similar structures may be erected above the height limits prescribed hereinabove provided the same may be safely erected and maintained at such height, in view of the surrounding conditions and circumstances, but ~~no penthouses or~~ roof structures or any space above the height limit shall be allowed for the purpose of providing additional floor space. Such roof projections shall be limited to no more than 10 percent of the ground area covered by the primary structure and no more than ten (10) feet above the base district height limit.

Section 2702: PARKING SPACES REQUIRED.

USE	PARKING SPACES REQUIRED
Residential Uses	
Single family dwellings	2 car garage per dwelling unit; minimum inside area of 400 sq. ft.; minimum inside width of 18 ft. <u>One additional parking space per bedroom over five (5) bedrooms, with tandem parking allowed for additional required spaces</u>

Section 3204: BUILDING SETBACKS. The minimum front yard, side yard, and rear yard setbacks shall be 10 feet for front, 3 feet for side yards, and 6 feet for rear yards unless alternate setbacks are approved through the development review process.

- (1) Proposals for alternate front yard, side yard or rear yard setbacks will be judged on the merits of each individual proposal and the architectural compatibility of all proposed structures with existing or proposed structures on adjoining parcels. Functional site layout with special attention to design of recreational, parking and landscaped areas may produce an acceptable proposal with minimum or no setbacks. Abutting property owners shall be advised of proposals for no setback on side and rear yards prior to approval of same.
- (2) Single family residential buildings shall have a concrete driveway approach to parking areas at least 20 feet in length by 9 feet wide per parking space.
- (3) Buildings along The Strand should be designed so that when viewed from the beach, the visual impact of the bulk of the structure is minimized to the maximum extent possible.

**Exhibit A: ZA09-00001/LCPA10-00002**

- (4) In addition to any required front yard setback for ground floor development, floors above the ground floor shall be set back from the floor immediately below by an average of five feet.
- (5) In addition to any required rear yard setback for ground floor development, floors above the ground floor shall be set back from the floor immediately below by an average of five feet.

**AGENDA NO. 6****PLANNING COMMISSION****STAFF REPORT**

DATE: August 23, 2010

TO: Chairman and Members of the Planning Commission

FROM: Development Services Department/Planning Division

SUBJECT: **CONSIDERATION OF ZONE AMENDMENT (ZA10-00001) AND LOCAL COASTAL PLAN AMENDMENT (LCPA10-00001) INTRODUCING ARTICLE 39 – WIRELESS COMMUNICATIONS FACILITY, SATELLITE DISH, AND ANTENNA STANDARDS TO THE OCEANSIDE ZONING ORDINANCE IN EFFECT ON MAY 8, 1985 AS WELL AS THE CURRENT OCEANSIDE ZONING ORDINANCE AND REPEALING SECTION 3025 – ANTENNAS AND MICROWAVE EQUIPMENT FROM THE CURRENT ZONING ORDINANCE – TELECOM ORDINANCE – APPLICANT: CITY OF OCEANSIDE**

**RECOMMENDATION**

Staff recommends that the Planning Commission by motion:

1. Recommend adoption of the Negative Declaration; and
2. Adopt Planning Commission Resolution No 2010-P27 recommending approval of Zoning Amendment (ZA10-00001) and Local Coastal Plan Amendment (LCPA10-00001) with findings of approval attached herein.

**PROJECT DESCRIPTION AND BACKGROUND**

On October 21, 2009, the City Council directed staff to form an ad hoc committee consisting of two members of the Planning Commission and two members of the Telecommunications Committee in order to make recommendations on an update to the City's Telecommunications Ordinance (Oceanside Zoning Ordinance [OZO] Section 3025) and the design guidelines for cellular facilities in the public rights of way.

An ad hoc committee was duly formed and was comprised of two members of the Telecommunications Committee (Bob Ross and Jimmy Knott) and two members of the Planning Commission (Tom Rosales and Jay Scrivener). Staff support included

Information Technologies, Economic and Community Development, City Attorney and Development Services. The Committee developed a comprehensive Ordinance that requires commercial applicants to demonstrate both the need for a particular site as well as identify all of the potential impacts of the site, and demonstrate compliance with all federal emissions regulations. The goal was to encourage telecommunications facility sites that are as unobtrusive as possible and located away from residential districts whenever possible. The Committee reviewed other Cities' recent ordinances, consulted with industry experts and obtained extensive community input. Ultimately, the Committee decided to recommend repealing the existing section and creating a new, more comprehensive article that addressed not only commercial telecommunications activities, but also other antenna and communications structures in one Article.

The resultant Article 39 is to be inserted in both the existing Oceanside Zoning Ordinance and the previous Zoning Ordinance in effect in 1985 at the time the Local Coastal Plan was adopted. The LCP Amendment will also ensure the same standards apply both in and out of the coastal zone. The new article will apply in all areas of the City, with the exception of the Redevelopment Area.

## **ANALYSIS**

The new Article addresses several types of Facilities, including satellite dishes, television antennas, amateur radio antennas and commercial facilities. The only facilities that would not be regulated by this Article are those facilities exempt by state or federal laws, city-owned facilities, and certain non-commercial radio, television, citizen band and satellite antennas, provided such antennas do not exceed a maximum height and otherwise comply with all of the development standards of the zoning district in which they are located.

Most facilities would require a Conditional Use Permit, including amateur radio antennas that exceed the height limitations described in the previous section. Facilities that will be located on City-owned property, temporary facilities, or co-located facilities will require administrative conditional use permits. Facilities located in the rights-of-way will require encroachment permits and will be subject to the jurisdiction of the engineering division.

Article 39 includes specific application submittal requirements, including floor plans, photo simulations, landscape and maintenance plans, proof of existing gaps in coverage, a justification study indicating the rationale for selection of the proposed site, documentation that the proposed facility complies with all applicable FCC rules, regulations and standards, a description of the facility's capacity for future co-location and a description of the services that will be offered in conjunction with the facility. The City Planner will have the discretion to hire an independent technical consultant to evaluate technical aspects of the proposed facility, the costs of which shall be borne by the applicant.

In addition to the general findings required by Article 41, Article 39 adds a number of specific findings that will have to be made by the City Planner or Planning Commission before a conditional use permit or administrative conditional use permit can be issued. There are also a number of standard conditions of approval that will be placed on each conditional use permit.

There are a number of stringent operational and maintenance standards that each facility operator will need to adhere to, including the execution of a maintenance and facility removal agreement signed by the operator and property owner.

The Committee considered many different locational and siting criteria, and decided on a locational siting standard that utilized a zoning "order of preference". The Committee agreed this would provide incentives for commercial carriers to site on city-owned, industrial and commercial properties before public, open space, agricultural and residential districts. Thus, if an operator applied for a facility in a residential zone, the operator would have to provide evidence that there were no other reasonable choices in any of the other districts and the facility must be a stealth facility.

The Ordinance also includes safety and monitoring standards, including demonstrated compliance with FCC regulations for RF emissions, as well as compliance with the noise and sign ordinances. It encourages technology upgrades for sites by granting the City Planner or his designee the ability to administratively approve equipment upgrades if certain criteria are met. Further, it anticipates future "green" technologies, by allowing deviations from specific design requirements of the Article on a case-by-case basis if the facility has no carbon footprint or produces power through solar or wind generated means.

The Committee introduced the new Article at the June 2010 Telecommunications Committee meeting. Public comments elicited at the meeting are included in the public record. Subsequent to that meeting, the ad hoc committee met again and made some adjustments to the draft Article in response to public comment. The ad hoc committee believes this ordinance adequately addresses the areas of citizen concern, while still allowing sufficient siting for commercial facilities. The ordinance is also designed to regulate and provide design guidance for other non-commercial types of antenna as well, including satellite dishes and amateur radio antennas.

In response to the Notice of Intent to Adopt a Negative Declaration, staff received a letter dated August 9, 2010 from Channel Law Group, LLP, on behalf of American Tower Corporation ("ATC") attached. ATC contends that the Initial Study does not analyze the reasonably foreseeable effects of the proposed ordinance on the environment. Specifically, ATC notes that existing facilities will become subject to the provisions of the proposed ordinance upon expiration of an existing use permit, and

contends that for such facilities that exceed the maximum height limits, more stringent findings will be required to allow the facilities to remain. The proposed ordinance, ATC claims, "would theoretically require the height of existing stand-alone facilities to be reduced when the permits for those facilities come up for renewal," and this reduction in height would reduce coverage, thereby impacting the environment.

CEQA requires the preparation of an EIR whenever it can be fairly argued on the basis of substantial evidence that the project may have significant environmental impact. However, substantial evidence "is not argument, speculation, unsubstantiated opinion or narrative..." (§ 21080, subd. (e)(2); see also CEQA Guidelines, § 15384, subd. (a).) Mere uncorroborated opinion or rumor does not constitute substantial evidence.

Staff believes the ATC has not established substantial evidence of a fair argument of an environmental impact. ATC's argument is based upon pure speculation that existing wireless facilities that exceed the zoning district's height limit will likely be forced to be taken down. Nothing in the record supports this conclusion. No facilities have been identified. Furthermore, under the proposed ordinance, wireless communication facilities higher than ten feet above the maximum height allowed in the applicable zoning district are allowable if, among other findings, the height is found to be reasonably necessary for the co-location of facilities for the efficient operation of the proposed facility. The current ordinance has similar requirements for exceeding the maximum height allowed in the applicable zone. In addition, staff has reviewed the sites where ATC facilities are currently located and has determined that those facilities that exceed the height limits by more than ten feet are co-located sites. Applications for new CUP's for those facilities could make the showing necessary to meet the requirements of proposed section 3907.1.B. Finally, such facilities could also be allowed if strict application of the ordinance would prohibit coverage under proposed section 3920.

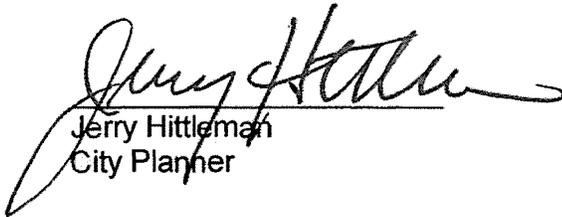
## **ENVIRONMENTAL DETERMINATION**

The Negative Declaration for the project was prepared in accordance with the California Environmental Quality Act (CEQA) and was distributed for public review between July 7 and August 9, 2010. The Negative Declaration determined that there will not be a significant adverse impact upon the environment due to implementation of proposed Article 39. Numerous public comments were received regarding the new ordinance and CEQA review, which are attached to this staff report. One of the main comments was a request that there be a moratorium on approval of new cell sites until Article 39 is approved. In lieu of a moratorium, staff has expedited the processing of the new ordinance that is expected to be acted upon by the City Council at their October 20, 2010 meeting. Under the provisions of the CEQA, the Planning Commission will need to consider the Negative Declaration during its hearing on the project.

## SUMMARY

The purpose and intent of proposed Article 39 is to establish up-to-date development standards for Wireless Communication Facilities, Satellite Dish Antennas, and all other forms of antennas and accessory equipment consistent with current federal and state law taking into account the general welfare and safety of City residents and ensuring visual compatibility with the existing surroundings. As such, staff recommends that the Planning Commission recommend approval to the City Council and Community Development Commission of Zone Amendment (ZA10-00001), Local Coastal Plan Amendment (LCPA10-00001) and the Negative Declaration and adopt Planning Commission Resolution No. 2010-P27 as attached.

SUBMITTED BY:



Jerry Hittleman  
City Planner

JHH/fil

Attachments:

1. Planning Commission Resolution No. 2010-P27
2. Exhibit "A" - Zoning Ordinance Legislative Draft
3. Negative Declaration and correspondence

1 PLANNING COMMISSION  
2 RESOLUTION NO. 2010-P27

3 A RESOLUTION OF THE PLANNING COMMISSION OF THE  
4 CITY OF OCEANSIDE, CALIFORNIA RECOMMENDING  
5 APPROVAL OF A ZONE AMENDMENT AND LOCAL  
6 COASTAL PROGRAM AMENDMENT REPEALING  
7 SECTION 3025 OF THE OCEANSIDE ZONING ORDINANCE  
8 AND ADDING ARTICLE 39 TO THE CURRENT OCEANSIDE  
9 ZONING ORDINANCE AND THE ZONING ORDINANCE IN  
10 EFFECT ON IN 1986 FOR THOSE AREAS WITHIN THE  
11 CITY'S COASTAL ZONE

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8 APPLICATION NO: ZA10-00001, LCPA10-00001  
9 APPLICANT: City of Oceanside  
10 LOCATION: Citywide

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11 THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES  
12 RESOLVE AS FOLLOWS:

13 WHEREAS, there was filed with this Commission a verified petition on the forms  
14 prescribed by the Commission requesting a Zone Amendment and Local Coastal Program  
15 Amendment under the provisions of Article 45 of the Zoning Ordinance of the City of Oceanside  
16 to permit the following and Article 39 of the Zoning Ordinance of the City of Oceanside in effect  
17 on 1986:

18 Zoning Ordinance text amendment as shown in the attached Exhibit "A";

19 WHEREAS, the Planning Commission, after giving the required notice, did on the 23rd  
20 day of August, 2010, conduct a duly advertised public hearing as prescribed by law to consider  
21 said application; and

22 WHEREAS, one of the goals of the Land Use Element of the General Plan is to enhance  
23 the community through consistent, significant, long term preservation and improvement of the  
24 environment, values, aesthetics, character and image of Oceanside as a safe, attractive, desirable  
25 and well-balanced community;

WHEREAS, the Zone Amendment attached as Exhibit "A" is consistent with the  
General Plan, Local Coastal Plan, and the goals of the Land Use Element;

1           WHEREAS, the Zone Amendment attached as Exhibit "A" strikes the proper balance  
2 between regulating the deployment of wireless communication facilities, both commercial and  
3 private, to prevent the potentially harmful effects of unregulated deployment of such facilities  
4 and federal prohibitions on regulations that prohibit or have the effect of prohibiting the  
5 provision of personal wireless services;

6           WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State  
7 Guidelines thereto; a Negative Declaration has been prepared for the project stating that  
8 implementation of proposed Article 39 will not have an adverse affect on the environment; and

9           WHEREAS, studies and investigations made by this Commission and in its behalf reveal  
10 the following facts:

11 For the Zone Amendment and Local Coastal Program Amendment:

- 12 1.       The Zone Text Amendment, as proposed, conforms to the General Plan of the City,  
13 including the Land Use Element stated goals.
- 14 2.       That the granting of the Zoning Amendment is consistent with the purposes of the  
15 Zoning Ordinance.
- 16 3.       The Zone Amendment conforms to the Local Coastal Plan, including the policies of the  
17 plan.

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1 4. The Zone Amendment conforms to the California Coastal Act of 1976.

2 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby  
3 recommend approval of Zone Amendment (ZA10-00001) and Local Coastal Program  
4 Amendment (LCPA10-00001) as represented in the attached Exhibit "A".

5 PASSED AND ADOPTED Resolution No. 2010-P27 on August 23, 2010 by the  
6 following vote, to wit:

7 AYES:

8 NAYS:

9 ABSENT:

10 ABSTAIN:

11 \_\_\_\_\_  
12 Robert Neal, Chairman  
13 Oceanside Planning Commission

14 ATTEST:

15 \_\_\_\_\_  
16 Jerry Hittleman, Secretary

17 I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that  
18 this is a true and correct copy of Resolution No. 2010-P27

19 Dated: August 23, 2010

# DRAFT 6.22.10

## ARTICLE 39

### **Wireless Communications Facility, Satellite Dish and Antenna Standards**

#### **3901 Purpose and Intent**

This Article is intended to promote and provide for the following:

- A. Establish development standards for Wireless Communications Facilities, Satellite Dish Antennas and all other forms of antennas and accessory wireless equipment consistent with federal and state law taking into account the general welfare of City residents and visual compatibility with the existing surroundings while effectively serving the communication needs of the community.
- B. Require all Wireless Communications Facilities to be as unobtrusive as possible, minimizing the number of freestanding and non-camouflaged Communications Facilities and establishing standards and policies to ensure that Wireless Communications Facilities within the City are developed in harmony with the surrounding environment through regulation of location and design.
- C. The provisions of this Article are not intended and shall not be interpreted to prohibit or to have the effect of prohibiting wireless communications services, nor shall this Article be applied in such a manner as to unreasonably discriminate among providers of functionally equivalent wireless communications services.

#### **3902 Definitions**

*Antenna.* A device used in communications which radiates and/or receives any radio or television signals for commercial purposes, including but not limited to, commercial cellular, personal communication service, wireless model signals, and/or data radio signals.  
*Antenna Array.* Two or more antennas having active elements extending in one (1) or more directions, and directional antennas mounted upon and rotated through a vertical mast or tower interconnecting the beam and antenna support, all of which elements are deemed to be part of the antenna.

*Antenna, Building Mounted.* Antennas which are mounted to or above a building; or mounted upon or to the side of another facility or structure such as church steeples, clock towers, sports field lighting, etc.

*Antenna Height.* The vertical distance measured from the adjacent existing ground surface to the tip of the highest point of the proposed structure.

*Antenna Support Structure.* A pole or similar structure that supports an antenna.

## DRAFT 6.22.10

*Cabinet.* Enclosure containing equipment used by telecommunication providers, or providing electricity or telephone service to a facility.

*Camouflage or Camouflaged Facility.* A Wireless Communications Facility in which the antenna, monopole, uni-pole, and/or tower, and as possible the support equipment, are hidden from public view, or effectively disguised as may reasonably be determined by the City Planner or Planning Commission as applicable, in a faux tree, monument, cupola, or other concealing structure which either mimics or which also serves as a natural or architectural feature. Concealing communications facilities in a way which do not mimic or appear as a natural or architectural feature to the average observer are not within the meaning of this definition.

*Co-location.* The placement or installation of Wireless Communications Facilities on existing structures upon which communications facilities already exist.

*“COW” (Cell on Wheels).* A mobile wireless telecommunication site that consists of a cellular antenna tower and electronic radio transceiver equipment on a truck or trailer, designed to be a part of a cellular network. Other types of temporary, mobile wireless telecommunication sites are included in this definition.

*Distributed Antenna Systems (DAS).* A telephone corporation operating pursuant to a Certificate of Public Convenience and Necessity issued by the California Public Utilities Commission in the business of installing distributed antenna system equipment and connecting facilities including without limitation fiber optic cables, powering locations, and hub locations.

*FCC.* The Federal Communications Commission or any successor to that agency.

*Front-yard Visibility.* The facility is visible from the front yard of any existing residential unit. Except that, a wireless facility located within the public right-of-way along rear yards of residential units is not considered to have “front yard visibility” even if a portion of the facility can be viewed from a front yard. To qualify under this exception, a solid wall or fence at least five feet in height must exist between the wireless facility and the rear yard of the residential unit.

*Lattice Tower.* An open framework freestanding structure used to support one (1) or more antennas, typically with three (3) or four (4) support legs on main vertical load-bearing members.

*Mast.* Same as Antenna support structure.

*Monopole.* A structure composed of a single pole used to support antennas or related equipment.

## DRAFT 6.22.10

*Mounted.* Attached or supported.

*Nonresidential Use.* Uses such as churches, schools, residential care facilities that are not a residential use but may be allowed in a residential zone typically with a conditional use permit.

*Operator or Telecom Operator.* Any person, firm, corporation, company or other entity that directly or indirectly owns, leases, runs, manages, or otherwise controls a telecom facility or facilities within the City.

*Radio Frequency.* Electromagnetic waves in the frequency range of three hundred (300) kHz (three hundred thousand cycles per second) to 300 Ghz (three hundred billion cycles per second).

*Radome.* A visually opaque, radio frequency transparent material which may be flat or cylindrical in design and is used to visually hide antennas.

*Roof Mounted.* Mounted above the eave line of a building.

*Search Ring.* The area of service deficiency within which a new facility is proposed to address the network deficiency.

*Stealth Facility.* A Wireless Communications Facility designed to blend into the surrounding environment and to be minimally visible. It may appear as a natural feature, such as a tree or rock or other natural feature or may be incorporated into an architectural feature such as a steeple, parapet wall, light standard, or be screened by an equipment screen, landscaping or other equally suitable method.

*Support Equipment.* The physical, electrical and/or electronic equipment included within a Wireless Communications Facility used to house, power, and/or process signals to or from the facility's antenna(s).

*Telecommunications Facility, Telecom Facility, Wireless Telecommunications Facility, Wireless Communications Facility or Facility.* An installation that sends and/or receives wireless radio frequency signals or electromagnetic waves, including, but not limited to, directional, omni-directional and parabolic antennas, structures or towers to support receiving and/or transmitting devices, supporting equipment and structures, and the land or structure on which they are all situated. The term does not include mobile transmitting devices, such as vehicle or hand-held radios/telephones and their associated transmitting antennas.

*Uni-pole.* A monopole that does not have antenna elements other than the pole itself or the antenna elements are concealed inside a radome of the same diameter as the pole or exceeding the pole diameter by no greater than six (6) inches.

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## **3903 Applicability**

This Article shall apply to all Wireless Communications Facilities providing voice and/or data transmission, including but not limited to, mobile telephone services, fixed microwave services, mobile data services, and limited digitized video transmissions and services, except as provided below:

- A. **Exempt by State and/or Federal Regulations.** A Wireless Communications Facility shall be exempt from the provisions of this Article if and to the extent state or federal law preempts local regulation of the Facility.
- B. **Exempt Subject to Locational Requirements.** The following are exempt from the provisions of this Article if such facilities meet all required setbacks and development standards as outlined in the particular zoning district in which the facility will be sited.
  - 1. **Radio or Television Antenna.** Any single ground or building mounted receive-only radio or television antenna for the sole use of owners or occupants of the parcel or common interest development on which such antenna is located. The maximum height of such antenna shall not exceed ten (10) feet higher than the building height prescribed for the zone in which the antenna is located.
  - 2. **Satellite Dish Antenna.** Up to three (3) ground or building mounted receive-only radio or television satellite dish antennas, not exceeding one meter in diameter for the sole use of owners or occupants of the parcel or unit in the common interest development on which the antenna is located.
  - 3. **Citizen Band Antenna.** Any ground or building-mounted citizens' band radio antenna not exceeding thirty-six (36) feet above existing grade, including any mast.
  - 4. **Amateur Radio Antenna.** Any antenna support structure such as a mast, tower and/or building, and including the antenna(s) affixed thereto used by authorized amateur radio stations licensed by the FCC provided that the maximum height shall not exceed the greater of (a) thirty-six (36) feet above existing grade or (b) ten (10) feet above the height of the building to which the antenna and/or mast is attached, or (c) ten feet above the maximum structure height prescribed for the zone in which the antenna is located.
  - 5. **City Antennas.** Antennas, antenna masts, and ancillary structures owned and operated by the City.
- C. **Wireless Communication Facilities located within the public right-of-way.**

## **3904 Conditional Use Permit Required**

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A Wireless Communications Facility that is not exempt pursuant to Section 3903, or other provision of this Article, shall be required to obtain one or more Conditional Use Permits pursuant to Article 41 and in accordance with this Article as follows:

- A. Wireless Communications Facilities located on parcels in any zoning designation in the City unless such Facilities are entirely located in a public right-of-way, are co-located, or are sited on parcels owned or controlled by the City.
- B. Amateur Radio Antennas, including the antenna support structure such as a mast, tower and/or building, and including the antenna(s) affixed thereto, that exceed in height the greater of (a) thirty-six (36) feet above ground level or (b) ten (10) feet above the height of the building to which the antenna and/or mast is attached, or (c) ten feet above the maximum structure height for the zoning district in which the antenna will be located. Provided that, in order to issue such a Conditional Use Permit, the Planning Commission, in addition to any other required findings, must also find that:
  - 1. The application is submitted by an amateur radio operator licensed by the FCC;
  - 2. The permitted location is listed by the FCC as the address associated with the amateur radio operator or is the primary residence of the amateur radio operator;
  - 3. Allowance of the additional height and/or width is necessary to reasonably accommodate amateur radio service communications;
  - 4. Based on technical showings by the amateur radio operator applicant no lesser antenna heights and no alternative antenna structures (such as retractable antennas support structures) would reasonably accommodate the amateur radio operator's needs;
  - 5. The regulation constitutes the minimum practicable regulation to accomplish the city's goal of promoting public health and safety;
  - 6. The regulation does not preclude amateur radio service communications;
  - 7. The installation will comply with adopted Building Codes and all other adopted health and safety codes and shall be subject to inspection by the City to determine compliance therewith;
  - 8. A permit for an Amateur Radio Antenna shall be personal to the amateur radio operator to whom the permit is granted, and shall not run with the land, and shall only be transferrable to another amateur radio licensee taking possession of the property where the permitted Amateur Radio Antenna is located upon prior application to and non-discretionary approval by the City;
  - 9. A Conditional Use Permit for an Amateur Radio Antenna shall automatically terminate and the permitted facilities shall be removed within 90 days thereafter if the permittee:
    - a. Has his or her amateur radio license revoked by the FCC, or

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- b. voluntarily cancels or forfeits his or her amateur radio license, or
- c. does not renew his or her amateur radio license within three months after its expiration.

Amateur Radio Antennas shall comply with all other applicable provisions of this Article except where specifically exempted.

### **3905 Administrative Conditional Use Permit**

Unless a Wireless Communication Facility is exempt pursuant to Section 3903 or requires one or more Conditional Use Permits pursuant to Section 3904, an Administrative Conditional Use Permit shall be required for all other proposed Wireless Communications Facilities, including, but not limited to, the following:

- A. Wireless Communication Facilities located on property owned or controlled by the City.
- B. Temporary facilities operated by Wireless Communication Providers, such as Cell on Wheel (COW) or other temporary and mobile facilities, for a maximum period of 60 days.
- C. Co-located wireless facilities located on an approved Wireless Communication Facility, except as may be permitted by Government Code section 65850.6(a).

### **3906 Application Submittal Requirements**

In addition to other application submittal requirements that are imposed by this Article, the City Planner shall develop and update as necessary an application form to permit the City to develop a suitable written administrative record in wireless planning cases. The form shall include, but not be limited to, the following for any application for a Wireless Communications Facility:

- A. Site plan, drawn to scale, indicating all existing and proposed features of the proposed site;
- B. A complete project description, including the following information regarding the proposed Wireless Communication Facility:
  - 1 Number, size and approximate orientation of antennas;
  - 2 Heights of proposed facilities;
  - 3 Equipment enclosure type and size;
  - 4 Construction timeframe for equipment enclosure;
  - 5 Materials and colors of antennas;
  - 6 Description of structures necessary to support the proposed antennas and to house ancillary equipment;
  - 7 Description of lighting;

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- 8 Description of noise/acoustical information for equipment such as air conditioning units and back-up generators;
  - 9 Description of identification and safety signage;
  - 10 Description of access to the facility;
  - 11 Description of utility line extensions needed to serve the facility;
  - 12 Backup power sources, if proposed;
  - 13 Proposed radio frequency emissions information.
- C. Floor plans, elevations and cross-sections of any proposed equipment shelter or other appurtenant structure at a scale no smaller than one-fourth inch equals one foot with clear indication of all exterior materials and colors. Paint and materials samples shall be provided.
  - D. Photo simulations depicting the actual size of the proposed Facility, including all antennas and equipment shelters, shall be submitted for review. The number of photo simulations required to fully depict the impact of the facility on the surrounding area shall be at the discretion of the City Planner.
  - E. A landscape plan including but not limited to landscaping or vegetation replacement and maintenance consistent with the type of facility proposed and the zone in which it is located.
  - F. A plan for maintenance of the site, including trash removal, graffiti removal within 48 hours, and facility upkeep.
  - G. Proof of any existing gap(s) in coverage, and the radius of area from which an antenna may be located to eliminate the gap(s).
  - H. A justification study with a search ring indicating the rationale for selection of the proposed site, in view of the relative merits of any feasible alternative site within the service area. This study shall also include the applicant's master plan which indicates the proposed site in relation to the provider's existing and proposed network of sites within the City and surrounding areas, including map and narrative description of each site. For modifications or alterations to existing facilities, the applicant shall submit a justification study limited to the need to modify, alter or expand the facility.
  - I. Documentation that the proposed Facility complies with all applicable FCC rules, regulations and standards.
  - J. A statement that includes a declaration regarding the facility's capacity for future co-location, supporting information regarding why the proposed wireless facility location is required, and an explanation as to why the site was not co-located. In the case of non co-located ground-mounted facilities, applications shall state the alternative sites considered and provide substantial evidence why they were rejected. The applicant shall demonstrate good faith to co-locate on exiting facilities.
  - K. A description of services offered in conjunction with the proposed facility.

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- L. At the discretion of the City Planner, the City may hire an independent, qualified consultant (the "Technical Consultant") to evaluate any technical aspect of the proposed Communication Facility, including but not limited to: drive test data that indicate current site coverages and proposed coverages; potential for interference with existing or planned public safety emergency response telecommunication facilities; analysis of feasibility of alternate screening methods or devices; or, alternate (more suitable) locations. Where the City Planner elects to hire a Technical Consultant, the applicant shall deposit with the City a sum equal to the expected fee of the Technical Consultant and shall promptly reimburse the City for all reasonable costs associated with the consultation exceeding the expected fee. Any unexpended deposit held by the City at the time of withdrawal or final action on the application shall be promptly returned to the applicant.
- M. Any additional items deemed necessary by the City Planner to make the findings required in Section 3907.

### **3907 Findings For Approval**

In addition to any general findings otherwise required by this Article or any other provision of the Zoning Ordinance, the following findings must be made prior to the approval of a Conditional Use Permit or Administrative Conditional Use Permit for Wireless Communications Facilities (except for Amateur Radio Antennas):

- A. The placement, construction, or modification of a Wireless Communications Facility in the proposed location is necessary for the provision of wireless services to City residents, businesses, and their owners, customers, guests or other persons traveling in or about the City;
- B. The proposal demonstrates a reasonable attempt to minimize stand-alone facilities, is designed to protect the visual quality of the City, and will not have an undue adverse impact on historic resources, scenic views, or other natural or man-made resources;
- C. Where an applicant claims a significant gap in its coverage, that gap must be geographically defined and the gap proved by clear and convincing evidence. The burden of objectively proving a significant gap in its coverage rests solely with the applicant. Where a significant gap in the applicant's coverage is so proven, the applicant must also prove by clear and convincing evidence that the facility proposed is the least intrusive means of closing the significant gap in coverage;
- D. That at least one of the following is true:
  - 1. All applicable requirements and standards of this Article have been met;

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2. A variance has been granted from any requirement or standard of this Article which has not been met; or
3. Strict compliance with the requirements and standards of this Article would not provide for adequate radio frequency signal reception and that no other alternative and less intrusive design of the facility that would meet the development standards is feasible; or
4. Strict compliance with the requirements and standards of this Article would prohibit or have the effect of prohibiting the provision of personal wireless services or would unreasonably discriminate among providers of functionally equivalent wireless communications services.

### 3907.1

The following findings must be made prior to approving a Conditional Use Permit increasing the allowable height as provided in this Article (except amateur radio antennas):

- A. Alternatives have been provided to staff, including but not limited to additional and/or different locations and designs, and staff has determined that the application as approved would have a lesser impact on the aesthetics and welfare of the surrounding community as compared to other alternatives;
- B. Based on evidence presented the additional height greater than ten (10) feet above the maximum building height for the applicable zone is reasonably necessary for co-location of facilities for the efficient operation of the proposed facility; and
- C. Any negative impacts of the proposed facility are properly mitigated.

### **3908 Standard Conditions of Approval**

Each Wireless Communications Facility or antenna which is approved through a conditional use permit shall be subject to the following standard conditions of approval, in addition to any other condition deemed appropriate by the City Planner or Planning Commission, as the case may be:

The Wireless Communications Facility permitted by this Section shall be erected, operated and maintained in compliance with this Article.

Within 30 thirty calendar days following the installation of any Wireless Communications Facility permitted by this Article, the applicant shall provide FCC documentation to the City Planner indicating that the unit has been inspected and tested in compliance with FCC standards. Such documentation shall include the make and model (or other identifying information) of the unit tested, the date and time of the inspection, the methodology used to make the determination, the name and title of the person(s) conducting the tests, and a certification that the unit is properly installed and working

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within applicable FCC standards. As to DAS installations, the required FCC documentation certification shall be made only by the wireless carrier(s) using the DAS system rather than the DAS system provider.

The installation of any Wireless Communications Facility shall be in compliance with all applicable provisions of the State Building Standards Code and any applicable local amendments thereto.

Any substantial change in the type of antenna and/or facility installed in a particular location shall require the prior approval of the City Planner or his designee. Failure to obtain the prior approval of the City Planner or his designee may be grounds for institution of use permit revocation proceedings as well as grounds to institute any other enforcement action available under federal, state or local law.

Co-location of Wireless Communications Facilities pursuant to this Article shall be required whenever feasible.

### **3909 Operation and Maintenance Standards**

Wireless Communication Facilities shall comply with the following operation and maintenance standards at all times. Failure to comply shall be considered a violation of the conditions of approval and constitute a violation of this Article subject to any remedy available under the Zoning Ordinance or other applicable law as well as a basis for institution of revocation proceedings of a permit pursuant to this Article, Article 41 and Article 47.

- A. Except for exempt facilities, a maintenance and facility removal agreement shall be executed by the operator and the property owner (if other than the City). No permit shall become effective until such agreement has been executed. Said agreement shall bind the operator and property owner and their successors and assigns to the facility to the following:
1. Maintain the appearance of the facility;
  2. Remove the facility when required by this Article or by any condition of approval, or when it is determined that the facility will not have been used during any current consecutive six month period, or if the facility will be abandoned;
  3. (Except for Amateur Radio Antennas) Pay all costs the City reasonably incurs to monitor a facility's compliance with conditions of approval and applicable law;

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4. Reimburse the City for any and all costs incurred for work required by this Article, applicable law, or the conditions of a permit issued by the City for the Facility which the operator and property owner fail to perform within 30 days after written notice from the City to do so or sooner if required by the City for good cause;
  5. In the case of a freestanding tower or monopole (except for an Amateur Radio Antenna) the agreement shall obligate the operator and owner to lease space on the tower, at a fair market rent, to other Wireless Communication providers to the maximum extent consistent with the operational requirements of the facility, and shall further require that the permittee shall not prohibit the installation of other Wireless Communications Facilities on the same property;
  6. Where the City Planner or Planning Commission or City Council, as the case may be, determines that it is necessary to ensure compliance with the conditions of approval or otherwise provide for removal of a Facility that is temporary in nature or upon its disuse, the operator or owner may be required to post a performance bond, cash or a letter of credit or other security acceptable to the City Planner in the amount of ten thousand dollars (\$10,000), or such higher amount as the City Planner reasonably determines is necessary to ensure compliance with the maintenance and facility removal agreement. This requirement shall not apply to an amateur radio antenna.
- B. Each Wireless Communication Facility shall include signage approved by the City Planner identifying the name and phone number of a party to contact in the event of an emergency. Such signage must comply with any applicable provisions of this Article and Article 33 (sign ordinance).
- C. Wireless Communication Facilities and the sites on which they are located shall be maintained in good repair, free from trash, debris, litter and graffiti and other forms of vandalism. Any damage from any cause shall be corrected within five days of written notice by the City. Graffiti shall be removed as soon as practicable, and in no event longer than 48 hours after notice by the City.
- D. The owner or operator of a Wireless Communication Facility shall maintain landscaping in accordance with an approved landscape plan and shall replace dying or dead trees, foliage or other landscape elements shown on the approved plans within 30 days of written notification by City. Amendments or modifications of the approved landscape plan shall not be made without written City approval.

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- E. A Wireless Communication Facility shall be operated to minimize noise impacts to surrounding residents and persons using nearby facilities and recreation areas. All equipment that may emit noise in excess of the levels permitted by Article 38 of the City Municipal Code (noise ordinance) shall be enclosed. Backup generators shall only be used during periods of power outages or for testing.
- F. Temporary power may be allowed during the initial construction or major repair of a Facility for the minimal amount of time necessary to complete the work. The operator shall provide a timeline to the City Planner and keep staff updated as to the time of completion.
- G. Radio Frequency Emissions Safety. No Wireless Communication Facility may, by itself or in conjunction with other Wireless Communication Facilities generate radio frequency emissions in excess of the standards for permissible human exposure, as provided by applicable federal regulations including 47 C.F.R. 1.1307 *et seq.*

### **3910 Public Rights-of-Way**

Wireless Communication Facilities located in the City Rights-of-Way shall be required to obtain an encroachment permit prior to installation and shall be subject to the jurisdiction of the City Engineer or his designee who shall, consistent with Public Utility Code Sections 7901 and 7901.1, determine the time, place and manner of construction for all facilities located within public rights-of-way. If the City Engineer determines that a substantial portion of the Facility will be located outside the right-of-way, then the Facility shall be required to comply with this Article.

### **3911 Wireless Communication Facility Standards**

The following development and design standards shall be used to review any application for a Conditional Use Permit or Administrative Conditional Use Permit for Wireless Communication Facility pursuant to this Article and Article 41. Additionally, if any facility is proposed to be sited in the Coastal Zone as defined by the Local Coastal Program (LCP) such facility must also comply with all applicable provisions of the LCP. All Wireless Communication Facilities (except amateur radio antennas) shall be planned, designed, located, erected, operated, and maintained in accordance with the following standards:

- A. Wireless Communication Facilities shall comply with all development standards within the applicable zoning district of the subject site, except parking and landscape coverage.

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- B. Height limits for all Wireless Communication Facilities shall be in accordance with this Article.
- C. All Wireless Communication Facilities and Accessory Wireless Equipment shall comply with the applicable provisions of Articles 33 (sign ordinance) and 38 (noise ordinance) of the City's Municipal Code.
- D. Visual Impact Screening Standards: All Wireless Communication Facilities shall to the greatest extent reasonably possible employ Camouflage Design Techniques to minimize visual impacts and provide appropriate screening. The Facility shall be maintained at all times in a "like new" condition and such techniques shall be employed to make the installation, operation and appearance of the facility as visually inconspicuous as possible. Depending on the proposed site and surroundings, certain Camouflage Design Techniques may be deemed by the City as ineffective or inappropriate and alternative techniques may be required. The following Camouflage Design Techniques shall be considered based on different installation situations.

### For building mounted installations.

- A. Screening materials matched in color, size, proportion, style, texture, and quality with the exterior design and architectural character of the structure and the surrounding visual environment.
- B. Facility components, including all antenna panels, shall be mounted either inside the structure or behind the proposed screening elements and not on the exterior face of the structure.
- C. The Camouflage Design Techniques applied shall result in an installation that is camouflaged and prevents the facility from visually dominating the surrounding area. Camouflage Design Techniques should be used to hide the installation from predominant views from surrounding properties.

### For Structure Mounted Installations excluding Monopole Installations

- A. All antenna panels and accessory components mounted on the exterior of the structure shall be painted and textured or otherwise coated to match the predominant color and surface texture of the mounting structure.
- B. When required by the City, antenna panels shall be located and arranged on the structure so as to replicate the installation and appearance of the equipment already mounted to the structure.
- C. The Camouflage Design Techniques applied shall result in an installation that is camouflaged and prevents the facility from visually dominating the surrounding area. Camouflage Design Techniques

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should be used to hide the installation from direct view from surrounding properties.

- D. Antennas shall not be mounted on above ground water storage tanks.

### For Monopole Installations

- A. Monopole installations 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.
- B. All antenna components and support equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background and/or adjacent architecture so as to visually blend in with the surrounding development. Subdued colors and non-reflective materials that blend with surrounding materials and colors shall be used.
- C. In certain conditions, such as locations that are readily visible from residential or open space areas where there is heightened sensitivity for visual impacts and compatibility, the measures described above may not be sufficient to create an effectively camouflaged installation. In these cases, additional measures may be required by the City, including but not limited to enclosing the Wireless Communications Facility entirely within a vertical screening structure (suitable architectural feature such as a clock tower, bell tower, icon sign, lighthouse, windmill, etc.) may be required through the permit process. All facility components, including the antennas, shall be mounted inside the structure.
- D. Camouflage Design Techniques employed shall result in an installation that either will blend in with the predominant visual backdrop or will disguise the facility so it appears to be a decorative or attractive architectural feature. If Camouflage Design Techniques for monopoles do not adequately hide or prevent direct viewing of the facility, then the permit may be denied.

Co-location Facilities. Co-location installation shall use screening methods similar to those used on the existing Wireless Communication Facility. If the City Planner determines existing screening methods do not conform to the Camouflage Design standards herein, additional screening methods may be required for the co-located facilities. Use of other appropriate screening methods may be considered through the substantial conformity process.

"Cell on Wheels" (COW): A COW or other similar temporary and mobile Wireless Communications Facility installation may require screening to reduce visual impacts

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depending on the duration of the permit and the setting of the proposed site. If screening methods are determined to be necessary, the appropriate screening methods, considering the temporary nature and length of the permitted use, will be determined through the Conditional Use Permit or administrative review (including but not limited to the Administrative Conditional Use Permit or Substantial Conformity process.)

**For Accessory Wireless Equipment:** All accessory wireless equipment associated with the operation of any Wireless Communication Facility shall be screened. The following screening techniques shall be considered based on the type of installation:

- A. Accessory wireless equipment for building mounted facility 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 roof-mounted facilities shall be of a quality and design that is architecturally compatible and consistent with the design of the building or structure.
- B. Accessory wireless equipment for freestanding facilities, not mounted on a building, may be visually screened by locating the equipment within a fully enclosed building or in an underground vault. For above ground installations not within an enclosed building, screening shall consist of walls, landscaping, or walls combined with landscaping to effectively screen the facility at the time of installation. All wall and landscaping materials shall be selected so that the resulting screening will be visually integrated with the architecture and landscape architecture of the surrounding area.
- C. All accessory wireless equipment shall be placed and mounted in the least visually obtrusive location possible.

### **3912 Locational and Siting Standards**

1. General. Wireless Communications Facilities (except amateur radio antennas) shall be installed on properties in the following order of preference (the greatest preference is listed first):
  - a. City-owned or controlled property;
  - b. Parcels located in Industrial Districts;
  - c. Parcels located in Commercial Districts;
  - d. Parcels located within Public and Semi Public Districts;
  - e. Parcels located in Open Space Districts;
  - f. Parcels located in Agricultural Districts, \*subject to the locational criteria described herein (i.e., not on or near primary residences);
  - g. Parcels located in Residential Districts.

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2. Wireless Communication Facility installation in a less-preferred zone shall not be permitted unless the applicant demonstrates by clear and convincing evidence that it would be infeasible to install the facility in a more preferred zone and still close a proven significant gap in coverage by the least intrusive means.
3. Wireless Communication Facilities shall be co-located where technologically feasible and where co-location would be visually superior to the otherwise necessary non-co-located facility.
4. Wireless Communication Facilities located on vacant lots shall be considered temporary and when the site is developed, the city may require such facilities be removed, and if appropriate, replaced, with building-mounted facilities.
5. Restricted Locations. No Wireless Communication Facility (except amateur radio antennas) shall be permitted in any of the residential zones or areas designated as within the coastal zone (excluding rights-of-way) unless:
  - a. The facility is designed as a stealth facility; and
  - b. The law otherwise requires the City to permit such location

### **3913 Site Development Standards**

A. General Development Standards. All Wireless Communication Facilities shall comply with the following:

1. The maximum height of any Wireless Communication Facility, other than roof mounted facilities and amateur radio antennas, located on private property shall be ten feet above the maximum height allowed in the zoning district in which the facility is located. A Conditional Use Permit may be granted to exceed the height limitation as described in Article 41 and Section 3707.
2. Height shall be measured as follows:
  - a. Ground mounted antennas. The height of the antenna structure shall be measured from the natural undisturbed ground surface below the center of the base of the antenna support (i.e., tower) to the top of the tower or from the top of the highest antenna or piece of equipment attached thereto, whichever is higher.
  - b. Building mounted antennas. The height of the antenna structure shall be measured from the top of the building roof the antenna is mounted on to the top of the antenna or screening structure, whichever is higher.
  - c. Utility Tower/Pole Mounted Antennas. The height of the antenna structure shall be measured from the base of the utility tower/pole, not the grade of the climbing leg foundation of the structure if the climbing leg foundation of the utility tower/pole structure is not at grade due to exposed footings.

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3. Facilities located on properties owned or controlled by the City shall not exceed fifteen (15) feet above the height prescribed for the zone in which the antenna is located.

4. Wireless Communication Facilities shall conform to all building setback requirements, and all equipment associated with their operation shall comply with the development standards for the zone in which they are located.

5. Monopoles, antennas, and support structures for antennas shall be no greater in diameter or any other cross-sectional dimension that is reasonably necessary for the proper functioning and physical support of the Wireless Communication Facility.

6. All Wireless Communication Facilities must at least meet all current standards and regulations of the FCC as to radio frequency emissions, or any successor agency, and any other agency of the state or federal government with the authority to regulate Wireless Telecommunication Facilities.

7. All Wireless Telecommunication Facilities shall be designed, located and operated to avoid interference with the quiet enjoyment of adjacent properties, and at a minimum shall be subject to the noise standards of Article 38 of the Municipal Code. If the City Planner or Planning Commission as the case may be finds that the noise of such facility may have a detrimental effect on an adjacent property, they may require an independent acoustical analysis, at the applicant's expense, to identify appropriate mitigation measures.

8. Excluding those facilities that are co-located, located within the public rights-of-way, amateur radio antennas, or located on publicly owned or controlled property or utility infrastructure, Wireless Communication Facilities shall be separated from each other as follows, unless the applicant proves by clear and convincing evidence that the separation requirement would prevent the provider from closing a significant gap in its coverage:

Any new ground mounted Wireless Telecommunication Facility located within a quarter mile (1,320) feet of an existing ground mounted facility must be of camouflaged design, regardless of the zone in which it is located.

### **3914 Safety and Monitoring Standards**

A. At all times, Wireless Communications Facilities shall comply with the most current regulatory and operational standards including but not limited to radio frequency (RF) radiation exposure standards adopted by the FCC as provided in C.F.R. § 1.1307, et seq. and FCC Office of Engineering & Technology Bulletin 65 and antenna height standards adopted by the Federal Aviation Administration (FAA). The applicant shall

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maintain the most current information from the FCC regarding allowable RF emissions and all other applicable regulations and standards. The applicant shall file an annual report to the permit file advising the City of any regulatory changes that require modifications to the Wireless Communication Facility and of the measures taken by the applicant to comply with such regulatory changes.

B. Upon or prior to installation, and prior to activation, of any Wireless Communications Facility the applicant shall submit to the City certification in a form acceptable to the City that the Facility will operate in compliance with all applicable FCC regulations including, but not limited to radio frequency (RF) emissions limitations. Thereafter, upon any proposed increase of at least ten percent in the effective radiated power or any proposed change in frequency use, the applicant shall submit updated certifications for review by the City. Both the initial and update certifications shall be subject to review and approval by the City Planner. At the City's sole discretion, a qualified independent radio frequency engineer, selected by and under contract to the City, may be retained to review said certifications for compliance with FCC regulations. All costs associated with the City's review of these certifications shall be the responsibility of the applicant. Absent any modifications to a Wireless Communications Facility that would cause a change to the effective radiated power or frequency use, the applicant shall submit an annual letter to the Community Development Department certifying that no such changes have been made to the site and that the facility continues to operate within the range allowed by FCC regulations.

C. A Wireless Communication Facility is to be installed and maintained in compliance with the requirements of the Uniform Building Code, National Electrical Code, noise ordinance and other applicable codes, as well as other restrictions specified in this Article. The Facility operator and the property owner shall be responsible for maintaining the facility in good condition, which shall include but not be limited to regular cleaning, painting, and general upkeep and maintenance of the site.

D. Public access to a Wireless Communication Facility shall be restricted. Required security measures may include but not be limited to fencing, screening, and security signage, climbing prevention systems, as deemed appropriate by the City.

E. Safety lighting or colors, if prescribed by the City or other approving agency (i.e. FAA) may be required for antenna support structures.

### **3915 Duration, Revocation And Discontinuance**

A. Two year expiration. A permit for a Wireless Communication Facility shall expire two years after permit approval unless the applicant has obtained a Building Permit and has requested an initial building inspection.

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### B. Duration of Permits and Approval.

1. Permits for Wireless Communications Facilities shall be valid for an initial period of ten (10) years from the date of approval unless for a shorter period as authorized by California Government Code section 65964(b), or as specified by the approving body.

2. A permit issued pursuant to this Article may be extended at the discretion of the City Planner for a maximum of three two-year terms by the City Planner upon the applicant proving by clear and convincing evidence that the facility continues to comply with all conditions of approval under which the permit was originally approved.

3. A permit may be revoked pursuant to Article 47 of the Zoning Ordinance.

4. All costs reasonably incurred by the City in verifying compliance and in extending or revoking an approval shall be borne by the applicant and/or permit holder.

C. Abandonment or Discontinuance of Use. Any Provider who intends to abandon or discontinue the use of any wireless facility shall notify the City of such intention no less than 60 days prior to the final day of use.

D. Wireless facilities with use discontinued shall be considered abandoned 90 days following the final day of use.

E. All abandoned facilities shall be physically removed by the Provider no more than 90 days following the final day of use or of determination that the facility has been abandoned, whichever occurs first. When a wireless facility has been abandoned, but not removed, the City may cause such facilities to be removed and charge all expenses incurred in such removal to the provider.

### **3916 Existing Facilities**

All equipment and improvements associated with a Wireless Communication Facility permitted as of the date of the adoption of this Article may continue as they presently exist, but shall constitute a legal nonconforming use to the extent they do not conform to the standards of this Article. Routine maintenance on existing, operational equipment and facilities at a legal non-conforming Wireless Facility shall not require compliance with this Article. However, replacement of any mainlines, jumpers, antennas, primary or secondary equipment or modification of any kind from a legal non-conforming Wireless Facility or expiration of an existing Conditional Use Permit or Administrative Conditional Use Permit shall require issuance of a permit pursuant to, and in compliance with this Article.

### **3917 Upgrades With New Technology**

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The City finds that the technology associated with Wireless Communications equipment is subject to rapid changes and upgrades as a result of industry competition and customer demands, and anticipates that telecommunications antennas and related equipment with reduced visual impacts will be available from time to time with comparable or improved coverage and capacity capabilities. The City further finds that it is in the interest of the public health, safety, and welfare that telecommunications providers be required to replace older facilities with newer equipment of equal or greater capabilities and reduced visual impacts as technological improvements become available. Therefore, any modifications requested to an existing facility shall permit the City Planner or his designee to review the carrier's existing facility to determine whether requiring newer equipment or applying new screening techniques that reduce visual impacts is appropriate if technically feasible.

### **3918 Green Technology (optional)**

The City anticipates that the design of "green" sites (i.e., facilities that utilize alternative energy sources and/or employ technologies that leave a smaller carbon footprint than traditional methods) will be introduced as a design alternative in the near future. New facilities that are proposed using "green" technology may not be capable of strictly complying with this Article. To accommodate these facilities and therefore balance the multiple needs of the community for energy efficiency, adequate telecommunications service and aesthetics, the City may consider factors such as whether the facility has no carbon footprint and/or whether the facility produces power through solar or wind generated means.

However, any such proposals shall not eliminate the need to comply with any or all sections of this Article and even "green" facilities shall require a Conditional Use Permit or Administrative Use Permit, as appropriate. Staff shall review each "green" application on a case by case basis and in an appropriate case, may endorse deviations from the specific design requirements of this Article when staff finds that the benefit of being "green" outweighs the potential negative impacts of not meeting all requirements of this Article.

Notwithstanding the endorsement of staff, the Planning Commission shall remain the decision making body for all Conditional Use Permits, including those determined to be "green", unless the matter is appealed to, or called for review by the City Council, in which case the City Council shall be the decision making body.

### **3919 Distributed Antenna Systems**

Distributed Antenna Systems Installations shall conform to the requirements of this Article.

### **3920 Federal Preemption**

## DRAFT 6.22.10

Notwithstanding any other provision of this Article to the contrary, if any provision(s) of this Article would give rise to a claim by an applicant that a proposed action by the City would "prohibit or have the effect of prohibiting the provision of personal wireless services" within the meaning of 47 U.S.C. Section 332(c)(7) or would "prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service" within the meaning of 47 U.S.C. Section 253 then, at or prior to the public hearing on the application, the applicant shall submit clear and convincing evidence attesting to all specifics of the claim. If such evidence is submitted, the decision-making body shall determine if this is the case, and if so, shall, as much as possible, keep the intent of the ordinance the same while applying the provisions in such a manner as to avoid any violation of federal law. If that is not possible, the decision-making body shall find that the provision(s) cannot be implemented in a manner that does not violate federal law, and shall override the offending provisions to the extent necessary to comply with federal law.

Received

JUL 15 2010



Planning Division

**NOTICE OF INTENT TO ADOPT A NEGATIVE DECLARATION  
City of Oceanside, California**

**SUBJECT: Introduction of Article 39 to the Oceanside Zoning Ordinance (OZO), Wireless Communications Facility, Satellite Dish, and Antenna Standards and Repeal of Section 3025 of the OZO**

**NOTICE IS HEREBY GIVEN** that the City of Oceanside has prepared and intends to adopt a Negative Declaration in connection with the subject project. The Negative Declaration analyzes all potential environmental effects within the attached initial study checklist. The Negative Declaration concludes that the proposed project will not result in any significant, adverse effects on the environment. The City's decision to prepare a Negative Declaration should not be construed as a recommendation of either approval or denial of this project.

**PROJECT DESCRIPTION:** The proposed project is an introduction of Article 39 Wireless Communications Facility, Satellite Dish, and Antenna Standards Ordinance to be added to the 1992 and 1986 (applies in Coastal Zone) Oceanside Zoning Ordinance (OZO) and repeal of Section 3025 of the 1992 OZO.

**PUBLIC REVIEW PERIOD:** the public review period is from Wednesday, July 7, 2010 to Monday, August 9 2010.

**PROJECT MANAGER:** Jerry Hittleman, City Planner; Phone: (760) 435-3535; Fax number: (760) 754-2958; mailing address: Planning Division, 300 North Coast Highway, Oceanside, CA 92054. E-mail: [jhittleman@ci.oceanside.ca.us](mailto:jhittleman@ci.oceanside.ca.us)

**NOTICE IS FURTHER GIVEN** that the City invites members of the general public and agencies to review and comment on this environmental documentation. Written comments may be mailed, e-mailed, or faxed to the project manager. The Negative Declaration and supporting draft ordinance are attached and are also available for public review and inspection at the Planning Division located in City Hall at, 300 North Coast Highway, Oceanside, CA 92054. The City's Planning Commission and City Council will conduct public hearings at future dates to be determined. A legal ad in a local newspaper will be used to notice the public for those hearings. If you challenge this project in court, you may be limited to raising only those issues you or someone else raised during the public review period on the proposed Negative Declaration or at the future public hearings.

  
By order of Jerry Hittleman, City Planner

**FILED**  
David Butler, Recorder/County Clerk

JUL 06 2010  
BY L. Kesian  
DEPUTY

FILED IN THE OFFICE OF THE COUNTY CLERK

San Diego County on JUL 06 2010

Posted JUL 06 2010 Removed \_\_\_\_\_

Returned to agency on \_\_\_\_\_

Deputy L. Kesian



## INITIAL STUDY City of Oceanside California

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1. **PROJECT:** Article 39, Wireless Communications Facility, Satellite Dish and Antenna Standards
2. **LEAD AGENCY:** City of Oceanside
3. **CONTACT PERSON & PHONE:** Jerry Hittleman, City Planner, City of Oceanside, Development Services Department/Planning Division, 300 North Coast Highway, Oceanside, CA 92054. (760) 435-3535.
4. **PROJECT LOCATION:** Citywide
5. **APPLICANT:** City of Oceanside
6. **GENERAL PLAN DESIGNATION:** Applicable to all General Plan Designations
7. **ZONING:** Applicable to all Zones.
8. **PROJECT DESCRIPTION:** Introduction of Article 39, a new Wireless Communications Facility, Satellite Dish, and Antenna Standards Ordinance (Telecommunication Ordinance) that will be added to the current 1992 Oceanside Zoning Ordinance (OZO) and the 1986 OZO for those areas within the Coastal Zone and the repeal of Section 3025 from the 1992 OZO. A copy of the proposed draft ordinance is attached.
9. **SURROUNDING LAND USE(S) & PROJECT SETTING:** Telecommunications facilities may be located within any zoning district in the City of Oceanside with approval of a conditional use permit (CUP).
10. **OTHER REQUIRED AGENCY APPROVALS:** California Coastal Commission for those areas within the City of Oceanside Coastal Zone.
11. **PREVIOUS ENVIRONMENTAL DOCUMENTATION:**
12. **CONSULTATION:**  

California Coastal Commission
13. **SUMMARY OF ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:** The project would not affect any environmental factors resulting in a Potentially Significant Impact or Potentially Significant Impact Unless Mitigated. A summary of the environmental factors potentially affected by this project, consisting of a Potentially Significant Impact or Potentially Significant Impact Unless Mitigated, include:

<input type="checkbox"/> Aesthetics	<input type="checkbox"/> Agricultural	<input type="checkbox"/> Air Quality
<input type="checkbox"/> Biological Resources	<input type="checkbox"/> Cultural Resources	<input type="checkbox"/> Geological
<input type="checkbox"/> Hazards	<input type="checkbox"/> Water	<input type="checkbox"/> Land Use & Planning
<input type="checkbox"/> Mineral Resources	<input type="checkbox"/> Noise	<input type="checkbox"/> Population & Housing
<input type="checkbox"/> Public Services	<input type="checkbox"/> Recreation	<input type="checkbox"/> Transportation
<input type="checkbox"/> Utilities Systems		

**14. ENVIRONMENTAL CHECKLIST**

This section analyzes the potential environmental impacts which may result from the proposed project. For the evaluation of potential impacts, the questions in the Initial Study Checklist (Section 2) are stated and answers are provided according to the analysis undertaken as part of the Initial Study. The analysis considers the project's short-term impacts (construction-related), and its operational or day-to-day impacts. For each question, there are four possible responses. They include:

1. No Impact. Future development arising from the project's implementation will not have any measurable environmental impact on the environment and no additional analysis is required.
2. Less Than Significant Impact. The development associated with project implementation will have the potential to impact the environment; these impacts, however, will be less than the levels or thresholds that are considered significant and no additional analysis is required.
3. Potentially Significant Unless Mitigated. The development will have the potential to generate impacts which may be considered as a significant effect on the environment, although mitigation measures or changes to the project's physical or operational characteristics can reduce these impacts to levels that are less than significant.
4. Potentially Significant Impact. Future implementation will have impacts that are considered significant, and additional analysis is required to identify mitigation measures that could reduce these impacts to less than significant levels.

	Potentially Significant	Potentially Significant Unless Mit.	Less than Significant	No Impact
<b>14.1 AESTHETICS.</b> Would the project:				
a. Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Substantially damage scenic resources, including, but not limited to trees, rock outcroppings, and historic building along a State-designated scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

**Discussion:**

a-d **No Impact**. The proposed Telecommunication Ordinance contains design standards to minimize the visual impact of these facilities on the surrounding neighborhood or community. Design review approval would be required for all wireless communication facilities as part of a conditional use permit application or staff review for facilities within the City's rights-of-way (ROW). Through the approval process, proposed telecommunication facilities will be evaluated to assure that they do not interfere with prominent vistas or significant public view corridors. Since no physical project is proposed with adoption of this ordinance no impacts will occur and no mitigation is required.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.2 AGRICULTURAL RESOURCES.</b> Would the project:				
a. Convert Prime Farmland, Unique Farmland, Farmland of Statewide Importance as depicted on maps prepared pursuant to the Farmland Mapping and Monitoring Program of the CA. Resources Agency?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Conflict with existing zoning for agricultural use, or a Williamson Act Contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

**a-c No Impact.** The proposed project is the introduction of a new Telecommunication Ordinance. Telecommunication facilities would only be allowed in the City's Agricultural Zone with approval of a conditional use permit (CUP). Each CUP application will be evaluated in accordance with the California Environmental Quality Act (CEQA). Since there is no development associated with this proposal no impacts to agricultural resources are expected and no mitigation is required.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.3 AIR QUALITY.</b> Would the project:				
a. Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Violate an air quality standard or contribute to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under the applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
e. Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

**a-e No Impact.** The proposed introduction of a new Telecommunication Ordinance does not propose a physical project. Therefore, no significant air or odor impacts would be generated through adoption of this ordinance and no mitigation is required. Future telecommunication facilities would be evaluated in subsequent environmental documents.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.4 BIOLOGICAL RESOURCES.</b> Would the project:				
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or the USFWS?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game (DFG) or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
e. Conflict with any local policies or ordinances protecting biological resources, such as tree preservation policy/ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

a-f **No Impact.** Introduction of the draft Telecommunication Ordinance does not contain a physical project. Therefore, no impacts to biological resources will occur and no mitigation is required. Potential impacts to special status plant and animal species will be evaluated at such time that telecommunication-related projects are processed. These potential biological impacts will be analyzed under a separate environmental document.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.5 CULTURAL RESOURCES.</b> Would the project:				
a. Cause a substantial adverse change in the significance of a historical resource as defined in ' 15064.5 of CEQA?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to ' 15064.5 of CEQA?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d. Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

*a-d No Impact.* The proposed Telecommunication Ordinance does not contain a physical project. At such time physical projects are proposed additional environmental analysis will be completed at that time. Therefore, no impacts to archaeological or paleontological resources will result from adoption of the proposed ordinance and no mitigation is required.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.6 GEOLOGY AND SOILS.</b> Would the project:				
a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving (i.) rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist, or based on other substantial evidence of a known fault (Refer to DM&G Pub. 42)?; or, (ii) strong seismic ground shaking?; or, (iii) seismic-related ground failure, including liquefaction?; or, (iv) landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on-site or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d. Be located on expansive soil, as defined in Table 18- 1-B of the 1994 UBC, creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
e. Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

*a-e No Impact.* Future telecommunication projects in Oceanside would be located within the seismically active southern California region and would likely be subjected to groundshaking, thus exposing proposed water transmission and storage facilities to seismic hazards. No known active seismic faults traverse the City of Oceanside. Potential groundshaking and other geologic hazards would be evaluated at the time future projects are submitted as the proposed project involves only adoption of a Telecommunication Ordinance. Therefore, no geologic impacts have been identified and no mitigation is required.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.7 HAZARDS AND HAZARDOUS MATERIALS.</b> Would the project:				
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
b. Create a significant hazard to the public or the environment through reasonably foreseeable conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
h. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

a-h **No Impact.** The proposed project, introduction and adoption of a Telecommunication Ordinance, would not involve the routine transport, use, or disposal of hazardous materials, and would not result in impacts related to hazards or hazardous materials. As no impacts were identified, no mitigation is required. Future telecommunication related projects will require additional CEQA review and these potential impacts will be analyzed at that time.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.8 HYDROLOGY AND WATER QUALITY.</b> Would the project:				
a. Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
c. Substantially alter the existing drainage pattern of the site or area including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
e. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
f. Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
g. Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
h. Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
i. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
j. Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
k. Result in an increase in pollutant discharges to receiving waters considering water quality parameters such as temperature, dissolved oxygen, turbidity and other typical stormwater pollutants (e.g. heavy metals, pathogens, petroleum derivatives, synthetic organics, sediment, nutrients, oxygen-demanding substances, and trash)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
l. Result in significant alternation of receiving water quality during or following construction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
m. Could the proposed project result in increased erosion downstream?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
n. Result in increased impervious surfaces and associated increased runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
o. Create a significant adverse environmental impact to drainage patterns due to changes in runoff flow rates or volumes?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
p. Tributary to an already impaired water body, as listed on the Clean Water Act Section 303(d) list? If so, can it result in an increase in any pollutant for which the water body is already impaired?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
q. Tributary to other environmentally sensitive areas? If so, can it exacerbate already existing sensitive conditions?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
r. Have a potentially significant environmental impact on surface water quality to either marine, fresh, or wetland waters?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
s. Have a potentially significant adverse impact on groundwater quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
t. Cause or contribute to an exceedance of applicable surface or groundwater receiving water quality objectives or degradation of beneficial uses?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
u. Impact aquatic, wetland, or riparian habitat?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
v. Potentially impact stormwater runoff from construction or post construction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
w. Result in a potential for discharge of stormwater pollutants from areas of material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas, loading docks or other outdoor work areas?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
x. Result in the potential for discharge of stormwater to affect the beneficial uses of the receiving waters?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
y. Create the potential for significant changes in the flow velocity or volume of stormwater runoff to cause environmental harm?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
z. Create significant increases in erosion of the project site or surrounding areas?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

**a-z No Impact** No physical projects are associated with the introduction of the Telecommunication Ordinance. The ordinance only provides a comprehensive means of regulating the installation, augmentation, and maintenance of such communication facilities, satellite dishes, and antennas in a manner to blend with the character of Oceanside neighborhoods. It should be noted that telecommunication structures are generally located on utility poles or camouflaged onto existing structures that do not typically impact drainage patterns or violate any water quality regulations. Since no impacts to water quality, hydrology, ground water supply, or flooding are expected no mitigation is required.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.9 LAND USE AND PLANNING.</b> Would the project:				
a. Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the General Plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
c. Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

a-c **No Impact.** The proposed Telecommunication Ordinance will not result in amendments to the land use designations, roadway network, any habitat conservation plans, or any other City, State, or Federal plans or policies. Therefore, no impacts will occur relative to land use and planning regulations and plans and no mitigation is required..

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.10 MINERAL RESOURCES.</b> Would the project:				
a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

a-b **No Impact.** Introduction of the Telecommunication Ordinance is not associated with a physical project. Therefore no impacts to mineral resources are expected with the ordinance adoption and no mitigation is required. Future telecommunication projects will be evaluated under a separate CEQA document.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.11 NOISE.</b> Would the project:				
a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
f. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

*a-f No Impact.* The proposed introduction and adoption of the Telecommunication Ordinance would not adversely affect noise levels within the City of Oceanside. All future facilities would need to meet the requirements of the City's Noise Ordinance. Future proposed telecommunication facilities projects would be reviewed for potential noise impacts under a separate CEQA document. Therefore, no noise impacts would occur and no mitigation is required.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.12 POPULATION &amp; HOUSING.</b> Would the project:				
a. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

*a-c No Impact.* The proposed introduction of the Telecommunication Ordinance would not induce growth through the extension or expansion of major capital infrastructure. No impacts to population and housing beyond those identified within the *City's General Plan* would occur and no mitigation is required. The proposed project would not require the removal existing housing, and therefore would not necessitate the construction of replacement housing elsewhere.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.13 PUBLIC SERVICES.</b> Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
/Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

**No Impact.** The proposed introduction of the Telecommunication Ordinance will not adversely affect governmental services or create a need for new facilities in excess of those previously considered in the General Plan. Therefore adoption of the ordinance will not result in substantial adverse physical impacts associated with public facilities and no mitigation is required.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.14 RECREATION.</b> Would the project:				
a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities, such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

**a-b No Impact.** Introduction of the proposed Telecommunication Ordinance will not generate an increase in demand for usage of existing public or private parks or other recreational facilities. Potential impacts to parks facilities will be evaluated under future CEQA documents for those facilities proposed in or near City or San Diego County (e.g. Guajome Regional Park) parks. Therefore, no recreation related impacts are anticipated and no mitigation is required.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.14 TRANSPORTATION/TRAFFIC.</b> Would the project:				
a. Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
b. Exceed, either individually or cumulatively, a level of service standard established by the county congestion/management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
f. Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
g. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

*a-g No Impact.* Introduction and adoption of the Telecommunication Ordinance will not result in any streets being modified, significant traffic being generated or impacts to air traffic patterns. Any future new monopoles proposed in proximity to the Oceanside Airport would be reviewed in accordance with the Oceanside Airport Land Use Compatibility Plan (ALUCP) and Federal Aviation Administration (FAA) rules and regulations. No physical projects are proposed as part of adoption of the Telecommunication Ordinance, no impacts to transportation systems will occur, and no mitigation is required.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.15 UTILITIES AND SERVICE SYSTEMS.</b> Would the project:				
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
e. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project=s projected demand in addition to the provider=s existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
f. Be served by a landfill with sufficient permitted capacity to accommodate the project=s solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
g. Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

*a-g No Impact.* No physical improvements are associated with introduction and adoption of the proposed Telecommunication Ordinance. Any potential impacts to utilities and service systems will be evaluated in future CEQA documents. Therefore, no impacts to utilities or utilities are anticipated with adoption of the Telecommunication Ordinance and no mitigation is required.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.16 GREENHOUSE GAS EMISSIONS.</b> Would the project:				
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

*a-b No Impact.* No physical improvements are proposed with introduction and adoption of the Telecommunication Ordinance. Future telecommunication facilities will be reviewed under a separate environmental document in conformance with CEQA and potential greenhouse gas emissions will be evaluated at that time. Adoption of this ordinance will not conflict with any applicable plans or policies whose main purpose is to reduce emissions of greenhouse gases. Therefore, no impacts relative to greenhouse gases will occur and no mitigation is required.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.17 MANDATORY FINDINGS OF SIGNIFICANCE.</b> Would the project:				
a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to decrease below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
b. Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. Does the project have impacts which are individually limited, but cumulatively considerable (A Cumulatively considerable means the project's incremental effects are considerable when compared to the past, present, and future effects of other projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d. Does the project have environmental effects which will have substantial adverse effects on human beings, directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

a-d **No Impact.** No physical improvements are proposed with introduction and adoption of the Telecommunication Ordinance. Environmental impacts, both direct and indirect, and cumulative impacts will be reviewed as each telecommunication facility is proposed under future environmental documents prepared in conformance with CEQA. No impacts have been identified and no mitigation is required.

15. **PREPARATION.** The initial study for the subject project was prepared by:

  
 Jerry Hittleman, City Planner

16. **DETERMINATION.** (To be completed by lead agency) Based on this initial evaluation:

- [X] I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- [ ] I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described herein have been included in this project. A MITIGATED NEGATIVE DECLARATION will be prepared.
- [ ] I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

17. **DE MINIMIS FEE DETERMINATION** (Chapter 1706, Statutes of 1990-AB 3158)

- [X] It is hereby found that this project involves no potential for any adverse effect, either individually or cumulatively, on wildlife resources and that a "Certificate of Fee Exemption" shall be prepared for this project.

[ ] It is hereby found that this project could potentially impact wildlife, individually or cumulatively, and therefore fees shall be paid to the County Clerk in accordance with Section 711.4(d) of the Fish and Game Code.

18. **ENVIRONMENTAL DETERMINATION:** The initial study for this project has been reviewed and the environmental determination, contained in Section V. preceding, is hereby approved:



Jerry Hittman, City Planner



Arnold Schwarzenegger  
Governor

STATE OF CALIFORNIA  
Governor's Office of Planning and Research  
State Clearinghouse and Planning Unit



Cathleen Cox  
Acting Director

August 3, 2010

Jerry Hittleman  
City of Oceanside  
300 North Coast Highway  
Oceanside, CA 92054

Subject: Article 39 Wireless Communications Facility, Satellite Dish and Antenna Standards  
SCH#: 2010071003

Dear Jerry Hittleman:

The State Clearinghouse submitted the above named Negative Declaration to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on July 30, 2010, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan  
Director, State Clearinghouse

Enclosures  
cc: Resources Agency

**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2010071003  
**Project Title** Article 39 Wireless Communications Facility, Satellite Dish and Antenna Standards  
**Lead Agency** Oceanside, City of

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**Type** **Neg** Negative Declaration  
**Description** Introduction of Article 39 to the Oceanside Zoning Ordinance of a new Wireless Communications Facility, Satellite Dish and Antenna Standards Ordinance that will be added to the current 1992 Oceanside Zoning Ordinance (OZO) and the 1986 OZO for those areas within the Coastal Zone and repeal of Section 3025 from the 1992 OZO.

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**Lead Agency Contact**

**Name** Jerry Hittleman  
**Agency** City of Oceanside  
**Phone** (760) 435-3535 **Fax**  
**email**  
**Address** 300 North Coast Highway  
**City** Oceanside **State** CA **Zip** 92054

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**Project Location**

**County** San Diego  
**City** Oceanside  
**Region**  
**Lat / Long**  
**Cross Streets**  
**Parcel No.**  
**Township**

**Range** **Section** **Base**

---

**Proximity to:**

**Highways** Hwy 76 & 78  
**Airports** Oceanside Municipal  
**Railways** San Diego Northern  
**Waterways**  
**Schools**  
**Land Use**

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**Project Issues** Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Coastal Zone; Cumulative Effects; Drainage/Absorption; Geologic/Seismic; Growth Inducing; Landuse; Minerals; Noise; Recreation/Parks; Soil Erosion/Compaction/Grading; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Supply; Wildlife

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**Reviewing Agencies** Resources Agency; California Coastal Commission; Department of Fish and Game, Region 5; Department of Parks and Recreation; Department of Water Resources; Caltrans, Division of Aeronautics; Caltrans, District 11; Regional Water Quality Control Board, Region 9; Native American Heritage Commission; Public Utilities Commission

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**Date Received** 07/01/2010 **Start of Review** 07/01/2010 **End of Review** 07/30/2010

**NATIVE AMERICAN HERITAGE COMMISSION**

915 CAPITOL MALL, ROOM 364  
 SACRAMENTO, CA 95814  
 (916) 653-6251  
 Fax (916) 657-5390  
 Web Site [www.nahc.ca.gov](http://www.nahc.ca.gov)  
 e-mail: [de\\_nahc@pacbell.net](mailto:de_nahc@pacbell.net)



July 21, 2010

Mr. Jerry Hittleman, City Planner

**CITY OF OCEANSIDE**

300 N. Coast Highway  
 Oceanside, CA 92054

Clear  
 7/30/10  
 e  
 [Signature]



Re: SCH#2010071003; CEQA Notice of Completion; proposed Mitigated Negative Declaration for the "Article 39 Wireless Communications Facility, Satellite Project"; located in the City of Oceanside; San Diego County, California.

Dear Mr. Hittleman:

The Native American Heritage Commission (NAHC) is the state 'trustee agency' pursuant to Public Resources Code §21070 for the protection and preservation of California's Native American Cultural Resources.. (Also see Environmental Protection Information Center v. Johnson (1985) 170 Cal App. 3<sup>rd</sup> 604). The California Environmental Quality Act (CEQA - CA Public Resources Code §21000-21177, amended in 2009) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c)(f) CEQA guidelines). Section 15382 of the CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ...objects of historic or aesthetic significance." In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE), and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following.

The Native American Heritage Commission did perform a Sacred Lands File (SLF) search in the NAHC SLF Inventory, established by the Legislature pursuant to Public Resources Code §5097.94(a) and Native American Cultural resources were not identified within the APE identified for the project. Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries once a project is underway. Enclosed are the names of the nearest tribes and interested Native American individuals that the NAHC recommends as 'consulting parties,' for this purpose, that may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We recommend that you contact persons on the attached list of Native American contacts. A Native American Tribe or Tribal Elder may be the only source of information about a cultural resource.. Also, the NAHC recommends that a Native American Monitor or Native American culturally knowledgeable person be employed whenever a professional archaeologist is employed during the 'Initial Study' and in other phases of the environmental planning processes.. Furthermore we suggest that you contact the California Historic Resources Information System (CHRIS) at the Office of Historic Preservation (OHP) Coordinator's office (at (916) 653-7278, for referral to the nearest OHP Information Center of which there are 11.

Consultation with tribes and interested Native American tribes and interested Native American individuals, as consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA (42 U.S.C. 4321-43351) and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 [f])*et seq.*, 36 CFR Part 800.3, the President's Council on Environmental Quality (CSQ; 42 U.S.C. 4371 *et seq.*) and NAGPRA (25 U.S.C. 3001-3013), as appropriate. The 1992 *Secretary of the Interior's Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including *cultural landscapes*.

Lead agencies should consider avoidance, as defined in Section 15370 of the California Environmental Quality Act (CEQA) when significant cultural resources could be affected by a project. Also, Public Resources Code Section 5097.98 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery. Discussion of these should be included in your environmental documents, as appropriate.

The authority for the SLF record search of the NAHC Sacred Lands Inventory, established by the California Legislature, is California Public Resources Code §5097.94(a) and is exempt from the CA Public Records Act (c.f. California Government Code §6254.10). The results of the SLF search are confidential. However, Native Americans on the attached contact list are not prohibited from and may wish to reveal the nature of identified cultural resources/historic properties. Confidentiality of 'historic properties of religious and cultural significance' may also be protected under Section 304 of the NHPA or at the Secretary of the Interior's discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C. 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APE and possibly threatened by proposed project activity.

CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens. Although tribal consultation under the California Environmental Quality Act (CEQA; CA Public Resources Code Section 21000 – 21177) is 'advisory' rather than mandated, the NAHC does request 'lead agencies' to work with tribes and interested Native American individuals as 'consulting parties,' on the list provided by the NAHC in order that cultural resources will be protected. However, the 2006 SB 1059 the state enabling legislation to the Federal Energy Policy Act of 2005, does mandate tribal consultation for the 'electric transmission corridors. This is codified in the California Public Resources Code, Chapter 4.3, and §25330 to Division 15, requires consultation with California Native American tribes, and identifies both federally recognized and non-federally recognized on a list maintained by the NAHC

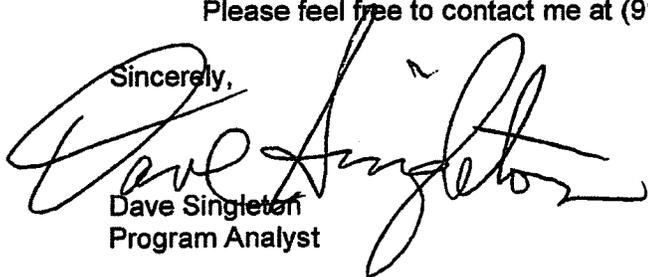
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medical examiner can determine whether the remains are those of a Native American. . Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.

Again, Lead agencies should consider avoidance, as defined in §15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Singleton". The signature is written in a cursive, flowing style with a large initial "D".

Dave Singleton  
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse

**NATIVE AMERICAN HERITAGE COMMISSION**

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e-mail: [ds\\_nahc@pacbell.net](mailto:ds_nahc@pacbell.net)



Received

July 21, 2010

JUL 26 2010

Mr. Jerry Hittleman, City Planner

**CITY OF OCEANSIDE**

300 N. Coast Highway  
Oceanside, CA 92054

Planning Division

Re: SCH#2010071003; CEQA Notice of Completion; proposed Mitigated Negative Declaration for the "Article 39 Wireless Communications Facility, Satellite Project"; located in the City of Oceanside; San Diego County, California.

Dear Mr. Hittleman:

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Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Dave Singleton". The signature is written in a cursive, flowing style with a large initial "D".

Dave Singleton  
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse

Native American Contacts  
San Diego County  
July 21, 2010

Pauma & Yuima  
Christobal C. Devers, Chairperson  
P.O. Box 369 Luiseno  
Pauma Valley CA 92061  
paumareservation@aol.com  
(760) 742-1289  
(760) 742-3422 Fax

Pauma Valley Band of Luiseño Indians  
Bennae Calac, Tribal Council Member  
P.O. Box 369 Luiseno  
Pauma Valley CA 92061  
bennaecalac@aol.com  
(760) 617-2872  
(760) 742-3422 - FAX

Rincon Band of Mission Indians  
Angela Veltrano, Rincon Culture Committee  
P.O. Box 68 Luiseno  
Valley Center, CA 92082  
council@rincontri.org  
(760) 749-1051  
(760) 749-8901 Fax

San Luis Rey Band of Mission Indians  
Carmen Mojado, Co-Chair  
1889 Sunset Drive Luiseno  
Vista , CA 92081  
cjmojado@slrmissionindians.org  
(760) 724-8505  
(760) 724-2172 - FAX  
(760) 917-1736 - cell

San Luis Rey Band of Mission Indians  
Henry Contreras, Most Likely Descendant  
1763 Chapulin Lane Luiseno  
Fallbrook , CA 92028  
(760) 728-6722 - Home  
(760) 908-7625 - Cell

Kupa Cultural Center (Pala Band)  
Shasta Gaughen, Assistant Director  
35008 Pala-Temecula Rd.PMB Box Luiseno  
Pala , CA 92059  
cupa@palatribe.com  
(760) 891-3590  
(760) 742-4543 - FAX

San Luis Rey Band of Mission Indians  
Russell Romo  
12064 Old Pomerado Road Luiseno  
Poway , CA 92064  
(858) 748-1586

La Jolla Band of Mission Indians  
ATTN: Rob Roy, Environmental Director  
22000 Highway 76 Luiseno  
Pauma Valley CA 92061  
lajolla-sherry@aol.com and  
(760) 742-3790  
(760) 742-1704 Fax

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code. Also, federal National Environmental Policy Act (NEPA), National Historic Preservation Act, Section 106 and federal NAGPRA. And 36 CFR Part 800.3.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2010071003; CEQA Notice of Completion; proposed Mitigated Negative Declaration for the Article 39 Wireless Communications Facility; located in the City of Oceanside; San Diego County, California.

Native American Contacts  
San Diego County  
July 21, 2010

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San Luis Rey Band of Mission Indians  
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Escondido , CA 92026  
melvern@aol.com  
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**This list is current only as of the date of this document.**

**Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code. Also, federal National Environmental Policy Act (NEPA), National Historic Preservation Act, Section 106 and federal NAGPRA. And 36 CFR Part 800.3.**

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August 9, 2010

**VIA ELECTRONIC MAIL AND FACSIMILE**  
(760) 754-2958

Jerry Hittleman  
City Planner  
City of Oceanside – Planning Division  
300 North Coast Highway  
Oceanside, CA 92054  
[jhittleman@ci.oceanside.ca.us](mailto:jhittleman@ci.oceanside.ca.us)

**Re: Introduction of Article 39 to the Oceanside Zoning Ordinance IOZO), Wireless Communications Facility, Satellite Dish, and Antenna Standards and Repeal of Section 3025 of the OZO**

Dear Mr. Hittleman:

This firm represents American Tower Corporation (“ATC”) with respect to the City of Oceanside’s (“City”) proposed adoption of City-wide regulations for wireless communication facilities (“Proposed Ordinance”). ATC is in receipt of the City’s “Notice of Intent to Adopt a Negative Declaration” pursuant to the California Environmental Quality Act (“CEQA”) in which the City concludes that “the proposed project will not result in any significant, adverse effects on the environment.” ATC has reviewed the analysis undertaken in the Initial Study/Environmental Checklist and strongly disagrees with the conclusion that the Proposed Ordinance has “no impact” on the environment. ATC contends that the Initial Study prepared by the City is defective and must be revised in order to comply with the mandates of CEQA. The bases for ATC’s claims are as follows:

## **The City Fails to Meaningfully Analyze Impacts of Ordinance**

The Initial Study fails to appreciate or analyze the reasonably foreseeable indirect or secondary effects of the Proposed Ordinance. In fact, the Initial Study wrongly concludes that

“since no physical project is proposed with adoption of this ordinance no impacts will occur and no mitigation is required.” Initial Study at pg. 2. This statement, that the Ordinance does not “contain” a physical project, and that “[f]uture telecommunication projects will be evaluated under a separate CEQA document” is repeated throughout the Initial Study in lieu of any real analysis of the impacts of the Proposed Ordinance. *See* Initial Study at pg. 9. However, this conclusion is legally flawed. The term “project” as defined in Cal. Pub. Res. Code § 21065 has been broadly interpreted by courts. For example, in a seminal case decided by the California Supreme Court, the court stated that CEQA is “to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” *Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247, 259. Further courts have concluded that the term “project” encompasses regulatory approvals such as general plan amendments, zone changes, and annexations which may ultimately lead to physical environmental changes. 14 Cal. Code Regs. § 15378(a)(1); *Bozung v. Local Agency Formation Commission*, (1975) 13 Cal. 3d 263, 277 n.16, 118 Cal. Rptr. 249. The City is required under CEQA to undertake a review of an ordinance when it is apparent that the regulations will “culminate in physical change to the environment.” *Bozung v. Local Agency Formation Commission*, 13 Cal. 3d 263, 281 (emphasis added).

The fact that the “project” at issue is the adoption of an ordinance as opposed to a development project proposed by an applicant does not relieve the City of the obligation to undertake a review of the project under CEQA. *Rosenthal v. Board of Supervisors* (1975) 14 Cal.App.3d 815, 823 (stating that “adopting an ordinance [is] a project”); *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 118 Cal.Rptr. 34 (impliedly holding that adoption of ordinance is a project within the meaning of CEQA); 60 Ops.Cal.Atty.Gen. 335 (1977) (“ordinances and resolutions adopted by a local agency are ‘projects’ within the meaning of CEQA”). The Attorney General Opinion issued in 1977 concluded that the following ordinances were all subject to CEQA: (1) an open-range ordinance requiring private land owners to fence out cattle; (2) an ordinance allowing construction of single family dwellings in rural areas without electricity, running water, or flush toilets; and (3) an ordinance modifying road improvement standards for new subdivisions. The bottom line is that a project need not directly effect a physical change in the environment: reasonably foreseeable indirect or secondary effects must also be analyzed. The relative inquiry is whether or not the project, or in this case, the Proposed Ordinance, will ultimately culminate in physical changes to the environment. *Id.* As described below, the City’s Proposed Ordinance will unquestionably culminate in a physical change to the environment and the Initial Study must analyze these impacts before the City can adopt the Proposed Ordinance.

### The Impacts of the Proposed Ordinance

In addition to setting forth regulations and standards for new wireless communications facilities, the Proposed Ordinance purports to regulate existing facilities and modifications to the same. The Proposed Ordinance’s impacts on these existing facilities must be analyzed under CEQA. For example, Section 3916 states that a tower owner must comply with the Proposed Ordinance and obtain a new permit upon the “expiration of an existing Conditional Use Permit or Administrative Conditional Use Permit.” Section 3913 of the Proposed Ordinance, however,

establishes maximum height limits for wireless facilities that greatly affect existing facilities. This section of the Proposed Ordinance states that:

“[t]he maximum height of any Wireless Communication Facility, other than roof mounted facilities and amateur radio antennas, located on private property shall be ten feet above the maximum height allowed in the zoning district in which the facility is located. A Conditional Use Permit may be granted to exceed the height limitation as described in Article 41 and Section 3907.”

While the Proposed Ordinance does contain a provision authorizing the City to exceed this height limit, the findings necessary to approve additional height are exceedingly stringent and apparently limited to situations involving co-location facilities. *See* Section 3907(B) (“[t]he following findings must be made prior to approving a Conditional Use Permit increasing the allowable height as provided in this Article . . . [b]ased on evidence presented the additional height greater than ten (10) feet above the maximum building height of the applicable zone is reasonably necessary for the co-location of facilities for the efficient operation of the proposed facility.”) However, there are a number of wireless facilities in Oceanside that are more than ten feet above the maximum height allowed in the applicable zoning district. The Proposed Ordinance would theoretically require the height of existing stand-alone facilities to be reduced when the permits for those facilities come up for renewal. Reduction in height, however, reduces coverage. This could create significant coverage gaps in wireless service in and around the existing facility that could not immediately be rectified by the construction of new facilities.

The impacts of this significant coverage gap on the environment must be analyzed under CEQA. These impacts include, but are not limited to, public health and safety, emergency communications (public services), air quality and transportation/traffic. Reduced coverage would undoubtedly have an effect on public services. Wireless communications systems service a critical need in the event of public emergency, including traffic accidents and other freeway incidents. In a 2006 survey by the Pew Internet & American Life Project, of the 66% of American adults who had cell phones at that time, nearly 74% of those cell phone owners say they have used their mobile phone in an emergency and gained valuable help.<sup>1</sup> Wireless systems also are an economical alternative to wired networks. According to the Centers for Disease Control’s latest National Health Interview Survey (NHIS) from 2009, 24.5% of American adults rely solely on cell phones with an additional 14.9 % who currently have a landline phone indicating they received all or almost all calls on wireless telephones.<sup>2</sup> The NHIS study further revealed that 43.1 5 of adults renting homes lived in wireless-only households. *Id.* A copy of the latest NHIS Survey released May 12, 2010 is attached as Exhibit 1. Without the reliable wireless coverage provided by wireless communication facilities, in addition to the normal inconveniences incident to an absence of telephone service in any location, such residents would be unable to call for police, fire or ambulance services in the event of an emergency at home, nor would school officials be able to contact them in the event of emergencies affecting their

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<sup>1</sup> Pew Internet & American Life Project, “Pew Internet Project Data Memo” (April 2006)

<sup>2</sup> Centers for Disease Control National Health Interview Survey, “Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July-December 2009” (May 2010)

children at school. As a result of the coverage gap, the need for new or physically altered government facilities may be required in order to maintain acceptable service ratios/response times. Similarly, the creation of coverage gaps will have a significant environmental effect on transportation and traffic as well. Residents, business and visitors who would otherwise be able to make a cell phone call would now be more likely to drive to a destination to conduct business, home or residence to communicate. And public safety officials would have to notify residents in person of emergency situations to the extent reverse 911 systems could not reach local residents. This creates impacts on traffic as well as air quality that the City must analyze under CEQA.

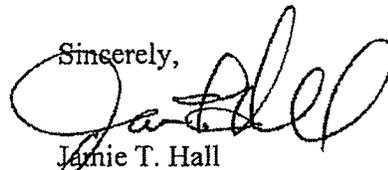
Further, the inability to utilize wireless-based health and business services such as medical monitoring devices or telecommuting will increase not only traffic but also demand for physical infrastructure such as hospitals, clinics and office buildings that might otherwise be unnecessary as well as creating demand for more local residential development because of the necessity to engage in physical travel for work, health care, education and other activities in the Oceanside area that could otherwise have been engaged in via wireless communication.

In addition, the lack of sufficient, effective wireless broadband infrastructure necessitates the construction of physical broadband infrastructure, which is far more environmentally impactful. Wireless technology is also necessary to facilitate development of the smart grid which will generate significant environmental benefits.

#### Conclusion

The Initial Study prepared by the City in conjunction with the Proposed Ordinance is inherently defective because it fails to meaningfully analyze the environmental effect of the project. The City cannot legally defer the required environmental analysis to a later date when there are reasonably foreseeable indirect and/or secondary effects on the environment. The terms "project" has been broadly interpreted and encompasses regulatory approvals such as zoning amendments that may ultimately culminate in physical environmental changes. While the above discussion is not intended to be an exhaustive list of the reasonably foreseeable indirect or secondary effects of the adoption of the Proposed Ordinance, it is illustrative of the types of impacts that the City has failed to even consider. ATC has outlined a fair argument that the Proposed Ordinance would have a significant environmental effect. As such, the City must conduct a new Initial Study and provide the public with an additional public review period to comply with the legal mandates of CEQA.

Sincerely,



Jamie T. Hall

*Attorney for American Tower Corporation*

# **Exhibit 1**



# Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July–December 2009

by Stephen J. Blumberg, Ph.D., and Julian V. Luke  
Division of Health Interview Statistics, National Center for Health Statistics

## Overview

Preliminary results from the July–December 2009 National Health Interview Survey (NHIS) indicate that the number of American homes with only wireless telephones continues to grow. One of every four American homes (24.5%) had only wireless telephones (also known as cellular telephones, cell phones, or mobile phones) during the last half of 2009—an increase of 1.8 percentage points since the first half of 2009. In addition, one of every seven American homes (14.9%) had a landline yet received all or almost all calls on wireless telephones. This report presents the most up-to-date estimates available from the federal government concerning the size and characteristics of these populations.

## NHIS Early Release Program

This report is published as part of the NHIS Early Release Program. In May and December of each year, the Centers for Disease Control and Prevention’s National Center for Health Statistics (NCHS) releases selected estimates of telephone coverage for the civilian noninstitutionalized U.S. population based on data from NHIS, along with comparable estimates from NHIS for the previous 3 years. The estimates are based on in-person interviews that NHIS conducts continuously throughout the year to collect information on health status, health-related behaviors, and health care utilization. The survey also includes information about household telephones and whether anyone in the household has a wireless telephone.

Two additional reports are published as part of the NHIS Early

Release Program. *Early Release of Selected Estimates Based on Data From the National Health Interview Survey* is published quarterly and provides estimates for 15 selected measures of health. *Health Insurance Coverage: Early Release of Estimates From the National Health Interview Survey* is also published quarterly and provides additional estimates regarding health insurance coverage.

## Methods

For many years, NHIS has included questions on residential telephone numbers, to permit recontacting of survey participants. Starting in 2003, additional questions were asked to determine whether a family’s telephone number reached a landline telephone. Respondents were also asked whether “you or anyone in

your family has a working cellular telephone.”

A “family” can be an individual or a group of two or more related persons living together in the same housing unit (a “household”). Thus, a family can consist of only one person, and more than one family can live in a household (including, for example, a household where there are multiple single-person families, as when unrelated roommates are living together).

In this report, families are identified as “wireless families” if anyone in the family had a working cellular telephone at the time of interview. This person (or persons) could be a civilian adult, a member of the military, or a child. Households are identified as “wireless-only” if they include at least one wireless family and if there are no working landline

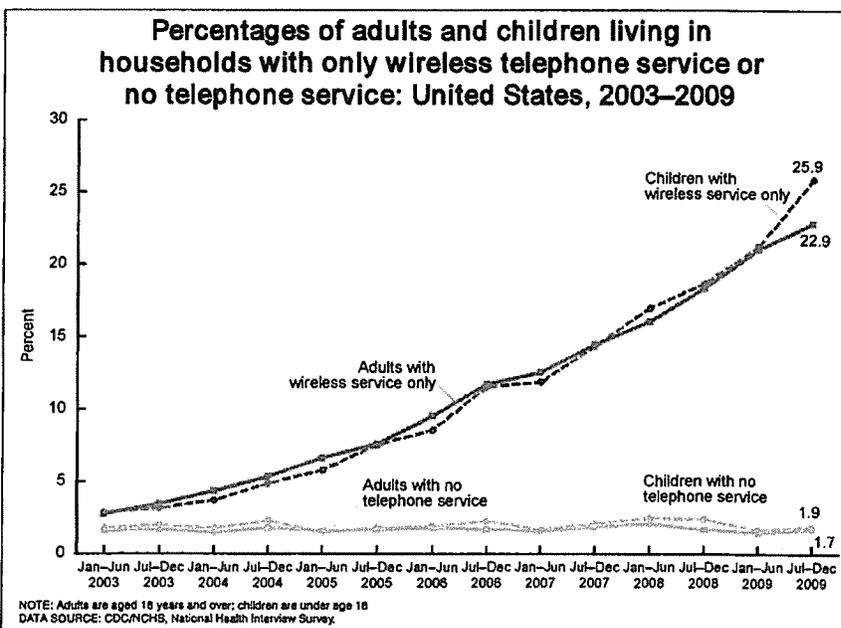


Figure 1



telephones inside the household. Persons are identified as wireless-only if they live in a wireless-only household. A similar approach is used to identify adults living in households with no telephone service (neither wireless nor landline). Household telephone status (rather than family telephone status) is used in this report because most telephone surveys draw samples of households rather than families.

From July through December 2009, information on household telephone status was obtained for 21,375 households that included at least one civilian adult or child. These households included 40,619 civilian adults aged 18 years and over and 14,984 children under age 18.

Analyses of demographic characteristics are based on data from the NHIS Person and Household files. Demographic data for all civilian adults living in interviewed households were used in these analyses. Estimates stratified by poverty status are based on reported income only, because imputed income values are not available until a few months after the annual release of NHIS microdata. Household income was unknown for 12% of adults.

Analyses of selected health measures are based on data from the NHIS Sample Adult file. Health-related data for one civilian adult randomly selected from each family were used in these analyses. From July through December 2009, data on household telephone status and selected health measures were collected from 17,539 randomly selected adults.

Because NHIS is conducted throughout the year and the sample is designed to yield a nationally representative sample each week, data can be analyzed quarterly. Weights are created for each calendar quarter of the NHIS sample. NHIS data weighting procedures are described in more detail in a previous NCHS report (*Vital and Health Statistics*, series 2, no 130). To provide access to the most recent information from NHIS, estimates using the July–December 2009 data are being

released prior to final data editing and final weighting. These estimates should be considered preliminary. If estimates are produced using the final data files, the estimates may differ slightly from those presented here.

Point estimates and 95% confidence intervals were calculated using SUDAAN software, to account for the complex sample design of NHIS. Differences between percentages were evaluated by using two-sided significance tests at the 0.05 level. Terms such as “more likely” and “less likely” indicate a statistically significant difference. Lack of comment regarding the difference between any two estimates does not necessarily mean that the difference was tested and found to be not significant. Because of small sample sizes, estimates based on less than 1 year of data may have large variances, and caution should be used in interpreting such estimates.

## Questionnaire Changes in 2007

From 2003 to 2006, NHIS families were considered to have landline telephone service if the survey respondent provided a telephone number, identified it as “the family’s phone number,” and said it was not a cellular telephone number. If the family’s phone number was reported to be a cellular telephone number, the respondent was asked if there was “at least one phone inside your home that is currently working and is not a cell phone.”

In 2007, the questionnaire was changed so that the survey respondent for each family was asked if there was “at least one phone inside your home that is currently working and is not a cell phone” (unless the respondent had indicated not having any phone when asked for a telephone number).

From 2003 to 2006, the questions about cellular telephones were asked at the end of the survey. Because of incomplete interviews, more than 10% of households were not asked about wireless telephones. In 2007, the

questions were asked earlier in the survey, resulting in fewer families with unknown wireless telephone status.

In 2007, a new question was added to the survey for persons living in families with both landline and cellular telephones. The respondent for the family was asked to consider all of the telephone calls his or her family receives and to report whether “all or almost all calls are received on cell phones, some are received on cell phones and some on regular phones, or very few or none are received on cell phones.” This new question permits the identification of persons living in “wireless-mostly” households—defined as households with both landline and cellular telephones in which all families receive all or almost all calls on cell phones.

Finally, in 2007, the questionnaire was redesigned to improve the collection of income information. Initial evaluations suggest that the resulting poverty estimates are generally comparable with those from years 2006 and earlier. However, as a result of the changes, the poverty ratio variable has had fewer missing values since 2007 compared with prior years.

## Telephone Status

In the last 6 months of 2009, one of every four households (24.5%) did not have a landline telephone but did have at least one wireless telephone (Table 1). Approximately 22.9% of all adults (approximately 52 million adults) lived in households with only wireless telephones; 25.9% of all children (more than 19 million children) lived in households with only wireless telephones.

The percentage of households that are wireless-only has been steadily increasing. The 4.3-percentage-point increase from the last 6 months of 2008 through the last 6 months of 2009 is nearly equivalent to the 4.4-percentage-point increase observed from the last 6 months of 2007 through the last 6 months of 2008.



The percentage of adults living in wireless-only households has also been increasing steadily (see Figure 1). During the last 6 months of 2009, more than two of every nine adults lived in wireless-only households. One year before that (i.e., during the last 6 months of 2008), 2 of every 11 adults lived in wireless-only households. And 2 years before that (i.e., during the last 6 months of 2006), only 2 of every 17 adults lived in wireless-only households.

The percentage of children living in wireless-only households is also growing. In fact, for this population, the 4.6-percentage-point increase from the first 6 months of 2009 is the largest 6-month increase observed since 2003, when NHIS began collecting data on children living in wireless-only households.

The percentages of adults and children living without any telephone service have remained relatively unchanged over the past 3 years. Approximately 2.0% of households had no telephone service (neither wireless nor landline). Nearly 4 million adults (1.7%) and 1.4 million children (1.9%) lived in these households.

## Demographic Differences

The percentage of U.S. civilian noninstitutionalized adults living in wireless-only households is shown by selected demographic characteristics and by survey time period in Table 2. For the period July through December 2009,

- More than three in five adults living only with unrelated adult roommates (62.9%) were in households with only wireless telephones. This is the highest prevalence rate among the population subgroups examined.
- More than two in five adults renting their home (43.1%) had only wireless telephones. Adults renting their home were more likely than adults owning their home (14.0%)

to be living in households with only wireless telephones.

- Nearly half of adults aged 25–29 years (48.6%) lived in households with only wireless telephones. More than one-third of adults aged 18–24 or 30–34 (37.8% and 37.2%, respectively) lived in households with only wireless telephones.
- As age increased from 35 years, the percentage of adults living in households with only wireless telephones decreased: 23.9% for adults aged 35–44; 14.9% for adults aged 45–64; and 5.2% for adults aged 65 and over. However, as shown in Table 2 and Figure 2, the percentage of wireless-only adults within each age group has increased over time.
- Men (24.5%) were more likely than women (21.3%) to be living in households with only wireless telephones.
- Adults living in poverty (36.3%) and adults living near poverty (29.0%) were more likely than higher income adults (19.6%) to be living in households with only wireless telephones.

■ Adults living in the Midwest (25.6%), South (25.4%), and West (22.2%) were more likely than adults living in the Northeast (15.1%) to be living in households with only wireless telephones.

■ Hispanic adults (30.4%) were more likely than non-Hispanic white adults (21.0%) or non-Hispanic black adults (25.0%) to be living in households with only wireless telephones.

## Demographic Distributions

The demographic differences noted in the previous section are based on the distribution of household telephone status within each demographic group. When examining the population of wireless-only adults, some readers may instead wish to consider the distribution of various demographic characteristics within the wireless-only adult population. For example, although young adults aged 18–29 years were more likely than older adults to live in households with only wireless telephones, these young adults made up only 40.8% of all wireless-

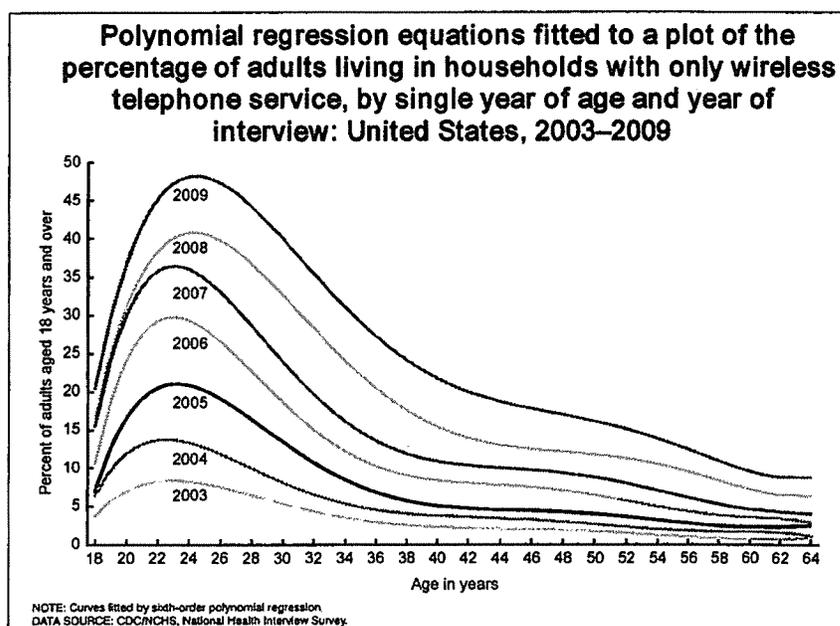


Figure 2



only adults. Young adults were a minority among all wireless-only adults because young adults made up only 22% of the total adult population.

**Table 3** presents the percent distribution of selected demographic characteristics for adults living in households with only wireless telephones, by survey time period. The estimates in this table reveal that the distributions of selected demographic characteristics changed little over the 4-year period shown. The exceptions were related to sex, age, employment status, and household structure. From 2006 to the last 6 months of 2009,

- The proportion of women among all wireless-only adults increased from approximately 46% to 48.2%.
- Among all wireless-only adults, the proportion of adults aged 30 years and over has steadily increased. In the last 6 months of 2009, the majority of wireless-only adults (59.2%) were aged 30 and over, up from 48.4% in the first 6 months of 2006.
- The proportion of employed adults among all wireless-only adults has decreased from 78.6% to 69.1%. Over the same time period, the proportion of adults with an employment status other than working, keeping house, or going to school increased. These adults (largely unemployed or retired) made up 20.2% of wireless-only adults in the last 6 months of 2009, up from 10.3% in the first 6 months of 2006.
- Among all wireless-only adults, the proportion of adults living with children has steadily increased. In the last 6 months of 2009, 40.0% of wireless-only adults were living with children, up from 34.6% in the first 6 months of 2006.

## Selected Health Measures by Household Telephone Status

Many health surveys, political polls, and other research are conducted using random-digit-dial telephone surveys. Until recently, these surveys did not include wireless telephone numbers in their samples. Now, despite operational challenges, most major survey research organizations are including wireless telephone numbers when conducting random-digit-dial telephone surveys. If they did not, the exclusion of households with only wireless telephones (along with the small proportion of households that have no telephone service) could bias results. This bias—known as coverage bias—could exist if there are differences between persons with and without landline telephones for the substantive variables of interest.

The NHIS Early Release Program updates and releases estimates for 15 key health indicators every 3 months. **Table 4** presents estimates by household telephone status (landline, wireless-only, or without any telephone service) for all but two of these measures. (“Pneumococcal vaccination” and “personal care needs” were not included because these indicators are limited to older adults aged 65 years and over.) For the period July through December 2009,

- The prevalence of binge drinking (i.e., having five or more alcoholic drinks in 1 day during the past year) among wireless-only adults (34.5%) was nearly twice as high as the prevalence among adults living in landline households (18.7%). Wireless-only adults were also more likely to be current smokers than were adults living in landline households.
- Compared with adults living in landline households, wireless-only adults were more likely to report that their health status was excellent or very good, more likely to experience serious psychological

distress, and less likely to have ever been diagnosed with diabetes.

- The percentage without health insurance coverage at the time of interview among wireless-only adults under 65 years of age (29.2%) was more than twice as high as the percentage among adults in that age group living in landline households (13.8%).
- Compared with adults living in landline households, wireless-only adults were more likely to have experienced financial barriers to obtaining needed health care, and they were less likely to have a usual place to go for medical care. Wireless-only adults were also less likely to have received an influenza vaccination during the previous year.
- Wireless-only adults (50.6%) were more likely than adults living in landline households (36.1%) to have ever been tested for human immunodeficiency virus (HIV), the virus that causes AIDS.

The potential for bias due to undercoverage remains a real and growing threat to surveys conducted only on landline telephones. Telephone surveys limited to landline households may still be viable for health surveys of all adults and for surveys of most subpopulations regarding their health status (see *American Journal of Public Health* article by Blumberg and Luke, 2009). However, for health-related behaviors, health care service use indicators, and health care access measures (such as those in **Table 4**), caution is warranted when using landline surveys to draw inferences about subpopulations more likely to be wireless-only (such as young or low-income adults).

## Wireless-mostly Households

The potential for bias due to undercoverage is not the only threat to surveys conducted on landline telephones. Researchers are also concerned that some people living in



households with landlines cannot be reached on those landlines because they rely on wireless telephones for all or almost all of their calls. Among households with both landline and wireless telephones, 25.7% received all or almost all calls on the wireless telephones, based on data for the period July through December 2009. These wireless-mostly households make up 14.9% of all households.

The percentage of adults living in wireless-mostly households has been increasing (see Table 5). During the last 6 months of 2009, approximately 37 million adults (16.3%) lived in wireless-mostly households. This prevalence estimate was not different from the estimate for the first 6 months of 2009 (16.2%), but it was significantly greater than the estimate for the first 6 months of 2008 (14.4%).

Table 5 presents the percentage of adults living in wireless-mostly households, by selected demographic characteristics and by survey time period. For the period July through December 2009,

- Adults working at a job or business (19.7%) and adults going to school (21.7%) were more likely to be living in wireless-mostly households than were adults keeping house (15.1%) or with another employment status such as retired or unemployed (9.0%).
- Adults with college degrees (19.7%) were more likely to be living in wireless-mostly households than were high school graduates (14.2%) or adults with less education (11.5%).
- Adults living with children (20.2%) were more likely than adults living alone (10.6%) or with only adult relatives (15.0%) to be living in wireless-mostly households.
- Adults living in poverty (10.0%) and adults living near poverty (12.7%) were less likely than higher income adults (19.2%) to be living in wireless-mostly households.
- Adults living in metropolitan areas (16.8%) were more likely to be

living in wireless-mostly households than were adults living in more rural areas (14.5%).

Recent research by Boyle, Lewis, and Tefft (in the December 2009 issue of *Survey Practice*) suggests that the majority of adults living in wireless-mostly households are reachable using their landline telephone number. NHIS data cannot be used to estimate the proportion of wireless-only adults who are unreachable or to estimate the potential for bias due to their exclusion from landline surveys.

## For More Information

For more information about the potential implications for health surveys that are based on landline telephone interviews, see

- Blumberg SJ, Luke JV. Reevaluating the need for concern regarding noncoverage bias in landline surveys. *Am J Public Health* 99:1806–10. 2009.
- Blumberg SJ, Luke JV, Cynamon ML, Frankel MR. Recent trends in household telephone coverage in the United States. In: Lepkowski JM et al., eds. *Advances in telephone survey methodology*. New York: John Wiley and Sons. pp 56–86. 2008.

The potential for bias may differ from one state to another because the prevalence of wireless-only households varies substantially across states. For more information about state-level prevalence estimates from the 2007 NHIS, see

- Blumberg SJ, Luke JV, Davidson G, et al. Wireless substitution: State-level estimates from the National Health Interview Survey, January–December 2007. National health statistics report; no 14. Hyattsville, MD: National Center for Health Statistics. 2009. Available from: <http://www.cdc.gov/nchs/data/nhsr/nhsr014.pdf>.

For more information about NHIS and the NHIS Early Release Program, or to

find other Early Release reports, please visit the following websites:

- <http://www.cdc.gov/nchs/nhis.htm>
- <http://www.cdc.gov/nchs/nhis/releases.htm>.

## Suggested Citation

Blumberg SJ, Luke JV. Wireless substitution: Early release of estimates from the National Health Interview Survey, July–December 2009. National Center for Health Statistics. May 2010. Available from: <http://www.cdc.gov/nchs/nhis.htm>.





Household telephone status

Date of interview	Number of children (unweighted)	Household telephone status					Total
		Landline with a wireless telephone	Landline without a wireless telephone	Landline with unknown wireless telephone status	Nonlandline with unknown wireless telephone status	Wireless-only	
Jan-Jun 2006	11,670	53.4	23.8	11.5	0.9	8.6	100.0
Jul-Dec 2006	9,165	51.9	21.5	11.9	0.9	11.6	100.0
Jan-Jun 2007 <sup>1</sup>	11,532	68.3	16.4	1.6	0.0	11.9	100.0
Jul-Dec 2007	9,122	68.5	13.8	1.1	0.0	14.4	100.0
Jan-Jun 2008	11,238	67.3	12.6	0.6	0.0	17.0	100.0
Jul-Dec 2008	8,635	67.1	11.1	0.7	0.0	18.7	100.0
Jan-Jun 2009	8,818	67.6	9.1	0.3	0.0	21.3	100.0
Jul-Dec 2009	14,984	63.4	8.5	0.2	0.0	25.9	100.0
95% confidence interval <sup>2</sup>		61.95-64.87	7.58-9.41	0.14-0.45	0.01-0.09	24.57-27.30	1.57-27.39

0.0 means quantity is more than zero but less than 0.05.

<sup>1</sup> Questionnaire changes that occurred in 2007 should be considered when evaluating recent trends in household telephone status. See text for more information about these changes.

<sup>2</sup> Refers to the time period July through December 2009.

DATA SOURCE: National Health Interview Survey, January 2006-December 2009. Data are based on household interviews of a sample of the civilian noninstitutionalized population.



**Table 2. Percentage of adults aged 18 years and over living in wireless-only households, by selected demographic characteristics and by calendar half-years: United States, January 2006–December 2009**

Demographic characteristic	Calendar half-year								95% confidence interval <sup>2</sup>
	Jan–Jun 2006	Jul–Dec 2006	Jan–Jun 2007 <sup>1</sup>	Jul–Dec 2007 <sup>1</sup>	Jan–Jun 2008	Jul–Dec 2008	Jan–Jun 2009	Jul–Dec 2009	
	Percent								
<b>Race/ethnicity</b>									
Hispanic or Latino, any race(s)	11.2	15.3	18.0	19.3	21.6	25.0	28.2	30.4	28.63–32.32
Non-Hispanic white, single race	9.0	10.8	11.3	12.9	14.6	16.6	19.7	21.0	19.89–22.10
Non-Hispanic black, single race	10.5	12.8	14.3	18.3	18.5	21.4	21.3	25.0	23.14–27.04
Non-Hispanic Asian, single race	10.2	11.8	10.6	12.1	16.5	17.8	18.0	20.6	18.26–23.11
Non-Hispanic other, single race	9.8	17.2	22.8	17.5	12.8	17.3	20.6	26.5	19.87–34.49
Non-Hispanic multiple race	15.4	14.6	17.3	22.8	22.3	22.5	28.7	26.9	22.09–32.35
<b>Age</b>									
18–24 years	22.6	25.2	27.9	30.6	31.4	33.1	37.6	37.8	35.38–40.36
25–29 years	22.3	29.1	30.6	34.5	35.7	41.5	45.8	48.6	46.48–50.82
30–34 years	12.1	17.6	16.5	22.0	27.0	30.4	33.5	37.2	35.05–39.48
35–44 years	8.2	10.1	10.8	12.5	15.5	17.5	21.5	23.9	22.51–25.32
45–64 years	5.3	6.1	7.1	8.0	9.2	11.6	12.8	14.9	14.07–15.81
65 years and over	1.3	1.9	2.0	2.2	2.8	3.3	5.4	5.2	4.55–6.03
<b>Sex</b>									
Male	10.7	13.1	13.8	15.9	18.0	20.0	22.5	24.5	23.57–25.43
Female	8.5	10.5	11.5	13.2	14.4	17.0	19.8	21.3	20.43–22.24
<b>Education</b>									
Some high school or less	8.3	12.9	14.6	15.4	16.1	18.8	22.2	24.7	23.09–26.29
High school graduate or GED <sup>3</sup>	9.6	10.6	11.8	13.4	15.2	17.8	20.8	22.9	21.63–24.15
Some post-high school, no degree	11.9	14.4	14.7	17.0	19.0	20.1	23.6	25.0	23.71–26.37
4-year college degree or higher	8.5	10.1	10.8	12.7	14.3	17.7	18.2	19.5	18.12–20.98
<b>Employment status last week</b>									
Working at a job or business	11.6	13.9	15.0	16.6	19.0	21.5	24.3	26.0	25.03–27.06
Keeping house	7.1	8.6	9.5	12.8	12.6	16.0	16.6	20.5	18.78–22.26
Going to school	17.3	20.4	21.3	28.9	21.5	23.5	29.7	29.2	25.21–33.52
Something else (incl. unemployed)	4.2	6.2	6.4	7.6	8.9	11.0	14.0	15.9	14.87–16.96

See footnotes at end of table.



Demographic characteristic	Calendar half-year								95% confidence interval <sup>2</sup>
	Jan-Jun 2006	Jul-Dec 2006	Jan-Jun 2007 <sup>1</sup>	Jul-Dec 2007 <sup>1</sup>	Jan-Jun 2008	Jul-Dec 2008	Jan-Jun 2009	Jul-Dec 2009	
Household structure									
Adult living alone	16.2	18.2	20.3	22.9	24.6	28.1	30.8	32.9	31.04 - 34.79
Unrelated adults, no children	44.2	54.0	55.3	56.9	63.1	60.6	68.5	62.9	54.47 - 70.62
Related adults, no children	7.1	8.5	9.8	11.0	12.5	14.7	16.8	17.1	16.13 - 18.20
Adult(s) with children	8.6	10.5	11.3	13.0	15.1	17.2	20.4	24.1	22.92 - 25.29
Household poverty status <sup>4</sup>									
Poor	15.8	22.4	21.6	27.4	26.0	30.9	33.0	36.3	33.90 - 38.81
Near poor	14.4	15.7	18.5	20.8	22.6	23.8	26.5	29.0	27.35 - 30.74
Not poor	9.4	11.3	10.6	11.9	14.2	16.0	18.9	19.6	18.64 - 20.59
Geographic region <sup>5</sup>									
Northeast	7.2	8.6	8.8	10.0	9.8	11.4	14.6	15.1	13.09 - 17.27
Midwest	10.2	11.4	14.0	15.3	17.8	20.8	21.9	25.6	23.86 - 27.51
South	11.4	14.0	14.9	17.1	19.6	21.3	25.0	25.4	24.01 - 26.93
West	7.8	11.0	10.9	12.9	13.7	17.2	19.0	22.2	20.80 - 23.76
Metropolitan statistical area status									
Metropolitan	10.3	12.7	13.7	15.5	17.5	19.7	22.4	24.2	23.13 - 25.20
Not metropolitan	7.0	8.0	8.4	10.0	10.9	13.5	16.5	17.9	16.40 - 19.54
Home ownership status <sup>6</sup>									
Owned or being bought	5.1	5.8	6.7	7.3	9.0	9.9	12.8	14.0	13.18 - 14.86
Renting	22.5	26.4	28.2	30.9	33.6	39.2	40.9	43.1	41.51 - 44.67
Other arrangement	10.7	*20.3	22.5	23.2	23.4	17.7	33.6	33.8	27.64 - 40.52
Number of wireless-only adults in survey sample (unweighted)	2,804	2,878	3,819	3,558	4,939	4,426	5,078	9,401	

<sup>4</sup> Estimate has a relative standard error greater than 30% and does not meet National Center for Health Statistics (NCHS) standards for reliability or precision.

<sup>1</sup> Questionnaire changes that occurred in 2007 should be considered when evaluating recent trends in household telephone status. See text for more information about these changes.

<sup>2</sup> Refers to the time period July through December 2009.

<sup>3</sup> GED is General Educational Development high school equivalency diploma.



<sup>4</sup> Based on household income and household size using the U.S. Census Bureau's poverty thresholds. "Poor" persons are defined as those below the poverty threshold. "Near poor" persons have incomes of 100% to less than 200% of the poverty threshold. "Not poor" persons have incomes of 200% of the poverty threshold or greater. Early Release estimates stratified by poverty status are based on reported income only and may differ from similar estimates produced later that are based on both reported and imputed income. NCHS imputes income when income is unknown, but the imputed income file is not available until a few months after the annual release of National Health Interview Survey microdata. For households with multiple families, household income and household size were calculated as the sum of the multiple measures of family income and family size.

<sup>5</sup> In the geographic classification of the U.S. population, states are grouped into the following four regions used by the U.S. Census Bureau. *Northeast* includes Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, and Pennsylvania. *Midwest* includes Ohio, Illinois, Indiana, Michigan, Wisconsin, Minnesota, Iowa, Missouri, North Dakota, South Dakota, Kansas, and Nebraska. *South* includes Delaware, Maryland, District of Columbia, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, and Texas. *West* includes Washington, Oregon, California, Nevada, New Mexico, Arizona, Idaho, Utah, Colorado, Montana, Wyoming, Alaska, and Hawaii.

<sup>6</sup> For households with multiple families, home ownership status was determined by considering the reported home ownership status for each family. If any family reported owning the home, then the household level variable was classified as "owned or being bought" for all persons living in the household. If one family reported renting the home and another family reported "other arrangement," then the household level variable was classified as "other arrangement" for all persons living in the household.

DATA SOURCE: National Health Interview Survey, January 2006–December 2009. Data are based on household interviews of a sample of the civilian noninstitutionalized population.



**Table 3. Percent distribution of selected demographic characteristics, by date of interview, for adults aged 18 years and over living in wireless-only households: United States, January 2006–December 2009**

Demographic characteristic	Calendar half-year								95% confidence interval <sup>2</sup>
	Jan–Jun 2006	Jul–Dec 2006	Jan–Jun 2007 <sup>1</sup>	Jul–Dec 2007 <sup>1</sup>	Jan–Jun 2008	Jul–Dec 2008	Jan–Jun 2009	Jul–Dec 2009	
<b>Race/ethnicity</b>									
Hispanic or Latino, any race(s)	15.2	17.1	18.9	18.0	18.1	18.5	18.4	18.5	16.86–20.23
Non-Hispanic white, single race	65.6	64.0	61.5	61.2	62.2	61.9	63.8	62.5	60.29–64.63
Non-Hispanic black, single race	12.5	12.4	12.9	14.4	13.2	13.3	11.7	12.7	11.36–14.14
Non-Hispanic Asian, single race	4.7	4.4	3.8	3.8	4.6	4.4	3.9	4.1	3.48–4.88
Non-Hispanic other, single race	*0.6	0.9	*1.6	*0.8	0.6	0.6	0.7	1.0	0.68–1.33
Non-Hispanic multiple race	1.4	1.2	1.3	1.8	1.3	1.2	1.5	1.3	1.00–1.61
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	
<b>Age</b>									
18–24 years	30.5	27.6	28.4	27.2	24.9	23.1	22.9	21.2	19.72–22.74
25–29 years	21.1	22.7	22.3	22.1	20.5	21.0	19.9	19.6	18.46–20.69
30–34 years	11.0	12.9	11.3	13.0	14.3	14.0	13.6	14.0	13.09–15.02
35–44 years	16.8	16.6	16.3	16.3	17.8	17.4	18.4	18.6	17.53–19.79
45–64 years	18.5	17.6	19.1	18.9	19.6	21.6	21.0	22.8	21.65–23.91
65 years and over	2.2	2.6	2.6	2.5	2.9	2.9	4.3	3.8	3.35–4.39
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	
<b>Sex</b>									
Male	54.1	53.9	52.9	53.0	53.7	52.4	51.4	51.8	50.91–52.67
Female	45.9	46.1	47.1	47.0	46.3	47.6	48.6	48.2	47.33–49.09
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	
<b>Education</b>									
Some high school or less	14.8	17.4	17.5	16.2	15.5	15.8	15.5	16.0	14.76–17.23
High school graduate or GED <sup>3</sup>	28.3	27.0	27.5	27.5	27.8	27.2	27.7	28.9	27.49–30.36
Some post-high school, no degree	34.7	34.2	32.7	32.9	33.9	31.7	33.3	32.9	31.49–34.31
4-year college degree or higher	22.1	21.4	22.3	23.4	22.8	25.3	23.5	22.3	20.95–23.62
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	

See footnotes at end of table.



Division of Health Statistics

Demographic characteristic	Calendar half-year								95% confidence interval <sup>2</sup>
	Jan-Jun 2006	Jul-Dec 2006	Jan-Jun 2007 <sup>1</sup>	Jul-Dec 2007 <sup>1</sup>	Jan-Jun 2008	Jul-Dec 2008	Jan-Jun 2009	Jul-Dec 2009	
<b>Employment status last week</b>									
Working at a job or business	78.6	76.7	77.1	74.3	75.9	74.5	71.1	69.1	67.73 - 70.36
Keeping house	5.2	4.9	5.2	5.6	5.0	5.3	4.5	5.3	4.82 - 5.79
Going to school	5.6	4.9	5.1	5.8	4.1	3.7	4.6	4.4	3.68 - 5.20
Something else (incl. unemployed)	10.3	13.0	12.1	13.1	13.7	15.4	18.7	20.2	19.07 - 21.43
Unknown, not reported	*0.2	0.6	0.6	*1.3	1.4	*1.1	1.1	1.1	0.78 - 1.42
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	
<b>Household structure</b>									
Adult living alone	25.4	24.2	25.1	24.4	23.2	23.6	22.1	21.9	20.69 - 23.25
Unrelated adults, no children	6.8	10.1	6.0	7.7	6.4	5.2	5.4	4.1	3.20 - 5.11
Related adults, no children	33.1	32.4	34.4	34.2	35.1	36.9	36.0	34.0	32.35 - 35.60
Adult(s) with children	34.6	33.3	34.6	33.7	35.3	34.3	36.4	40.0	38.33 - 41.78
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	
<b>Household poverty status<sup>4</sup></b>									
Poor	12.7	15.7	14.6	16.1	14.1	15.5	15.5	16.4	15.01 - 17.79
Near poor	19.5	17.1	18.4	18.4	18.1	16.8	17.9	18.5	17.26 - 19.72
Not poor	47.9	46.2	50.5	49.7	53.4	53.3	56.7	53.0	51.04 - 54.88
Unknown, not reported	19.9	21.0	16.5	15.8	14.4	14.4	10.0	12.2	11.11 - 13.44
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	
<b>Geographic region<sup>5</sup></b>									
Northeast	13.8	13.4	12.7	12.4	10.7	11.3	12.2	12.1	10.41 - 13.93
Midwest	24.1	22.2	25.1	24.6	25.0	26.0	23.9	26.0	23.90 - 28.32
South	44.1	44.4	42.6	42.7	45.2	41.1	43.8	39.5	37.16 - 41.82
West	18.0	20.0	19.7	20.4	19.1	21.6	20.1	22.4	20.55 - 24.43
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	
<b>Metropolitan statistical area status</b>									
Metropolitan	84.4	86.7	86.1	86.9	85.9	85.1	83.3	83.7	81.68 - 85.48
Not metropolitan	15.6	13.3	13.9	13.1	14.1	14.9	16.7	16.3	14.52 - 18.32
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	

See footnotes at end of table.



Demographic characteristic	Calendar half-year								95% confidence interval <sup>2</sup>
	Jan-Jun 2006	Jul-Dec 2006	Jan-Jun 2007 <sup>1</sup>	Jul-Dec 2007 <sup>1</sup>	Jan-Jun 2008	Jul-Dec 2008	Jan-Jun 2009	Jul-Dec 2009	
Home ownership status <sup>6</sup>									
Owned or being bought	37.4	33.8	37.7	34.8	39.2	37.1	42.1	42.3	40.24 - 44.47
Renting	60.5	62.6	59.0	61.3	58.1	61.1	55.0	54.3	52.18 - 56.48
Other arrangement	2.1	*3.7	3.3	3.8	2.7	1.8	2.9	3.3	2.59 - 4.24
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	
Number of wireless-only adults in survey sample (unweighted)	2,804	2,878	3,819	3,558	4,939	4,426	5,078	9,401	

\*Estimate has a relative standard error greater than 30% and does not meet National Center for Health Statistics (NCHS) standards for reliability or precision.

<sup>1</sup> Questionnaire changes that occurred in 2007 should be considered when evaluating recent trends in household telephone status. See text for more information about these changes.

<sup>2</sup> Refers to the time period July through December 2009.

<sup>3</sup> GED is General Educational Development high school equivalency diploma.

<sup>4</sup> Based on household income and household size using the U.S. Census Bureau's poverty thresholds. "Poor" persons are defined as those below the poverty threshold. "Near poor" persons have incomes of 100% to less than 200% of the poverty threshold. "Not poor" persons have incomes of 200% of the poverty threshold or greater. Early Release estimates stratified by poverty status are based on reported income only and may differ from similar estimates produced later that are based on both reported and imputed income. NCHS imputes income when income is unknown, but the imputed income file is not available until a few months after the annual release of National Health Interview Survey microdata. For households with multiple families, household income and household size were calculated as the sum of the multiple measures of family income and family size.

<sup>5</sup> In the geographic classification of the U.S. population, states are grouped into the following four regions used by the U.S. Census Bureau. *Northeast* includes Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, and Pennsylvania. *Midwest* includes Ohio, Illinois, Indiana, Michigan, Wisconsin, Minnesota, Iowa, Missouri, North Dakota, South Dakota, Kansas, and Nebraska. *South* includes Delaware, Maryland, District of Columbia, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Oklahoma, Arkansas, and Texas. *West* includes Washington, Oregon, California, Nevada, New Mexico, Arizona, Idaho, Utah, Colorado, Montana, Wyoming, Alaska, and Hawaii.

<sup>6</sup> For households with multiple families, home ownership status was determined by considering the reported home ownership status for each family. If any family reported owning the home, then the household level variable was classified as "owned or being bought" for all persons living in the household. If one family reported renting the home and another family reported "other arrangement," then the household level variable was classified as "other arrangement" for all persons living in the household.

DATA SOURCE: National Health Interview Survey, January 2006–December 2009. Data are based on household interviews of a sample of the civilian noninstitutionalized population.



**Table 4. Prevalence rates (and 95% confidence intervals) for selected measures of health-related behaviors, health status, health care service use, and health care access for adults aged 18 years and over, by household telephone status: United States, July–December 2009**

Measure	Household telephone status		
	Landline <sup>1</sup>	Wireless-only	No telephone service
	Percent (95% confidence interval)		
<b>Health-related behaviors</b>			
Five or more alcoholic drinks in 1 day at least once in past year <sup>2</sup>	18.7 (17.75 – 19.74)	34.5 (32.49 – 36.58)	24.2 (19.99 – 29.09)
Current smoker <sup>3</sup>	18.3 (17.38 – 19.24)	27.3 (25.53 – 29.10)	33.2 (27.29 – 39.65)
Engaged in regular leisure-time physical activity <sup>4</sup>	32.8 (31.49 – 34.06)	39.6 (37.65 – 41.49)	25.0 (20.07 – 30.75)
<b>Health status</b>			
Health status described as excellent or very good <sup>5</sup>	59.3 (58.16 – 60.34)	65.0 (63.11 – 66.89)	49.6 (43.32 – 55.91)
Experienced serious psychological distress in past 30 days <sup>6</sup>	2.7 (2.41 – 3.10)	4.6 (3.91 – 5.38)	6.1 (3.69 – 9.94)
Obese <sup>7</sup> (adults aged 20 years and over)	28.9 (27.93 – 29.84)	26.4 (24.80 – 28.03)	31.5 (26.06 – 37.42)
Asthma episode in past year <sup>8</sup>	3.6 (3.30 – 4.03)	4.5 (3.80 – 5.26)	4.1 (2.31 – 7.15)
Ever diagnosed with diabetes <sup>9</sup>	9.8 (9.27 – 10.46)	5.5 (4.80 – 6.25)	4.7 (3.04 – 7.27)
<b>Health care service use</b>			
Received influenza vaccine during past year <sup>10</sup>	38.2 (37.08 – 39.35)	23.2 (21.77 – 24.59)	20.3 (15.77 – 25.63)
Ever been tested for HIV <sup>11</sup>	36.1 (34.86 – 37.40)	50.6 (48.78 – 52.49)	44.4 (37.80 – 51.28)
<b>Health care access</b>			
Has a usual place to go for medical care <sup>12</sup>	86.5 (85.57 – 87.35)	72.5 (70.71 – 74.18)	69.1 (62.96 – 74.56)
Failed to obtain needed medical care in past year due to financial barriers <sup>13</sup>	7.2 (6.71 – 7.81)	13.7 (12.45 – 15.06)	15.8 (12.22 – 20.29)
Currently uninsured (adults aged 18–64 years) <sup>14</sup>	13.8 (12.98 – 14.72)	29.2 (27.29 – 31.14)	34.4 (28.70 – 40.66)
Number of adults in survey sample (unweighted)	12,505	4,645	389

<sup>1</sup> Includes households that also have wireless telephone service.

<sup>2</sup> Defined as the 12 months prior to interview. The analyses excluded adults with unknown alcohol consumption (about 2% of respondents each year).

<sup>3</sup> Defined as a person who had smoked more than 100 cigarettes in his or her lifetime and now smokes every day or some days. The analyses excluded persons with unknown smoking status (about 2% of respondents each year).

<sup>4</sup> Defined as engaging in light-moderate leisure-time physical activity for greater than or equal to 30 minutes at a frequency greater than or equal to five times per week or engaging in vigorous leisure-time physical activity for greater than or equal to 20 minutes at a frequency greater than or equal to three times per week. Persons who were known to have not met the frequency recommendations are classified as “not regular,” regardless of duration. The analyses excluded persons with unknown physical activity participation (about 3% of respondents each year).

<sup>5</sup> Data were obtained by asking respondents to assess their own health and that of family members living in the same household as excellent, very good, good, fair, or poor. The analyses excluded persons with unknown health status (about 0.2% of respondents each year).

<sup>6</sup> Six psychological distress questions are included in the National Health Interview Survey. These questions ask how often during the past 30 days a respondent experienced certain symptoms of psychological distress (feeling so sad that nothing could cheer you up, nervous, restless or fidgety, hopeless, worthless, that everything was an effort). The response codes (0–4) of the six items for each person were equally weighted and summed. A value of 13 or more for this scale indicates that at least one symptom was experienced “most of the time” or “all of the time” and is used here to define serious psychological distress.



<sup>7</sup> Defined as a body mass index (BMI) of 30 kg/m<sup>2</sup> or more. The measure is based on self-reported height and weight. The analyses excluded people with unknown height or weight (about 6% of respondents each year). Estimates of obesity are presented for adults aged 20 years and over because the Healthy People 2010 objectives (<http://www.healthypeople.gov>) for healthy weight among adults define adults as persons aged 20 and over.

<sup>8</sup> Information on an episode of asthma or an asthma attack during the past year is self-reported by adults aged 18 years and over. A year is defined as the 12 months prior to interview. The analyses excluded people with unknown asthma episode status (about 0.1% of respondents each year).

<sup>9</sup> Prevalence of diagnosed diabetes is based on self-report of ever having been diagnosed with diabetes by a doctor or other health professional. Persons reporting "borderline" diabetes status and women reporting diabetes only during pregnancy were not coded as having diabetes in the analyses. The analyses excluded persons with unknown diabetes status (about 0.1% of respondents each year).

<sup>10</sup> Receipt of flu shots and receipt of nasal spray flu vaccinations were included in the calculation of flu vaccination estimates. Estimates are subject to recall error, which will vary depending on when the question is asked because the receipt of a flu vaccination is seasonal. The analyses excluded those with unknown flu vaccination status (about 3% of respondents each year).

<sup>11</sup> Individuals who received human immunodeficiency virus (HIV) testing solely as a result of blood donation were considered not to have been tested for HIV. The analyses excluded those with unknown HIV test status (about 5% of respondents each year).

<sup>12</sup> The usual place to go for medical care does not include a hospital emergency room. The analyses excluded persons with an unknown usual place to go for medical care (about 1.5% of respondents each year).

<sup>13</sup> A year is defined as the 12 months prior to interview. The analyses excluded persons with unknown responses to the question on failure to obtain needed medical care due to cost (about 0.2% of respondents each year).

<sup>14</sup> A person was defined as uninsured if he or she did not have any private health insurance, Medicare, Medicaid, Children's Health Insurance Program (CHIP), state-sponsored or other government-sponsored health plan, or military plan at the time of the interview. A person was also defined as uninsured if he or she had only Indian Health Service coverage or had only a private plan that paid for one type of service, such as accidents or dental care. The data on health insurance status were edited using an automated system based on logic checks and keyword searches. The analyses excluded persons with unknown health insurance status (about 1% of respondents each year).

DATA SOURCE: National Health Interview Survey, July–December 2009. Data are based on household interviews of a sample of the civilian noninstitutionalized population.



**Table 5. Percentage of adults aged 18 years and over living in wireless-mostly households, by selected demographic characteristics and by calendar half-years: United States, January 2007–December 2009**

Demographic characteristic	Calendar half-year						95% confidence interval <sup>1</sup>
	Jan–Jun 2007	Jul–Dec 2007	Jan–Jun 2008	Jul–Dec 2008	Jan–Jun 2009	Jul–Dec 2009	
	Percent <sup>2</sup>						
Total	12.6	14.0	14.4	15.4	16.2	16.3	15.69 – 17.03
Race/ethnicity							
Hispanic or Latino, any race(s)	13.2	14.5	16.0	15.9	18.0	16.9	15.50 – 18.36
Non-Hispanic white, single race	12.3	13.2	14.2	14.9	15.6	16.1	15.24 – 16.99
Non-Hispanic black, single race	11.9	15.1	13.3	14.7	15.0	16.2	14.65 – 17.89
Non-Hispanic Asian, single race	16.0	20.3	16.4	20.3	19.6	18.5	16.20 – 20.98
Non-Hispanic other single race	14.6	*8.6	*10.1	15.5	22.9	*16.1	8.28 – 28.82
Non-Hispanic multiple race	14.6	19.7	17.7	24.2	22.5	18.2	13.80 – 23.67
Age							
18-24 years	17.3	18.2	19.2	18.8	20.0	19.9	18.23 – 21.71
25-29 years	17.2	19.7	17.3	18.3	17.7	16.4	14.97 – 17.99
30-44 years	15.5	17.3	18.2	19.0	20.3	19.5	18.46 – 20.54
45-64 years	11.5	13.0	13.8	15.4	16.5	17.5	16.56 – 18.44
65 years and over	3.4	3.9	4.4	4.9	5.3	6.3	5.55 – 7.09
Sex							
Male	13.2	14.3	14.9	15.4	16.2	16.5	15.78 – 17.28
Female	12.0	13.6	14.0	15.2	16.1	16.2	15.50 – 16.91
Education							
Some high school or less	8.0	8.7	10.0	9.8	12.1	11.5	10.40 – 12.73
High school graduate or GED <sup>3</sup>	10.6	12.7	12.5	13.2	13.7	14.2	13.23 – 15.25
Some post-high school, no degree	15.7	16.6	17.0	18.6	17.7	18.1	16.99 – 19.19
4-year college degree or higher	14.9	16.2	17.1	18.0	19.7	19.7	18.67 – 20.78
Employment status last week							
Working at a job or business	15.5	16.8	17.3	18.4	19.5	19.7	18.92 – 20.59
Keeping house	9.3	10.4	11.9	11.9	12.7	15.1	13.50 – 16.90
Going to school	17.2	20.4	25.2	21.5	21.1	21.7	18.72 – 24.95
Something else (incl. unemployed)	5.3	6.7	6.6	7.8	9.0	9.0	8.29 – 9.74
Household structure							
Adult living alone	10.8	10.7	10.1	12.2	10.0	10.6	9.67 – 11.65
Unrelated adults, no children	13.9	20.1	*15.4	21.3	13.9	15.5	10.02 – 23.10
Related adults, no children	11.6	12.1	12.8	13.2	14.7	15.0	14.00 – 16.11
Adult(s) with children	14.4	17.2	18.1	19.2	20.5	20.2	19.05 – 21.47
Household poverty status <sup>4</sup>							
Poor	8.4	8.6	10.8	9.5	11.0	10.0	8.51 – 11.76
Near poor	9.7	11.4	10.3	11.3	12.0	12.7	11.36 – 14.11
Not poor	14.8	15.9	17.1	18.2	18.8	19.2	18.31 – 20.14
Geographic region <sup>5</sup>							
Northeast	11.3	11.7	13.8	12.0	15.3	14.9	13.41 – 16.56
Midwest	10.6	13.3	12.6	13.2	14.6	14.7	13.35 – 16.20
South	13.8	14.3	14.6	16.2	16.7	17.3	16.15 – 18.48
West	13.7	15.9	16.4	18.7	17.7	17.7	16.40 – 19.05
Metropolitan statistical area status							
Metropolitan	13.2	14.7	15.0	15.8	16.9	16.8	16.14 – 17.57
Not metropolitan	10.2	10.9	12.1	13.4	13.5	14.5	12.97 – 16.11

See footnotes at end of table.



Demographic characteristic	Calendar half-year						95% confidence interval <sup>1</sup>
	Jan–Jun 2007	Jul–Dec 2007	Jan–Jun 2008	Jul–Dec 2008	Jan–Jun 2009	Jul–Dec 2009	
Home ownership status <sup>6</sup>							
Owned or being bought	12.1	14.0	14.7	15.9	17.2	17.5	16.63 – 18.46
Renting	13.9	13.8	13.9	13.0	13.9	13.6	12.63 – 14.70
Other arrangement	12.2	14.1	14.8	24.6	13.8	15.8	11.47 – 21.40
Number of adults in survey sample who live in landline households with wireless telephones (unweighted)	18,631	15,356	18,664	14,816	14,886	24,904	

\* Estimate has a relative standard error greater than 30% and does not meet National Center for Health Statistics (NCHS) standards for reliability.

<sup>1</sup> Refers to the estimate of the percentage of adults living in wireless-mostly households for the time period July through December 2009.

<sup>2</sup> The sum of the percentage of adults in households that receive all or nearly all calls on wireless phones (shown here) and the percentage of adults in households that receive some or very few calls on wireless phones (data not shown) is equal to the percentage of adults living in landline households with wireless telephones (see Table 1).

<sup>3</sup> GED is General Educational Development high school equivalency diploma.

<sup>4</sup> Based on household income and household size using the U.S. Census Bureau's poverty thresholds. "Poor" persons are defined as those below the poverty threshold. "Near poor" persons have incomes of 100% to less than 200% of the poverty threshold. "Not poor" persons have incomes of 200% of the poverty threshold or greater. Early Release estimates stratified by poverty status are based on reported income only and may differ from similar estimates produced later that are based on both reported and imputed income. NCHS imputes income when income is unknown, but the imputed income file is not available until a few months after the annual release of National Health Interview Survey microdata. For households with multiple families, household income and household size were calculated as the sum of the multiple measures of family income and family size.

<sup>5</sup> In the geographic classification of the U.S. population, states are grouped into the following four regions used by the U.S. Census Bureau. *Northeast* includes Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, and Pennsylvania. *Midwest* includes Ohio, Illinois, Indiana, Michigan, Wisconsin, Minnesota, Iowa, Missouri, North Dakota, South Dakota, Kansas, and Nebraska. *South* includes Delaware, Maryland, District of Columbia, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Oklahoma, Arkansas, and Texas. *West* includes Washington, Oregon, California, Nevada, New Mexico, Arizona, Idaho, Utah, Colorado, Montana, Wyoming, Alaska, and Hawaii.

<sup>6</sup> For households with multiple families, home ownership status was determined by considering the reported home ownership status for each family. If any family reported owning the home, then the household level variable was classified as "owned or being bought" for all persons living in the household. If one family reported renting the home and another family reported "other arrangement," then the household level variable was classified as "other arrangement" for all persons living in the household.

DATA SOURCE: National Health Interview Survey, January 2007–December 2009. Data are based on household interviews of a sample of the civilian noninstitutionalized population.

OCAFN

[www.ocafn.org](http://www.ocafn.org)

Oceanside City Accountability For Neighborhoods

Public Comment Article 39.

ATTENTION: *Jerry Hittleman*

RE: PUBLIC COMMENT: ARTICLE 39

RECEIVED  
AUG 09 2010  
CITY OF OCEANSIDE  
DEVELOPMENT SERVICES

August 9, 2010

Thank you for your time, we are submitting public comments to Planning Director for recommending to City Council an, Interim **Urgency Ordinance to immediately impose a 45-day moratorium on all "wireless facilities" in residential areas.**

**REASONS:**

The City of Oceanside has processed an ordinance draft for new wireless regulations. Currently the city has excessive amounts of wireless applications which are proliferating into residential, school areas. These current wireless applicants will not be regulated under the new wireless ordinance, possibly for up to 10 years.

Also there exists a few areas of concern in the new draft that should be improved for the safety of neighborhoods and schools, as recent federal court rulings have provided local authority more leeway in wireless regulations. A moratorium is useful until the wireless ordinance draft has the proper amendments and is finalized through the proper city hall process.

Numerous California cities have called for wireless moratorium when proliferation exists, and a new wireless draft is in process. The undersigned agree with the flyer attached as public comments for article 39.

Sincerely,

Holly Hargett, *Founder*

OCAFN



## CITY OF OCEANSIDE DRAFTED A NEW WIRELESS ORDINANCE,

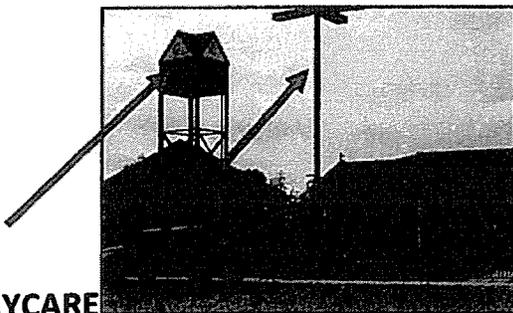
A City Ordinance provides rules for approving permits. The new drafted wireless ordinance LEAVES OUT public right-of-ways from following new ordinance regulations. DEFINES NON-RESIDENTIAL AS Schools, Daycares and Churches even if the buildings are in a residential area! DOES NOT REQUIRE all wireless facilities to have a conditional use permit or major permit within all residential areas!

Until the wireless ordinance is finalized Citizens want City Council to call an Interim Urgency Ordinance to immediately impose a 45-day moratorium on all "wireless facilities" in residential areas UNTIL the NEW Wireless Ordinance is complete. Currently the city has excessive amounts of wireless applications which will not be regulated under the new ordinance, up to 10 years! Numerous California cities have called wireless moratorium for the same reasons.

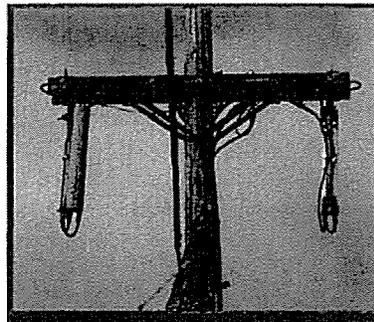
The federal courts gave new rulings so cities CAN up-hold regulations in a Wireless Ordinance. WE THE RESIDENTS want the city to exercise those rights to protect the citizens from residential wireless proliferation.

### IN THE New Wireless ORDINANCE (Article 39) RESIDENTS WANT:

- **NO Exemption** for public-right-of-ways in residential, schools, daycares, and church zones.
- Regulate: schools, daycares, and churches as **Disfavored or Least Preferred** for wireless permits.
- Require Conditional Use Permits in all residential and within 1,000 feet of residential property lines next to a commercial site.
- Require City Of Oceanside to Post a Web Page Link Accounting for all wireless sites on a Map accessible for public view.
- Place Placard Signs at entrance of public venues where wireless antennas are out of sight from public view. **(Citizens have the right to know!)**



DAYCARE



FIRE MOUNTAIN

PLEASE SEND YOUR SIGNATURE ATTENTION: City Council and City MANG.

PLEASE PRINT FIRST AND LAST NAME Howy Hargett

ADDRESS 1220 Vista Way SIGNATURE Howy Hargett

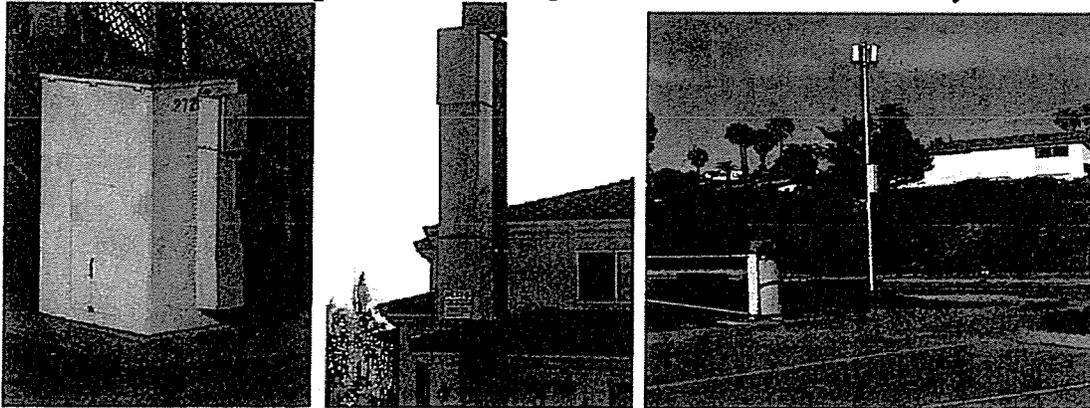
CITY HALL 300 North Coast Hwy Oceanside, Ca 92054 OR Fax Number (760) 435-6052

By: OCEANSIDE CITY ACCOUNTABILITY FOR NEIGHBORHOODS [www.ocafn.org](http://www.ocafn.org)

# OCEANSIDE CITY ACCOUNTABILITY FOR NEIGHBORHOODS

TO VIEW THE ORDINANCE FROM CITY VISIT HERE [www.ocafn.org](http://www.ocafn.org)

Please help SAVE our neighborhoods, Contact our city leaders and staff:



## PLEASE SUBMIT COMMENTS

Mayor	Jim Wood	<a href="mailto:jwood@ci.oceanside.ca.us">jwood@ci.oceanside.ca.us</a>
Councilmember	Jack Feller	<a href="mailto:jfeller@ci.oceanside.ca.us">jfeller@ci.oceanside.ca.us</a>
Councilmember	<u>Jerome Kern</u>	<a href="mailto:jkern@ci.oceanside.ca.us">jkern@ci.oceanside.ca.us</a>
Councilmember	Charles Lowery	<a href="mailto:clowery@ci.oceanside.ca.us">clowery@ci.oceanside.ca.us</a>
Councilmember	Esther C. Sanchez	<a href="mailto:esanchez@ci.oceanside.ca.us">esanchez@ci.oceanside.ca.us</a>
City Manager's Office	Peter A. Weiss	<a href="mailto:pweiss@ci.oceanside.ca.us">pweiss@ci.oceanside.ca.us</a>
City Attorney's Office	John P. Mullen	<a href="mailto:jmullen@ci.oceanside.ca.us">jmullen@ci.oceanside.ca.us</a>
<b>Planning Director</b>	<b>Jerry Hittleman</b>	<a href="mailto:jhittleman@ci.oceanside.ca.us">jhittleman@ci.oceanside.ca.us</a>

**Current Planning Commissioners :**  
 Chair Bob Neal, Vice Chair Tom Rosales, Claudia Troisi, Louise Balma, Dennis Martinek, Stan Bertheaud, please call 435-3520 or email [planningstaff@ci.oceanside.ca.us](mailto:planningstaff@ci.oceanside.ca.us)

**PLEASE CONTACT: Jerry Hittleman, CITY COUCNIL** for amendments to the wireless ordinance. Ask Jerry Hittleman to Recommend an **Interim Urgency Ordinance to immediately impose a 45-day moratorium on all "wireless facilities" in residential areas TO CITY COUNCIL** UNTIL the NEW Wireless Ordinance is complete! Currently the city has excessive amounts of wireless applications which will not be regulated under the new ordinance up to 10 years! Numerous California cities have called a wireless moratorium for the same reasons.

## **EXAMPLES** SAN DIEGO Wins Court of Appeals [http://planwireless.com/9th\\_circuit\\_reverses.htm](http://planwireless.com/9th_circuit_reverses.htm)

**Governing Board of Los Angeles Unified School District adopts resolution opposing cellular facilities on or in close proximity of schools.**

[http://www.cloutnow.org/lausdpdf/LAUSD\\_Resolution2000.pdf](http://www.cloutnow.org/lausdpdf/LAUSD_Resolution2000.pdf)

**International Association of Firefighters call for moratorium, [www.iaff.org/hs/Resi/CelltowerFinal.htm](http://www.iaff.org/hs/Resi/CelltowerFinal.htm)**

**Other California cities, <http://sunroomdesk.com/tag/moratorium/>**

**Sebastopol City Council of California breaks signed contract to install citywide WiFi.**

<http://www.elecromagnetic-pollution.com>

**Board of Supervisors and Mayor Newsom of San Francisco approves cell phone law following release of Interphone study.**

[http://news.cnet.com/8301-30686\\_3-20007911-266.html](http://news.cnet.com/8301-30686_3-20007911-266.html)

Emails to OCAFN for Public Comment, Article 39:

A visitor to [www.ocafn.org](http://www.ocafn.org) has sent a message through your form.

Customer contact: Main customer contact form

First Name : Laura .

Last Name : Mayer

Address : [llmayer@cox.net](mailto:llmayer@cox.net)

Date : Aug 8, 2010

Comments : A moratorium would be the best way until everything can be figured out for the best for the citizens of Oceanside.

Company : N/A

I am a parent of a child who attends the coastal academy. I have been an Oceanside resident for 15 years. I will get straight to my plea and request. PLEASE consider that this proposed cell tower to be on the building of my child's school will ruin the beautiful look of the school. I am sure that the owner will reap benefits for hosting the tower, but as for our students and parents and staff, it is unappealing and an eyesore! I am told that we are not to mention the health risks, and so I will not.

Thank you for listening! Lets put the children and residents of Oceanside first! What a refreshing thing that would be!

Best regards, Lisa Oskam

The owner of the building has signed a lease with Clearwire/Sprint--he wants the \$ from the 2 units on the roof. The charter school just leases. The FCC has determined that there is no health issues from wireless cell tower/units--and Oceanside does not have a "least preferred" designation for schools so the parents at the school have been struggling with keeping the units off the roof for a while. There's a group in South O that is trying to get schools, residences, etc. shielded in Article 39, the city's Wireless Ordinance--their website is [www.ocafn.org](http://www.ocafn.org). It looks like they've been on this for a while. I guess the wireless ordinance for the city is out of date and being revised. A lot of cities have schools, churches, residences shielded from cell towers/units by using a "least preferred" designation for site where kids are, people live. Thanks for your help on this.

Laura

**IN THE New Wireless ORDINANCE (Article 39) RESIDENTS WANT:**

- **NO Exemption** for public-right-of-ways in residential, schools, daycares, and church zones.
- Regulate: schools, daycares, and churches as **Disfavored or Least Preferred for wireless permits.**
- Require Conditional Use Permits in all residential and within 1,000 feet of residential property lines next to a commercial site.
- Require City Of Oceanside to Post a Web Page Link Accounting for all wireless sites on a Map accessible for public view.
- Place Placard Signs at entrance of public venues where wireless antennas are out of sight from public view. (Citizens have the right to know!)
- Request Planning Director & City Council to approve an Interim Urgency Moratorium on all wireless permits in or next to a residential zone until a finalized wireless ordinance is in place and the above amendments are made.

#	PRINT FIRST AND LAST NAME	ADDRESS	SIGNATURE
1	AGUSTIN LUCIO JR	1860 ANDY LANE	<i>[Signature]</i>
2	Kyle Schuler	2132 S. Coast Hwy 92034	<i>[Signature]</i>
3	Max Burdette	305 via metates	<i>[Signature]</i>
4	James Mullanix	1588 Kelly st	<i>[Signature]</i>
5	Kat Brown	1590 Kelly st	<i>[Signature]</i>
6	Jimmy Slater	1725 Cassidy st	<i>[Signature]</i>
7	<del>Robert L. Blane</del>	1725 Cassidy st	<i>[Signature]</i>
8	Robert L. Blane	1820 Moreno st	<i>[Signature]</i>
9	JASON PENEAN	1241 Kimo Place	<i>[Signature]</i>
10	Lois Tumber	1230 KIMMER PLACE	<i>[Signature]</i>
11	STACEY VOGEL	1815 BURROUGHS ST	<i>[Signature]</i>

#	PRINT FIRST AND LAST NAME	ADDRESS	SIGNATURE
12	JOE VOGEL	1815 BURROUGHS ST	Joe Vogel
13	Ben Leder	1817 Burroughs St.	C. Ben Leder
14	Clayton Jackson	1826 Burroughs St	Clayton Jackson
15	Ann Reed	1825 Burroughs St	Ann Reed
16	Robert P. Chambers	1830 Burroughs ST	Robert P. Chambers
17	Maryann T. Woolsey	1901 Stewart St	Maryann T. Woolsey
18	Harper Clives	1034 Stewart St	Harper Clives
19	Doug Thompson	1818 Stewart St	Doug Thompson
20	STEPHANY JOHNSON	705 5th Avenue St	Stephany Johnson
21	JOYANA LINCOLN	705 South Home St	Joyana Lincoln
22	TRACY POLANCO	328 S WEIZEL ST.	Tracy Polanco
23	ALEXA CHAVEZ	514, Morse St.	Alexa Chavez
24	Jack Barkman	1526 Tarrant	Jack Barkman
25	FRED JAMES	1915 LINCOLN	Fred James
26	Fredy Cortez	1915 LINCOLN St.	Fredy Cortez
27	Penelope Cormalis	1213 Vista Way	P. Cormalis
28	Glenn Cormalis	1213 Vista Way	Glenn Cormalis
29		1212 VISTA WAY	Stephanie Johnson
30		1212 VISTA WAY	Sharon Decker

City of Oceanside NEW Cell Tower/Antenna Ordinance Should NOT EXEMPT ALL PUBLIC-RIGHT-OF-WAYS

ASK Our Leaders to call an Interim Urgency Ordinance to immediately impose a 45-day moratorium on all "wireless facilities" in residential areas. TO STATE;

IN THE ORDINANCE

- **NO Exemption** in public-right-of-ways for residential, school, daycares, and churches.
- Protect residential, schools, day-cares, and churches under disfavored or least preferred.
- Require Conditional Use Permit in and within 1,000 feet of residential areas.
- Require City Of Oceanside to Post a Web Page Link accounting for all wireless sites on a Map accessible for public view.
- Place Placard Signs at entrance of public venues where wireless antennas are out of sight from public view. (Citizens have the right to know!)

#	Print First and Last Name	Address	Signature
1	David Appant-Jones	2034 Lycola St	[Signature]
2	Holly Hargett	1220 Vista Way	[Signature]
3	Jared Keating	1220 VISTA WAY	[Signature]
4	Marcelo Nuncio Jr	801 Vista Way	[Signature]
5	The Vazquez	801 VISTA Way	[Signature]
6	Jesus Vilasor	709 VISTA Way	[Signature]
7	Elsa Reyna	511 Vista Way	[Signature]
8	JOHN ALVAREZ	801 VISTA WAY	[Signature]
9	Walter Keating	1220 VISTA WAY	[Signature]

#	Print First and Last Name	Address	Signature
10	Reta Villarreal	2001 Vista Way, Downside CA	R Villarreal
11	Michael Williams	2001 Vista Way, Downside Blvd	Michael Williams
12	Holly Burman	1109 VISTA WAY, DOWNSIDE 92054	Holly Burman
13	Joel Hall	1109 Vista Way, Oside 92054	Joel Hall
14	Nancy MARTINSON	1109 VISTA WAY 92054	Nancy Martinson
15	Lewie Valente	332 Bluff way 92054	Lewie Valente
16	Holley Rhinehart	1532 Kurtz St 92054	Holley Rhinehart
17	Stephen Chambers	1922 FREEMAN ST. 92054	Stephen Chambers
18	Mama J. Allen	1839 Alvarado St 92054	Mama J. Allen
19	TOBY Gillen	1833 Alvarado 52054	Toby Gillen
20	Branda Hushes	1823 Alvarado St 92054	Branda Hushes
21	Kenneth Bojarski	1725 Alvarado St 92054	Kenneth Bojarski
22	CZACH HALLOCK	1808 ALVARADO ST 92054	Czach Hallock
23	STACY HALLOCK	1808 ALVARADO ST 92054	Stacy Hallock
24	Cindy Rocco	1632 Alvarado St 92054	Cindy Rocco
25	Jennifer Baldwin	1631 Alvarado St 92054	Jennifer Baldwin
26	KEITH BALDWIN	1631 ALVARADO ST. 92054	Keith Baldwin
27	John Crowell	1706 Alvarado St 92054	John Crowell

#	Print First and Last Name	Address	Signature
28	DAVE CROWELL	1706 Alvarado St. 92054	Dave Crowell
29	JENN BROWN	1706 Alvarado St. 92054	Jenni Brown
30	JEN FROST	1916 Alvarado St 92054	Jen Frost
31	Andy Frost	" "	
32	Eithie Finney	1214 Vista Way 92054	Eithie Finney
33	Jeff Finney	" "	
34	Dan York	1924 Moreno 92054	Dan York
35	Rachel Jacinto	1919 Moreno St 92054	Rachel Jacinto
36	Kalyn Peirce	1919 MORENO ST. 92054	Kalyn Peirce
37	Jose' Jara	1909 MORENO ST 92054	Jose' Jara
38	Colleen Jara	1909 Moreno St 92054	Colleen Jara
39	William Bayless	1311 Kelly St 92054	William Bayless
40	Betty Bayless	1311 Kelly St. 92054	Betty Bayless
42	JASON HODGES	1134 DITMAR ST. 92054	Jason Hodges
41	VIRGINIA HODGES-RODIGO	1330 Kelly St 92054	Virginia Hodges-Rodigo
42	JASON FOETIER	1206 VISTA WAY	Jason Foetier
43	Theresa Keating	220 VISTA WAY	Theresa Keating

858 784 7340

ATTN: HOLLY

**CITY OF OCEANSIDE DRAFTED A NEW WIRELESS ORDINANCE,**

**DEADLINE FOR PUBLIC COMMENTS AUGUST 9th, 2010.**

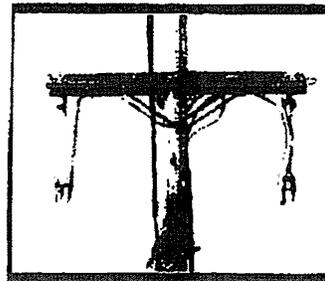
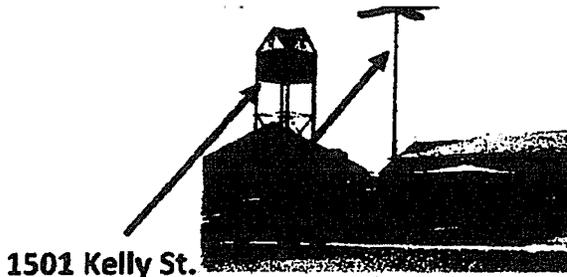
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Until the wireless ordinance is finalized City Council should call a Moratorium on current wireless applications in residential areas. Currently the city has excessive amounts of wireless applications which will not be regulated under the new ordinance, up to 10 years! Numerous California cities have called wireless moratorium for the same reasons.

The federal courts gave new rulings so cities CAN up-hold regulations in a Wireless Ordinance. WE THE RESIDENTS want the city to exercise those rights to protect the citizens from residential wireless proliferation.

IN THE New Wireless ORDINANCE (Article 55) RESIDENTS WANT:

- **NO Exemption** for public-right-of-ways in residential, schools, daycares, and church zones.
- Regulate: schools, daycares, and churches as **Disfavored or Least Preferred for wireless permits.**
- Require Conditional Use Permits in all residential and within 1,000 feet of residential property lines next to a commercial site.
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- Place Placard Signs at entrance of public venues where wireless antennas are out of sight from public view. (Citizens have the right to know!)



**PLEASE SEND YOUR SIGNATURE**

PLEASE PRINT FIRST AND LAST NAME DAVID M. BERRY

ADDRESS 520 HOOPER ST OCEANSIDE SIGNATURE [Handwritten Signature]

**CITY HALL 300 North Coast Hwy Oceanside, Ca 92054 OR Fax Number (760) 754-2958**

858 784 7340

ATTN: HOLLY

**CITY OF OCEANSIDE DRAFTED A NEW WIRELESS ORDINANCE,**

**DEADLINE FOR PUBLIC COMMENTS AUGUST 9th, 2010.**

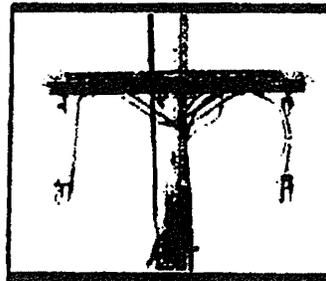
A City Ordinance provides rules for approving permits. The new drafted wireless ordinance LEAVES OUT public right-of-ways from following new ordinance regulations. DEFINES NON-RESIDENTIAL AS Schools, Daycares and Churches even if the buildings are in a residential area! DOES NOT REQUIRE all wireless facilities to have a conditional use permit or major permit within all residential areas!

Until the wireless ordinance is finalized City Council should call a Moratorium on current wireless applications in residential areas. Currently the city has excessive amounts of wireless applications which will not be regulated under the new ordinance, up to 10 years! Numerous California cities have called wireless moratorium for the same reasons.

The federal courts gave new rulings so cities CAN up-hold regulations in a Wireless Ordinance. WE THE RESIDENTS want the city to exercise those rights to protect the citizens from residential wireless proliferation.

IN THE New Wireless ORDINANCE (Article 39) RESIDENTS WANT:

- **NO Exemption** for public-right-of-ways in residential, schools, daycares, and church zones.
- Regulate: schools, daycares, and churches as **Disfavored or Least Preferred** for wireless permits.
- Require Conditional Use Permits in all residential and within 1,000 feet of residential property lines next to a commercial site.
- Require City Of Oceanside to Post a Web Page Link Accounting for all wireless sites on a Map accessible for public view.
- Place Placard Signs at entrance of public venues where wireless antennas are out of sight from public view. (Citizens have the right to know!)



**PLEASE SEND YOUR SIGNATURE**

PLEASE PRINT FIRST AND LAST NAME KARON J. LEACHMAN

ADDRESS 520 HOOVER ST. OSIDE SIGNATURE [Handwritten Signature]

CITY HALL 300 North Coast Hwy Oceanside, Ca 92054 OR Fax Number (760) 754-2958

# YAHOO! SMALL BUSINESS

## Customer contact message for ocafn.org

From: "Eat2surf@yahoo.com" <Eat2surf@yahoo.com>

To: join@ocafn.org

Friday, August 6, 2010 1:28 AM

A visitor to ocafn.org has sent a message through your form.

Customer contact: Main customer contact form

First Name : David

Last Name : Crowell

Address : [Eat2surf@yahoo.com](mailto:Eat2surf@yahoo.com)

Date : 8/6/2010

Comments : Please help protect this city's individuals' interests and health.

Company : N/A

# YAHOO! SMALL BUSINESS

**Customer contact message for ocafn.org**

**From:** "llmayer@cox.net" <llmayer@cox.net>

**To:** join@ocafn.org

Friday, August 6, 2010 12:04 AM

A visitor to ocafn.org has sent a message through your form.

Customer contact: Main customer contact form

First Name : Laura

Last Name : Mayer

Email : [llmayer@cox.net](mailto:llmayer@cox.net)

Mobile Phone : 760-212-9494

Comments : HI, we are a bunch of parents at Coastal Academy who are upset about Clearwire/Sprint wanting to site units over our kids' heads. Can you help us? I can see that we should comment on Article 39, the Wireless Petition--is there a meeting on the 24th we should attend and comment at? We have been working on this since June and the plans for our school have just been resubmitted. Advice? Thanks so much!

Laura

Company : N/A

**IN THE New Wireless ORDINANCE (Article 39) RESIDENTS WANT;**

RECEIVED

AUG 09 2010

CITY OF OCEANSIDE  
DEVELOPMENT SERVICES

- **NO Exemption** for public-right-of-ways in residential, schools, daycares, and church zones.
- Regulate: schools, daycares, and churches as **Disfavored or Least Preferred for wireless permits.**
- Require Conditional Use Permits in all residential and within 1,000 feet of residential property lines next to a commercial site.
- **Require a City of Oceanside Public-Right-of-Way Based Wireless Site Map for all wireless sites, and a map posted for public view.**  
(Citizens have the right to know!)
- Request Planning Director City Council to approve an Interim Urgency Moratorium on all wireless permits in or next to a residential zone until a finalized wireless ordinance is in place and the above amendments are made and Council to approve

#	PRINT FIRST AND LAST NAME	ADDRESS	SIGNATURE
1	LOUIS MEDEIROS	1914 S. TREMONT ST.	Louis Medeiros
2	Lisa Stevens	1902 S. Tremont St.	Lisa Stevens
3	<del>Janice Stevens</del>	<del>1902 S. Tremont St.</del>	<del>Janice Stevens</del>
4	RICHARD A. WERNER	1928 S. TREMONT STREET OCEANSIDE CA, 92054	Richard A. Werner
5	<del>Angela M. Werner</del>	<del>1828 S. Tremont St.</del> <del>Escondido</del>	<del>Angela M. Werner</del>
6	Alan Lopez	19733 Tremont St. O'side 92054	Alan Lopez
7	REK SAN FILIPPO	417 HELIX WAY O'SIDE 92057	Rek San Filippo
8	Michelle Lum	1611 S. Tremont St. O'side 92054	M. Lum
9	Juliane Broadbent	1916 S. Coast Hwy O'side 92054	Juliane Broadbent
10	John Broadbent	9925 So. Dittmar, O'side 92054	John Broadbent
11	Chris Olson	1929 S. Dittmar O'side 92054	Chris Olson
#	PRINT FIRST AND LAST NAME	ADDRESS	SIGNATURE
12			

**IN THE New Wireless ORDINANCE (Article 39) RESIDENTS WANT;**

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- Regulate: schools, daycares, and churches as **Disfavored or Least Preferred for wireless permits.**
- Require Conditional Use Permits in all residential and within 1,000 feet of residential property lines next to a commercial site.
- Require City Of Oceanside to Post a Web Page Link Accounting for all wireless sites on a Map accessible for public view.
- Place Placard Signs at entrance of public venues where wireless antennas are out of sight from public view. (Citizens have the **right to know!**)
- Request Planning Director & City Council to approve an Interim Urgency Moratorium on all wireless permits in or next to a residential zone until a finalized wireless ordinance is in place and the above amendments are made.

#	PRINT FIRST AND LAST NAME	ADDRESS	SIGNATURE
1	Nancy R. Gregory	1928 South Tremont Street Oceanside Ca 92054	Nancy Gregory
2	Renee Ward	6014 Birch Dr. Oceanside 92038	Renee Ward
3	Jane Alonso	5147 Via Malaguena Oceanside 92057	Jane Alonso
4	Ronald Jones	3241 Roberta Lane Oceanside CA 92054	Ronald Jones
5	Leo Tomare	445 Creek Rd O'Side CA 92058	Leo Tomare
6	Dianne Hughes	814 W. Cleveland Oside 92054	Dianne Hughes
7	JOSEPH MORAN	5415 LANDS END WAY Oside 92058	Joseph Moran
8	DIANE ZIEFFELS	1914 S. Delmar Oside 92054	Diane Zieffels
9	MARY FISHER	1828 So Clementine Oceanside 92054	Mary Fisher
10	John Fusco	1801 S. Nevada Oceanside 92054	John Fusco
11	Geri Gillum	1833 S. Nevada St. Oside 92054	Geri Gillum

#	PRINT FIRST AND LAST NAME	ADDRESS	SIGNATURE
12	BRIC SMITH	1840 S. Nevada St.	
13	<del>Paul Cheatham</del>		
14	Paul Cheatham	1928 S. Tremont St.	
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**IN THE New Wireless ORDINANCE (Article 39) RESIDENTS WANT;**

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- Regulate: schools, daycares, and churches as **Disfavored or Least Preferred for wireless permits.**
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(Citizens have the right to know!)
- **Request Planning Director & City Council to approve an Interim Urgency Moratorium on all wireless permits in or next to a residential zone until a finalized wireless ordinance is in place and the above amendments are made.**

#	PRINT FIRST AND LAST NAME	ADDRESS	SIGNATURE
1	JANET GREGORY	1602 WAGON WHEEL DR. OCEANSIDE 92057	Janet Gregory
2			
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9			
10			
11			

## Jerry Hittleman

---

**From:** Peter Weiss  
**Sent:** Monday, August 09, 2010 10:13 AM  
**To:** Jerry Hittleman; Michelle Skaggs-Lawrence  
**Subject:** FW: article 39

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

**From:** dloskam@cox.net [mailto:dloskam@cox.net]  
**Sent:** Monday, August 09, 2010 9:39 AM  
**To:** Peter Weiss  
**Subject:** article 39

Dear Mr. Weiss,

I am a 15 year resident of Oceanside.

As you may be aware, the Planning Commission is currently working on an update to the city's wireless ordinance which is way out of date. It is called Article 39.

I am in support for a tightened ordinance in the planning/approval of wireless site proposals.

The main points I would like to see in the document:

Designate schools, churches, and residential areas "least preferred" status for locating of units.

Don't allow public right of way to be used in these areas to get around the "least preferred status".

Require an accounting of wireless sites in Oceanside and their locations so there is a comprehensive accounting of sites

Call for a 45 day moratorium (legal and done already in other cities) on new units until the city's wireless ordinance can be brought up to date to protect the residents of Oceanside.

Best regards, Mrs. Lisa Oskam

## **Jerry Hittleman**

---

**From:** Peter Weiss  
**Sent:** Monday, August 09, 2010 9:16 AM  
**To:** Jerry Hittleman; Michelle Skaggs-Lawrence  
**Subject:** FW: Article 39

fyi

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

**From:** eat2surf@sbcglobal.net [mailto:eat2surf@sbcglobal.net]  
**Sent:** Monday, August 09, 2010 9:14 AM  
**To:** Peter Weiss  
**Subject:** Article 39

Dear dedicated server of the public,

I'd like to thank you in your efforts to fix our antiquated ordinance regulating wireless antennas.

Please designate schools as "least preferred" status for locating of units.

Please don't allow public right of way to be used in these areas to get around the "least preferred status."

Please require an accounting of wireless sites in Oceanside and their locations so there is a comprehensive accounting of sites.

Please call for a 45 day moratorium (legal and done already in other cities) on new units until the city's wireless ordinance can be brought up to date to protect the residents of Oceanside.

I can only imagine the pressures that come from a position such as yours. I don't envy having the health and well-being of such a valuable asset as the school children of Oceanside in my hands. I'm sure the wireless corporations feel just as strongly.

I'm hopeful that your decision will be one that doesn't allow the wireless industry to choose quick profit over potential health issues. Surely they have the sophistication and technology to be able to locate their antennas on things other than schools.

I'd hate to see our city sacrifice control over a potential health-hazard and definite eye-sore for the sake of "more bars in more places." Perhaps a dropped phone call isn't as important as a child's well-being?

Thanks for listening.

Dave Crowell  
5440 Blackberry Way  
Oceanside, CA  
760-941-8212

*Jerry Hittlema*

July 21, 2010

In regards to: The proposed Article 39 zoning ordinance

Councilman Jack Feller  
300 N. Coast Highway  
Oceanside, CA 92054-2885

**RECEIVED**

**AUG 09 2010**

**CITY OF OCEANSIDE  
DEVELOPMENT SERVICES**

Dear Councilman Jack Feller,

The proposed Article 39 zoning ordinance is biased against the Amateur Radio Service (ARS.)

In order to discern a pattern; it is necessary to review each line and each paragraph (Proposed Article 39 attached.) When we do this with the proposed article, a thread of impediments emerges. Whereas the spirit of the law is intended to promote continued service by Amateur Radio, this ordinance cripples it. It goes against the "Sense of Congress" as stated in Public Law 100-594. It violates the "Joint Resolution of Congress to Recognize the achievements of Radio Amateurs as Public Record" as stated in Public Law 102-408. It ignores Part 97.1 of 47 CFR, plus both Federal and State PRB-1 statutes. The failure of the Oceanside Telecommunications Committee to consider these laws is not a simple oversight.

I propose a separate article for the ARS, based on the following reasons:

1. Mixing amateur and commercial practices defeats all the rules of writing for clarity. Their regulatory schemes are vastly different, so that separating the two would reduce the possibility for misguidance.
2. The physical design requirements for operating on amateur High Frequency wavelengths vs. shorter commercial wavelengths are profoundly different. The article should recognize this difference.
3. The cost of a Conditional Use Permit (CUP) is \$4080.00. This equals or exceeds the cost of the antenna installation and under the Article 39 guidelines is virtually guaranteed to be required for each permit application from a member of the ARS. This is unreasonable.
4. A poorly executed ordinance would result in wasting taxpayer dollars on unnecessary litigation.

Let me address each of the reasons listed above. Reason number 1 is really an understatement. Article 39 seeks to redefine the amateur radio station as "a wireless telecommunications facility". This redefinition ignores both established policy and the spirit of the law regarding the ARS as identified above. This redefinition masks the real value of the ARS in contributing to our community, to California and to the USA. The ARS provides fail-proof communications in time of major disaster and a pool of expertise in time of need. It does this without remuneration. Contrast this to commercial communications providers who work "for profit". The redefinition is then used to cloak the guidelines for the ARS with the same guidelines for commercial service providers. This is a recipe for misguidance and misinterpretation. The ARS should be addressed in a separate ordinance.

July 21, 2010

As for reason number 2, the proposed Article 39 does not provide constructive guidance as to meeting ARS antenna requirements. It merely states an arbitrary height above which a CUP will be required for all antennas either for ARS or for a commercial service provider. As of July 14, 2003, this violates California regulation SECTION 1. Section 65850.3 which states: "Any ordinance adopted by the legislative body of a city or county that regulates amateur radio station antenna structures shall allow those structures to be erected at heights and dimensions sufficient to accommodate amateur radio service communications, shall not preclude amateur radio service communications, shall reasonably accommodate amateur radio service communications, and shall constitute the minimum practicable regulation to accomplish the city's or county's legitimate purpose." There should be a requirement-based ARS antenna height, below which a CUP would not be mandated.

As for reason number 3, considering the not-for-profit contributions to society as clearly stated by policy and laws, a \$4080 CUP plus "other" fees imposed by the proposed article are a travesty. The ARS would be stifled and Oceanside, California, and the USA would be ill-served. These fees should be eliminated or reduced to something reasonable.

As for reason number 4, the old Section 3025 of the Oceanside zoning ordinance was enacted prior to the passage of the California regulation SECTION 1. Section 65850.3. Even so, the old section is 5 pages long compared to the proposed Article 39 which is 21 pages. Therefore the confusion caused by mixing ARS and commercial policies is increased by a factor of four. This further increases the likelihood that the proposed do-all ordinance will run afoul of the law.

I appreciate your time in meeting with me. I will do my best to respond to any questions you may have. My telephone number is 760-967-1945 and my email address is hamkt4fk@att.net

Sincerely,



Fred Atchley, Amateur Radio Callsign: AE6IC

Attach: DRAFT 6.22.10 ARTICLE 39 Wireless Communications Facility, Satellite Dish and Antenna Standards

**Jerry Hittleman**

---

**From:** Peter Weiss  
**Sent:** Wednesday, August 11, 2010 7:54 AM  
**To:** Jerry Hittleman; Michelle Skaggs-Lawrence  
**Subject:** FW: Cell Units at Coastal Academy  
**Attachments:** image001.jpg

fyi

**From:** Randy Hanson [mailto:rhanson@bergelectric.com]  
**Sent:** Wednesday, August 11, 2010 7:40 AM  
**To:** Peter Weiss  
**Cc:** Mary Hanson  
**Subject:** Cell Units at Coastal Academy

Dear Honorable Peter,

This is a message to let you know that we are in opposition about sitting 2 cell units on Coastal Academy. We think you should re-consider --That Article 39 should have schools/churches/residences designated "least preferred" and that public right of way should not be used as a way around this designation --Require an accounting of wireless units in Oceanside and their locations so there is a comprehensive accounting of cellular sites --Call for a 45 day moratorium (legal and done already in other cities) on new units until the city's wireless ordinance can be brought up to date to protect the residents of Oceanside --The units proposed for the roof of Coastal Academy are a perfect example why we need Article 39 updated to protect residents of Oceanside. Sincerely, Randy, Mary and Robert Hanson

**Randy Hanson, RCDD**  
**Bergelectric Corporation**  
**Systems Division**  
**650 Opper Street**  
**Escondido, CA 92029**  
**O: 760.746.1004 x496**  
**VOIP 002 - Ext 496**  
**F:760.746.4619**  
[rhanson@bergelectric.com](mailto:rhanson@bergelectric.com)  
[www.bergelectric.com](http://www.bergelectric.com)



\*\*\*\*\*  
This email message may contain confidential information. If you received this transmission in error you should not disseminate, distribute, or copy this email. Please notify the sender immediately by reply email and delete this email from your system. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of the contents of this information in any manner is strictly prohibited.

Please consider the environment before printing this email.  
\*\*\*\*\*

## **Jerry Hittleman**

---

**From:** ljsierra <ljsierra@cox.net>  
**Sent:** Wednesday, August 11, 2010 7:17 AM  
**To:** Jerry Hittleman  
**Subject:** cell units on Coastal Academy

We're writing to let you know of our opposition about siting 2 cell units on Coastal Academy.

- Article 39 should have schools/churches/residences designated "least preferred" and that public right of way should not be used as a way around this designation
- Require an accounting of wireless units in Oceanside and their locations so there is a comprehensive accounting of cellular sites
- Call for a 45 day moratorium (legal and done already in other cities) on new units until the city's wireless ordinance can be brought up to date to protect the residents of Oceanside
- The units proposed for the roof of Coastal Academy are a perfect example why we need Article 39 updated to protect residents of Oceanside

Thank you,

Jill and Lon Sierra  
Coastal parents

## Jerry Hittleman

---

**From:** Vida Murrell  
**Sent:** Monday, August 09, 2010 8:31 AM  
**To:** Jerry Hittleman  
**Subject:** FW: Article 39--Wireless Ordinance and Cell Units Proposed for Roof of Coastal Academy

FYI,

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

**From:** llmayer@cox.net [mailto:llmayer@cox.net]  
**Sent:** Sunday, August 08, 2010 11:04 PM  
**To:** Planning Web  
**Cc:** Jim Wood; Jack Feller; Esther Sanchez; Chuck Lowery; Jerry Kern; John Mullen; Peter Weiss  
**Subject:** Article 39--Wireless Ordinance and Cell Units Proposed for Roof of Coastal Academy

I would like to comment on Article 39, the Wireless Ordinance and say that our city definitely needs to update and strengthen the city's ordinance for this very important and controversial planning issue. This issue personally affects my family as Clearwire/Sprint has just resubmitted plans to put cell units on the roof of my son's school, Coastal Academy--not on the edge of the property, not far off to the side of the school but just a few feet above where the kids are sitting. It is such an appalling choice of locale, and that fact that we parents have to advocate for protecting our kids' school would clearly suggest that it would be most useful if the city could have a "least preferred" designation for such locations.

I feel that Article 39 definitely needs to shield schools, churches, residents from all types of cell units--and work to site them away from locations where, for example, hundreds of children sit beneath them all day. There is so much industrial space (like right up the street or just across the street from my son's school) that locating these sites on places where people live, kids go to school, people worship is both unnecessary and not in the best interest of the city or its residents.

I'd also like to say that public-right-of-way in these same zones should be held to the same standard and not seen as a way for wireless companies to do an end-run around public concern--once again, once we parents started advocating on behalf of our children who attend Coastal Academy, I learned of a unit in the public right of way that no one even knew about. Sure enough, there it is right in the sidewalk that leads up to the school--and no one had any idea.

I would also ask for a comprehensive listing/map of all wireless sites in Oceanside--is anyone keeping track of cumulative RF totals and how they may overlap--also, it would be prudent for buildings/sites where cell units are not visible to have to post their existence so that citizens of Oceanside can be informed as much as possible. With the wireless industry moving so fast and so far in just a short period of time, having a strong ordinance that serves the City of Oceanside is crucial.

I am also very supportive of a moratorium for 45 days until all of this can be figured out and the citizens of Oceanside are best served by a clearly articulated Wireless Ordinance. The fact that hundreds of kids at Coastal Academy are facing the possibility of cell units being installed over their heads (literally) suggests that clearly articulated standards to guide development in this issue are needed.

In closing, I would like to state my specific concern with and opposition to Clearwire/Sprint locating 2 cell units on the roof of my son's school (directly over the classrooms, feet from the kids' head's) and my more general concern with the lack of an updated ordinance for the wireless industry. I'd like to state my support for a moratorium of, and strong guidance document for, the wireless industry as more and more units are located in Oceanside.

>

> I am appreciative of being able to make my comments known in this matter.

>  
> Thank you,  
>  
> Laura Mayer  
> 2226 Fire Mountain Drive  
> Oceanside, Ca  
> 760-212-9494

## Jerry Hittleman

---

**From:** Sandra Djordjevich  
**Sent:** Tuesday, August 10, 2010 8:24 AM  
**To:** 'Jay Scrivener - Planning'; Jimmy Knott; Robert Ross; 'Tom Rosales - Planning'  
**Cc:** Jerry Hittleman; Leslie M. Gallagher  
**Subject:** FW: Fwd: Wireless Message - Chris B.

FYI

Additional public comments re: wireless ordinance.

Regards,

Sandra Djordjevich, Application Analyst  
City of Oceanside, Information Technologies Department  
300 North Coast Highway  
Oceanside, CA 92054  
1.760.435.3825 (direct)  
1.760.435.6033 (fax)  
1.760.435.3800 (support center)  
[sdjordjevich@ci.oceanside.ca.us](mailto:sdjordjevich@ci.oceanside.ca.us)

**From:** Michelle Skaggs-Lawrence  
**Sent:** Tuesday, August 10, 2010 8:07 AM  
**To:** Sandra Djordjevich  
**Subject:** Fw: Fwd: Wireless Message - Chris B.

---

**From:** Chuck Lowery  
**To:** Peter Weiss; John Mullen; Jerry Hittleman; City Council  
**Cc:** Zack Beck  
**Sent:** Tue Aug 10 07:43:22 2010  
**Subject:** Fwd: Wireless Message - Chris B.

Please do something to address the concerns of Oceanside residents. We obviously have a situation that impacts many taxpayers.

Chuck

Begin forwarded message:

**From:** <[holly@ocafn.org](mailto:holly@ocafn.org)>  
**Date:** August 9, 2010 10:47:33 PM PDT  
**To:** [council@ci.oceanside.ca.us](mailto:council@ci.oceanside.ca.us)  
**Cc:** [pwiess@ci.oceanside.ca.us](mailto:pwiess@ci.oceanside.ca.us)  
**Subject:** Wireless Message - Chris B.  
**Reply-To:** [holly@ocafn.org](mailto:holly@ocafn.org)

--- On Mon, 8/9/10, [chris@bamcom.net](mailto:chris@bamcom.net) <[chris@bamcom.net](mailto:chris@bamcom.net)> wrote:

From: [chris@bamcom.net](mailto:chris@bamcom.net) <[chris@bamcom.net](mailto:chris@bamcom.net)>

Date: Monday, August 9, 2010, 3:07 PM

Customer contact: Main customer contact form

First Name : Christopher

Last Name : Weiscopf

Address : [chris@bamcom.net](mailto:chris@bamcom.net)

Date : 08/09/2010

Comments : Oceanside needs a modern, coherent wireless policy that prioritizes the concerns of the community over out of state corporations. To simply say \"we will not open wireless proposals for public review because that opens the city to lawsuits\" does not address the fact the city does not have an up to date wireless policy and would rather not deal with it or the constituents of the city and rather pass the buck.

Company : N/A

Received

EXHIBIT B

JUL 15 2010



Planning Division

**NOTICE OF INTENT TO ADOPT A NEGATIVE DECLARATION**  
City of Oceanside, California

**SUBJECT:** Introduction of Article 39 to the Oceanside Zoning Ordinance (ZO), Wireless Communications Facility, Satellite Dish, and Antenna Standards and Repeal of Section 3025 of the ZO

**NOTICE IS HEREBY GIVEN** that the City of Oceanside has prepared and intends to adopt a Negative Declaration in connection with the subject project. The Negative Declaration analyzes all potential environmental effects within the attached initial study checklist. The Negative Declaration concludes that the proposed project will not result in any significant, adverse effects on the environment. The City's decision to prepare a Negative Declaration should not be construed as a recommendation of either approval or denial of this project.

**PROJECT DESCRIPTION:** The proposed project is an introduction of Article 39 Wireless Communications Facility, Satellite Dish, and Antenna Standards Ordinance to be added to the 1992 and 1986 (applies in Coastal Zone) Oceanside Zoning Ordinance (ZO) and repeal of Section 3025 of the 1992 ZO.

**PUBLIC REVIEW PERIOD:** the public review period is from Wednesday, July 7, 2010 to Monday, August 9 2010.

**PROJECT MANAGER:** Jerry Hittleman, City Planner; Phone: (760) 435-3535; Fax number: (760) 754-2958; mailing address: Planning Division, 300 North Coast Highway, Oceanside, CA 92054. E-mail: [jhittleman@ci.oceanside.ca.us](mailto:jhittleman@ci.oceanside.ca.us)

**NOTICE IS FURTHER GIVEN** that the City invites members of the general public and agencies to review and comment on this environmental documentation. Written comments may be mailed, e-mailed, or faxed to the project manager. The Negative Declaration and supporting draft ordinance are attached and are also available for public review and inspection at the Planning Division located in City Hall at, 300 North Coast Highway, Oceanside, CA 92054. The City's Planning Commission and City Council will conduct public hearings at future dates to be determined. A legal ad in a local newspaper will be used to notice the public for those hearings. If you challenge this project in court, you may be limited to raising only those issues you or someone else raised during the public review period on the proposed Negative Declaration or at the future public hearings.

By order of Jerry Hittleman, City Planner

**FILED**  
David Butler, Recorder/County Clerk

JUL 06 2010  
BY L. Kesian

FILED IN THE OFFICE OF THE COUNTY CLERK  
San Diego County on JUL 06 2010  
Posted JUL 06 2010 Removed \_\_\_\_\_  
Returned to agency on \_\_\_\_\_  
Deputy L. Kesian



## INITIAL STUDY City of Oceanside California

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1. **PROJECT:** Article 39, Wireless Communications Facility, Satellite Dish and Antenna Standards
2. **LEAD AGENCY:** City of Oceanside
3. **CONTACT PERSON & PHONE:** Jerry Hittleman, City Planner, City of Oceanside, Development Services Department/Planning Division, 300 North Coast Highway, Oceanside, CA 92054. (760) 435-3535.
4. **PROJECT LOCATION:** Citywide
5. **APPLICANT:** City of Oceanside
6. **GENERAL PLAN DESIGNATION:** Applicable to all General Plan Designations
7. **ZONING:** Applicable to all Zones.
8. **PROJECT DESCRIPTION:** Introduction of Article 39, a new Wireless Communications Facility, Satellite Dish, and Antenna Standards Ordinance (Telecommunication Ordinance) that will be added to the current 1992 Oceanside Zoning Ordinance (OZO) and the 1986 OZO for those areas within the Coastal Zone and the repeal of Section 3025 from the 1992 OZO. A copy of the proposed draft ordinance is attached.
9. **SURROUNDING LAND USE(S) & PROJECT SETTING:** Telecommunications facilities may be located within any zoning district in the City of Oceanside with approval of a conditional use permit (CUP).
10. **OTHER REQUIRED AGENCY APPROVALS:** California Coastal Commission for those areas within the City of Oceanside Coastal Zone.
11. **PREVIOUS ENVIRONMENTAL DOCUMENTATION:**
12. **CONSULTATION:**

California Coastal Commission
13. **SUMMARY OF ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:** The project would not affect any environmental factors resulting in a Potentially Significant Impact or Potentially Significant Impact Unless Mitigated. A summary of the environmental factors potentially affected by this project, consisting of a Potentially Significant Impact or Potentially Significant Impact Unless Mitigated, include:

<input type="checkbox"/> Aesthetics	<input type="checkbox"/> Agricultural	<input type="checkbox"/> Air Quality
<input type="checkbox"/> Biological Resources	<input type="checkbox"/> Cultural Resources	<input type="checkbox"/> Geological
<input type="checkbox"/> Hazards	<input type="checkbox"/> Water	<input type="checkbox"/> Land Use & Planning
<input type="checkbox"/> Mineral Resources	<input type="checkbox"/> Noise	<input type="checkbox"/> Population & Housing
<input type="checkbox"/> Public Services	<input type="checkbox"/> Recreation	<input type="checkbox"/> Transportation
<input type="checkbox"/> Utilities Systems		

#### 14. ENVIRONMENTAL CHECKLIST

This section analyzes the potential environmental impacts which may result from the proposed project. For the evaluation of potential impacts, the questions in the Initial Study Checklist (Section 2) are stated and answers are provided according to the analysis undertaken as part of the Initial Study. The analysis considers the project's short-term impacts (construction-related), and its operational or day-to-day impacts. For each question, there are four possible responses. They include:

1. No Impact. Future development arising from the project's implementation will not have any measurable environmental impact on the environment and no additional analysis is required.
2. Less Than Significant Impact. The development associated with project implementation will have the potential to impact the environment; these impacts, however, will be less than the levels or thresholds that are considered significant and no additional analysis is required.
3. Potentially Significant Unless Mitigated. The development will have the potential to generate impacts which may be considered as a significant effect on the environment, although mitigation measures or changes to the project's physical or operational characteristics can reduce these impacts to levels that are less than significant.
4. Potentially Significant Impact. Future implementation will have impacts that are considered significant, and additional analysis is required to identify mitigation measures that could reduce these impacts to less than significant levels.

	Potentially Significant	Potentially Significant Unless Mit.	Less than Significant	No Impact
<b>14.1 AESTHETICS.</b> Would the project:				
a. Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Substantially damage scenic resources, including, but not limited to trees, rock outcroppings, and historic building along a State-designated scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

a-d **No Impact**. The proposed Telecommunication Ordinance contains design standards to minimize the visual impact of these facilities on the surrounding neighborhood or community. Design review approval would be required for all wireless communication facilities as part of a conditional use permit application or staff review for facilities within the City's rights-of-way (ROW). Through the approval process, proposed telecommunication facilities will be evaluated to assure that they do not interfere with prominent vistas or significant public view corridors. Since no physical project is proposed with adoption of this ordinance no impacts will occur and no mitigation is required.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.2 AGRICULTURAL RESOURCES.</b> Would the project:				
a. Convert Prime Farmland, Unique Farmland, Farmland of Statewide Importance as depicted on maps prepared pursuant to the Farmland Mapping and Monitoring Program of the CA. Resources Agency?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Conflict with existing zoning for agricultural use, or a Williamson Act Contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

a-c **No Impact.** The proposed project is the introduction of a new Telecommunication Ordinance. Telecommunication facilities would only be allowed in the City's Agricultural Zone with approval of a conditional use permit (CUP). Each CUP application will be evaluated in accordance with the California Environmental Quality Act (CEQA). Since there is no development associated with this proposal no impacts to agricultural resources are expected and no mitigation is required.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.3 AIR QUALITY.</b> Would the project:				
a. Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Violate an air quality standard or contribute to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under the applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
e. Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

a-e **No Impact.** The proposed introduction of a new Telecommunication Ordinance does not propose a physical project. Therefore, no significant air or odor impacts would be generated through adoption of this ordinance and no mitigation is required. Future telecommunication facilities would be evaluated in subsequent environmental documents.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.4 BIOLOGICAL RESOURCES.</b> Would the project:				
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or the USFWS?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game (DFG) or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
e. Conflict with any local policies or ordinances protecting biological resources, such as tree preservation policy/ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

a-f **No Impact.** Introduction of the draft Telecommunication Ordinance does not contain a physical project. Therefore, no impacts to biological resources will occur and no mitigation is required. Potential impacts to special status plant and animal species will be evaluated at such time that telecommunication-related projects are processed. These potential biological impacts will be analyzed under a separate environmental document.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.5 CULTURAL RESOURCES.</b> Would the project:				
a. Cause a substantial adverse change in the significance of a historical resource as defined in ' 15064.5 of CEQA?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to ' 15064.5 of CEQA?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d. Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

a-d **No Impact.** The proposed Telecommunication Ordinance does not contain a physical project. At such time physical projects are proposed additional environmental analysis will be completed at that time. Therefore, no impacts to archaeological or paleontological resources will result from adoption of the proposed ordinance and no mitigation is required.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.6 GEOLOGY AND SOILS.</b> Would the project:				
a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving (i.) rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist, or based on other substantial evidence of a known fault (Refer to DM&G Pub. 42)?; or, (ii) strong seismic ground shaking?; or, (iii) seismic-related ground failure, including liquefaction?; or, (iv) landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on-site or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d. Be located on expansive soil, as defined in Table 18- 1-B of the 1994 UBC, creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
e. Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

a-e **No Impact.** Future telecommunication projects in Oceanside would be located within the seismically active southern California region and would likely be subjected to groundshaking, thus exposing proposed water transmission and storage facilities to seismic hazards. No known active seismic faults traverse the City of Oceanside. Potential groundshaking and other geologic hazards would be evaluated at the time future projects are submitted as the proposed project involves only adoption of a Telecommunication Ordinance. Therefore, no geologic impacts have been identified and no mitigation is required.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.7 HAZARDS AND HAZARDOUS MATERIALS.</b> Would the project:				
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
b. Create a significant hazard to the public or the environment through reasonably foreseeable conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
h. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

*a-h No Impact.* The proposed project, introduction and adoption of a Telecommunication Ordinance, would not involve the routine transport, use, or disposal of hazardous materials, and would not result in impacts related to hazards or hazardous materials. As no impacts were identified, no mitigation is required. Future telecommunication related projects will require additional CEQA review and these potential impacts will be analyzed at that time.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.8 HYDROLOGY AND WATER QUALITY.</b> Would the project:				
a. Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
c. Substantially alter the existing drainage pattern of the site or area including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
e. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
f. Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
g. Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
h. Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
i. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
j. Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
k. Result in an increase in pollutant discharges to receiving waters considering water quality parameters such as temperature, dissolved oxygen, turbidity and other typical stormwater pollutants (e.g. heavy metals, pathogens, petroleum derivatives, synthetic organics, sediment, nutrients, oxygen-demanding substances, and trash)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
l. Result in significant alternation of receiving water quality during or following construction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
m. Could the proposed project result in increased erosion downstream?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
n. Result in increased impervious surfaces and associated increased runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
o. Create a significant adverse environmental impact to drainage patterns due to changes in runoff flow rates or volumes?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
p. Tributary to an already impaired water body, as listed on the Clean Water Act Section 303(d) list? If so, can it result in an increase in any pollutant for which the water body is already impaired?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
q. Tributary to other environmentally sensitive areas? If so, can it exacerbate already existing sensitive conditions?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
r. Have a potentially significant environmental impact on surface water quality to either marine, fresh, or wetland waters?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
s. Have a potentially significant adverse impact on groundwater quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
t. Cause or contribute to an exceedance of applicable surface or groundwater receiving water quality objectives or degradation of beneficial uses?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
u. Impact aquatic, wetland, or riparian habitat?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
v. Potentially impact stormwater runoff from construction or post construction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
w. Result in a potential for discharge of stormwater pollutants from areas of material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas, loading docks or other outdoor work areas?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
x. Result in the potential for discharge of stormwater to affect the beneficial uses of the receiving waters?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
y. Create the potential for significant changes in the flow velocity or volume of stormwater runoff to cause environmental harm?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
z. Create significant increases in erosion of the project site or surrounding areas?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

a-z **No Impact** No physical projects are associated with the introduction of the Telecommunication Ordinance. The ordinance only provides a comprehensive means of regulating the installation, augmentation, and maintenance of such communication facilities, satellite dishes, and antennas in a manner to blend with the character of Oceanside neighborhoods. It should be noted that telecommunication structures are generally located on utility poles or camouflaged onto existing structures that do not typically impact drainage patterns or violate any water quality regulations. Since no impacts to water quality, hydrology, ground water supply, or flooding are expected no mitigation is required.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.9 LAND USE AND PLANNING.</b> Would the project:				
a. Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the General Plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
c. Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

a-c **No Impact.** The proposed Telecommunication Ordinance will not result in amendments to the land use designations, roadway network, any habitat conservation plans, or any other City, State, or Federal plans or policies. Therefore, no impacts will occur relative to land use and planning regulations and plans and no mitigation is required..

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.10 MINERAL RESOURCES.</b> Would the project:				
a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

a-b **No Impact.** Introduction of the Telecommunication Ordinance is not associated with a physical project. Therefore no impacts to mineral resources are expected with the ordinance adoption and no mitigation is required. Future telecommunication projects will be evaluated under a separate CEQA document.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.11 NOISE.</b> Would the project:				
a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
f. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

a-f **No Impact.** The proposed introduction and adoption of the Telecommunication Ordinance would not adversely affect noise levels within the City of Oceanside. All future facilities would need to meet the requirements of the City's Noise Ordinance. Future proposed telecommunication facilities projects would be reviewed for potential noise impacts under a separate CEQA document. Therefore, no noise impacts would occur and no mitigation is required.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.12 POPULATION &amp; HOUSING.</b> Would the project:				
a. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

a-c **No Impact.** The proposed introduction of the Telecommunication Ordinance would not induce growth through the extension or expansion of major capital infrastructure. No impacts to population and housing beyond those identified within the *City's General Plan* would occur and no mitigation is required. The proposed project would not require the removal existing housing, and therefore would not necessitate the construction of replacement housing elsewhere.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.13 PUBLIC SERVICES.</b> Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
/Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

**No Impact.** The proposed introduction of the Telecommunication Ordinance will not adversely affect governmental services or create a need for new facilities in excess of those previously considered in the General Plan. Therefore adoption of the ordinance will not result in substantial adverse physical impacts associated with public facilities and no mitigation is required.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.14 RECREATION.</b> Would the project:				
a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities, such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

**a-b No Impact.** Introduction of the proposed Telecommunication Ordinance will not generate an increase in demand for usage of existing public or private parks or other recreational facilities. Potential impacts to parks facilities will be evaluated under future CEQA documents for those facilities proposed in or near City or San Diego County (e.g. Guajome Regional Park) parks. Therefore, no recreation related impacts are anticipated and no mitigation is required.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.14 TRANSPORTATION/TRAFFIC.</b> Would the project:				
a. Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
b. Exceed, either individually or cumulatively, a level of service standard established by the county congestion/management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
f. Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
g. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

a-g **No Impact.** Introduction and adoption of the Telecommunication Ordinance will not result in any streets being modified, significant traffic being generated or impacts to air traffic patterns. Any future new monopoles proposed in proximity to the Oceanside Airport would be reviewed in accordance with the Oceanside Airport Land Use Compatibility Plan (ALUCP) and Federal Aviation Administration (FAA) rules and regulations. No physical projects are proposed as part of adoption of the Telecommunication Ordinance, no impacts to transportation systems will occur, and no mitigation is required.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.15 UTILITIES AND SERVICE SYSTEMS.</b> Would the project:				
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
e. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project=s projected demand in addition to the provider=s existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
f. Be served by a landfill with sufficient permitted capacity to accommodate the project=s solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
g. Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

a-g **No Impact.** No physical improvements are associated with introduction and adoption of the proposed Telecommunication Ordinance. Any potential impacts to utilities and service systems will be evaluated in future CEQA documents. Therefore, no impacts to utilities or utilities are anticipated with adoption of the Telecommunication Ordinance and no mitigation is required.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.16 GREENHOUSE GAS EMISSIONS.</b> Would the project:				
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

a-b **No Impact.** No physical improvements are proposed with introduction and adoption of the Telecommunication Ordinance. Future telecommunication facilities will be reviewed under a separate environmental document in conformance with CEQA and potential greenhouse gas emissions will be evaluated at that time. Adoption of this ordinance will not conflict with any applicable plans or policies whose main purpose is to reduce emissions of greenhouse gases. Therefore, no impacts relative to greenhouse gases will occur and no mitigation is required.

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
<b>14.17 MANDATORY FINDINGS OF SIGNIFICANCE.</b> Would the project:				
a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to decrease below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Potentially Significant Unless Mit.	Less than Significant Impact	No Impact
b. Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. Does the project have impacts which are individually limited, but cumulatively considerable (A Cumulatively considerable means the project's incremental effects are considerable when compared to the past, present, and future effects of other projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d. Does the project have environmental effects which will have substantial adverse effects on human beings, directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

a-d **No Impact.** No physical improvements are proposed with introduction and adoption of the Telecommunication Ordinance. Environmental impacts, both direct and indirect, and cumulative impacts will be reviewed as each telecommunication facility is proposed under future environmental documents prepared in conformance with CEQA. No impacts have been identified and no mitigation is required.

15. **PREPARATION.** The initial study for the subject project was prepared by:

  
 Jerry Hittleman, City Planner

16. **DETERMINATION.** (To be completed by lead agency) Based on this initial evaluation:

[X] I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

[ ] I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described herein have been included in this project. A MITIGATED NEGATIVE DECLARATION will be prepared.

[ ] I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

17. **DE MINIMIS FEE DETERMINATION** (Chapter 1706, Statutes of 1990-AB 3158)

[X] It is hereby found that this project involves no potential for any adverse effect, either individually or cumulatively, on wildlife resources and that a "Certificate of Fee Exemption" shall be prepared for this project.

[ ] It is hereby found that this project could potentially impact wildlife, individually or cumulatively, and therefore fees shall be paid to the County Clerk in accordance with Section 711.4(d) of the Fish and Game Code.

18. **ENVIRONMENTAL DETERMINATION:** The initial study for this project has been reviewed and the environmental determination, contained in Section V. preceding, is hereby approved:



Jerry Hittman, City Planner



Arnold Schwarzenegger  
Governor

STATE OF CALIFORNIA  
Governor's Office of Planning and Research  
State Clearinghouse and Planning Unit



Cathleen Cox  
Acting Director

August 3, 2010

Jerry Hittleman  
City of Oceanside  
300 North Coast Highway  
Oceanside, CA 92054

Subject: Article 39 Wireless Communications Facility, Satellite Dish and Antenna Standards  
SCH#: 2010071003

Dear Jerry Hittleman:

The State Clearinghouse submitted the above named Negative Declaration to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on July 30, 2010, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan  
Director, State Clearinghouse

Enclosures  
cc: Resources Agency

**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2010071003  
**Project Title** Article 39 Wireless Communications Facility, Satellite Dish and Antenna Standards  
**Lead Agency** Oceanside, City of

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**Type** Neg Negative Declaration  
**Description** Introduction of Article 39 to the Oceanside Zoning Ordinance of a new Wireless Communications Facility, Satellite Dish and Antenna Standards Ordinance that will be added to the current 1992 Oceanside Zoning Ordinance (OZO) and the 1986 OZO for those areas within the Coastal Zone and repeal of Section 3025 from the 1992 OZO.

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**Lead Agency Contact**

**Name** Jerry Hittleman  
**Agency** City of Oceanside  
**Phone** (760) 435-3535 **Fax**  
**email**  
**Address** 300 North Coast Highway  
**City** Oceanside **State** CA **Zip** 92054

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**Project Location**

**County** San Diego  
**City** Oceanside  
**Region**  
**Lat / Long**  
**Cross Streets**  
**Parcel No.**  

<b>Township</b>	<b>Range</b>	<b>Section</b>	<b>Base</b>
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**Proximity to:**

**Highways** Hwy 76 & 78  
**Airports** Oceanside Municipal  
**Railways** San Diego Northern  
**Waterways**  
**Schools**  
**Land Use**

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**Project Issues** Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Coastal Zone; Cumulative Effects; Drainage/Absorption; Geologic/Seismic; Growth Inducing; Landuse; Minerals; Noise; Recreation/Parks; Soil Erosion/Compaction/Grading; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Supply; Wildlife

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**Reviewing Agencies** Resources Agency; California Coastal Commission; Department of Fish and Game, Region 5; Department of Parks and Recreation; Department of Water Resources; Caltrans, Division of Aeronautics; Caltrans, District 11; Regional Water Quality Control Board, Region 9; Native American Heritage Commission; Public Utilities Commission

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**Date Received** 07/01/2010 **Start of Review** 07/01/2010 **End of Review** 07/30/2010

**NATIVE AMERICAN HERITAGE COMMISSION**

915 CAPITOL MALL, ROOM 364  
 SACRAMENTO, CA 95814  
 (916) 653-6251  
 Fax (916) 657-5390  
 Web Site [www.nahc.ca.gov](http://www.nahc.ca.gov)  
 e-mail: [ds\\_nahc@pacbell.net](mailto:ds_nahc@pacbell.net)



July 21, 2010

Clear  
 7/20/10  
 e  
~~7/20/10~~



Mr. Jerry Hittleman, City Planner  
**CITY OF OCEANSIDE**  
 300 N. Coast Highway  
 Oceanside, CA 92054

Re: SCH#2010071003; CEQA Notice of Completion; proposed Mitigated Negative Declaration for the "Article 39 Wireless Communications Facility, Satellite Project"; located in the City of Oceanside; San Diego County, California.

Dear Mr. Hittleman:

The Native American Heritage Commission (NAHC) is the state 'trustee agency' pursuant to Public Resources Code §21070 for the protection and preservation of California's Native American Cultural Resources.. (Also see *Environmental Protection Information Center v. Johnson* (1985) 170 Cal App. 3<sup>rd</sup> 604). The California Environmental Quality Act (CEQA - CA Public Resources Code §21000-21177, amended in 2009) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c)(f) CEQA guidelines). Section 15382 of the CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance." In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE), and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following.

The Native American Heritage Commission did perform a Sacred Lands File (SLF) search in the NAHC SLF Inventory, established by the Legislature pursuant to Public Resources Code §5097.94(a) and Native American Cultural resources were not identified within the APE identified for the project. Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries once a project is underway. Enclosed are the names of the nearest tribes and interested Native American individuals that the NAHC recommends as 'consulting parties,' for this purpose, that may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We recommend that you contact persons on the attached list of Native American contacts. A Native American Tribe or Tribal Elder may be the only source of information about a cultural resource.. Also, the NAHC recommends that a Native American Monitor or Native American culturally knowledgeable person be employed whenever a professional archaeologist is employed during the 'Initial Study' and in other phases of the environmental planning processes.. Furthermore we suggest that you contact the California Historic Resources Information System (CHRIS) at the Office of Historic Preservation (OHP) Coordinator's office (at (916) 653-7278, for referral to the nearest OHP Information Center of which there are 11.

Consultation with tribes and interested Native American tribes and interested Native American individuals, as consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA (42 U.S.C. 4321-43351) and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 [f] *et seq.*), 36 CFR Part 800.3, the President's Council on Environmental Quality (CSQ; 42 U.S.C. 4371 *et seq.*) and NAGPRA (25 U.S.C. 3001-3013), as appropriate. The 1992 *Secretary of the Interior's Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including *cultural landscapes*.

Lead agencies should consider avoidance, as defined in Section 15370 of the California Environmental Quality Act (CEQA) when significant cultural resources could be affected by a project. Also, Public Resources Code Section 5097.98 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery. Discussion of these should be included in your environmental documents, as appropriate.

The authority for the SLF record search of the NAHC Sacred Lands Inventory, established by the California Legislature, is California Public Resources Code §5097.94(a) and is exempt from the CA Public Records Act (c.f. California Government Code §6254.10). The results of the SLF search are confidential. However, Native Americans on the attached contact list are not prohibited from and may wish to reveal the nature of identified cultural resources/historic properties. Confidentiality of 'historic properties of religious and cultural significance' may also be protected under Section 304 of the NHPA or at the Secretary of the Interior's discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C. 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APE and possibly threatened by proposed project activity.

CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens. Although tribal consultation under the California Environmental Quality Act (CEQA; CA Public Resources Code Section 21000 – 21177) is 'advisory' rather than mandated, the NAHC does request 'lead agencies' to work with tribes and interested Native American individuals as 'consulting parties,' on the list provided by the NAHC in order that cultural resources will be protected. However, the 2006 SB 1059 the state enabling legislation to the Federal Energy Policy Act of 2005, does mandate tribal consultation for the 'electric transmission corridors. This is codified in the California Public Resources Code, Chapter 4.3, and §25330 to Division 15, requires consultation with California Native American tribes, and identifies both federally recognized and non-federally recognized on a list maintained by the NAHC

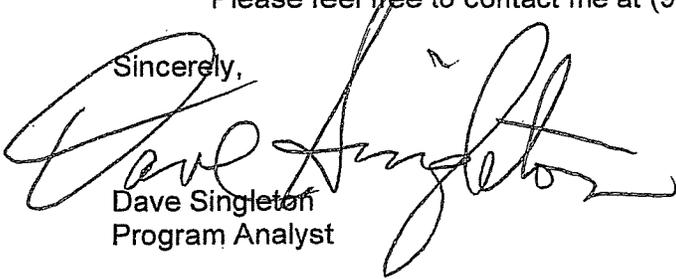
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medical examiner can determine whether the remains are those of a Native American. . Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.

Again, Lead agencies should consider avoidance, as defined in §15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Singleton". The signature is written in a cursive, flowing style with some loops and flourishes.

Dave Singleton  
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse

**NATIVE AMERICAN HERITAGE COMMISSION**

915 CAPITOL MALL, ROOM 364  
SACRAMENTO, CA 95814  
(916) 653-6251  
Fax (916) 657-5390  
Web Site [www.nahc.ca.gov](http://www.nahc.ca.gov)  
e-mail: [ds\\_nahc@pacbell.net](mailto:ds_nahc@pacbell.net)



Received

July 21, 2010

JUL 26 2010

Mr. Jerry Hittleman, City Planner  
**CITY OF OCEANSIDE**  
300 N. Coast Highway  
Oceanside, CA 92054

Planning Division

Re: SCH#2010071003; CEQA Notice of Completion; proposed Mitigated Negative Declaration for the "Article 39 Wireless Communications Facility, Satellite Project"; located in the City of Oceanside; San Diego County, California.

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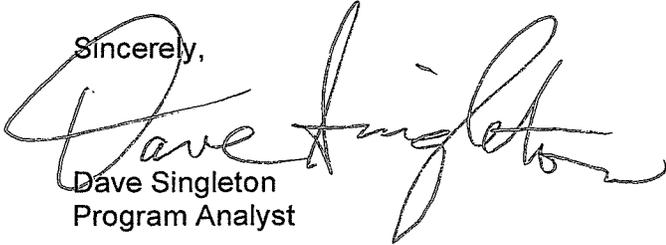
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Sincerely,

A handwritten signature in black ink that reads "Dave Singleton". The signature is written in a cursive, flowing style with a large initial "D".

Dave Singleton  
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse

Native American Contacts  
San Diego County  
July 21, 2010

Pauma & Yuima  
Christobal C. Devers, Chairperson  
P.O. Box 369 Luiseno  
Pauma Valley CA 92061  
paumareservation@aol.com  
(760) 742-1289  
(760) 742-3422 Fax

Pauma Valley Band of Luiseño Indians  
Bennae Calac, Tribal Council Member  
P.O. Box 369 Luiseno  
Pauma Valley CA 92061  
bennaecalac@aol.com  
(760) 617-2872  
(760) 742-3422 - FAX

Rincon Band of Mission Indians  
Angela Veltrano, Rincon Culture Committee  
P.O. Box 68 Luiseno  
Valley Center, CA 92082  
council@rincontri.org  
(760) 749-1051  
(760) 749-8901 Fax

San Luis Rey Band of Mission Indians  
Carmen Mojado, Co-Chair  
1889 Sunset Drive Luiseno  
Vista, CA 92081  
cjmojado@slrmissionindians.org  
(760) 724-8505  
(760) 724-2172 - FAX  
(760) 917-1736 - cell

San Luis Rey Band of Mission Indians  
Henry Contreras, Most Likely Descendant  
1763 Chapulin Lane Luiseno  
Fallbrook, CA 92028  
(760) 728-6722 - Home  
(760) 908-7625 - Cell

Kupa Cultural Center (Pala Band)  
Shasta Gaughen, Assistant Director  
35008 Pala-Temecula Rd.PMB Box Luiseno  
Pala, CA 92059  
cupa@palatribe.com  
(760) 891-3590  
(760) 742-4543 - FAX

San Luis Rey Band of Mission Indians  
Russell Romo  
12064 Old Pomerado Road Luiseno  
Poway, CA 92064  
(858) 748-1586

La Jolla Band of Mission Indians  
ATTN: Rob Roy, Environmental Director  
22000 Highway 76 Luiseno  
Pauma Valley CA 92061  
lajolla-sherry@aol.com and  
(760) 742-3790  
(760) 742-1704 Fax

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code. Also, federal National Environmental Policy Act (NEPA), National Historic Preservation Act, Section 106 and federal NAGPRA. And 36 CFR Part 800.3.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2010071003; CEQA Notice of Completion; proposed Mitigated Negative Declaration for the Article 39 Wireless Communications Facility;; located in the City of Oceanside; San Diego County, California.

Native American Contacts  
San Diego County  
July 21, 2010

Mel Vernon, Chairperson  
San Luis Rey Band of Mission Indians  
1044 North Ivy Street Luiseno  
Escondido , CA 92026  
melvern@aol.com  
(760) 746-8692  
(760) 703-1514 - cell

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code. Also, federal National Environmental Policy Act (NEPA), National Historic Preservation Act, Section 106 and federal NAGPRA. And 36 CFR Part 800.3.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2010071003; CEQA Notice of Completion; proposed Mitigated Negative Declaration for the Article 39 Wireless Communications Facility; located in the City of Oceanside; San Diego County, California.

# Channel Law Group, LLP

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207 E. BROADWAY  
SUITE 201  
LONG BEACH, CA 90802

Phone: (310) 982-7197  
[www.channellawgroup.com](http://www.channellawgroup.com)

ROBERT JYSTAD  
JULIAN K. QUATTLEBAUM, III \*  
JAMIE T. HALL \*\*  
CHARLES McLURKIN

Writer's Direct Line: (310) 982-1760  
[jamie.hall@channellawgroup.com](mailto:jamie.hall@channellawgroup.com)

\*ALSO Admitted in Colorado  
\*\*ALSO Admitted in Texas

August 9, 2010

**VIA ELECTRONIC MAIL AND FASCIMILE**  
(760) 754-2958

Jerry Hittleman  
City Planner  
City of Oceanside – Planning Division  
300 North Coast Highway  
Oceanside, CA 92054  
[jhittleman@ci.oceanside.ca.us](mailto:jhittleman@ci.oceanside.ca.us)

**Re: Introduction of Article 39 to the Oceanside Zoning Ordinance IOZO), Wireless Communications Facility, Satellite Dish, and Antenna Standards and Repeal of Section 3025 of the OZO**

Dear Mr. Hittleman:

This firm represents American Tower Corporation (“ATC”) with respect to the City of Oceanside’s (“City”) proposed adoption of City-wide regulations for wireless communication facilities (“Proposed Ordinance”). ATC is in receipt of the City’s “Notice of Intent to Adopt a Negative Declaration” pursuant to the California Environmental Quality Act (“CEQA”) in which the City concludes that “the proposed project will not result in any significant, adverse effects on the environment.” ATC has reviewed the analysis undertaken in the Initial Study/Environmental Checklist and strongly disagrees with the conclusion that the Proposed Ordinance has “no impact” on the environment. ATC contends that the Initial Study prepared by the City is defective and must be revised in order to comply with the mandates of CEQA. The bases for ATC’s claims are as follows:

## **The City Fails to Meaningfully Analyze Impacts of Ordinance**

The Initial Study fails to appreciate or analyze the reasonably foreseeable indirect or secondary effects of the Proposed Ordinance. In fact, the Initial Study wrongly concludes that

“since no physical project is proposed with adoption of this ordinance no impacts will occur and no mitigation is required.” Initial Study at pg. 2. This statement, that the Ordinance does not “contain” a physical project, and that “[f]uture telecommunication projects will be evaluated under a separate CEQA document” is repeated throughout the Initial Study in lieu of any real analysis of the impacts of the Proposed Ordinance. *See* Initial Study at pg. 9. However, this conclusion is legally flawed. The term “project” as defined in Cal. Pub. Res. Code § 21065 has been broadly interpreted by courts. For example, in a seminal case decided by the California Supreme Court, the court stated that CEQA is “to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” *Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247, 259. Further courts have concluded that the term “project” encompasses regulatory approvals such as general plan amendments, zone changes, and annexations which may ultimately lead to physical environmental changes. 14 Cal. Code Regs. § 15378(a)(1); *Bozung v. Local Agency Formation Commission*, (1975) 13 Cal. 3d 263, 277 n.16, 118 Cal. Rptr. 249. The City is required under CEQA to undertake a review of an ordinance when it is apparent that the regulations will “*culminate* in physical change to the environment.” *Bozung v. Local Agency Formation Commission*, 13 Cal. 3d 263, 281 (emphasis added).

The fact that the “project” at issue is the adoption of an ordinance as opposed to a development project proposed by an applicant does not relieve the City of the obligation to undertake a review of the project under CEQA. *Rosenthal v. Board of Supervisors* (1975) 14 Cal.App.3d 815, 823 (stating that “adopting an ordinance [is] a project”); *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 118 Cal.Rptr. 34 (impliedly holding that adoption of ordinance is a project within the meaning of CEQA); 60 Ops.Cal.Atty.Gen. 335 (1977) (“ordinances and resolutions adopted by a local agency are ‘projects’ within the meaning of CEQA”). The Attorney General Opinion issued in 1977 concluded that the following ordinances were all subject to CEQA: (1) an open-range ordinance requiring private land owners to fence out cattle; (2) an ordinance allowing construction of single family dwellings in rural areas without electricity, running water, or flush toilets; and (3) an ordinance modifying road improvement standards for new subdivisions. The bottom line is that a project need not directly effect a physical change in the environment: reasonably foreseeable indirect or secondary effects must also be analyzed. The relative inquiry is whether or not the project, or in this case, the Proposed Ordinance, will ultimately culminate in physical changes to the environment. *Id.* As described below, the City’s Proposed Ordinance will unquestionably culminate in a physical change to the environment and the Initial Study must analyze these impacts before the City can adopt the Proposed Ordinance.

### The Impacts of the Proposed Ordinance

In addition to setting forth regulations and standards for new wireless communications facilities, the Proposed Ordinance purports to regulate existing facilities and modifications to the same. The Proposed Ordinance’s impacts on these existing facilities must be analyzed under CEQA. For example, Section 3916 states that a tower owner must comply with the Proposed Ordinance and obtain a new permit upon the “expiration of an existing Conditional Use Permit or Administrative Conditional Use Permit.” Section 3913 of the Proposed Ordinance, however,

establishes maximum height limits for wireless facilities that greatly affect existing facilities. This section of the Proposed Ordinance states that:

“[t]he maximum height of any Wireless Communication Facility, other than roof mounted facilities and amateur radio antennas, located on private property shall be ten feet above the maximum height allowed in the zoning district in which the facility is located. A Conditional Use Permit may be granted to exceed the height limitation as described in Article 41 and Section 3907.”

While the Proposed Ordinance does contain a provision authorizing the City to exceed this height limit, the findings necessary to approve additional height are exceedingly stringent and apparently limited to situations involving co-location facilities. *See* Section 3907(B) (“[t]he following findings must be made prior to approving a Conditional Use Permit increasing the allowable height as provided in this Article . . . [b]ased on evidence presented the additional height greater than ten (10) feet above the maximum building height of the applicable zone is reasonably necessary for the co-location of facilities for the efficient operation of the proposed facility.”) However, there are a number of wireless facilities in Oceanside that are more than ten feet above the maximum height allowed in the applicable zoning district. The Proposed Ordinance would theoretically require the height of existing stand-alone facilities to be reduced when the permits for those facilities come up for renewal. Reduction in height, however, reduces coverage. This could create significant coverage gaps in wireless service in and around the existing facility that could not immediately be rectified by the construction of new facilities.

The impacts of this significant coverage gap on the environment must be analyzed under CEQA. These impacts include, but are not limited to, public health and safety, emergency communications (public services), air quality and transportation/traffic. Reduced coverage would undoubtedly have an effect on public services. Wireless communications systems service a critical need in the event of public emergency, including traffic accidents and other freeway incidents. In a 2006 survey by the Pew Internet & American Life Project, of the 66% of American adults who had cell phones at that time, nearly 74% of those cell phone owners say they have used their mobile phone in an emergency and gained valuable help.<sup>1</sup> Wireless systems also are an economical alternative to wired networks. According to the Centers for Disease Control’s latest National Health Interview Survey (NHIS) from 2009, 24.5% of American adults rely solely on cell phones with an additional 14.9 % who currently have a landline phone indicating they received all or almost all calls on wireless telephones.<sup>2</sup> The NHIS study further revealed that 43.1 5 of adults renting homes lived in wireless-only households. *Id.* A copy of the latest NHIS Survey released May 12, 2010 is attached as Exhibit 1. Without the reliable wireless coverage provided by wireless communication facilities, in addition to the normal inconveniences incident to an absence of telephone service in any location, such residents would be unable to call for police, fire or ambulance services in the event of an emergency at home, nor would school officials be able to contact them in the event of emergencies affecting their

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<sup>1</sup> Pew Internet & American Life Project, “Pew Internet Project Data Memo” (April 2006)

<sup>2</sup> Centers for Disease Control National Health Interview Survey, “Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July-December 2009” (May 2010)

children at school. As a result of the coverage gap, the need for new or physically altered government facilities may be required in order to maintain acceptable service ratios/response times. Similarly, the creation of coverage gaps will have a significant environmental effect on transportation and traffic as well. Residents, business and visitors who would otherwise be able to make a cell phone call would now be more likely to drive to a destination to conduct business, home or residence to communicate. And public safety officials would have to notify residents in person of emergency situations to the extent reverse 911 systems could not reach local residents. This creates impacts on traffic as well as air quality that the City must analyze under CEQA.

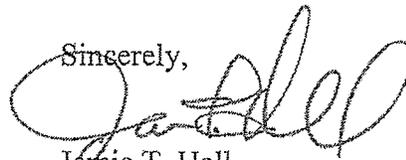
Further, the inability to utilize wireless-based health and business services such as medical monitoring devices or telecommuting will increase not only traffic but also demand for physical infrastructure such as hospitals, clinics and office buildings that might otherwise be unnecessary as well as creating demand for more local residential development because of the necessity to engage in physical travel for work, health care, education and other activities in the Oceanside area that could otherwise have been engaged in via wireless communication.

In addition, the lack of sufficient, effective wireless broadband infrastructure necessitates the construction of physical broadband infrastructure, which is far more environmentally impactful. Wireless technology is also necessary to facilitate development of the smart grid which will generate significant environmental benefits.

#### Conclusion

The Initial Study prepared by the City in conjunction with the Proposed Ordinance is inherently defective because it fails to meaningfully analyze the environmental effect of the project. The City cannot legally defer the required environmental analysis to a later date when there are reasonably foreseeable indirect and/or secondary effects on the environment. The term "project" has been broadly interpreted and encompasses regulatory approvals such as zoning amendments that may ultimately culminate in physical environmental changes. While the above discussion is not intended to be an exhaustive list of the reasonably foreseeable indirect or secondary effects of the adoption of the Proposed Ordinance, it is illustrative of the types of impacts that the City has failed to even consider. ATC has outlined a fair argument that the Proposed Ordinance would have a significant environmental effect. As such, the City must conduct a new Initial Study and provide the public with an additional public review period to comply with the legal mandates of CEQA.

Sincerely,



Jamie T. Hall

*Attorney for American Tower Corporation*

# **Exhibit 1**



# Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July–December 2009

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## Overview

Preliminary results from the July–December 2009 National Health Interview Survey (NHIS) indicate that the number of American homes with only wireless telephones continues to grow. One of every four American homes (24.5%) had only wireless telephones (also known as cellular telephones, cell phones, or mobile phones) during the last half of 2009—an increase of 1.8 percentage points since the first half of 2009. In addition, one of every seven American homes (14.9%) had a landline yet received all or almost all calls on wireless telephones. This report presents the most up-to-date estimates available from the federal government concerning the size and characteristics of these populations.

## NHIS Early Release Program

This report is published as part of the NHIS Early Release Program. In May and December of each year, the Centers for Disease Control and Prevention’s National Center for Health Statistics (NCHS) releases selected estimates of telephone coverage for the civilian noninstitutionalized U.S. population based on data from NHIS, along with comparable estimates from NHIS for the previous 3 years. The estimates are based on in-person interviews that NHIS conducts continuously throughout the year to collect information on health status, health-related behaviors, and health care utilization. The survey also includes information about household telephones and whether anyone in the household has a wireless telephone.

Two additional reports are published as part of the NHIS Early

Release Program. *Early Release of Selected Estimates Based on Data From the National Health Interview Survey* is published quarterly and provides estimates for 15 selected measures of health. *Health Insurance Coverage: Early Release of Estimates From the National Health Interview Survey* is also published quarterly and provides additional estimates regarding health insurance coverage.

## Methods

For many years, NHIS has included questions on residential telephone numbers, to permit recontacting of survey participants. Starting in 2003, additional questions were asked to determine whether a family’s telephone number reached a landline telephone. Respondents were also asked whether “you or anyone in

your family has a working cellular telephone.”

A “family” can be an individual or a group of two or more related persons living together in the same housing unit (a “household”). Thus, a family can consist of only one person, and more than one family can live in a household (including, for example, a household where there are multiple single-person families, as when unrelated roommates are living together).

In this report, families are identified as “wireless families” if anyone in the family had a working cellular telephone at the time of interview. This person (or persons) could be a civilian adult, a member of the military, or a child. Households are identified as “wireless-only” if they include at least one wireless family and if there are no working landline

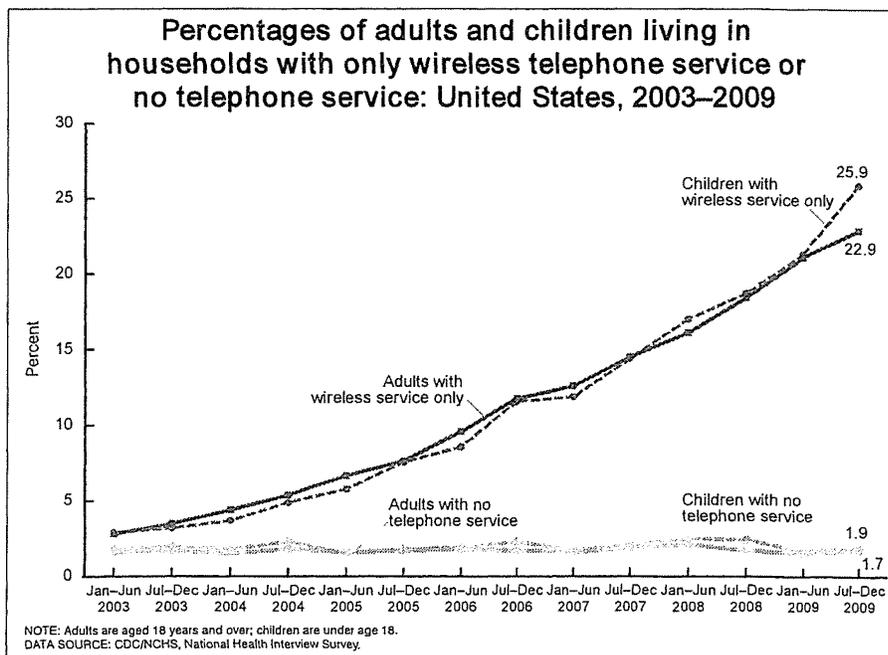


Figure 1



telephones inside the household. Persons are identified as wireless-only if they live in a wireless-only household. A similar approach is used to identify adults living in households with no telephone service (neither wireless nor landline). Household telephone status (rather than family telephone status) is used in this report because most telephone surveys draw samples of households rather than families.

From July through December 2009, information on household telephone status was obtained for 21,375 households that included at least one civilian adult or child. These households included 40,619 civilian adults aged 18 years and over and 14,984 children under age 18.

Analyses of demographic characteristics are based on data from the NHIS Person and Household files. Demographic data for all civilian adults living in interviewed households were used in these analyses. Estimates stratified by poverty status are based on reported income only, because imputed income values are not available until a few months after the annual release of NHIS microdata. Household income was unknown for 12% of adults.

Analyses of selected health measures are based on data from the NHIS Sample Adult file. Health-related data for one civilian adult randomly selected from each family were used in these analyses. From July through December 2009, data on household telephone status and selected health measures were collected from 17,539 randomly selected adults.

Because NHIS is conducted throughout the year and the sample is designed to yield a nationally representative sample each week, data can be analyzed quarterly. Weights are created for each calendar quarter of the NHIS sample. NHIS data weighting procedures are described in more detail in a previous NCHS report (*Vital and Health Statistics*, series 2, no 130). To provide access to the most recent information from NHIS, estimates using the July–December 2009 data are being

released prior to final data editing and final weighting. These estimates should be considered preliminary. If estimates are produced using the final data files, the estimates may differ slightly from those presented here.

Point estimates and 95% confidence intervals were calculated using SUDAAN software, to account for the complex sample design of NHIS. Differences between percentages were evaluated by using two-sided significance tests at the 0.05 level. Terms such as “more likely” and “less likely” indicate a statistically significant difference. Lack of comment regarding the difference between any two estimates does not necessarily mean that the difference was tested and found to be not significant. Because of small sample sizes, estimates based on less than 1 year of data may have large variances, and caution should be used in interpreting such estimates.

## Questionnaire Changes in 2007

From 2003 to 2006, NHIS families were considered to have landline telephone service if the survey respondent provided a telephone number, identified it as “the family’s phone number,” and said it was not a cellular telephone number. If the family’s phone number was reported to be a cellular telephone number, the respondent was asked if there was “at least one phone inside your home that is currently working and is not a cell phone.”

In 2007, the questionnaire was changed so that the survey respondent for each family was asked if there was “at least one phone inside your home that is currently working and is not a cell phone” (unless the respondent had indicated not having any phone when asked for a telephone number).

From 2003 to 2006, the questions about cellular telephones were asked at the end of the survey. Because of incomplete interviews, more than 10% of households were not asked about wireless telephones. In 2007, the

questions were asked earlier in the survey, resulting in fewer families with unknown wireless telephone status.

In 2007, a new question was added to the survey for persons living in families with both landline and cellular telephones. The respondent for the family was asked to consider all of the telephone calls his or her family receives and to report whether “all or almost all calls are received on cell phones, some are received on cell phones and some on regular phones, or very few or none are received on cell phones.” This new question permits the identification of persons living in “wireless-mostly” households—defined as households with both landline and cellular telephones in which all families receive all or almost all calls on cell phones.

Finally, in 2007, the questionnaire was redesigned to improve the collection of income information. Initial evaluations suggest that the resulting poverty estimates are generally comparable with those from years 2006 and earlier. However, as a result of the changes, the poverty ratio variable has had fewer missing values since 2007 compared with prior years.

## Telephone Status

In the last 6 months of 2009, one of every four households (24.5%) did not have a landline telephone but did have at least one wireless telephone (Table 1). Approximately 22.9% of all adults (approximately 52 million adults) lived in households with only wireless telephones; 25.9% of all children (more than 19 million children) lived in households with only wireless telephones.

The percentage of households that are wireless-only has been steadily increasing. The 4.3-percentage-point increase from the last 6 months of 2008 through the last 6 months of 2009 is nearly equivalent to the 4.4-percentage-point increase observed from the last 6 months of 2007 through the last 6 months of 2008.



The percentage of adults living in wireless-only households has also been increasing steadily (see **Figure 1**). During the last 6 months of 2009, more than two of every nine adults lived in wireless-only households. One year before that (i.e., during the last 6 months of 2008), 2 of every 11 adults lived in wireless-only households. And 2 years before that (i.e., during the last 6 months of 2006), only 2 of every 17 adults lived in wireless-only households.

The percentage of children living in wireless-only households is also growing. In fact, for this population, the 4.6-percentage-point increase from the first 6 months of 2009 is the largest 6-month increase observed since 2003, when NHIS began collecting data on children living in wireless-only households.

The percentages of adults and children living without any telephone service have remained relatively unchanged over the past 3 years. Approximately 2.0% of households had no telephone service (neither wireless nor landline). Nearly 4 million adults (1.7%) and 1.4 million children (1.9%) lived in these households.

## Demographic Differences

The percentage of U.S. civilian noninstitutionalized adults living in wireless-only households is shown by selected demographic characteristics and by survey time period in **Table 2**. For the period July through December 2009,

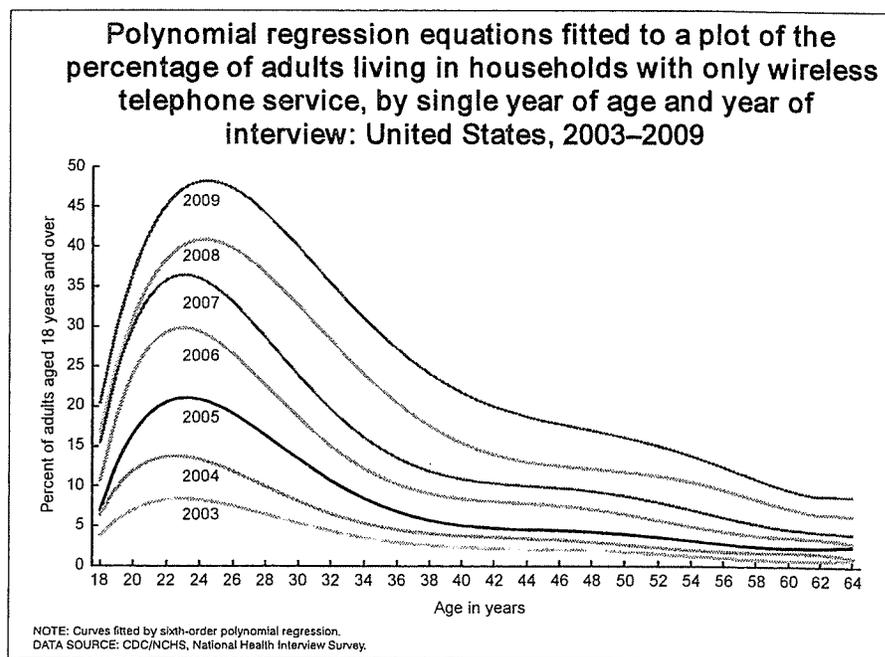
- More than three in five adults living only with unrelated adult roommates (62.9%) were in households with only wireless telephones. This is the highest prevalence rate among the population subgroups examined.
- More than two in five adults renting their home (43.1%) had only wireless telephones. Adults renting their home were more likely than adults owning their home (14.0%)

to be living in households with only wireless telephones.

- Nearly half of adults aged 25–29 years (48.6%) lived in households with only wireless telephones. More than one-third of adults aged 18–24 or 30–34 (37.8% and 37.2%, respectively) lived in households with only wireless telephones.
- As age increased from 35 years, the percentage of adults living in households with only wireless telephones decreased: 23.9% for adults aged 35–44; 14.9% for adults aged 45–64; and 5.2% for adults aged 65 and over. However, as shown in **Table 2** and **Figure 2**, the percentage of wireless-only adults within each age group has increased over time.
- Men (24.5%) were more likely than women (21.3%) to be living in households with only wireless telephones.
- Adults living in poverty (36.3%) and adults living near poverty (29.0%) were more likely than higher income adults (19.6%) to be living in households with only wireless telephones.
- Adults living in the Midwest (25.6%), South (25.4%), and West (22.2%) were more likely than adults living in the Northeast (15.1%) to be living in households with only wireless telephones.
- Hispanic adults (30.4%) were more likely than non-Hispanic white adults (21.0%) or non-Hispanic black adults (25.0%) to be living in households with only wireless telephones.

## Demographic Distributions

The demographic differences noted in the previous section are based on the distribution of household telephone status within each demographic group. When examining the population of wireless-only adults, some readers may instead wish to consider the distribution of various demographic characteristics within the wireless-only adult population. For example, although young adults aged 18–29 years were more likely than older adults to live in households with only wireless telephones, these young adults made up only 40.8% of all wireless-



**Figure 2**



only adults. Young adults were a minority among all wireless-only adults because young adults made up only 22% of the total adult population.

**Table 3** presents the percent distribution of selected demographic characteristics for adults living in households with only wireless telephones, by survey time period. The estimates in this table reveal that the distributions of selected demographic characteristics changed little over the 4-year period shown. The exceptions were related to sex, age, employment status, and household structure. From 2006 to the last 6 months of 2009,

- The proportion of women among all wireless-only adults increased from approximately 46% to 48.2%.
- Among all wireless-only adults, the proportion of adults aged 30 years and over has steadily increased. In the last 6 months of 2009, the majority of wireless-only adults (59.2%) were aged 30 and over, up from 48.4% in the first 6 months of 2006.
- The proportion of employed adults among all wireless-only adults has decreased from 78.6% to 69.1%. Over the same time period, the proportion of adults with an employment status other than working, keeping house, or going to school increased. These adults (largely unemployed or retired) made up 20.2% of wireless-only adults in the last 6 months of 2009, up from 10.3% in the first 6 months of 2006.
- Among all wireless-only adults, the proportion of adults living with children has steadily increased. In the last 6 months of 2009, 40.0% of wireless-only adults were living with children, up from 34.6% in the first 6 months of 2006.

## Selected Health Measures by Household Telephone Status

Many health surveys, political polls, and other research are conducted using random-digit-dial telephone surveys. Until recently, these surveys did not include wireless telephone numbers in their samples. Now, despite operational challenges, most major survey research organizations are including wireless telephone numbers when conducting random-digit-dial telephone surveys. If they did not, the exclusion of households with only wireless telephones (along with the small proportion of households that have no telephone service) could bias results. This bias—known as coverage bias—could exist if there are differences between persons with and without landline telephones for the substantive variables of interest.

The NHIS Early Release Program updates and releases estimates for 15 key health indicators every 3 months. **Table 4** presents estimates by household telephone status (landline, wireless-only, or without any telephone service) for all but two of these measures. (“Pneumococcal vaccination” and “personal care needs” were not included because these indicators are limited to older adults aged 65 years and over.) For the period July through December 2009,

- The prevalence of binge drinking (i.e., having five or more alcoholic drinks in 1 day during the past year) among wireless-only adults (34.5%) was nearly twice as high as the prevalence among adults living in landline households (18.7%). Wireless-only adults were also more likely to be current smokers than were adults living in landline households.
- Compared with adults living in landline households, wireless-only adults were more likely to report that their health status was excellent or very good, more likely to experience serious psychological

distress, and less likely to have ever been diagnosed with diabetes.

- The percentage without health insurance coverage at the time of interview among wireless-only adults under 65 years of age (29.2%) was more than twice as high as the percentage among adults in that age group living in landline households (13.8%).
- Compared with adults living in landline households, wireless-only adults were more likely to have experienced financial barriers to obtaining needed health care, and they were less likely to have a usual place to go for medical care. Wireless-only adults were also less likely to have received an influenza vaccination during the previous year.
- Wireless-only adults (50.6%) were more likely than adults living in landline households (36.1%) to have ever been tested for human immunodeficiency virus (HIV), the virus that causes AIDS.

The potential for bias due to undercoverage remains a real and growing threat to surveys conducted only on landline telephones. Telephone surveys limited to landline households may still be viable for health surveys of all adults and for surveys of most subpopulations regarding their health status (see *American Journal of Public Health* article by Blumberg and Luke, 2009). However, for health-related behaviors, health care service use indicators, and health care access measures (such as those in **Table 4**), caution is warranted when using landline surveys to draw inferences about subpopulations more likely to be wireless-only (such as young or low-income adults).

## Wireless-mostly Households

The potential for bias due to undercoverage is not the only threat to surveys conducted on landline telephones. Researchers are also concerned that some people living in



households with landlines cannot be reached on those landlines because they rely on wireless telephones for all or almost all of their calls. Among households with both landline and wireless telephones, 25.7% received all or almost all calls on the wireless telephones, based on data for the period July through December 2009. These wireless-mostly households make up 14.9% of all households.

The percentage of adults living in wireless-mostly households has been increasing (see **Table 5**). During the last 6 months of 2009, approximately 37 million adults (16.3%) lived in wireless-mostly households. This prevalence estimate was not different from the estimate for the first 6 months of 2009 (16.2%), but it was significantly greater than the estimate for the first 6 months of 2008 (14.4%).

**Table 5** presents the percentage of adults living in wireless-mostly households, by selected demographic characteristics and by survey time period. For the period July through December 2009,

- Adults working at a job or business (19.7%) and adults going to school (21.7%) were more likely to be living in wireless-mostly households than were adults keeping house (15.1%) or with another employment status such as retired or unemployed (9.0%).
- Adults with college degrees (19.7%) were more likely to be living in wireless-mostly households than were high school graduates (14.2%) or adults with less education (11.5%).
- Adults living with children (20.2%) were more likely than adults living alone (10.6%) or with only adult relatives (15.0%) to be living in wireless-mostly households.
- Adults living in poverty (10.0%) and adults living near poverty (12.7%) were less likely than higher income adults (19.2%) to be living in wireless-mostly households.
- Adults living in metropolitan areas (16.8%) were more likely to be

living in wireless-mostly households than were adults living in more rural areas (14.5%).

Recent research by Boyle, Lewis, and Tefft (in the December 2009 issue of *Survey Practice*) suggests that the majority of adults living in wireless-mostly households are reachable using their landline telephone number. NHIS data cannot be used to estimate the proportion of wireless-only adults who are unreachable or to estimate the potential for bias due to their exclusion from landline surveys.

## For More Information

For more information about the potential implications for health surveys that are based on landline telephone interviews, see

- Blumberg SJ, Luke JV. Reevaluating the need for concern regarding noncoverage bias in landline surveys. *Am J Public Health* 99:1806–10. 2009.
  - Blumberg SJ, Luke JV, Cynamon ML, Frankel MR. Recent trends in household telephone coverage in the United States. In: Lepkowski JM et al., eds, *Advances in telephone survey methodology*. New York: John Wiley and Sons. pp 56–86. 2008.
- The potential for bias may differ from one state to another because the prevalence of wireless-only households varies substantially across states. For more information about state-level prevalence estimates from the 2007 NHIS, see
- Blumberg SJ, Luke JV, Davidson G, et al. Wireless substitution: State-level estimates from the National Health Interview Survey, January–December 2007. National health statistics report; no 14. Hyattsville, MD: National Center for Health Statistics. 2009. Available from: <http://www.cdc.gov/nchs/data/nhsr/nhsr014.pdf>.

For more information about NHIS and the NHIS Early Release Program, or to

find other Early Release reports, please visit the following websites:

- <http://www.cdc.gov/nchs/nhis.htm>
- <http://www.cdc.gov/nchs/nhis/releases.htm>.

## Suggested Citation

Blumberg SJ, Luke JV. Wireless substitution: Early release of estimates from the National Health Interview Survey, July–December 2009. National Center for Health Statistics. May 2010. Available from: <http://www.cdc.gov/nchs/nhis.htm>.



**Table 1. Percent distribution of household telephone status, by date of interview, for households, adults, and children: United States, January 2006–December 2009**

Date of interview	Household telephone status						Total
	Landline with a wireless telephone	Landline without a wireless telephone	Landline with unknown wireless telephone status	Nonlandline with unknown wireless telephone status	Wireless-only	No telephone service	
	Number of households (unweighted)						
Jan–Jun 2006	45.6	30.9	10.3	0.7	10.5	2.0	100.0
Jul–Dec 2006	44.3	29.6	10.2	0.8	12.8	2.2	100.0
Jan–Jun 2007 <sup>1</sup>	58.9	23.8	1.7	0.1	13.6	1.9	100.0
Jul–Dec 2007	58.8	21.8	1.3	0.1	15.8	2.2	100.0
Jan–Jun 2008	58.5	20.6	0.9	0.0	17.5	2.5	100.0
Jul–Dec 2008	59.6	17.4	0.9	0.0	20.2	1.9	100.0
Jan–Jun 2009	59.4	15.5	0.4	0.0	22.7	1.9	100.0
Jul–Dec 2009	58.2	14.9	0.4	0.0	24.5	2.0	100.0
95% confidence interval <sup>2</sup>	57.14–59.33	14.09–15.77	0.27–0.47	0.01–0.06	23.60–25.45	1.77–2.19	
	Number of adults (unweighted)						
Jan–Jun 2006	49.5	28.2	10.4	0.6	9.6	1.8	100.0
Jul–Dec 2006	48.1	27.3	10.5	0.7	11.8	1.7	100.0
Jan–Jun 2007 <sup>1</sup>	63.3	20.8	1.7	0.1	12.6	1.6	100.0
Jul–Dec 2007	63.2	19.1	1.2	0.1	14.5	1.9	100.0
Jan–Jun 2008	63.0	17.9	0.8	0.0	16.1	2.1	100.0
Jul–Dec 2008	63.7	15.1	1.0	0.0	18.4	1.7	100.0
Jan–Jun 2009	63.5	13.4	0.4	0.0	21.1	1.5	100.0
Jul–Dec 2009	62.5	12.6	0.3	0.0	22.9	1.7	100.0
95% confidence interval <sup>2</sup>	61.41–63.60	11.84–13.40	0.25–0.45	0.01–0.04	22.00–23.72	1.50–1.89	

See footnotes at end of table.



Date of interview	Number of children (unweighted)	Household telephone status					Total
		Landline with a telephone	Landline without a wireless telephone	Landline with unknown wireless telephone status	Nonlandline with unknown wireless telephone status	Wireless-only	
Jan-Jun 2006	11,670	53.4	23.8	11.5	0.9	8.6	100.0
Jul-Dec 2006	9,165	51.9	21.5	11.9	0.9	11.6	100.0
Jan-Jun 2007 <sup>1</sup>	11,532	68.3	16.4	1.6	0.0	11.9	100.0
Jul-Dec 2007	9,122	68.5	13.8	1.1	0.0	14.4	100.0
Jan-Jun 2008	11,238	67.3	12.6	0.6	0.0	17.0	100.0
Jul-Dec 2008	8,635	67.1	11.1	0.7	0.0	18.7	100.0
Jan-Jun 2009	8,818	67.6	9.1	0.3	0.0	21.3	100.0
Jul-Dec 2009	14,984	63.4	8.5	0.2	0.0	25.9	100.0
95% confidence interval <sup>2</sup>		61.95-64.87	7.58-9.41	0.14-0.45	0.01-0.09	24.57-27.30	1.57-2.39

0.0 means quantity is more than zero but less than 0.05.

<sup>1</sup> Questionnaire changes that occurred in 2007 should be considered when evaluating recent trends in household telephone status. See text for more information about these changes.

<sup>2</sup> Refers to the time period July through December 2009.

DATA SOURCE: National Health Interview Survey, January 2006-December 2009. Data are based on household interviews of a sample of the civilian noninstitutionalized population.



**Table 2. Percentage of adults aged 18 years and over living in wireless-only households, by selected demographic characteristics and by calendar half-years: United States, January 2006–December 2009**

Demographic characteristic	Calendar half-year								95% confidence interval <sup>2</sup>
	Jan–Jun 2006	Jul–Dec 2006	Jan–Jun 2007 <sup>1</sup>	Jul–Dec 2007 <sup>1</sup>	Jan–Jun 2008	Jul–Dec 2008	Jan–Jun 2009	Jul–Dec 2009	
	Percent								
Race/ethnicity									
Hispanic or Latino, any race(s)	11.2	15.3	18.0	19.3	21.6	25.0	28.2	30.4	28.63 – 32.32
Non-Hispanic white, single race	9.0	10.8	11.3	12.9	14.6	16.6	19.7	21.0	19.89 – 22.10
Non-Hispanic black, single race	10.5	12.8	14.3	18.3	18.5	21.4	21.3	25.0	23.14 – 27.04
Non-Hispanic Asian, single race	10.2	11.8	10.6	12.1	16.5	17.8	18.0	20.6	18.26 – 23.11
Non-Hispanic other, single race	9.8	17.2	22.8	17.5	12.8	17.3	20.6	26.5	19.87 – 34.49
Non-Hispanic multiple race	15.4	14.6	17.3	22.8	22.3	22.5	28.7	26.9	22.09 – 32.35
Age									
18–24 years	22.6	25.2	27.9	30.6	31.4	33.1	37.6	37.8	35.38 – 40.36
25–29 years	22.3	29.1	30.6	34.5	35.7	41.5	45.8	48.6	46.48 – 50.82
30–34 years	12.1	17.6	16.5	22.0	27.0	30.4	33.5	37.2	35.05 – 39.48
35–44 years	8.2	10.1	10.8	12.5	15.5	17.5	21.5	23.9	22.51 – 25.32
45–64 years	5.3	6.1	7.1	8.0	9.2	11.6	12.8	14.9	14.07 – 15.81
65 years and over	1.3	1.9	2.0	2.2	2.8	3.3	5.4	5.2	4.55 – 6.03
Sex									
Male	10.7	13.1	13.8	15.9	18.0	20.0	22.5	24.5	23.57 – 25.43
Female	8.5	10.5	11.5	13.2	14.4	17.0	19.8	21.3	20.43 – 22.24
Education									
Some high school or less	8.3	12.9	14.6	15.4	16.1	18.8	22.2	24.7	23.09 – 26.29
High school graduate or GED <sup>3</sup>	9.6	10.6	11.8	13.4	15.2	17.8	20.8	22.9	21.63 – 24.15
Some post-high school, no degree	11.9	14.4	14.7	17.0	19.0	20.1	23.6	25.0	23.71 – 26.37
4-year college degree or higher	8.5	10.1	10.8	12.7	14.3	17.7	18.2	19.5	18.12 – 20.98
Employment status last week									
Working at a job or business	11.6	13.9	15.0	16.6	19.0	21.5	24.3	26.0	25.03 – 27.06
Keeping house	7.1	8.6	9.5	12.8	12.6	16.0	16.6	20.5	18.78 – 22.26
Going to school	17.3	20.4	21.3	28.9	21.5	23.5	29.7	29.2	25.21 – 33.52
Something else (incl. unemployed)	4.2	6.2	6.4	7.6	8.9	11.0	14.0	15.9	14.87 – 16.96

See footnotes at end of table.



Demographic characteristic	Calendar half-year										95% confidence interval <sup>2</sup>
	Jan-Jun 2006	Jul-Dec 2006	Jan-Jun 2007 <sup>1</sup>	Jul-Dec 2007 <sup>1</sup>	Jan-Jun 2008	Jul-Dec 2008	Jan-Jun 2009	Jul-Dec 2009			
Household structure											
Adult living alone	16.2	18.2	20.3	22.9	24.6	28.1	30.8	32.9	31.04 - 34.79		
Unrelated adults, no children	44.2	54.0	55.3	56.9	63.1	60.6	68.5	62.9	54.47 - 70.62		
Related adults, no children	7.1	8.5	9.8	11.0	12.5	14.7	16.8	17.1	16.13 - 18.20		
Adult(s) with children	8.6	10.5	11.3	13.0	15.1	17.2	20.4	24.1	22.92 - 25.29		
Household poverty status <sup>4</sup>											
Poor	15.8	22.4	21.6	27.4	26.0	30.9	33.0	36.3	33.90 - 38.81		
Near poor	14.4	15.7	18.5	20.8	22.6	23.8	26.5	29.0	27.35 - 30.74		
Not poor	9.4	11.3	10.6	11.9	14.2	16.0	18.9	19.6	18.64 - 20.59		
Geographic region <sup>5</sup>											
Northeast	7.2	8.6	8.8	10.0	9.8	11.4	14.6	15.1	13.09 - 17.27		
Midwest	10.2	11.4	14.0	15.3	17.8	20.8	21.9	25.6	23.86 - 27.51		
South	11.4	14.0	14.9	17.1	19.6	21.3	25.0	25.4	24.01 - 26.93		
West	7.8	11.0	10.9	12.9	13.7	17.2	19.0	22.2	20.80 - 23.76		
Metropolitan statistical area status											
Metropolitan	10.3	12.7	13.7	15.5	17.5	19.7	22.4	24.2	23.13 - 25.20		
Not metropolitan	7.0	8.0	8.4	10.0	10.9	13.5	16.5	17.9	16.40 - 19.54		
Home ownership status <sup>6</sup>											
Owned or being bought	5.1	5.8	6.7	7.3	9.0	9.9	12.8	14.0	13.18 - 14.86		
Renting	22.5	26.4	28.2	30.9	33.6	39.2	40.9	43.1	41.51 - 44.67		
Other arrangement	10.7	*20.3	22.5	23.2	23.4	17.7	33.6	33.8	27.64 - 40.52		
Number of wireless-only adults in survey sample (unweighted)	2,804	2,878	3,819	3,558	4,939	4,426	5,078	9,401			

\*Estimate has a relative standard error greater than 30% and does not meet National Center for Health Statistics (NCHS) standards for reliability or precision.

<sup>1</sup> Questionnaire changes that occurred in 2007 should be considered when evaluating recent trends in household telephone status. See text for more information about these changes.

<sup>2</sup> Refers to the time period July through December 2009.

<sup>3</sup> GED is General Educational Development high school equivalency diploma.



<sup>4</sup> Based on household income and household size using the U.S. Census Bureau's poverty thresholds. "Poor" persons are defined as those below the poverty threshold. "Near poor" persons have incomes of 100% to less than 200% of the poverty threshold. "Not poor" persons have incomes of 200% of the poverty threshold or greater. Early Release estimates stratified by poverty status are based on reported income only and may differ from similar estimates produced later that are based on both reported and imputed income. NCHS imputes income when income is unknown, but the imputed income file is not available until a few months after the annual release of National Health Interview Survey microdata. For households with multiple families, household income and household size were calculated as the sum of the multiple measures of family income and family size.

<sup>5</sup> In the geographic classification of the U.S. population, states are grouped into the following four regions used by the U.S. Census Bureau. *Northwest* includes Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, and Pennsylvania. *Midwest* includes Ohio, Illinois, Indiana, Michigan, Wisconsin, Minnesota, Iowa, Missouri, North Dakota, South Dakota, Kansas, and Nebraska. *South* includes Delaware, Maryland, District of Columbia, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Oklahoma, Arkansas, and Texas. *West* includes Washington, Oregon, California, Nevada, New Mexico, Arizona, Idaho, Utah, Colorado, Montana, Wyoming, Alaska, and Hawaii.

<sup>6</sup> For households with multiple families, home ownership status was determined by considering the reported home ownership status for each family. If any family reported owning the home, then the household level variable was classified as "owned or being bought" for all persons living in the household. If one family reported renting the home and another family reported "other arrangement," then the household level variable was classified as "other arrangement" for all persons living in the household.

DATA SOURCE: National Health Interview Survey, January 2006–December 2009. Data are based on household interviews of a sample of the civilian noninstitutionalized population.



**Table 3. Percent distribution of selected demographic characteristics, by date of interview, for adults aged 18 years and over living in wireless-only households: United States, January 2006–December 2009**

Demographic characteristic	Calendar half-year								95% confidence interval <sup>2</sup>
	Jan–Jun 2006	Jul–Dec 2006	Jan–Jun 2007 <sup>1</sup>	Jul–Dec 2007 <sup>1</sup>	Jan–Jun 2008	Jul–Dec 2008	Jan–Jun 2009	Jul–Dec 2009	
	Percent distribution								
<b>Race/ethnicity</b>									
Hispanic or Latino, any race(s)	15.2	17.1	18.9	18.0	18.1	18.5	18.4	18.5	16.86–20.23
Non-Hispanic white, single race	65.6	64.0	61.5	61.2	62.2	61.9	63.8	62.5	60.29–64.63
Non-Hispanic black, single race	12.5	12.4	12.9	14.4	13.2	13.3	11.7	12.7	11.36–14.14
Non-Hispanic Asian, single race	4.7	4.4	3.8	3.8	4.6	4.4	3.9	4.1	3.48–4.88
Non-Hispanic other, single race	*0.6	0.9	*1.6	*0.8	0.6	0.6	0.7	1.0	0.68–1.33
Non-Hispanic multiple race	1.4	1.2	1.3	1.8	1.3	1.2	1.5	1.3	1.00–1.61
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	
<b>Age</b>									
18–24 years	30.5	27.6	28.4	27.2	24.9	23.1	22.9	21.2	19.72–22.74
25–29 years	21.1	22.7	22.3	22.1	20.5	21.0	19.9	19.6	18.46–20.69
30–34 years	11.0	12.9	11.3	13.0	14.3	14.0	13.6	14.0	13.09–15.02
35–44 years	16.8	16.6	16.3	16.3	17.8	17.4	18.4	18.6	17.53–19.79
45–64 years	18.5	17.6	19.1	18.9	19.6	21.6	21.0	22.8	21.65–23.91
65 years and over	2.2	2.6	2.6	2.5	2.9	2.9	4.3	3.8	3.35–4.39
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	
<b>Sex</b>									
Male	54.1	53.9	52.9	53.0	53.7	52.4	51.4	51.8	50.91–52.67
Female	45.9	46.1	47.1	47.0	46.3	47.6	48.6	48.2	47.33–49.09
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	
<b>Education</b>									
Some high school or less	14.8	17.4	17.5	16.2	15.5	15.8	15.5	16.0	14.76–17.23
High school graduate or GED <sup>3</sup>	28.3	27.0	27.5	27.5	27.8	27.2	27.7	28.9	27.49–30.36
Some post-high school, no degree	34.7	34.2	32.7	32.9	33.9	31.7	33.3	32.9	31.49–34.31
4-year college degree or higher	22.1	21.4	22.3	23.4	22.8	25.3	23.5	22.3	20.95–23.62
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	

See footnotes at end of table.



Demographic characteristic	Calendar half-year										95% confidence interval <sup>2</sup>
	Jan-Jun 2006	Jul-Dec 2006	Jan-Jun 2007 <sup>1</sup>	Jul-Dec 2007 <sup>1</sup>	Jan-Jun 2008	Jul-Dec 2008	Jan-Jun 2009	Jul-Dec 2009			
Employment status last week											
Working at a job or business	78.6	76.7	77.1	74.3	75.9	74.5	71.1	69.1	67.73 - 70.36		
Keeping house	5.2	4.9	5.2	5.6	5.0	5.3	4.5	5.3	4.82 - 5.79		
Going to school	5.6	4.9	5.1	5.8	4.1	3.7	4.6	4.4	3.68 - 5.20		
Something else (incl. unemployed)	10.3	13.0	12.1	13.1	13.7	15.4	18.7	20.2	19.07 - 21.43		
Unknown, not reported	*0.2	0.6	0.6	*1.3	1.4	*1.1	1.1	1.1	0.78 - 1.42		
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0			
Household structure											
Adult living alone	25.4	24.2	25.1	24.4	23.2	23.6	22.1	21.9	20.69 - 23.25		
Unrelated adults, no children	6.8	10.1	6.0	7.7	6.4	5.2	5.4	4.1	3.20 - 5.11		
Related adults, no children	33.1	32.4	34.4	34.2	35.1	36.9	36.0	34.0	32.35 - 35.60		
Adult(s) with children	34.6	33.3	34.6	33.7	35.3	34.3	36.4	40.0	38.33 - 41.78		
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0			
Household poverty status <sup>4</sup>											
Poor	12.7	15.7	14.6	16.1	14.1	15.5	15.5	16.4	15.01 - 17.79		
Near poor	19.5	17.1	18.4	18.4	18.1	16.8	17.9	18.5	17.26 - 19.72		
Not poor	47.9	46.2	50.5	49.7	53.4	53.3	56.7	53.0	51.04 - 54.88		
Unknown, not reported	19.9	21.0	16.5	15.8	14.4	14.4	10.0	12.2	11.11 - 13.44		
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0			
Geographic region <sup>5</sup>											
Northeast	13.8	13.4	12.7	12.4	10.7	11.3	12.2	12.1	10.41 - 13.93		
Midwest	24.1	22.2	25.1	24.6	25.0	26.0	23.9	26.0	23.90 - 28.32		
South	44.1	44.4	42.6	42.7	45.2	41.1	43.8	39.5	37.16 - 41.82		
West	18.0	20.0	19.7	20.4	19.1	21.6	20.1	22.4	20.55 - 24.43		
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0			
Metropolitan statistical area status											
Metropolitan	84.4	86.7	86.1	86.9	85.9	85.1	83.3	83.7	81.68 - 85.48		
Not metropolitan	15.6	13.3	13.9	13.1	14.1	14.9	16.7	16.3	14.52 - 18.32		
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0			

See footnotes at end of table.



Demographic characteristic	Calendar half-year								95% confidence interval <sup>2</sup>
	Jan-Jun 2006	Jul-Dec 2006	Jan-Jun 2007 <sup>1</sup>	Jul-Dec 2007 <sup>1</sup>	Jan-Jun 2008	Jul-Dec 2008	Jan-Jun 2009	Jul-Dec 2009	
Home ownership status <sup>6</sup>									
Owned or being bought	37.4	33.8	37.7	34.8	39.2	37.1	42.1	42.3	40.24 - 44.47
Renting	60.5	62.6	59.0	61.3	58.1	61.1	55.0	54.3	52.18 - 56.48
Other arrangement	2.1	*3.7	3.3	3.8	2.7	1.8	2.9	3.3	2.59 - 4.24
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	
Number of wireless-only adults in survey sample (unweighted)	2,804	2,878	3,819	3,558	4,939	4,426	5,078	9,401	

\*Estimate has a relative standard error greater than 30% and does not meet National Center for Health Statistics (NCHS) standards for reliability or precision.

<sup>1</sup> Questionnaire changes that occurred in 2007 should be considered when evaluating recent trends in household telephone status. See text for more information about these changes.

<sup>2</sup> Refers to the time period July through December 2009.

<sup>3</sup> GED is General Educational Development high school equivalency diploma.

<sup>4</sup> Based on household income and household size using the U.S. Census Bureau's poverty thresholds. "Poor" persons are defined as those below the poverty threshold. "Near poor" persons have incomes of 100% to less than 200% of the poverty threshold. "Not poor" persons have incomes of 200% of the poverty threshold or greater. Early Release estimates stratified by poverty status are based on reported income only and may differ from similar estimates produced later that are based on both reported and imputed income. NCHS imputes income when income is unknown, but the imputed income file is not available until a few months after the annual release of National Health Interview Survey microdata. For households with multiple families, household income and household size were calculated as the sum of the multiple measures of family income and family size.

<sup>5</sup> In the geographic classification of the U.S. population, states are grouped into the following four regions used by the U.S. Census Bureau. *Northeast* includes Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, and Pennsylvania. *Midwest* includes Ohio, Illinois, Indiana, Michigan, Wisconsin, Minnesota, Iowa, Missouri, North Dakota, South Dakota, Kansas, and Nebraska. *South* includes Delaware, Maryland, District of Columbia, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Oklahoma, Arkansas, and Texas. *West* includes Washington, Oregon, California, Nevada, New Mexico, Arizona, Idaho, Utah, Colorado, Montana, Wyoming, Alaska, and Hawaii.

<sup>6</sup> For households with multiple families, home ownership status was determined by considering the reported home ownership status for each family. If any family reported owning the home, then the household level variable was classified as "owned or being bought" for all persons living in the household. If one family reported renting the home and another family reported "other arrangement," then the household level variable was classified as "other arrangement" for all persons living in the household.

DATA SOURCE: National Health Interview Survey, January 2006–December 2009. Data are based on household interviews of a sample of the civilian noninstitutionalized population.



**Table 4. Prevalence rates (and 95% confidence intervals) for selected measures of health-related behaviors, health status, health care service use, and health care access for adults aged 18 years and over, by household telephone status: United States, July–December 2009**

Measure	Household telephone status		
	Landline <sup>1</sup>	Wireless-only	No telephone service
	Percent (95% confidence interval)		
Health-related behaviors			
Five or more alcoholic drinks in 1 day at least once in past year <sup>2</sup>	18.7 (17.75 – 19.74)	34.5 (32.49 – 36.58)	24.2 (19.99 – 29.09)
Current smoker <sup>3</sup>	18.3 (17.38 – 19.24)	27.3 (25.53 – 29.10)	33.2 (27.29 – 39.65)
Engaged in regular leisure-time physical activity <sup>4</sup>	32.8 (31.49 – 34.06)	39.6 (37.65 – 41.49)	25.0 (20.07 – 30.75)
Health status			
Health status described as excellent or very good <sup>5</sup>	59.3 (58.16 – 60.34)	65.0 (63.11 – 66.89)	49.6 (43.32 – 55.91)
Experienced serious psychological distress in past 30 days <sup>6</sup>	2.7 (2.41 – 3.10)	4.6 (3.91 – 5.38)	6.1 (3.69 – 9.94)
Obese <sup>7</sup> (adults aged 20 years and over)	28.9 (27.93 – 29.84)	26.4 (24.80 – 28.03)	31.5 (26.06 – 37.42)
Asthma episode in past year <sup>8</sup>	3.6 (3.30 – 4.03)	4.5 (3.80 – 5.26)	4.1 (2.31 – 7.15)
Ever diagnosed with diabetes <sup>9</sup>	9.8 (9.27 – 10.46)	5.5 (4.80 – 6.25)	4.7 (3.04 – 7.27)
Health care service use			
Received influenza vaccine during past year <sup>10</sup>	38.2 (37.08 – 39.35)	23.2 (21.77 – 24.59)	20.3 (15.77 – 25.63)
Ever been tested for HIV <sup>11</sup>	36.1 (34.86 – 37.40)	50.6 (48.78 – 52.49)	44.4 (37.80 – 51.28)
Health care access			
Has a usual place to go for medical care <sup>12</sup>	86.5 (85.57 – 87.35)	72.5 (70.71 – 74.18)	69.1 (62.96 – 74.56)
Failed to obtain needed medical care in past year due to financial barriers <sup>13</sup>	7.2 (6.71 – 7.81)	13.7 (12.45 – 15.06)	15.8 (12.22 – 20.29)
Currently uninsured (adults aged 18–64 years) <sup>14</sup>	13.8 (12.98 – 14.72)	29.2 (27.29 – 31.14)	34.4 (28.70 – 40.66)
Number of adults in survey sample (unweighted)	12,505	4,645	389

<sup>1</sup> Includes households that also have wireless telephone service.

<sup>2</sup> Defined as the 12 months prior to interview. The analyses excluded adults with unknown alcohol consumption (about 2% of respondents each year).

<sup>3</sup> Defined as a person who had smoked more than 100 cigarettes in his or her lifetime and now smokes every day or some days. The analyses excluded persons with unknown smoking status (about 2% of respondents each year).

<sup>4</sup> Defined as engaging in light-moderate leisure-time physical activity for greater than or equal to 30 minutes at a frequency greater than or equal to five times per week or engaging in vigorous leisure-time physical activity for greater than or equal to 20 minutes at a frequency greater than or equal to three times per week. Persons who were known to have not met the frequency recommendations are classified as “not regular,” regardless of duration. The analyses excluded persons with unknown physical activity participation (about 3% of respondents each year).

<sup>5</sup> Data were obtained by asking respondents to assess their own health and that of family members living in the same household as excellent, very good, good, fair, or poor. The analyses excluded persons with unknown health status (about 0.2% of respondents each year).

<sup>6</sup> Six psychological distress questions are included in the National Health Interview Survey. These questions ask how often during the past 30 days a respondent experienced certain symptoms of psychological distress (feeling so sad that nothing could cheer you up, nervous, restless or fidgety, hopeless, worthless, that everything was an effort). The response codes (0–4) of the six items for each person were equally weighted and summed. A value of 13 or more for this scale indicates that at least one symptom was experienced “most of the time” or “all of the time” and is used here to define serious psychological distress.



<sup>7</sup> Defined as a body mass index (BMI) of 30 kg/m<sup>2</sup> or more. The measure is based on self-reported height and weight. The analyses excluded people with unknown height or weight (about 6% of respondents each year). Estimates of obesity are presented for adults aged 20 years and over because the Healthy People 2010 objectives (<http://www.healthypeople.gov>) for healthy weight among adults define adults as persons aged 20 and over.

<sup>8</sup> Information on an episode of asthma or an asthma attack during the past year is self-reported by adults aged 18 years and over. A year is defined as the 12 months prior to interview. The analyses excluded people with unknown asthma episode status (about 0.1% of respondents each year).

<sup>9</sup> Prevalence of diagnosed diabetes is based on self-report of ever having been diagnosed with diabetes by a doctor or other health professional. Persons reporting "borderline" diabetes status and women reporting diabetes only during pregnancy were not coded as having diabetes in the analyses. The analyses excluded persons with unknown diabetes status (about 0.1% of respondents each year).

<sup>10</sup> Receipt of flu shots and receipt of nasal spray flu vaccinations were included in the calculation of flu vaccination estimates. Estimates are subject to recall error, which will vary depending on when the question is asked because the receipt of a flu vaccination is seasonal. The analyses excluded those with unknown flu vaccination status (about 3% of respondents each year).

<sup>11</sup> Individuals who received human immunodeficiency virus (HIV) testing solely as a result of blood donation were considered not to have been tested for HIV. The analyses excluded those with unknown HIV test status (about 5% of respondents each year).

<sup>12</sup> The usual place to go for medical care does not include a hospital emergency room. The analyses excluded persons with an unknown usual place to go for medical care (about 1.5% of respondents each year).

<sup>13</sup> A year is defined as the 12 months prior to interview. The analyses excluded persons with unknown responses to the question on failure to obtain needed medical care due to cost (about 0.2% of respondents each year).

<sup>14</sup> A person was defined as uninsured if he or she did not have any private health insurance, Medicare, Medicaid, Children's Health Insurance Program (CHIP), state-sponsored or other government-sponsored health plan, or military plan at the time of the interview. A person was also defined as uninsured if he or she had only Indian Health Service coverage or had only a private plan that paid for one type of service, such as accidents or dental care. The data on health insurance status were edited using an automated system based on logic checks and keyword searches. The analyses excluded persons with unknown health insurance status (about 1% of respondents each year).

DATA SOURCE: National Health Interview Survey, July–December 2009. Data are based on household interviews of a sample of the civilian noninstitutionalized population.



**Table 5. Percentage of adults aged 18 years and over living in wireless-mostly households, by selected demographic characteristics and by calendar half-years: United States, January 2007–December 2009**

Demographic characteristic	Calendar half-year						95% confidence interval <sup>1</sup>
	Jan–Jun 2007	Jul–Dec 2007	Jan–Jun 2008	Jul–Dec 2008	Jan–Jun 2009	Jul–Dec 2009	
	Percent <sup>2</sup>						
Total	12.6	14.0	14.4	15.4	16.2	16.3	15.69 – 17.03
Race/ethnicity							
Hispanic or Latino, any race(s)	13.2	14.5	16.0	15.9	18.0	16.9	15.50 – 18.36
Non-Hispanic white, single race	12.3	13.2	14.2	14.9	15.6	16.1	15.24 – 16.99
Non-Hispanic black, single race	11.9	15.1	13.3	14.7	15.0	16.2	14.65 – 17.89
Non-Hispanic Asian, single race	16.0	20.3	16.4	20.3	19.6	18.5	16.20 – 20.98
Non-Hispanic other single race	14.6	*8.6	*10.1	15.5	22.9	*16.1	8.28 – 28.82
Non-Hispanic multiple race	14.6	19.7	17.7	24.2	22.5	18.2	13.80 – 23.67
Age							
18-24 years	17.3	18.2	19.2	18.8	20.0	19.9	18.23 – 21.71
25-29 years	17.2	19.7	17.3	18.3	17.7	16.4	14.97 – 17.99
30-44 years	15.5	17.3	18.2	19.0	20.3	19.5	18.46 – 20.54
45-64 years	11.5	13.0	13.8	15.4	16.5	17.5	16.56 – 18.44
65 years and over	3.4	3.9	4.4	4.9	5.3	6.3	5.55 – 7.09
Sex							
Male	13.2	14.3	14.9	15.4	16.2	16.5	15.78 – 17.28
Female	12.0	13.6	14.0	15.2	16.1	16.2	15.50 – 16.91
Education							
Some high school or less	8.0	8.7	10.0	9.8	12.1	11.5	10.40 – 12.73
High school graduate or GED <sup>3</sup>	10.6	12.7	12.5	13.2	13.7	14.2	13.23 – 15.25
Some post-high school, no degree	15.7	16.6	17.0	18.6	17.7	18.1	16.99 – 19.19
4-year college degree or higher	14.9	16.2	17.1	18.0	19.7	19.7	18.67 – 20.78
Employment status last week							
Working at a job or business	15.5	16.8	17.3	18.4	19.5	19.7	18.92 – 20.59
Keeping house	9.3	10.4	11.9	11.9	12.7	15.1	13.50 – 16.90
Going to school	17.2	20.4	25.2	21.5	21.1	21.7	18.72 – 24.95
Something else (incl. unemployed)	5.3	6.7	6.6	7.8	9.0	9.0	8.29 – 9.74
Household structure							
Adult living alone	10.8	10.7	10.1	12.2	10.0	10.6	9.67 – 11.65
Unrelated adults, no children	13.9	20.1	*15.4	21.3	13.9	15.5	10.02 – 23.10
Related adults, no children	11.6	12.1	12.8	13.2	14.7	15.0	14.00 – 16.11
Adult(s) with children	14.4	17.2	18.1	19.2	20.5	20.2	19.05 – 21.47
Household poverty status <sup>4</sup>							
Poor	8.4	8.6	10.8	9.5	11.0	10.0	8.51 – 11.76
Near poor	9.7	11.4	10.3	11.3	12.0	12.7	11.36 – 14.11
Not poor	14.8	15.9	17.1	18.2	18.8	19.2	18.31 – 20.14
Geographic region <sup>5</sup>							
Northeast	11.3	11.7	13.8	12.0	15.3	14.9	13.41 – 16.56
Midwest	10.6	13.3	12.6	13.2	14.6	14.7	13.35 – 16.20
South	13.8	14.3	14.6	16.2	16.7	17.3	16.15 – 18.48
West	13.7	15.9	16.4	18.7	17.7	17.7	16.40 – 19.05
Metropolitan statistical area status							
Metropolitan	13.2	14.7	15.0	15.8	16.9	16.8	16.14 – 17.57
Not metropolitan	10.2	10.9	12.1	13.4	13.5	14.5	12.97 – 16.11

See footnotes at end of table.



Demographic characteristic	Calendar half-year						95% confidence interval <sup>1</sup>
	Jan–Jun 2007	Jul–Dec 2007	Jan–Jun 2008	Jul–Dec 2008	Jan–Jun 2009	Jul–Dec 2009	
<b>Home ownership status<sup>6</sup></b>							
Owned or being bought	12.1	14.0	14.7	15.9	17.2	17.5	16.63 – 18.46
Renting	13.9	13.8	13.9	13.0	13.9	13.6	12.63 – 14.70
Other arrangement	12.2	14.1	14.8	24.6	13.8	15.8	11.47 – 21.40
Number of adults in survey sample who live in landline households with wireless telephones (unweighted)	18,631	15,356	18,664	14,816	14,886	24,904	

\* Estimate has a relative standard error greater than 30% and does not meet National Center for Health Statistics (NCHS) standards for reliability.

<sup>1</sup> Refers to the estimate of the percentage of adults living in wireless-mostly households for the time period July through December 2009.

<sup>2</sup> The sum of the percentage of adults in households that receive all or nearly all calls on wireless phones (shown here) and the percentage of adults in households that receive some or very few calls on wireless phones (data not shown) is equal to the percentage of adults living in landline households with wireless telephones (see Table 1).

<sup>3</sup> GED is General Educational Development high school equivalency diploma.

<sup>4</sup> Based on household income and household size using the U.S. Census Bureau's poverty thresholds. "Poor" persons are defined as those below the poverty threshold. "Near poor" persons have incomes of 100% to less than 200% of the poverty threshold. "Not poor" persons have incomes of 200% of the poverty threshold or greater. Early Release estimates stratified by poverty status are based on reported income only and may differ from similar estimates produced later that are based on both reported and imputed income. NCHS imputes income when income is unknown, but the imputed income file is not available until a few months after the annual release of National Health Interview Survey microdata. For households with multiple families, household income and household size were calculated as the sum of the multiple measures of family income and family size.

<sup>5</sup> In the geographic classification of the U.S. population, states are grouped into the following four regions used by the U.S. Census Bureau. *Northeast* includes Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, and Pennsylvania. *Midwest* includes Ohio, Illinois, Indiana, Michigan, Wisconsin, Minnesota, Iowa, Missouri, North Dakota, South Dakota, Kansas, and Nebraska. *South* includes Delaware, Maryland, District of Columbia, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Oklahoma, Arkansas, and Texas. *West* includes Washington, Oregon, California, Nevada, New Mexico, Arizona, Idaho, Utah, Colorado, Montana, Wyoming, Alaska, and Hawaii.

<sup>6</sup> For households with multiple families, home ownership status was determined by considering the reported home ownership status for each family. If any family reported owning the home, then the household level variable was classified as "owned or being bought" for all persons living in the household. If one family reported renting the home and another family reported "other arrangement," then the household level variable was classified as "other arrangement" for all persons living in the household.

DATA SOURCE: National Health Interview Survey, January 2007–December 2009. Data are based on household interviews of a sample of the civilian noninstitutionalized population.

OCAFN

[www.ocafn.org](http://www.ocafn.org)

Oceanside City Accountability For Neighborhoods  
Public Comment Article 39.

ATTENTION: *Jerry Hilleman*

RE: PUBLIC COMMENT: ARTICLE 39

RECEIVED  
AUG 09 2010  
CITY OF OCEANSIDE  
DEVELOPMENT SERVICES

August 9, 2010

Thank you for your time, we are submitting public comments to Planning Director for recommending to City Council an, Interim **Urgency Ordinance to immediately impose a 45-day moratorium on all "wireless facilities" in residential areas.**

**REASONS:**

The City of Oceanside has processed an ordinance draft for new wireless regulations. Currently the city has excessive amounts of wireless applications which are proliferating into residential, school areas. These current wireless applicants will not be regulated under the new wireless ordinance, possibly for up to 10 years.

Also there exists a few areas of concern in the new draft that should be improved for the safety of neighborhoods and schools, as recent federal court rulings have provided local authority more leeway in wireless regulations. A moratorium is useful until the wireless ordinance draft has the proper amendments and is finalized through the proper city hall process.

Numerous California cities have called for wireless moratorium when proliferation exists, and a new wireless draft is in process. The undersigned agree with the flyer attached as public comments for article 39.

Sincerely,

Holly Hargett, *Founder*

OCAFN



# CITY OF OCEANSIDE DRAFTED A NEW WIRELESS ORDINANCE,

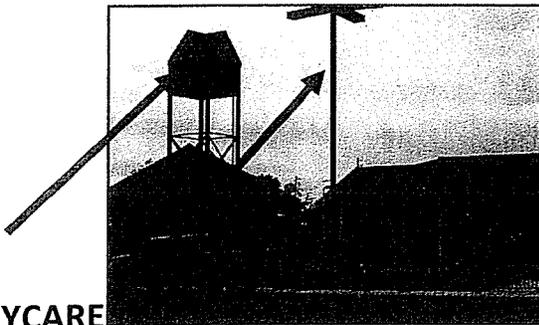
A City Ordinance provides rules for approving permits. The new drafted wireless ordinance LEAVES OUT public right-of-ways from following new ordinance regulations. DEFINES NON-RESIDENTIAL AS Schools, Daycares and Churches even if the buildings are in a residential area! DOES NOT REQUIRE all wireless facilities to have a conditional use permit or major permit within all residential areas!

Until the wireless ordinance is finalized Citizens want City Council to call an **Interim Urgency Ordinance to immediately impose a 45-day moratorium on all "wireless facilities" in residential areas** UNTIL the NEW Wireless Ordinance is complete. Currently the city has excessive amounts of wireless applications which will not be regulated under the new ordinance, up to 10 years! Numerous California cities have called wireless moratorium for the same reasons.

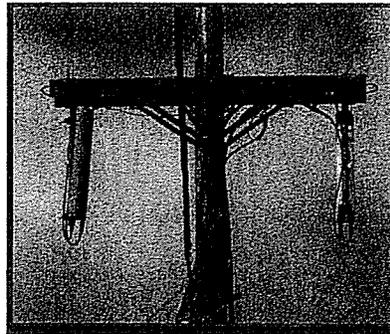
The federal courts gave new rulings so cities CAN up-hold regulations in a Wireless Ordinance. WE THE RESIDENTS want the city to exercise those rights to protect the citizens from residential wireless proliferation.

## IN THE New Wireless ORDINANCE (Article 39) RESIDENTS WANT;

- **NO Exemption** for public-right-of-ways in residential, schools, daycares, and church zones.
- Regulate: schools, daycares, and churches as **Disfavored or Least Preferred for wireless permits.**
- Require Conditional Use Permits in all residential and within 1,000 feet of residential property lines next to a commercial site.
- Require City Of Oceanside to Post a Web Page Link Accounting for all wireless sites on a Map accessible for public view.
- Place Placard Signs at entrance of public venues where wireless antennas are out of sight from public view. **(Citizens have the right to know!)**



DAYCARE



FIRE MOUNTAIN

PLEASE SEND YOUR SIGNATURE ATTENTION: City Council and City MANG.

PLEASE PRINT FIRST AND LAST NAME Howy Hargett

ADDRESS 1220 Vista Way

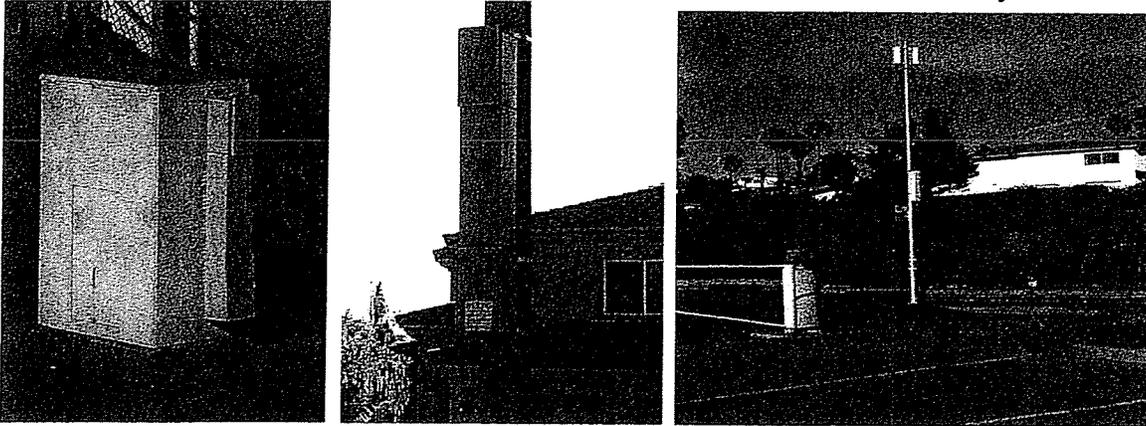
SIGNATURE [Handwritten Signature]

CITY HALL 300 North Coast Hwy Oceanside, Ca 92054 **OR Fax Number (760) 435-6052**

# OCEANSIDE CITY ACCOUNTABILITY FOR NEIGHBORHOODS

TO VIEW THE ORDINANCE FROM CITY VISIT HERE [www.ocafn.org](http://www.ocafn.org)

Please help SAVE our neighborhoods, Contact our city leaders and staff:



## PLEASE SUBMIT COMMENTS

Mayor	Jim Wood	<a href="mailto:jwood@ci.oceanside.ca.us">jwood@ci.oceanside.ca.us</a>
Councilmember	Jack Feller	<a href="mailto:jfeller@ci.oceanside.ca.us">jfeller@ci.oceanside.ca.us</a>
Councilmember	<u>Jerome Kern</u>	<a href="mailto:jkern@ci.oceanside.ca.us">jkern@ci.oceanside.ca.us</a>
Councilmember	Charles Lowery	<a href="mailto:clowery@ci.oceanside.ca.us">clowery@ci.oceanside.ca.us</a>
Councilmember	Esther C. Sanchez	<a href="mailto:esanchez@ci.oceanside.ca.us">esanchez@ci.oceanside.ca.us</a>
City Manager's Office	Peter A. Weiss	<a href="mailto:pweiss@ci.oceanside.ca.us">pweiss@ci.oceanside.ca.us</a>
City Attorney's Office	John P. Mullen	<a href="mailto:jmullen@ci.oceanside.ca.us">jmullen@ci.oceanside.ca.us</a>
<b>Planning Director</b>	<b>Jerry Hittleman</b>	<a href="mailto:jhittleman@ci.oceanside.ca.us">jhittleman@ci.oceanside.ca.us</a>

**Current Planning Commissioners :**  
 Chair Bob Neal, Vice Chair Tom Rosales, Claudia Troisi, Louise Balma, Dennis Martinek, Stan Bertheaud, please call 435-3520 or email [planningstaff@ci.oceanside.ca.us](mailto:planningstaff@ci.oceanside.ca.us)

**PLEASE CONTACT: Jerry Hittleman, CITY COUCNIL** for amendments to the wireless ordinance. Ask Jerry Hittleman to Recommend an **Interim Urgency Ordinance to immediately impose a 45-day moratorium on all "wireless facilities" in residential areas TO CITY COUNCIL** UNTIL the NEW Wireless Ordinance is complete! Currently the city has excessive amounts of wireless applications which will not be regulated under the new ordinance up to 10 years! Numerous California cities have called a wireless moratorium for the same reasons.

## EXAMPLES SAN DIEGO Wins Court of Appeals [http://planwireless.com/9th\\_circuit\\_reverses.htm](http://planwireless.com/9th_circuit_reverses.htm)

Governing Board of Los Angeles Unified School District adopts resolution opposing cellular facilities on or in close proximity of schools.

[http://www.cloutnow.org/lausdpdf/LAUSD\\_Resolution2000.pdf](http://www.cloutnow.org/lausdpdf/LAUSD_Resolution2000.pdf)

International Association of Firefighters call for moratorium, [www.iaff.org/hs/Resi/CelltowerFinal.htm](http://www.iaff.org/hs/Resi/CelltowerFinal.htm)

Other California cities, <http://sunroomdesk.com/tag/moratorium/>

Sebastopol City Council of California breaks signed contract to install citywide WiFi.

<http://www.elecromagnetic-pollution.com>

Board of Supervisors and Mayor Newsom of San Francisco approves cell phone law following release of Interphone study.

[http://news.cnet.com/8301-30686\\_3-20007911-266.html](http://news.cnet.com/8301-30686_3-20007911-266.html)

Emails to OCAFN for Public Comment, Article 39:

A visitor to [www.ocafn.org](http://www.ocafn.org) has sent a message through your form.

Customer contact: Main customer contact form

First Name : Laura .

Last Name : Mayer

Address : [llmayer@cox.net](mailto:llmayer@cox.net)

Date : Aug 8, 2010

Comments : A moratorium would be the best way until everything can be figured out for the best for the citizens of Oceanside.

Company : N/A

I am a parent of a child who attends the coastal academy. I have been an Oceanside resident for 15 years. I will get straight to my plea and request. PLEASE consider that this proposed cell tower to be on the building of my child's school will ruin the beautiful look of the school. I am sure that the owner will reap benefits for hosting the tower, but as for our students and parents and staff, it is unappealing and an eyesore! I am told that we are not to mention the health risks, and so I will not.

Thank you for listening! Lets put the children and residents of Oceanside first! What a refreshing thing that would be!

Best regards, Lisa Oskam

The owner of the building has signed a lease with Clearwire/Sprint--he wants the \$ from the 2 units on the roof. The charter school just leases. The FCC has determined that there is no health issues from wireless cell tower/units--and Oceanside does not have a "least preferred" designation for schools so the parents at the school have been struggling with keeping the units off the roof for a while. There's a group in South O that is trying to get schools, residences, etc. shielded in Article 39, the city's Wireless Ordinance--their website is [www.ocafn.org](http://www.ocafn.org). It looks like they've been on this for a while. I guess the wireless ordinance for the city is out of date and being revised. A lot of cities have schools, churches, residences shielded from cell towers/units by using a "least preferred" designation for site where kids are, people live. Thanks for your help on this.

Laura

**IN THE New Wireless ORDINANCE (Article 39) RESIDENTS WANT;**

- **NO Exemption** for public-right-of-ways in residential, schools, daycares, and church zones.
- Regulate: schools, daycares, and churches as **Disfavored or Least Preferred for wireless permits.**
- Require Conditional Use Permits in all residential and within 1,000 feet of residential property lines next to a commercial site.
- Require City Of Oceanside to Post a Web Page Link Accounting for all wireless sites on a Map accessible for public view.
- Place Placard Signs at entrance of public venues where wireless antennas are out of sight from public view. (Citizens have the right to know!)
- Request Planning Director & City Council to approve an Interim Urgency Moratorium on all wireless permits in or next to a residential zone until a finalized wireless ordinance is in place and the above amendments are made.

#	PRINT FIRST AND LAST NAME	ADDRESS	SIGNATURE
1	AGUSTIN LUCIO JR	1860 ANDY LANE	<i>[Handwritten Signature]</i>
2	Kyle Schuler	2132 S. Coast Hwy 92034	<i>[Handwritten Signature]</i>
3	Max Burdette	305 via metates	<i>[Handwritten Signature]</i>
4	James Mullanix	1588 Kelly St	<i>[Handwritten Signature]</i>
5	Kat Brown	1590 Kelly St	<i>[Handwritten Signature]</i>
6	Jimmy Slater	1725 Cassidy St	<i>[Handwritten Signature]</i>
7	<del>Robert Burdette</del>	1725 Cassidy St	<i>[Handwritten Signature]</i>
8	Robert J. Blane	1820 Moreno St	<i>[Handwritten Signature]</i>
9	JASON P EMMAN	1241 KIRMAN PLACE	<i>[Handwritten Signature]</i>
10	Luci Tauber	1230 KIRMAN PLACE	<i>[Handwritten Signature]</i>
11	STACEY VOGEL	1815 BURROUGHS ST	<i>[Handwritten Signature]</i>

#	PRINT FIRST AND LAST NAME	ADDRESS	SIGNATURE
12	JOE VOGEL	1815 BURROUGHS ST	Joe Vogel
13	Ben Leder	1817 Burroughs St.	C. Ben Leder
14	Charles Jackson	1826 Burroughs St.	Charles Jackson
15	Ann Reed	1825 Burroughs St	Ann Reed
16	Robert P. Chambers	1830 Burroughs ST	Robert P. Chambers
17	Maryann T. Woolsey	1901 Stewart St	Maryann T. Woolsey
18	Harper Clives	1934 Stewart St	Harper Clives
19	Day Thompson	1818 Stewart St	Day Thompson
20	Stephan Polanco	705 S. Barnes St	Stephan Polanco
21	JOYANNA LINCOLN	705 South Home cat	Joyanna Lincoln
22	TRACY POLANCO	328 S WEIZEL ST.	Tracy Polanco
23	ALEXA CHAVEZ	514 Morse St.	Alexa Chavez
24	Jacky Barrera	1526 Tarrant	Jacky Barrera
25	FRED JONES	1915 LINCOLN	Fred Jones
26	Fekedj Fournier	1915 LINCOLN ST	Fekedj Fournier
27	Penelope Cormalis	1213 Vista Way	P. Cormalis
28	Glenn Cormalis	1213 Vista Way	Glenn Cormalis
29		1212 VISTA WAY	Stephan Polanco
30		1212 VISTA WAY	Sharon Decker

City of Oceanside NEW Cell Tower/Antenna Ordinance Should NOT EXEMPT ALL PUBLIC-RIGHT-OF-WAYS

ASK Our Leaders to call an Interim Urgency Ordinance to immediately impose a 45-day moratorium on all "wireless facilities" in residential areas. TO STATE;

IN THE ORDINANCE

- **NO Exemption** in public-right-of-ways for residential, school, daycares, and churches.
- Protect residential, schools, day-cares, and churches under disfavored or least preferred.
- Require Conditional Use Permit in and within 1,000 feet of residential areas.
- Require City Of Oceanside to Post a Web Page Link accounting for all wireless sites on a Map accessible for public view.
- Place Placard Signs at entrance of public venues where wireless antennas are out of sight from public view. (Citizens have the right to know!)

#	Print First and Last Name	Address	Signature
1	David Phnant-Jones	2034 Lincoln St	
2	Holly Hargrett	1220 Vista Way	
3	Jared Keating	1220 VISTA WAY	
4	Marcello Nunez de	801 Vista Way	
5	Diego Vazquez	801 VISTA WAY	
6	Jesus Vilasoa	709 VISTA WAY	
7	Elsa Reyna	54 Vista Way	
8	JOHN ALVAREZ	57 VISTA WAY	
9	Walter Keating	1220 VISTA WAY	

#	Print First and Last Name	Address	Signature
10	Reta Villarreal	2001 Vista Way Deanside CA	R Villarreal
11	Michael Whinston	2001 Vista Way Deanside CA	Michael Whinston
12	Holly Burdick	1109 VISTA WAY DAVID 92054	Holly Burdick
13	Joel Hall	1109 Vista Way Osido 92054	Joel Hall
14	Yancy MARTINSON	1109 VISTA WAY 92054	Yancy Martinson
15	Lewie Valentine	332 Bluff way 92054	Lewie Valentine
16	Holley Rhinehart	1532 Kurtz st 92084	Holley Rhinehart
17	Stephen Chambers	1922 FREEMAN ST. 92054	Stephen Chambers
18	Yanna J. Allum	1839 Alvarado St 92054	Yanna J. Allum
19	JOHN GILLEN	1833 ALVARADO 52054	John Gillen
20	Brenda Hughes	1823 Alvarado St 92054	Brenda Hughes
21	Kenneth Bejarski	1725 Alvarado St 92054	Kenneth Bejarski
22	CZACH HALLOCK	1808 ALVARADO ST 92054	Czach Hallock
23	STACY HALLOCK	1808 ALVARADO ST 92054	Stacy Hallock
24	Cindy Rocco	1632 Alvarado St 92054	Cindy Rocco
25	Jennifer Baldwin	1631 Alvarado St 92054	Jennifer Baldwin
26	KEITH BALDWIN	1631 Alvarado St. 92054	Keith Baldwin
27	John Crowell	1706 Alvarado St 92054	John Crowell

#	Print First and Last Name	Address	Signature
28	Dave Crowell	1706 Alvarado St. 92054	Dave Crowell
29	Jenn Brown	1706 Alvarado St. 92054	Jenn Brown
30	Len Frost	1916 Alvarado St 92054	<del>Len Frost</del>
31	Andy Frost	" "	<del>Andy Frost</del>
32	Beth Finney	1214 Vista Way 92054	Beth Finney
33	Jeff Finney	" "	<del>Jeff Finney</del>
34	Dan York	1924 Moreno 92054	<del>Dan York</del>
35	Rachel Jacinto	1919 Moreno St 92054	<del>Rachel Jacinto</del>
36	Kalyn Peirce	1919 MORENO ST. 92054	Kalyn Peirce
37	Jose' Jara	1909 MORENO ST 92054	Jose' Jara
38	Colleen Jara	1909 Moreno ST 92054	C. Jara
39	William Bayless	1311 Kelly St 92054	Wm. Bayless
40	Betty Bayless	1311 Kelly St. 92054	Betty Bayless
42	JASON HODGES	1134 Ditmars St. 92054	Jason Hodges
41	VIRGINIA HODGES-RODIGO	1330 Kelly St 92054	Virginia Rodigo
42	JASON FORTIER	1206 VISTA WAY	<del>Jason Fortier</del>
43	Theresa Keating	1200 VISTA WAY	Theresa Keating

858 784 7340

ATTN: HOLLY

**CITY OF OCEANSIDE DRAFTED A NEW WIRELESS ORDINANCE,**

**DEADLINE FOR PUBLIC COMMENTS AUGUST 9th, 2010.**

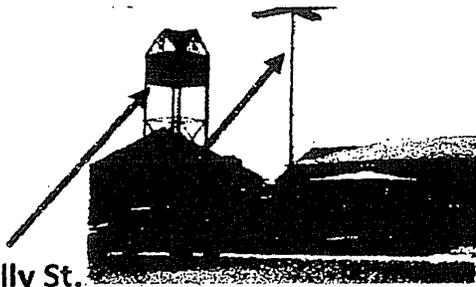
A City Ordinance provides rules for approving permits. The new drafted wireless ordinance LEAVES OUT public right-of-ways from following new ordinance regulations. DEFINES NON-RESIDENTIAL AS Schools, Daycares and Churches even if the buildings are in a residential area! DOES NOT REQUIRE all wireless facilities to have a conditional use permit or major permit within all residential areas!

Until the wireless ordinance is finalized City Council should call a Moratorium on current wireless applications in residential areas. Currently the city has excessive amounts of wireless applications which will not be regulated under the new ordinance, up to 10 years! Numerous California cities have called wireless moratorium for the same reasons.

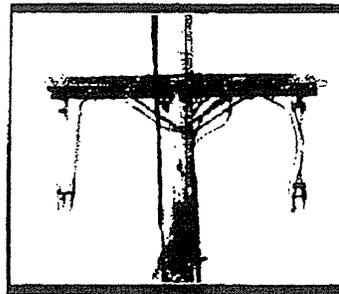
The federal courts gave new rulings so cities CAN up-hold regulations in a Wireless Ordinance. WE THE RESIDENTS want the city to exercise those rights to protect the citizens from residential wireless proliferation.

IN THE New Wireless ORDINANCE (Article 39) RESIDENTS WANT:

- **NO Exemption** for public-right-of-ways in residential, schools, daycares, and church zones.
- Regulate: schools, daycares, and churches as **Disfavored or Least Preferred for wireless permits.**
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- Place Placard Signs at entrance of public venues where wireless antennas are out of sight from public view. (Citizens have the right to know!)



1501 Kelly St.



Fire Mountain

**PLEASE SEND YOUR SIGNATURE**

PLEASE PRINT FIRST AND LAST NAME DAVID M. BERRY

ADDRESS 520 HOOPER ST OCEANSIDE SIGNATURE [Handwritten Signature]

**CITY HALL 300 North Coast Hwy Oceanside, Ca 92054 OR Fax Number (760) 754-2958**

858 784 7340

ATTN: HOLLY

**CITY OF OCEANSIDE DRAFTED A NEW WIRELESS ORDINANCE,**

**DEADLINE FOR PUBLIC COMMENTS AUGUST 9th, 2010.**

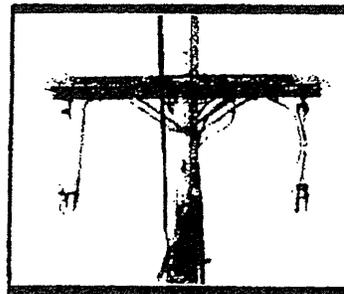
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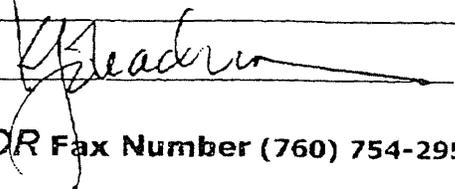
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**PLEASE SEND YOUR SIGNATURE**

PLEASE PRINT FIRST AND LAST NAME KARON J. LEACHMAN

ADDRESS 520 HOOVER ST. OSIDE SIGNATURE 

CITY HALL 300 North Coast Hwy Oceanside, Ca 92054 OR Fax Number (760) 754-2958

# YAHOO! SMALL BUSINESS

## Customer contact message for ocafn.org

From: "Eat2surf@yahoo.com" <Eat2surf@yahoo.com>

To: join@ocafn.org

Friday, August 6, 2010 1:28 AM

A visitor to ocafn.org has sent a message through your form.

Customer contact: Main customer contact form

First Name : David

Last Name : Crowell

Address : [Eat2surf@yahoo.com](mailto:Eat2surf@yahoo.com)

Date : 8/6/2010

Comments : Please help protect this city's individuals' interests and health.

Company : N/A

# YAHOO! SMALL BUSINESS

## Customer contact message for ocaf.n.org

From: "llmayer@cox.net" <llmayer@cox.net>

To: join@ocafn.org

Friday, August 6, 2010 12:04 AM

A visitor to ocaf.n.org has sent a message through your form.

Customer contact: Main customer contact form

First Name : Laura

Last Name : Mayer

Email : [llmayer@cox.net](mailto:llmayer@cox.net)

Mobile Phone : 760-212-9494

Comments : Hi, we are a bunch of parents at Coastal Academy who are upset about Cleanwire/Sprint wanting to site units over our kids' heads. Can you help us? I can see that we should comment on Article 39, the Wireless Petition--is there a meeting on the 24th we should attend and comment at? We have been working on this since June and the plans for our school have just been resubmitted.

Advice? Thanks so much!

Laura

Company : N/A

**IN THE New Wireless Ordinance (Article 39) RESIDENTS WANT:**

RECEIVED

AUG 09 2010

CITY OF OCEANSIDE  
DEVELOPMENT SERVICES

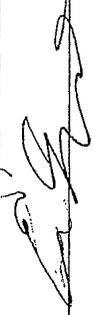
- **NO Exemption** for public-right-of-ways in residential, schools, daycares, and church zones.
- Regulate: schools, daycares, and churches as **Disfavored or Least Preferred for wireless permits.**
- Require Conditional Use Permits in all residential and within 1,000 feet of residential property lines next to a commercial site.
- **Require a 60-day public hearing on all wireless permits in or next to a residential zone until a finalized wireless ordinance is in place and the above amendments are made and Council to approve**

#	PRINT FIRST AND LAST NAME	ADDRESS	SIGNATURE
1	LOUIS MEDEIROS	1914 S. TREMONT ST.	Louis Medeiros
2	Lisa Stevens	1902 S. Tremont St.	Lisa Stevens
3	Richard A. Werner	1902 S. Tremont St.	Richard A. Werner
4	Richard A. Werner	1928 S. TREMONT STREET OCEANSIDE CA. 92054	Richard A. Werner
5	Angela M. Miller	1828 S. Tremont St. Oceanside	Angela M. Miller
6	Alan Lloyd	1933 Tremont St. O'side 92054	Alan Lloyd
7	Rek San Flippo	417 HELIX WAY O'SIDE 92057	Rek San Flippo
8	Michelle Lum	1611 S. Tremont St. O'side 92054	Michelle Lum
9	Juliane Broadway	1916 S. Coast Hwy O'side 92054	Juliane Broadway
10	John B. Lunt	1925 So. Ditmar, O'side 92054	John B. Lunt
11	Chris Olson	1929 S. Ditmar O'side 92054	Chris Olson
#	PRINT FIRST AND LAST NAME	ADDRESS	SIGNATURE
12			

IN THE New Wireless ORDINANCE (Article 39) RESIDENTS WANT:

- **NO Exemption** for public-right-of-ways in residential, schools, daycares, and church zones.
- Regulate: schools, daycares, and churches as **Disfavored or Least Preferred for wireless permits.**
- Require Conditional Use Permits in all residential and within 1,000 feet of residential property lines next to a commercial site.
- Require City Of Oceanside to Post a Web Page Link Accounting for all wireless sites on a Map accessible for public view.
- Place Placard Signs at entrance of public venues where wireless antennas are out of sight from public view. (Citizens have the right to know!)
- Request Planning Director & City Council to approve an Interim Urgency Moratorium on all wireless permits in or next to a residential zone until a finalized wireless ordinance is in place and the above amendments are made.

#	PRINT FIRST AND LAST NAME	ADDRESS	SIGNATURE
1	Nancy R. Gregory	1928 South Tremont Street Oceanside	Nancy Gregory
2	Renee Ward	1014 Birch Dr. Oceanside	Renee Ward
3	Tina Alonso	5147 Via Malaguena Oceanside	Tina Alonso
4	Ronald M Jones	3241 Roberta Lane Oceanside	Ronald M Jones
5	Leo Tomare	445 Creek Rd Oshkosh CA 92058	Leo Tomare
6	Dianne Hughes	814 H. Cleveland Oside 92054	Dianne Hughes
7	JOSEPH MORAN	5415 LANDS END WAY OSIDE 92058	Joseph Moran
8	DIANE WIEFELS	1914 S. Putman Oside 92054	Diane Wiefels
9	MARY FISHER	1028 So Clementine Oceanside	Mary Fisher
10	John Fusco	1801 S. Nevada Oceanside 92054	John Fusco
11	Geri Gillum	1833 S. Nevada St. Oside, 92054	Geri Gillum

#	PRINT FIRST AND LAST NAME	ADDRESS	SIGNATURE
12	BRAC SMITH	1840 S. Nevada St.	
13	<del>Paul Chatham</del>		
14	Paul Chatham	1928 S. Tremont St.	
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(Citizens have the right to know!)
- Request Planning Director & City Council to approve an Interim Urgency Moratorium on all wireless permits in or next to a residential zone until a finalized wireless ordinance is in place and the above amendments are made.

#	PRINT FIRST AND LAST NAME	ADDRESS	SIGNATURE
1	JANET GREGORY	1602 WAGON WHEEL DR. OCEANSIDE 92057	Janet Gregory
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## Jerry Hittleman

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**From:** Peter Weiss  
**Sent:** Monday, August 09, 2010 10:13 AM  
**To:** Jerry Hittleman; Michelle Skaggs-Lawrence  
**Subject:** FW: article 39

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

**From:** dloskam@cox.net [mailto:dloskam@cox.net]  
**Sent:** Monday, August 09, 2010 9:39 AM  
**To:** Peter Weiss  
**Subject:** article 39

Dear Mr. Weiss,

I am a 15 year resident of Oceanside.

As you may be aware, the Planning Commission is currently working on an update to the city's wireless ordinance which is way out of date. It is called Article 39.

I am in support for a tightened ordinance in the planning/approval of wireless site proposals.

The main points I would like to see in the document:

Designate schools, churches, and residential areas "least preferred" status for locating of units.

Don't allow public right of way to be used in these areas to get around the "least preferred status".

Require an accounting of wireless sites in Oceanside and their locations so there is a comprehensive accounting of sites

Call for a 45 day moratorium (legal and done already in other cities) on new units until the city's wireless ordinance can be brought up to date to protect the residents of Oceanside.

Best regards, Mrs. Lisa Oskam

## Jerry Hittleman

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**From:** Peter Weiss  
**Sent:** Monday, August 09, 2010 9:16 AM  
**To:** Jerry Hittleman; Michelle Skaggs-Lawrence  
**Subject:** FW: Article 39

fyi

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

From: eat2surf@sbcglobal.net [mailto:eat2surf@sbcglobal.net]  
Sent: Monday, August 09, 2010 9:14 AM  
To: Peter Weiss  
Subject: Article 39

Dear dedicated server of the public,

I'd like to thank you in your efforts to fix our antiquated ordinance regulating wireless antennas.

Please designate schools as "least preferred" status for locating of units.

Please don't allow public right of way to be used in these areas to get around the "least preferred status."

Please require an accounting of wireless sites in Oceanside and their locations so there is a comprehensive accounting of sites.

Please call for a 45 day moratorium (legal and done already in other cities) on new units until the city's wireless ordinance can be brought up to date to protect the residents of Oceanside.

I can only imagine the pressures that come from a position such as yours. I don't envy having the health and well-being of such a valuable asset as the school children of Oceanside in my hands. I'm sure the wireless corporations feel just as strongly.

I'm hopeful that your decision will be one that doesn't allow the wireless industry to choose quick profit over potential health issues. Surely they have the sophistication and technology to be able to locate their antennas on things other than schools.

I'd hate to see our city sacrifice control over a potential health-hazard and definite eye-sore for the sake of "more bars in more places." Perhaps a dropped phone call isn't as important as a child's well-being?

Thanks for listening.

Dave Crowell  
5440 Blackberry Way  
Oceanside, CA  
760-941-8212

*Jerry Kittle*

July 21, 2010

In regards to: The proposed Article 39 zoning ordinance

Councilman Jack Feller  
300 N. Coast Highway  
Oceanside, CA 92054-2885

**RECEIVED**

**AUG 09 2010**

**CITY OF OCEANSIDE  
DEVELOPMENT SERVICES**

Dear Councilman Jack Feller,

The proposed Article 39 zoning ordinance is biased against the Amateur Radio Service (ARS.)

In order to discern a pattern; it is necessary to review each line and each paragraph (Proposed Article 39 attached.) When we do this with the proposed article, a thread of impediments emerges. Whereas the spirit of the law is intended to promote continued service by Amateur Radio, this ordinance cripples it. It goes against the "Sense of Congress" as stated in Public Law 100-594. It violates the "Joint Resolution of Congress to Recognize the achievements of Radio Amateurs as Public Record" as stated in Public Law 102-408. It ignores Part 97.1 of 47 CFR, plus both Federal and State PRB-1 statutes. The failure of the Oceanside Telecommunications Committee to consider these laws is not a simple oversight.

I propose a separate article for the ARS, based on the following reasons:

1. Mixing amateur and commercial practices defeats all the rules of writing for clarity. Their regulatory schemes are vastly different, so that separating the two would reduce the possibility for misguidance.
2. The physical design requirements for operating on amateur High Frequency wavelengths vs. shorter commercial wavelengths are profoundly different. The article should recognize this difference.
3. The cost of a Conditional Use Permit (CUP) is \$4080.00. This equals or exceeds the cost of the antenna installation and under the Article 39 guidelines is virtually guaranteed to be required for each permit application from a member of the ARS. This is unreasonable.
4. A poorly executed ordinance would result in wasting taxpayer dollars on unnecessary litigation.

Let me address each of the reasons listed above. Reason number 1 is really an understatement. Article 39 seeks to redefine the amateur radio station as "a wireless telecommunications facility". This redefinition ignores both established policy and the spirit of the law regarding the ARS as identified above. This redefinition masks the real value of the ARS in contributing to our community, to California and to the USA. The ARS provides fail-proof communications in time of major disaster and a pool of expertise in time of need. It does this without remuneration. Contrast this to commercial communications providers who work "for profit". The redefinition is then used to cloak the guidelines for the ARS with the same guidelines for commercial service providers. This is a recipe for misguidance and misinterpretation. The ARS should be addressed in a separate ordinance.

July 21, 2010

As for reason number 2, the proposed Article 39 does not provide constructive guidance as to meeting ARS antenna requirements. It merely states an arbitrary height above which a CUP will be required for all antennas either for ARS or for a commercial service provider. As of July 14, 2003, this violates California regulation SECTION 1. Section 65850.3 which states: "Any ordinance adopted by the legislative body of a city or county that regulates amateur radio station antenna structures shall allow those structures to be erected at heights and dimensions sufficient to accommodate amateur radio service communications, shall not preclude amateur radio service communications, shall reasonably accommodate amateur radio service communications, and shall constitute the minimum practicable regulation to accomplish the city's or county's legitimate purpose." There should be a requirement-based ARS antenna height, below which a CUP would not be mandated.

As for reason number 3, considering the not-for-profit contributions to society as clearly stated by policy and laws, a \$4080 CUP plus "other" fees imposed by the proposed article are a travesty. The ARS would be stifled and Oceanside, California, and the USA would be ill-served. These fees should be eliminated or reduced to something reasonable.

As for reason number 4, the old Section 3025 of the Oceanside zoning ordinance was enacted prior to the passage of the California regulation SECTION 1. Section 65850.3. Even so, the old section is 5 pages long compared to the proposed Article 39 which is 21 pages. Therefore the confusion caused by mixing ARS and commercial policies is increased by a factor of four. This further increases the likelihood that the proposed do-all ordinance will run afoul of the law.

I appreciate your time in meeting with me. I will do my best to respond to any questions you may have. My telephone number is 760-967-1945 and my email address is hamkt4fk@att.net

Sincerely,



Fred Atchley, Amateur Radio Callsign: AE6IC

Attach: DRAFT 6.22.10 ARTICLE 39 Wireless Communications Facility, Satellite Dish and Antenna Standards

## Jerry Hittleman

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**From:** Peter Weiss  
**Sent:** Wednesday, August 11, 2010 7:54 AM  
**To:** Jerry Hittleman; Michelle Skaggs-Lawrence  
**Subject:** FW: Cell Units at Coastal Academy  
**Attachments:** image001.jpg

fyi

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**From:** Randy Hanson [mailto:rhanson@bergelectric.com]  
**Sent:** Wednesday, August 11, 2010 7:40 AM  
**To:** Peter Weiss  
**Cc:** Mary Hanson  
**Subject:** Cell Units at Coastal Academy

Dear Honorable Peter,

This is a message to let you know that we are in opposition about sitting 2 cell units on Coastal Academy. We think you should re-consider --That Article 39 should have schools/churches/residences designated "least preferred" and that public right of way should not be used as a way around this designation --Require an accounting of wireless units in Oceanside and their locations so there is a comprehensive accounting of cellular sites --Call for a 45 day moratorium (legal and done already in other cities) on new units until the city's wireless ordinance can be brought up to date to protect the residents of Oceanside --The units proposed for the roof of Coastal Academy are a perfect example why we need Article 39 updated to protect residents of Oceanside. Sincerely, Randy, Mary and Robert Hanson

**Randy Hanson, RCDD**  
**Bergelectric Corporation**  
**Systems Division**  
**650 Opper Street**  
**Escondido, CA 92029**  
**O: 760.746.1004 x496**  
**VOIP 002 - Ext 496**  
**F:760.746.4619**  
[rhanson@bergelectric.com](mailto:rhanson@bergelectric.com)  
[www.bergelectric.com](http://www.bergelectric.com)



\*\*\*\*\*  
This email message may contain confidential information. If you received this transmission in error you should not disseminate, distribute, or copy this email. Please notify the sender immediately by reply email and delete this email from your system. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of the contents of this information in any manner is strictly prohibited.

Please consider the environment before printing this email.

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## Jerry Hittleman

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**From:** ljsierra <ljsierra@cox.net>  
**Sent:** Wednesday, August 11, 2010 7:17 AM  
**To:** Jerry Hittleman  
**Subject:** cell units on Coastal Academy

We're writing to let you know of our opposition about siting 2 cell units on Coastal Academy.

- Article 39 should have schools/churches/residences designated "least preferred" and that public right of way should not be used as a way around this designation
- Require an accounting of wireless units in Oceanside and their locations so there is a comprehensive accounting of cellular sites
- Call for a 45 day moratorium (legal and done already in other cities) on new units until the city's wireless ordinance can be brought up to date to protect the residents of Oceanside
- The units proposed for the roof of Coastal Academy are a perfect example why we need Article 39 updated to protect residents of Oceanside

Thank you,

Jill and Lon Sierra  
Coastal parents

## **Jerry Hittleman**

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**From:** Vida Murrell  
**Sent:** Monday, August 09, 2010 8:31 AM  
**To:** Jerry Hittleman  
**Subject:** FW: Article 39--Wireless Ordinance and Cell Units Proposed for Roof of Coastal Academy

FYI,

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

**From:** llmayer@cox.net [mailto:llmayer@cox.net]  
**Sent:** Sunday, August 08, 2010 11:04 PM  
**To:** Planning Web  
**Cc:** Jim Wood; Jack Feller; Esther Sanchez; Chuck Lowery; Jerry Kern; John Mullen; Peter Weiss  
**Subject:** Article 39--Wireless Ordinance and Cell Units Proposed for Roof of Coastal Academy

I would like to comment on Article 39, the Wireless Ordinance and say that our city definitely needs to update and strengthen the city's ordinance for this very important and controversial planning issue. This issue personally affects my family as Clearwire/Sprint has just resubmitted plans to put cell units on the roof of my son's school, Coastal Academy--not on the edge of the property, not far off to the side of the school but just a few feet above where the kids are sitting. It is such an appalling choice of locale, and that fact that we parents have to advocate for protecting our kids' school would clearly suggest that it would be most useful if the city could have a "least preferred" designation for such locations.

I feel that Article 39 definitely needs to shield schools, churches, residents from all types of cell units--and work to site them away from locations where, for example, hundreds of children sit beneath them all day. There is so much industrial space (like right up the street or just across the street from my son's school) that locating these sites on places where people live, kids go to school, people worship is both unnecessary and not in the best interest of the city or its residents.

I'd also like to say that public-right-of-way in these same zones should be held to the same standard and not seen as a way for wireless companies to do an end-run around public concern--once again, once we parents started advocating on behalf of our children who attend Coastal Academy, I learned of a unit in the public right of way that no one even knew about. Sure enough, there it is right in the sidewalk that leads up to the school--and no one had any idea.

I would also ask for a comprehensive listing/map of all wireless sites in Oceanside--is anyone keeping track of cumulative RF totals and how they may overlap--also, it would be prudent for buildings/sites where cell units are not visible to have to post their existence so that citizens of Oceanside can be informed as much as possible. With the wireless industry moving so fast and so far in just a short period of time, having a strong ordinance that serves the City of Oceanside is crucial.

I am also very supportive of a moratorium for 45 days until all of this can be figured out and the citizens of Oceanside are best served by a clearly articulated Wireless Ordinance. The fact that hundreds of kids at Coastal Academy are facing the possibility of cell units being installed over their heads (literally) suggests that clearly articulated standards to guide development in this issue are needed.

In closing, I would like to state my specific concern with and opposition to Clearwire/Sprint locating 2 cell units on the roof of my son's school (directly over the classrooms, feet from the kids' head's) and my more general concern with the lack of an updated ordinance for the wireless industry. I'd like to state my support for a moratorium of, and strong guidance document for, the wireless industry as more and more units are located in Oceanside.

>  
> I am appreciative of being able to make my comments known in this matter.

>  
> Thank you,  
>  
> Laura Mayer  
> 2226 Fire Mountain Drive  
> Oceanside, Ca  
> 760-212-9494

## Jerry Hittleman

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**From:** Sandra Djordjevich  
**Sent:** Tuesday, August 10, 2010 8:24 AM  
**To:** 'Jay Scrivener - Planning'; Jimmy Knott; Robert Ross; 'Tom Rosales - Planning'  
**Cc:** Jerry Hittleman; Leslie M. Gallagher  
**Subject:** FW: Fwd: Wireless Message - Chris B.

FYI

Additional public comments re: wireless ordinance.

Regards,

Sandra Djordjevich, Application Analyst  
City of Oceanside, Information Technologies Department  
300 North Coast Highway  
Oceanside, CA 92054  
1.760.435.3825 (direct)  
1.760.435.6033 (fax)  
1.760.435.3800 (support center)  
[sdjordjevich@ci.oceanside.ca.us](mailto:sdjordjevich@ci.oceanside.ca.us)

**From:** Michelle Skaggs-Lawrence  
**Sent:** Tuesday, August 10, 2010 8:07 AM  
**To:** Sandra Djordjevich  
**Subject:** Fw: Fwd: Wireless Message - Chris B.

---

**From:** Chuck Lowery  
**To:** Peter Weiss; John Mullen; Jerry Hittleman; City Council  
**Cc:** Zack Beck  
**Sent:** Tue Aug 10 07:43:22 2010  
**Subject:** Fwd: Wireless Message - Chris B.

Please do something to address the concerns of Oceanside residents. We obviously have a situation that impacts many taxpayers.

Chuck

Begin forwarded message:

**From:** <[holly@ocafn.org](mailto:holly@ocafn.org)>  
**Date:** August 9, 2010 10:47:33 PM PDT  
**To:** [council@ci.oceanside.ca.us](mailto:council@ci.oceanside.ca.us)  
**Cc:** [pwieess@ci.oceanside.ca.us](mailto:pwieess@ci.oceanside.ca.us)  
**Subject:** Wireless Message - Chris B.  
**Reply-To:** [holly@ocafn.org](mailto:holly@ocafn.org)

--- On Mon, 8/9/10, [chris@bamcom.net](mailto:chris@bamcom.net) <[chris@bamcom.net](mailto:chris@bamcom.net)> wrote:

From: [chris@bamcom.net](mailto:chris@bamcom.net) <[chris@bamcom.net](mailto:chris@bamcom.net)>

Date: Monday, August 9, 2010, 3:07 PM

Customer contact: Main customer contact form

First Name : Christopher

Last Name : Weiscopf

Address : [chris@bamcom.net](mailto:chris@bamcom.net)

Date : 08/09/2010

Comments : Oceanside needs a modern, coherent wireless policy that prioritizes the concerns of the community over out of state corporations. To simply say \"we will not open wireless proposals for public review because that opens the city to lawsuits\" does not address the fact the city does not have an up to date wireless policy and would rather not deal with it or the constituents of the city and rather pass the buck.

Company : N/A