

ORDINANCE NO. 2331

BEING AN INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAMPBELL ADOPTING URGENCY MEASURES IN RESPONSE TO THE 2018 SMALL CELL ORDER (FCC 18-133) BY THE FEDERAL COMMUNICATIONS COMMISSION (FILE NO. PLN-2024-69)

WHEREAS, on September 19, 2017, the City Council adopted Ordinance No. 2226, which repealed the former, and enacted the current, Chapter 21.34 – Wireless Communications Facilities of the Campbell Municipal Code, which sets forth the City's standards and procedures for the permitting and regulation of wireless communications facilities on private property in conjunction with the City's adopted Wireless Facility Design Requirements, which were separately adopted by City Council Resolution No. 1226 on September 5, 2017;

WHEREAS, subsequent to the adoption of Ordinance No. 2226, the Federal Communications Commission issued its Declaratory Ruling and Third Report and Order (FCC 18-133), also known as the "2018 Small Cell Order," which took effect on January 14, 2019, and significantly limited local authority over the siting and regulation of wireless facilities;

WHEREAS, although the 2018 Small Cell Order primarily governs wireless facilities in the public rights-of-way, it also applies to installations on private property by adopting a broad interpretation of "effective prohibition" under the Federal Telecommunications Act. As a result, local governments are required to waive or modify standards, such as height limits and placement requirements, if applying those standards would "materially inhibit" the provision of wireless services. This significantly limits the City's ability to deny or condition the approval of wireless facilities that do not comply with existing local regulations;

WHEREAS, the City must act promptly to protect its regulatory authority and establish compliant yet effective local standards for the deployment of wireless facilities pending adoption of comprehensive permanent regulations;

WHEREAS, pursuant to California Government Code section 65858 and Campbell Municipal Code Section 21.60.090, the City Council is authorized to adopt interim ordinances as urgency measures to protect the public health, safety, and welfare, upon finding that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional permits or entitlements would result in that threat;

WHEREAS, the Planning Department is studying permanent revisions to Chapter 21.34 of the Zoning Code to implement to protect the public safety, health, and welfare, and better conform the Municipal Code provisions to current law;

WHEREAS, without immediate interim regulations, the City may be compelled to process applications under outdated or non-compliant provisions, potentially resulting in adverse aesthetic and environmental impacts and limiting the City's ability to mitigate these concerns;

WHEREAS, the City Council finds that adoption of this Interim Ordinance is necessary

to establish clear, legally defensible local procedures and standards consistent with FCC 18-133 while permanent regulations are developed and adopted through the standard legislative process;

WHEREAS, the City Council finds that the urgency ordinance is necessary to avoid confusion, regulatory gaps, and legal uncertainty in the processing of wireless facility applications during this interim period;

WHEREAS, this interim ordinance serves to establish standards, requirements, and permitting procedures to allow for orderly deployment of wireless facilities, consistent with the 2018 Small Cell Order, while protecting the public peace, health, safety, or welfare in the City of Campbell;

WHEREAS, with the adoption of this Interim Ordinance, the City's Wireless Facility Design Requirements would remain in effect;

WHEREAS, it is not the intent of this Interim Ordinance to adopt permanent standards, requirements, or permitting procedures. The City Council reserves the right to adopt permanent standards, requirements, and permitting procedures consistent with the 2018 Small Cell Order, and State and Federal Law, that will supersede those contained in this interim ordinance;

WHEREAS, considering the foregoing findings, the City Council further finds that there is a current and immediate threat to the public health, safety, or welfare, and that adherence to existing standards, requirements, and permitting procedures in conflict with this ordinance would result in that threat to public health, safety, or welfare;

WHEREAS, based on the foregoing findings, the City Council further finds that there exists a current and immediate threat to the public health, safety, and welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use in conflict with this ordinance would exacerbate that threat;

WHEREAS, this interim ordinance is not a "project" under the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15378, because it does not have the potential to result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Rather than facilitating new development or physical alterations, this ordinance updates the City's existing regulatory framework to bring it into alignment with federal requirements, including the FCC's 2018 Small Cell Order, which already preempts local discretion in key areas; and

WHEREAS, even if the ordinance were considered a project under CEQA, it is exempt from environmental review under the general rule stated in CEQA Guidelines Section 15061(b)(3), because it can be seen with certainty that there is no possibility the adoption of this ordinance may have a significant effect on the environment, in that it preserves the status quo and does not authorize any specific physical changes to the environment.

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

SECTION 1 (PURPOSE). The purpose of this Ordinance is to adopt interim amendments to Chapter 21.34 (Wireless Communication Facilities) of the Campbell Zoning Code in order to bring the City's regulations into alignment with federal requirements established by the Federal Communications Commission's 2018 Small Cell Order (FCC 18-133), and to protect the public health, safety, and welfare while comprehensive permanent regulations are developed.

SECTION 2 (INTERIM AMENDMENTS). The interim amendments to Chapter 21.34 (Wireless Communication Facilities) of the Campbell Zoning Code, as adopted by this Ordinance, are as set forth in Exhibit A with underlines (underlines) indicating new text and strikeouts (~~strikeouts~~) indicating deleted text.

SECTION 3 (SUPERSEDE). The provisions of this Ordinance shall supersede and take precedence over any inconsistent provision of the Campbell Municipal Code to that extent necessary to effectuate the provisions of this Ordinance for the duration of its effectiveness.

SECTION 4 (CEQA). This Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15378 and 15061(b)(3), as it does not have the potential to cause a physical change in the environment and it can be seen with certainty that it will not result in a significant environmental impact.

SECTION 5 (ADMINISTRATION). This Ordinance shall be administered by the Community Development Director, who is hereby authorized to develop forms, policies, and regulations for the implementation of this Ordinance and interpret its provisions to achieve compliance with State or federal law. Where a disagreement with the Community Development Director's application of this Ordinance occurs, the procedures for an Interpretation provided in Section 21.20.030 (Procedures for Interpretations) of the Zoning Code shall be followed, including the provisions for an appeal.

SECTION 6 (SEVERABILITY). If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have passed this interim ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 7 (APPLICATIONS IN PROGRESS): Notwithstanding Section 21.01.050.E (Effect of Zoning Code Changes on Projects in Progress), this interim ordinance shall not apply to any application for a wireless communications facility that was filed with the Community Development Department and for which all required fees were paid before the effective date of this Ordinance.

SECTION 8 (PUBLICATION). The City Clerk shall cause this interim ordinance to be published at least once in a newspaper of general circulation within 15 days after its adoption in accordance with Government Code Section 36933.

SECTION 9 (EFFECTIVENESS). This Ordinance shall become effective on July 1, 2025, and remain effective for a period of 45 days, unless subsequently extended by the City Council.

PASSED AND ADOPTED this 1st day of July, 2025 by the following roll call vote:

AYES: Councilmembers: Bybee, Hines, Scozzola, Furtado, Lopez

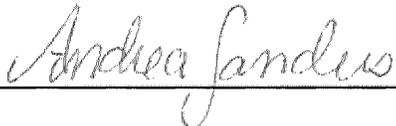
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ABSTAIN: Councilmembers: None

APPROVED:  _____

Sergio Lopez, Mayor

ATTEST:  _____

Andrea Sanders, City Clerk

Chapter 21.34 WIRELESS COMMUNICATIONS FACILITIES¹

21.34.010 Purpose.

The purpose and intent of this ~~Chapter~~chapter is to provide a uniform and comprehensive set of standards for the orderly development of wireless communications facilities and to reasonably regulate, to the extent permitted by California and federal law, the placement, affixing, attachment, mounting, construction, erection, installation, siting, collocation, modification, relocation, development, use, operation, maintenance, and removal of wireless communications facilities in the City of Campbell in a manner that protects and promotes public health, safety and welfare, and balances the benefits that flow from robust wireless services with the unique and historic character, aesthetics and local values of the City. The standards contained in this ~~Chapter~~chapter are designed to minimize the adverse visual impacts and operational effects of these facilities using appropriate design, siting and screening techniques while providing for the communications needs of residents, local business and government of the City and the region.

These regulations are not intended to, and shall not be interpreted or applied to:

- A. Prohibit or effectively prohibit personal wireless services in violation of State or federal law; or
- B. Unreasonably discriminate among providers of functionally equivalent personal wireless services; or
- C. Regulate the placement, installation, operation, collocation, modification or removal of wireless facilities on the basis of the environmental effects of RF emissions to the extent that such emissions comply with all applicable FCC regulations; or
- D. Prohibit or effectively prohibit any collocation or modification that the City may not deny under California State or federal law; or
- E. Preempt any applicable California State or federal law.

(Ord. No. 2226, § 5(Exh. A-1), 9-19-2017)

21.34.020 Applicability.

This ~~Chapter~~chapter applies to all wireless communications facilities including, without limitation, all new facilities, existing facilities, modifications to existing facilities, wireless transmission devices, support structures and related accessory equipment, unless exempted by Section 21.34.030 (Exemptions).

(Ord. No. 2226, § 5(Exh. A-1), 9-19-2017)

21.34.030 Exemptions.

The following uses shall be exempt from the provisions of this ~~Chapter~~chapter:

- A. Any non-commercial communication service as defined in Section ~~21.34.22000~~ (Definitions).

¹Editor's note(s)—Ord. No. 2226, § 4, adopted Sep. 19, 2017, repealed the former Ch. 21.34, §§ 21.34.010—21.34.230, and § 5(Exh. A-1) enacted a new chapter as set out herein. The former Ch. 21.34 pertained to wireless telecommunications facilities and derived from Ord. 1965, § 1, adopted in 1998; Ord. 2043, § 1, adopted in 2004; and Ord. 2070, § 1(Exh. A), adopted in 2006.

- B. Facilities in public rights-of-way which are regulated by Title 11 (Streets and Sidewalks) of the Campbell Municipal Code.
- C. Public safety communications facilities owned and operated by the City, County, State, or Federal Government.
- D. Facilities owned and operated by the City for its use.
- E. Over-the-air reception devices ("OTARDs") as defined in 47 Code of Federal Regulations (C.F.R.) Section 1.4000 et seq., as may be amended or superseded, which include without limitation, direct-to-home satellite antennas smaller than three feet in diameter.
- F. All antennas and wireless communications facilities identified by the FCC or the California Public Utilities Commission (CPUC) as exempt from local regulations.

(Ord. No. 2226, § 5(Exh. A-1), 9-19-2017)

21.34.035 Prohibited facilities.

Any wireless communications facility that does not comply with the most current regulatory and operational standards and regulations (including, but not limited to, RF emission standards) adopted by the FCC is prohibited.

21.34.040 Permits required.

The purpose of this Section is to establish a clear permitting framework for wireless communications facilities governed by this Chapter.

- A. Wireless Communications Facility Permits. A Wireless Communications Facility Permit, as provided for by this Section, subject to the City's prior review and approval in accordance with the procedures in this Chapter, is required prior to conducting any work to construct, create, enlarge, erect, install, maintain, modify, or place a wireless communications facility subject to this Chapter.
 - 1. Tier 2 Wireless Communications Facility Permit. A Tier 2 Wireless Communications Facility Permit is required for:
 - i. All new freestanding facilities.
 - 2. Tier 1 Wireless Communications Facility Permit. A Tier 1 Wireless Communications Facility Permit is required for:
 - i. All new or modified facilities, except new freestanding wireless facilities.
 - 3. Ministerial Wireless Communications Facility Permit. A Ministerial Wireless Communications Facility Permit is required for:
 - i. Any eligible facilities request, as defined by Section 21.34.220 (Definitions.), provided it satisfies all applicable eligibility criteria.

~~A. Permit required. Wireless communications facilities shall not be installed or erected except upon approval of a use permit, an administrative site and architectural review permit, or zoning clearance.~~

~~B. Conflicting provisions. Use permits, administrative site and architectural review permits, and zoning clearances shall be processed in compliance with CMC Chapters 21.46 (Conditional Use Permits), 21.42 (Site and Architectural Review), and 21.40 (Zoning Clearances) of this title, respectively, and in compliance with the provisions of this chapter. In the event of any conflict between the provisions of this chapter and the provisions of CMC Chapters 21.46, 21.42, or 21.40, the provisions of this chapter shall govern and control.~~

BC. ~~Other permits and regulatory approvals~~Permits. In addition to any permit or approval required under this Chapter, the applicant must obtain all other permits and regulatory approvals as may be required by any federal, state, or local government agencies, which includes without limitation, any other permits and/or approvals issued by the City. However, Administrative Site and Architectural Review Permits and Site and Architectural Review Permits, pursuant to Chapter 21.42 of the Code, shall not be required for facilities subject to this Chapter, as expressly exempted by this provision. ~~A permit issued under this chapter is not in lieu of any other permit required under the CMC, except as specifically provided in this chapter. A permit issued under this Chapter~~ It does not create a vested right to occupy any particular location, and a permittee may be required to move, relocate and remove facilities at its expense consistent with other provisions of the ~~Code~~CMC and applicable law.

CD. ~~Community development director~~Community Development Director's discretion. In any instance where a wireless communications facility requires a Tier 1 Wireless Communications Facility Permit ~~administrative site and architectural review permit under this Chapter~~chapter, the Community Development Director ~~community development director~~ shall have the discretion to refer the application to the Planning Commission for a decision pursuant to Section 21.38.020 (Authority for land use and zoning decision). ~~alternatively require a use permit.~~

E. ~~Permit type.~~ Table 3-6 identifies the type of permit required for each type of facility:

~~Table 3-6
Wireless Communications Facilities Required Permit Matrix~~

Type of Facility	Type of Permit
Concealed Facility; or A new wireless communications facility that is not eligible for an administrative site and architectural review permit or zoning clearance	Use Permit
Stealth Facility; or A collocation that is not eligible for a zoning clearance	Administrative Site and Architectural Review
Eligible Facility Requests	Zoning Clearance

F. ~~Other permit requirements.~~ In addition to any conditional use permit or administrative site and architectural review permit that may be required, the applicant must obtain all other required permits and/or other approvals from other City departments, and/or state or federal agencies. Applicable building, plumbing or electrical permits (if applicable) will be required prior to construction.

G. ~~Prohibited facilities.~~ Any wireless communications facility that does not comply with the most current regulatory and operational standards and regulations (including, but not limited to RF emission standards) adopted by the FCC are prohibited.

(Ord. No. 2226, § 5(Exh. A-1), 9-19-2017)

21.34.050 Decision-making body.

- A. Tier 2 Wireless Communications Facility Permits. The Planning Commission shall review and conditionally approve or deny applications for Tier 2 Wireless Communications Facility Permits in compliance with the procedures set forth in Chapter 21.64 (Public Hearings).
- B. Tier 1 Wireless Communications Facility Permits. The Community Development Director shall review and conditionally approve or deny applications for Tier 1 Wireless Communications Facility Permits in accordance with the procedures set forth in Chapter 21.71 (Administrative Decision Process).
- C. Ministerial Wireless Communications Facility Permits. The Community Development Director shall review and conditionally approve or deny applications for Ministerial Wireless Communications Facility Permits in compliance with the procedures set forth in Section 21.34.110 (Ministerial Wireless Communications Facility Permit decision process).

21.34.060 Findings.

The City may take action to approve a Tier 1 or Tier 2 Wireless Communications Facilities Permit, only upon making all the findings below. These findings ensure that the City's decision is consistent with applicable State and federal law, including limitations on the City's regulatory authority:

- A. The proposed wireless communications facility, as conditioned, is consistent with the applicable provisions of the Code and General Plan;
- B. The proposed wireless communications facility, as conditioned, represents the most preferred design and location available pursuant to the Code and the City's standards, including the Wireless Facility Design Requirements, as demonstrated by the applicant's analysis that shows that all other alternatives are either less preferable or technically infeasible;
- C. The applicant submitted all applicable and correct information, documentation, fees and deposits, and materials required by the City to allow for timely review and processing of the proposed wireless communications facility; and
- D. The City's decision is not in conflict with, or preempted by, State or federal law, including any applicable limits on local authority and prohibited grounds for denial.

If the applicant requests a limited exception from standards, as set forth by Section 21.34.180 (Limited exception from standards), the following additional finding(s) must also be made:

- E. The applicant has demonstrated that the exception from standards is narrowly tailored to the minimum extent necessary to comply with applicable State or federal law.

21.34.070 Prohibited grounds for denial.

Notwithstanding any other provisions of this Chapter, the denial of a Wireless Communications Facility Permit may not be based on the environmental effects of RF emissions for wireless communications facilities to the extent that the applicant has demonstrated that its proposed wireless facility will comply with FCC regulations, standards and guidelines concerning such RF emissions. Furthermore, the denial of a wireless communications facility by the City may not prohibit or have the effect of prohibiting the provision of personal wireless services pursuant to the Federal Telecommunications Act of 1996, 47 U.S.C. §§ 253(a) and 332(c)(7)(B) or as interpreted by applicable FCC rules, orders, and decisions.

21.34.075 Permit term limits.

The purpose of this section is to establish clear and consistent rules governing the duration and expiration of permits for wireless communications facilities, including the amortization of existing facilities that lack a specified

permit term. This section is intended to promote orderly regulation of wireless infrastructure in a manner consistent with federal and state law while preserving local authority to manage the long-term impacts of such facilities on the built environment.

A. Permit term limit.

1. A Wireless Communications Facility Permit shall be valid for a period of ten (10) years from the effective date of the approval by the City or the date the facility gains a "deemed granted" status pursuant to State or federal law, except as provided below.
2. A shorter permit term may be imposed based on public safety considerations or substantial land use reasons pursuant to California Government Code Section 65964(b).
3. If a request for a new Wireless Communications Facility Permit is received before the expiration of a validly issued permit, the existing permit shall remain in effect until a decision is rendered by the City or the application is withdrawn.

B. Prior permits.

1. Permits approved prior to the effective date of City Council Ordinance No. 2226 (September 19, 2022) shall expire in accordance with their originally approved permit term.
2. Any wireless facility operating pursuant to a permit or entitlement that lacks a specific expiration date (e.g., due to non-conforming status or prior code provisions), and which had not otherwise expired (e.g., through amortization under Ordinance No. 2070) shall expire on the later of:
 - a. Five (5) years from the effective date of City Council Ordinance No. 2226 (i.e., September 19, 2022); or
 - b. Ten (10) years from the date of their permit vesting date.

C. This section shall not extend or reduce a permit term beyond what is required by State or federal law or established by prior permit approval.

21.34.0850 Application procedures.

An application for a Wireless Communications Facility Permit pursuant to this Chapter shall be filed and reviewed in compliance with CMC Chapter 21.38 (Application Filing, Processing and Fees), as may be amended from time-to-time, unless otherwise specified in this Chapterchapter.

- ~~A. Submittal/resubmittal meeting required. Applications for a wireless communications facility must be made in person by someone with authority to act on behalf of the applicant during the planning division public counter hours. Applications and any subsequent resubmittal that are not made in person by someone with authority to act on behalf of the applicant and during scheduled times shall not be accepted for filing and will be returned.~~
- ~~B. Pre-application or conceptual review. A pre-application in accordance with CMC Chapter 21.41 (Pre-Applications) and/or conceptual review are strongly recommended prior to submitting formal applications for new ground-mounted monopoles or towers, new building-mounted facilities, or projects in less-preferred locations as set forth in Section 21.34.090 (Location of wireless communications facilities).~~
- A. Application submittal. All applications for permits governed by this Chapter shall be submitted exclusively through the City's designated online permit platform applicable to the type of permit required by this Chapter. The City shall not accept permit applications in paper form, by email, or by any other means unless the City Manager or their designee first determines, in writing, that an alternative method is necessary due to a demonstrated technical or accessibility issue that

unintentionally prevents use of the City's designated online permit platform. Applications shall only be accepted on days and during hours when City offices are open to the public for regular business.

- B. Building permit required. Where a building permit is required, a building permit application shall be submitted in conjunction with the Wireless Communications Facility Permit application. Failure to submit a required building permit may result in the Wireless Communications Facility Permit application being deemed incomplete, as determined by the City.
- C. Revised applications. Unless waived by the ~~community development director~~Community Development Director, resubmitted applications that result in a substantially revised facility design, size, height, or location such that a new or substantially different project, warranting a new round of completeness review, is proposed, shall be required to be withdrawn and a new application shall be filed for the substantially revised project.
- D. Timeline for review. The timeframe for review of an application shall begin to run when the application is submitted in writing to the ~~Ceommunity Ddevelopment D~~community development department, but may be tolled by mutual agreement or in cases where the City determines that the application is incomplete. The application processing time for applications subject to this ~~Chapterchapter~~ shall be in conformance with the time periods and procedures established by applicable FCC decisions or rules, adjusted for any tolling due to incomplete application notices or mutually agreed upon extensions of time.:
- ~~1. For an eligible facilities request, the City will act on the application within sixty calendar days of the community development department's receipt of such application packet.~~
 - ~~2. For a collocation that does not constitute an eligible facilities request, the City will act on the application within ninety calendar days of the community development department's receipt of such application packet.~~
 - ~~3. For new facilities (that are not a collocation and/or do not constitute an eligible facilities request subject to a shorter review period as provided above), the City will act on the application within one hundred and fifty calendar days of the community development department's receipt of such application packet.~~
- E. Incomplete application notices. In the event that City staff determines that a permit application does not contain all the required materials, ~~City staff~~ the Community Development Director, or their designee, may issue an incomplete notice consistent with this subsection. When applications are incomplete as filed, the timeframes for review set forth in Section 21.34.0850.D. (Timeline for review)(D) above do not include the time that the applicant takes to respond to the City's request for additional information.
1. First notice. The Community Development Director, or their designee, City staff shall determine whether an application for a facility is complete within thirty (30) calendar days of the City's receipt of the application, or ten (10) calendar days for small cell wireless facilities, and shall notify the applicant in writing when additional information is required to complete the application. The incomplete notice shall specify the incomplete or missing information and the publicly available information source that requires that missing or incomplete information. The applicable timeframe for review set forth in Section 21.34.0580.D. (Timeline for review)(D) shall be reset for any applications involving small cell facilities and shall be tolled for all other applications under this Chapter (pursuant to applicable law), until the applicant makes a supplemental submission, responding to the City's request for additional information. The timeframe for review begins running again when the applicant makes a supplemental submission in response to the City's notice of

incompleteness generally, and, with respect to applications involving small cell facilities shall be reset (pursuant to applicable law).

2. One ~~submittal~~ ~~Submittal~~. The applicant's response and submission of supplemental materials and information, responding to a notice of incompleteness must be given to the City in one submittal packet which shall be submitted exclusively through the City's designated online permit platform. An alternative submittal method may be used only if the City Manager or their designee first determines, in writing, that a demonstrated technical or accessibility issue unintentionally prevents use of the City's designated online permit platform. Resubmittals shall only be accepted on days and during hours when City offices are open to the public for regular business.
3. Subsequent notice(s). After an applicant responds to an incomplete notice and submits additional information, City staff will notify the applicant within ten (10) calendar days of the City's receipt of the supplemental submission if the additional information failed to complete the application. In the case of second or subsequent notices of incompleteness, the applicable timeframe for review set forth in Section 21.34.0580.D.(Timeline for review){D} shall be tolled until the applicant makes a supplemental submission, responding to the City's request for additional information.
4. ~~The City may continue to issue notices of incompleteness until the applicant supplies all requested information required to deem the application as complete. Following each notice of incompleteness, the applicable timeframe for review set forth in Section 21.34.0580.D.(Timeline for review){D} shall be tolled during time that the applicant takes to respond to the City's request for additional information.~~
- F. ~~Withdrawal; extensions~~ ~~Extensions~~ of time. To promote efficient review and timely decisions, applications deemed incomplete must be resubmitted within one hundred eighty (180) calendar days after notification of incompleteness, or they shall be deemed automatically withdrawn. ~~Following the applicant's request, the community development director may grant a one-time extension in processing time to resubmit, not to exceed one hundred fifty calendar days. If the application is deemed automatically withdrawn (and any applicable extension period, if granted, has expired), a new application (including, fees, plans, exhibits, and other materials) shall be required in order to commence processing of the project.~~

(Ord. No. 2226, § 5(Exh. A-1), 9-19-2017; Ord. No. 2293, § 1(Exh. B), 5-2-2023)

21.34.0960 Submittal requirements.

For all wireless communications facilities, the applicant shall provide the information listed below. Application for a wireless communications facility shall be made upon a form to be provided by and shall be submitted to the Community Development Department through the City's designated online permit platform ~~community development department in person~~. The form shall specify the number, size, and format of the project plans and application materials to be provided. The Community Development Director ~~community development director~~ may waive or defer certain submittal requirements ~~or require additional information based on specific project factors~~. Unless an exemption, waiver, or deferral ~~or waiver~~ applies, all applications shall include all of the following ~~and will not be accepted if any submittal material is missing or not fully completed~~:

- A. Application. A fully completed and executed City application form for the type of approval sought (and all information, materials, and fees specified in such City application form), available on the City's website or from the Community Development Department ~~community development department~~, as may be amended from time to time.

- B. Application fees and deposits. Application fees, and deposits when applicable, as set forth in the City's Master Fees Schedule or its successor or by resolution adopted by the City Council, in a payment format accepted by the City Finance Department ~~finance department~~, as may be amended from time to time. Exception: If the adopted fee exceeds the maximum permitted by applicable law, the City shall instead apply the highest fee amount allowed.
- C. Building permit. If a permit application governed by this Chapter requires a building permit, the corresponding building permit application must be submitted in accordance with Section 21.34.080 (Application procedures). ~~Reserved.~~
- D. Written statement; ~~type of approval sought.~~ The application shall include a detailed written narrative that clearly and concisely:
1. Specifies the type of permit being requested and indicates whether the application involves a new facility, a collocation, or an eligible facilities request;
 2. Discloses any applicable shot clock or statutory timeframe for review and decision under federal or State law;
 3. Describes the proposed project, including a summary of all facility equipment and components (e.g., antennas, radios, power sources, equipment cabinets, cabling, and support structures);
 4. Identifies the facility design approach, including whether the project involves a concealed or stealth design, and describing the specific features of the project that support the design approach;
 5. Provides a description of the targeted service area, specifying the linear distance in feet (e.g., coverage radius) from the project site that the facility is intended to serve; and
 6. Provides a justification explaining how the proposed project complies with applicable requirements, or why a limited exception should be granted in accordance with Section 21.34.180 (Limited exception from standards), and why the requested permit should be approved.
- ~~A written narrative describing the project in detail (including a summary of facility equipment) and asserting whether or not the request is a new facility, a collocation, or an eligible facility request, specifying the facility design approach (e.g., concealed, stealth, or eligible facility), and providing reasons why the permit should be granted. The application must also state what approval is being sought (i.e. use permit, administrative site and architectural review permit, or zoning clearance). If the applicant believes the project constitutes an eligible facility request, the applicant must provide a detailed explanation clarifying how this determination was made.~~
- E. Preliminary title report. A preliminary title report (or other definitive evidence of property ownership satisfactory to the City) prepared in the last six (6) months.
- F. City-owned. If the proposed facility is to be located on a City-owned building, pole, or other structure, the application must be signed by the City Manager or their designee ~~an authorized representative of the City~~ and accompanied by the license or other agreement authorizing applicant's use of such City-owned property. A permit issued under this ~~Chapter~~ chapter is not a franchise, license or other authorization to occupy the public rights-of-way, or a license, lease or agreement authorizing occupancy of any public property.
- G. Independent consultant deposit. A fee deposit, if required, to reimburse the City for its costs to retain an independent consultant to review the technical aspects of the application.
- H. Site and construction plans. Complete and accurate plans, drawn to scale, signed, and sealed by a California-licensed engineer, land surveyor, and/or architect, which include, at a minimum, the following items.

1. A site plan and elevation drawings for the facility as existing and as proposed with all height and width measurements explicitly stated.
2. A depiction, with height and width measurements explicitly stated, of all existing and proposed transmission equipment.
3. A depiction of all existing and proposed utility runs and points of contact.
4. A depiction of the leased or licensed area of the site with all rights-of-way and easements for access and utilities labeled in plan view and including legal boundaries of the leased, licensed or owned area surrounding the proposed facility and any associated access or utility easements.
5. For proposed collocations or modifications to towers, the plans must include scaled plan views and all four elevations that depict the physical dimensions of the wireless tower as it existed on February 22, 2012, or as approved if constructed after February 22, 2012. For proposed collocations or modifications to base stations, the plans must include scaled plan views and all four elevations that depict the physical dimensions of the base station as it existed on February 22, 2012, or as approved if constructed after February 22, 2012.
6. A demolition plan (if applicable).
 - I. Visual simulations. A visual analysis that includes
 1. ~~(1)~~ Scaled visual simulations that show unobstructed before-and-after construction daytime and clear-weather views from the four most prominent angles, together with a full-color map that shows the location of each view angle;
 2. ~~(2)~~ A color and finished material ~~palette~~ for proposed materials juxtaposed against the existing material it seeks to match (if applicable);
 3. ~~(3)~~ A photograph of a completed facility of a similar design and setting as the proposed wireless communications facility (if applicable); and
 - 1-4 ~~(4)~~ A visual simulation and scaled project plans, including a site plan and elevation drawings, showing the maximum expansion of the facility which could occur as a result of a future eligible facility request pursuant to Section 6409(a) and FCC rules implementing Section 6409 of the Spectrum Act, codified at 47 U.S.C. 1455.
 - J. Prior permits. True and correct copies of all previously issued permits, including, without limitation, all required conditions of approval. For eligible facilities requests, the application must also include a certification by the applicant that the proposal will not violate any previous permit or conditions of approval or why any violated permit or conditions does not prevent approval under Section 6409(a) and the FCC's regulations implementing this federal law.
 - K. FCC compliance; ~~a~~Affirmation of radio frequency standards compliance. An affirmation, under penalty of perjury, that the proposed installation will be FCC compliant and will not cause members of the general public to be exposed to RF levels that exceed the MPE levels deemed safe by the FCC. The application shall include an RF compliance report (or other documentation) acceptable to the City, which has been prepared and certified by a professional electrical engineer registered and licensed in the State of California, evidencing that the proposed facility, as well as any collocated facilities, and cumulative conditions will comply with applicable FCC RF human exposure standards and regulations, (including, but not limited to, federal RF exposure standards and exposure limits). Documentation of FCC compliance shall be required for all wireless communications facility permits, including, without limitation, permit modifications. Within 30 days of site activation, the applicant shall submit an activation report prepared by a California-licensed professional engineer. The report shall certify that field-measured radiofrequency emissions comply with the levels stated in the

Electromagnetic Energy Compliance Report and confirm that all required warning signs and other precautionary measures have been properly installed.

- L. Required licenses or approvals. Evidence that the applicant has all current licenses and registrations from the FCC, the CPUC, and any other applicable regulatory bodies where such license(s) or registration(s) are necessary to provide wireless communications services utilizing the proposed wireless communications facility.
- M. Structural analysis. A structural analysis, prepared, signed, and sealed by a California-licensed engineer that assesses whether the proposed wireless communications facility complies with all applicable building codes.
- N. Other permits. An application for a wireless facility shall include all permit applications with all required application materials for each and every separate permit required by the City including, but not limited to, a building permit and an encroachment permit (if applicable). A permit issued under this ~~Chapter~~chapter is not in lieu of any other permit required under the ~~Code~~CMC, except as specifically provided in this ~~Chapter~~chapter. Further, the applicant is hereby notified that all permit submittals are 'at risk', and that application materials may be required to be modified, and if denied, shall not be reimbursed application fees.
- O. Statement of Purpose. A written statement that includes:
 - 1. ~~(1)~~ a description of the technical objectives to be achieved;
 - 2. ~~(2)~~ An annotated topographical map that identifies the targeted service area to be benefitted;
 - 3. ~~(3)~~ The estimated number of potentially affected users in the targeted service area; and
 - 1.4 ~~(4)~~ Full-color signal propagation maps with objective units of signal strength measurement that show the applicant's current service coverage levels from all adjacent sites without the proposed site, predicted service coverage levels from all adjacent sites with the proposed site, and predicted service coverage levels from the proposed site without all adjacent sites.
- P. Alternative sites analysis. The applicant must provide a list of all alternative locations and support structures that are more preferred according to the site location and support structure preferences set forth in Section 21.34.120(A) and (B) of this Chapter. This list must include reasonably available alternatives located within the applicant's targeted service area that could potentially meet the project's coverage objectives, either individually or in combination with other sites. For each alternative, the applicant must provide:
 - 1. A general description of the site and the design considered;
 - 2. A written explanation for why the site was not selected, including whether it was technically infeasible, unavailable, or less consistent with this Chapter than the proposed location; and
 - 3. A meaningful comparative analysis supported by technical information and factual justification.

The applicant may group and rule out multiple alternatives based on shared characteristics, if supported by clear and convincing technical justification demonstrating that such alternatives would not meet the project's stated coverage objectives.

Exception: Stealth facilities that comply fully with this Chapter's requirements and which do not seek a limited exception from any standards as provided for by Section 21.34.180 (Limited exception from standards) are not required to submit an alternative sites analysis.
- ~~P. Alternative Sites Analysis. The applicant must provide a list of all existing structures considered as alternatives to the proposed location, together with a general description of the site design considered at each location. The applicant must also provide a written explanation for why the~~

~~alternatives considered were unacceptable or infeasible, unavailable or not as consistent with the development standards in this chapter as the proposed location. This explanation must include a meaningful comparative analysis and such technical information and other factual justification as are necessary to document the reasons why each alternative is unacceptable, infeasible, unavailable or not as consistent with the development standards in this chapter as the proposed location. If an existing facility is listed among the alternatives, the applicant must specifically address why the modification of such existing wireless communications facility is not a viable option. Stealth facilities shall not be required to provide an alternative site analysis.~~

- Q. ~~Noise Study.~~ If the proposed facility (or any portion thereof or equipment thereon) will generate or omit noise, a noise study prepared and certified by an engineer for the proposed facility and all associated equipment including, but not limited to, all environmental control units, sump pumps, temporary backup power generators, and permanent backup power generators demonstrating compliance with the City's noise regulations. The noise study must also include an analysis of the manufacturers' specifications for all noise-emitting equipment and a depiction of the proposed equipment relative to all adjacent property lines.
- R. ~~Other information.~~ Such other information as the City may require, as specified in ~~publically~~ publicly available materials, including, but not limited to, information required as stated on the City's website.
- S. ~~Construction Staging/Phasing Plan.~~ A construction staging/phasing plan shall be provided indicating the location and duration of all associated construction activities.
- T. ~~Content Exemptions for Ministerial Wireless Communications Facility Permits - Eligible Facilities Request Applications.~~ Notwithstanding subsections (A) through (S) above, applications for Ministerial Wireless Communications Facility Permits ~~an eligible facilities request~~ are exempt from the requirements in subsections (E), (I), (O), (P), (Q), and (S) above.

(Ord. No. 2226, § 5(Exh. A-1), 9-19-2017)

21.34.100070 General requirements; standard conditions of approval.

In addition to any other conditions of approval permitted under federal and state law and that the decision-making body deems appropriate, all wireless communications facilities whether approved through a Wireless Communications Facility Permit ~~conditional use permit, an administrative site and architectural review permit, zoning clearance,~~ or deemed granted by the operation of law, shall include and abide by the following conditions of approval. These conditions shall apply by default, unless modified or waived by the applicable decision-making body as part of the approval of a discretionary permit. For non-discretionary or ministerial approvals, including those deemed granted by law, these conditions shall apply in full, unless otherwise preempted by applicable law.

- A. Cessation of operations. The service provider shall provide written notification to the Community Development Director upon cessation of operations on the site exceeding a ninety calendar (90) day period. The service provider, permittee and/or property owner shall remove all obsolete or unused facilities from the site within one hundred eighty (180) calendar days of termination of the lease with the property owner or cessation of operations, whichever comes earlier.
- B. New permit required. If a consecutive period of one hundred eighty (180) calendar days has lapsed since cessation of operations, a new permit shall be required prior to use of the facility.
- C. Length of approval. The validity period of a permit shall be governed by the provisions of Section 21.34.075 (Permit term limits).
- D. Business license required. Each service provider with a wireless communications facility in the City shall obtain and maintain a City business license.

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(Supp. No. 40, 9/24)

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- E. Impact on parking. The installation of wireless communication facilities shall not reduce required parking on the site. For the purposes of this requirement, routine maintenance activities shall not be considered to result in a measurable impact on parking. Applications for eligible facilities requests shall be exempt from this condition provided that any reduction in onsite parking spaces does not violate a prior condition of approval or applicable building or safety code.
- F. Implementation and monitoring costs. The wireless communications permittee, service provider or its/their successor shall be responsible for the payment of all reasonable costs associated with the monitoring of the conditions of approval, including, but not limited to, costs incurred by the Community Development Department, the office of the city attorney or any other appropriate City department or agency, to the full extent such costs are recoverable or collectible under applicable State and/or federal law. The Community Development Department shall collect costs on behalf of the City.
- G. Development and operational standards. All facilities shall satisfy the development standards of the primary building of the zoning district in which they are proposed, as well as the requirements of Chapter 21.16 (General Performance Standards) (e.g. electrical interference, light and glare, noise, odor, vibration, maintenance) and Chapter 21.18 (Site Development Standards). Exceptions to development and operational standards shall only be permitted for:
1. An eligible facility request to the extent required by law;
 2. A subsequent collocation facility to the extent required by California Government Code section 65850.6(a);
 3. For a stealth facility when such exception is limited to maximum allowable heights, or minimum setbacks, and when such exception would not result in a perceivable visual impact; or
 4. For a concealed facility camouflaged to resemble a tree, an exception to the applicable height and setback standards shall be allowed solely for artificial branches, their associated leaves or needles, and any ancillary support poles used exclusively to support those branches. Such elements may encroach only to the minimum extent necessary to replicate the shape and fullness of the tree being mimicked. This exception shall not apply to the primary structural support (i.e., the main tower or pole), nor to any other structural components, including side or secondary poles, that support antennas, radio equipment, or other functional elements of the wireless facility.
- H. Permits. All permits required for the installation of the facility and associated improvements, shall be completed prior to operation of the facility (or component of that facility).
- I. Concealment. Every aspect of a facility is considered an element of concealment including, but not limited to, the dimensions, bulk and scale, color, materials and texture. Any future modifications to the facility must not defeat concealment.
- J. Compliance with applicable laws. The permittee and service provider shall at all times comply with all applicable provisions of this Code including, but not limited to, Title 21 (Zoning), any permit or approval issued under the Code including, but not limited to, Title 21 (Zoning), and all other applicable federal, State and local laws, rules and regulations. Failure by the City to enforce compliance with applicable laws, rules or regulations shall not relieve any permittee of its obligations under the Code including, but not limited to, Title 21 (Zoning), any permit or approval issued under the Code, or any other applicable laws, rules and regulations.
- K. Compliance with approved plans. The facility shall be built, installed, and maintained in compliance with the approved plans on file with the Community Development Department.
- L. Inspections. The City or its designee may enter onto the facility area to inspect the facility upon reasonable notice to the permittee. The permittee shall cooperate with all inspections. The City reserves the right to enter (or direct its designee to enter) the facility and support, repair, disable or remove any

elements of the facility in emergencies or when the facility threatens imminent harm to persons or property.

- M. Contact information for responsible parties. The permittee shall at all times maintain accurate contact information for all parties responsible for the facility, which shall include a phone number, street mailing address and email address for at least one natural person. All such contact information for responsible parties shall be provided to the Community Development Director upon request.
- N. General maintenance. The site and the facility, including but not limited to all landscaping, fencing, access routes, structures, concealment features, and related equipment, must be maintained in a neat, safe, and clean manner and in accordance with all applicable laws, approved plans, and conditions of approval.
- O. Graffiti removal. All graffiti or other vandalism on facilities must be removed at the sole expense of the permittee within forty-eight hours after notification from the City.
- P. FCC (including, but not limited to, RF Exposure) compliance. All facilities must comply with all standards and regulations of the FCC and any other State or federal government agency with the authority to regulate such facilities.
- Q. Abandonment.
1. To promote the public health, safety and welfare, the Community Development Director, or their designee, may declare a facility (or component of a facility) abandoned or discontinued when:
 - a. The permittee or service provider abandoned or discontinued the use of a facility (or component of a facility) for a continuous period of ninety (90) calendar days; or
 - b. The permittee or service provider fails to respond within thirty (30) calendar days to a written notice from the Community Development Director, or their designee, that states the basis for the Community Development Director's belief that the facility (or component of the facility) has been abandoned or discontinued for a continuous period of ninety (90) calendar days.
 2. After the Community Development Director declares a facility (or component of a facility) abandoned or discontinued, the permittee shall have sixty (60) calendar days from the date of the declaration (or longer time as the community development director may approve in writing as reasonably necessary) to:
 - a. Reactivate the use of the abandoned or discontinued facility (or component thereof) subject to the provisions of this Chapter and all conditions of approval; or
 - b. Remove the facility (or component of that facility) and all improvements installed in connection with the facility (or component of that facility), unless directed otherwise by the Community Development Director, and restore the site to a condition in compliance with all applicable codes and consistent with the then-existing surrounding area.
 3. If the permittee fails to act as required in Section 21.34.100.Q.1.b. within the prescribed time period, the City may (but shall not be obligated to) remove the abandoned facility (or abandoned component of the facility), restore the site to a condition in compliance with all applicable codes and consistent with the then-existing surrounding area, and repair any and all damages that occurred in connection with such removal and restoration work. The City may, but shall not be obligated to, store the removed facility (or component of the facility) or any part thereof, and may use, sell or otherwise dispose of it in any manner the City deems appropriate. The last-known permittee or its successor-in-interest and, if on private property, the real property owner shall be jointly liable for all costs and expenses incurred by the City in connection with such removal, restoration, repair and storage, and shall promptly reimburse the City upon receipt of a written demand, including, without limitation, any interest on the balance owing at the maximum lawful

rate. The City may, but shall not be obligated to, use any financial security required in connection with the granting of the facility permit to recover its costs and interest. Until the costs are paid in full, a lien shall be placed on the facility, all related personal property in connection with the facility and, if applicable, the real private property on which the facility was located for the full amount of all costs for removal, restoration, repair and storage (plus applicable interest). The City Clerk shall cause the lien to be recorded with the County of Santa Clara Recorder's Office. Within sixty (60) calendar days after the lien amount is fully satisfied including costs and interest, the City Clerk shall cause the lien to be released with the County of Santa Clara Recorder's Office.

4. After a permittee fails to comply with any provisions of this Section 21.34.100.Q.(Abandonment), the City may elect to treat the facility as a nuisance to be abated as provided in the Code (including, but not limited to, Chapter 6.10).

R. Indemnities. The permittee, service provider, and, if applicable, the non-government owner of the private property upon which the wireless facility is installed (or is to be installed) shall defend (with counsel reasonably satisfactory to the City), indemnify and hold harmless the City of Campbell its officers, officials, directors, agents, representatives, and employees—from and against:

1. Any and all damages, liabilities, injuries, losses, costs and expenses and from and against any and all claims, demands, lawsuits, judgments, writs of mandamus and other actions or proceedings brought against the City or its officers, officials, directors, agents, representatives, or employees to challenge, attack, seek to modify, set aside, void or annul the City's approval of any permit pursuant to this Chapter; and
2. Any and all damages, liabilities, injuries, losses, costs and expenses and any and all claims, demands, lawsuits, judgments, or causes of action and other actions or proceedings of any kind or form, whether for personal injury, death or property damage, arising out of, in connection with or relating to the installation, maintenance, or presence of the wireless facility at issue, or the acts, omissions, negligence, or performance of the permittee, the service provider, and/or, if applicable, the private property owner, or any of each one's agents, representatives, employees, officers, directors, licensees, contractors, subcontractors or independent contractors as related to the wireless facility at issue or as related to this Chapter.

It is expressly agreed that the City shall have the right to approve (which approval shall not be unreasonably withheld) the legal counsel providing the City's defense, and the property owner, service provider, and/or permittee (as applicable) shall reimburse City for any and all costs and expenses incurred by the City in the course of the defense.

S. Eligible facilities requests. In addition to the conditions in subsections A. through R. above, all Eligible Facilities Requests shall comply with, and all associated permits shall include, the following standard conditions of approval:

1. No permit term extension. The City's grant or grant by operation of law of a Ministerial Wireless Communications Facility Permit for an eligible facilities request constitutes a federally-mandated modification to the underlying permit or approval for the subject tower or base station. The City's grant or grant by operation of law of a Ministerial Wireless Communications Facility Permit for an eligible facilities request will not extend the permit term for any permit or approval and its term shall be coterminous with the underlying permit or other regulatory approval for the subject tower or base station.
2. No Waiver of Standing. The approval of a Ministerial Wireless Communications Facility Permit for an eligible facilities request (either by express approval or grant by operation of law) does not waive, and shall not be construed to waive, any standing by the City to challenge Section 6409(a), any FCC rules that interpret Section 6409(a) or any eligible facilities request.

~~A. All facilities. The following standard conditions of approval apply to all facilities and shall be included in all conditional use permits and administrative site and architectural review permits approved under this Chapter:~~

~~1. Cessation of operations. The service provider shall provide written notification to the community development director upon cessation of operations on the site exceeding a ninety calendar day period. The service provider, permittee and/or property owner shall remove all obsolete or unused facilities from the site within one hundred eighty calendar days of termination of the lease with the property owner or cessation of operations, whichever comes earlier.~~

~~a. New permit required. If a consecutive period of one hundred eighty calendar days has lapsed since cessation of operations, a new permit shall be required prior to use or reuse of the site.~~

~~2. Length of approval. A validly issued conditional use permit, or administrative site and architectural review permit shall be valid for a period of ten years from the effective date of the approval (or date the facility gains a "deemed granted" status) but may be reduced for public safety reasons or substantial land use reasons pursuant to Government Code Section 65964(b). Use permits and site and architectural review permits approved prior to the effective date of this ordinance shall expire pursuant to the previously approved permit term. If a request for a renewal of the required permit(s) is received before the permit expiration, the permit shall remain in effect until a decision on the renewal is made or the application is withdrawn. Communication facilities that exist on the effective date of this chapter without a specified expiration date (e.g. because the governing permit(s) contained no expiration date or due to non conforming status), and which had not otherwise already expired (e.g. due to the previously established amortization period(s) contained in City Council Ordinance 2070, CMC Section 21.34.060(E), and/or CMC Section 21.58.040(F), as they existed prior to the effective date of this Chapter), shall expire five years from the effective date of this chapter or ten years from the date of their establishment, whichever is greater. Nothing contained in this Chapter is intended to revive or extend any permit or use that expired on or prior to the effective date of this Chapter.~~

~~a. The permit may be renewed for subsequent time periods, subject to the following:~~

~~i. The renewal application is filed with the community development department prior to expiration, but no earlier than twenty-four months prior to expiration.~~

~~ii. The permit approval may be administratively extended by the community development director from the initial approval date for a subsequent ten years and may be extended by the community development director every ten years thereafter upon verification that the facility continues to comply with this chapter (as may be amended from time to time) and all conditions of approval under which the facility was approved. All costs associated with the review process shall be borne by the service provider, permittee and/or property owner.~~

~~iii. This provision shall not apply to conditional use permits or administrative site and architectural review permits granted prior to the effective date of this chapter. However, applications for use permits or site and architectural review permits to modify existing wireless communications facilities that are granted on or after the effective date of this chapter are subject to this subsection 21.34.070(A)(2)(a).~~

~~b. If a request for renewal of the required permit(s) is not timely received and the permit expires, the City may declare the facility(ies) abandoned or discontinued in accordance with Section 21.34.070(A)(16) (Abandonment).~~

~~3. Business license required. Each service provider with a wireless communications facility in the City shall obtain and maintain a City business license.~~

~~4. Impact on parking. The installation of wireless communication facilities shall not reduce required parking on the site. For the purposes of this requirement, routine maintenance activities shall not be considered to result in a measurable impact on parking. Applications for eligible facilities requests shall be exempt from this condition~~

provided that any reduction in onsite parking spaces does not violate a prior condition of approval or applicable building or safety code.

5. ~~Implementation and monitoring costs. The wireless communications permittee, service provider or its/their successor shall be responsible for the payment of all reasonable costs associated with the monitoring of the conditions of approval, including, but not limited to, costs incurred by the community development department, the office of the city attorney or any other appropriate City department or agency, to the full extent such costs are recoverable or collectible under applicable state and/or federal law. The community development department shall collect costs on behalf of the City.~~

6. ~~Development and operational standards. All facilities shall satisfy the development standards of the district in which they are proposed, as well as the Development and Operational Standards outlined in CMC 21.16 (e.g. Electrical Interference, Light and Glare, Noise, Odor, Vibration, Maintenance) and the Site Development Standards (e.g. as specified in CMC 21.18). Exceptions to development and operational standards shall only be permitted for (A) an eligible facility request to the extent required by law, (B) a subsequent collocation facility to the extent required by California Government Code section 65850.6(a), or (C) for a stealth facility when such exception is limited to maximum allowable heights, or minimum setbacks, and when such exception would not result in a perceivable visual impact.~~

7. ~~Permits. All permits required for the installation of the facility and associated improvements, shall be completed prior to operation of the facility (or component of that facility).~~

8. ~~Concealment. Every aspect of a stealth and/or concealed facility is considered an element of concealment including, but not limited to, the dimensions, bulk and scale, color, materials and texture. For all other facilities, elements such as dimension, scale, color, materials, and textures may be considered stealth and/or concealment elements of the facility. Any future modifications to the facility must not defeat concealment.~~

9. ~~Compliance with Applicable Laws. The permittee and service provider shall at all times comply with all applicable provisions of the CMC including, but not limited to, Title 21 (Zoning), any permit or approval issued under the CMC including, but not limited to, Title 21 (Zoning), and all other applicable federal, state and local laws, rules and regulations. Failure by the City to enforce compliance with applicable laws, rules or regulations shall not relieve any permittee of its obligations under the CMC including, but not limited to, Title 21 (Zoning), any permit or approval issued under the CMC, or any other applicable laws, rules and regulations.~~

10. ~~Compliance with Approved Plans. The facility shall be built in compliance with the approved plans on file with the community development department.~~

11. ~~Inspections; Emergencies. The City or its designee may enter onto the facility area to inspect the facility upon reasonable notice to the permittee in times of emergency. The permittee shall cooperate with all inspections. The City reserves the right to enter (or direct its designee to enter) the facility and support, repair, disable or remove any elements of the facility in emergencies or when the facility threatens imminent harm to persons or property.~~

12. ~~Contact Information for Responsible Parties. The permittee shall at all times maintain accurate contact information for all parties responsible for the facility, which shall include a phone number, street mailing address and email address for at least one natural person. All such contact information for responsible parties shall be provided to the community development director upon request.~~

13. ~~General Maintenance. The site and the facility, including but not limited to all landscaping, fencing, concealment features, and related transmission equipment, must be maintained in a neat and clean manner and in accordance with all approved plans and conditions of approval.~~

14. ~~Graffiti Removal. All graffiti on facilities must be removed at the sole expense of the permittee within forty-eight hours after notification from the City.~~

~~15. FCC (including, but not limited to, RF Exposure) Compliance. All facilities must comply with all standards and regulations of the FCC and any other state or federal government agency with the authority to regulate such facilities.~~

~~16. Abandonment.~~

~~a. To promote the public health, safety and welfare, the community development director may declare a facility (or component of a facility) abandoned or discontinued when: (a) The permittee or service provider abandoned or discontinued the use of a facility (or component of a facility) for a continuous period of ninety calendar days; or (b) The permittee or service provider fails to respond within thirty calendar days to a written notice from the community development director that states the basis for the community development director's belief that the facility (or component of the facility) has been abandoned or discontinued for a continuous period of ninety calendar days; or (c) The permit expires and the permittee has failed to file a timely application for renewal.~~

~~b. After the community development director declares a facility (or component of a facility) abandoned or discontinued, the permittee shall have sixty calendar days from the date of the declaration (or longer time as the community development director may approve in writing as reasonably necessary) to: (a) reactivate the use of the abandoned or discontinued facility (or component thereof) subject to the provisions of this chapter and all conditions of approval; or (b) remove the facility (or component of that facility) and all improvements installed in connection with the facility (or component of that facility), unless directed otherwise by the community development director, and restore the site to a condition in compliance with all applicable codes and consistent with the then-existing surrounding area.~~

~~c. If the permittee fails to act as required in Section 21.34.070(A)(16)(b) within the prescribed time period, the City may (but shall not be obligated to) remove the abandoned facility (or abandoned component of the facility), restore the site to a condition in compliance with all applicable codes and consistent with the then-existing surrounding area, and repair any and all damages that occurred in connection with such removal and restoration work. The City may, but shall not be obligated to, store the removed facility (or component of the facility) or any part thereof, and may use, sell or otherwise dispose of it in any manner the City deems appropriate. The last known permittee or its successor in interest and, if on private property, the real property owner shall be jointly liable for all costs and expenses incurred by the City in connection with such removal, restoration, repair and storage, and shall promptly reimburse the City upon receipt of a written demand, including, without limitation, any interest on the balance owing at the maximum lawful rate. The City may, but shall not be obligated to, use any financial security required in connection with the granting of the facility permit to recover its costs and interest. Until the costs are paid in full, a lien shall be placed on the facility, all related personal property in connection with the facility and, if applicable, the real private property on which the facility was located for the full amount of all costs for removal, restoration, repair and storage (plus applicable interest). The City Clerk shall cause the lien to be recorded with the County of Santa Clara Recorder's Office. Within sixty calendar days after the lien amount is fully satisfied including costs and interest, the City Clerk shall cause the lien to be released with the County of Santa Clara Recorder's Office.~~

~~d. After a permittee fails to comply with any provisions of this Section 21.34.070(A)(16) (Abandonment), the City may elect to treat the facility as a nuisance to be abated as provided in the CMC (including, but not limited to, Chapter 6.10).~~

~~17. Indemnities. The permittee, service provider, and, if applicable, the non-government owner of the private property upon which the tower and/or base station is installed (or is to be installed) shall defend (with counsel reasonably satisfactory to the City), indemnify and hold harmless the City of Campbell its officers, officials, directors, agents, representatives, and employees (i) from and against any and all damages, liabilities, injuries, losses, costs and expenses and from and against any and all claims, demands, lawsuits, judgments, writs of mandamus and other actions or proceedings brought against the City or its officers, officials, directors, agents, representatives, or employees to challenge, attack, seek to modify, set aside, void or annul the City's approval of the permit, and (ii) from and against any and all damages, liabilities, injuries, losses, costs and expenses and any~~

and all claims, demands, lawsuits, judgments, or causes of action and other actions or proceedings of any kind or form, whether for personal injury, death or property damage, arising out of, in connection with or relating to the acts, omissions, negligence, or performance of the permittee, the service provider, and/or, if applicable, the private property owner, or any of each one's agents, representatives, employees, officers, directors, licensees, contractors, subcontractors or independent contractors. It is expressly agreed that the City shall have the right to approve (which approval shall not be unreasonably withheld) the legal counsel providing the City's defense, and the property owner, service provider, and/or permittee (as applicable) shall reimburse City for any and all costs and expenses incurred by the City in the course of the defense.

~~B. Eligible Facilities Requests/Zoning Clearances. In addition to the conditions in subsection (A) above, all eligible facilities requests shall comply with and all associated zoning clearances shall include the following standard conditions of approval:~~

~~1. No Permit Term Extension. The City's grant or grant by operation of law of a zoning clearance for an eligible facilities request constitutes a federally mandated modification to the underlying permit or approval for the subject tower or base station. The City's grant or grant by operation of law of a zoning clearance for an eligible facilities request will not extend the permit term for any use permit, administrative site and architectural review permit or other underlying regulatory permit or approval and its term shall be coterminous with the underlying permit or other regulatory approval for the subject tower or base station. If requested in writing by the applicant at the time of application submittal, the permit term for the underlying conditional use permit or administrative site and architectural review permit may be administratively extended by the community development director (at his/her discretion) from the initial approval date upon verification that the facility continues to comply with this chapter (as may be amended from time to time) and all conditions of approval under which the facility was approved. All costs associated with the review process shall be borne by the service provider, permittee and/or property owner.~~

~~2. No Waiver of Standing. The approval of a zoning clearance for an eligible facilities request (either by express approval or grant by operation of law) does not waive, and shall not be construed to waive, any standing by the City to challenge Section 6409(a), any FCC rules that interpret Section 6409(a) or any eligible facilities request.~~

(Ord. No. 2226, § 5(Exh. A-1), 9-19-2017)

21.34.110 Ministerial Wireless Communications Facility Permit decision process.

The purpose of this Section is to establish the process for the review and approval of Ministerial Wireless Communications Facility permit applications, including, but not limited to, applications subject to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012.

- A. Review procedure. The Community Development Director, or their designee, shall conduct a ministerial review of the application to confirm compliance with the applicable provisions of this Chapter, approved conditions of approval, and relevant State and federal law. No public hearing shall be required.
- B. Approval criteria. The Community Development Director, or their designee, shall approve an application for a Ministerial Wireless Communications Facility Permit when the request meets all of the following requirements:
 - 1. The proposed facility does not involve or require any new discretionary approval; and
 - 2. The proposed facility complies with all applicable zoning regulations, design requirements, and conditions of approval.

- C. Additional approval criteria for eligible facility requests. For applications submitted under Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, the Director shall additionally determine that:
1. The application qualifies as an Eligible Facilities Request as defined by applicable federal law and FCC regulations;
 2. The proposed modification does not defeat or materially compromise existing concealment elements or stealth design features of the facility or support structure;
 3. With the proposed modification, the facility remains in compliance with all applicable FCC RF standards; and
 4. The proposed modification does not constitute a "substantial change" to the physical dimensions of the existing wireless tower or base station, as defined by Section 21.34.220 (Definitions.) of this Code or applicable federal law.
- D. Denial criteria. The Community Development Director, or their designee, may deny a Ministerial Wireless Communications Facility Permit if the proposed project:
1. Is not in substantial conformance with the approved plans, conditions of approval, and/or defeats or materially degrades concealment elements or stealth design features of the existing facility or support structure;
 2. Violates applicable building, structural, electrical, or safety codes or legally enforceable permit conditions; or
 3. Violates public health or safety standards enforceable under applicable law.
- E. Additional denial criteria for eligible facility requests. For applications submitted under Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, the Director may also deny the request if:
1. The proposed facility fails to meet the criteria for an Eligible Facilities Request under federal law and FCC regulations; or
 2. The modification constitutes a "substantial change" to the physical dimensions of the existing wireless tower or base station, as defined by Section 21.34.220 (Definitions.) of this Code or applicable federal law.
- F. Denial without prejudice. Any denial of a Ministerial Wireless Communications Facility Permit shall be without prejudice to the applicant's right to seek approval of the project through other discretionary permit processes, including but not limited to a Tier 1 Wireless Communications Facility Permit or Tier 2 Wireless Communications Facility Permit, subject to applicable requirements.
- G. Term of approval. Approval of a Ministerial Wireless Communications Facility Permit shall not extend, renew, or otherwise modify the term of any underlying entitlement, permit, lease, or other land use authorization.
- H. Consistency with federal law for Section 6409(a) applications. For applications submitted under Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, this Section shall be interpreted and applied in a manner consistent with the Telecommunications Act of 1996, Section 6409(a), applicable FCC rules and regulations, and any binding court decisions interpreting such laws. In the event that Section 6409(a) or any FCC rule interpreting Section 6409(a) is invalidated, amended, or otherwise rendered inapplicable, the City may require discretionary permits consistent with applicable law.

21.34.080 Regulations for facilities subject to a zoning clearance.

This subsection shall be interpreted and applied so as to be consistent with the Telecommunications Act of 1996, Section 6409(a), and the applicable FCC decisions and FCC rules and regulations, and court decisions and determinations relating to the same, including, without limitation, 80 FR 1238 (January 8, 2015), 47 C.F.R. §§1.1306(c), 1.1307(a)(4), 1.6100 et seq., In the Matter of Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, Report and Order, 29 FCC Red. 12865 (2014), and In re Petition for Declaratory Ruling, 24 FCC Red. 13994 (2009). In the event that a court of competent jurisdiction invalidates all or any portion of Section 6409(a) or any FCC rule that interprets Section 6409(a) such that federal law would not mandate approval for an eligible facilities request, then all modifications to existing facilities subject to this section that are proposed after such invalidation must be approved by a conditional use permit or administrative site and architectural review permit, as applicable, subject to the discretion of the community development director.

A. Findings. The community development director must approve a zoning clearance for an eligible facilities request when the director finds all of the following:

1. The proposed modification qualifies as an eligible facilities request and does not constitute a "substantial change" as defined in Section 21.34.200.
2. The applicant has provided all required submittal materials for the proposed modification.

B. Denial. In addition to any other alternative recourse permitted under federal law, the community development director may deny a zoning clearance upon finding that the proposed facility:

1. Defeats the effect of existing concealment elements of the support structure;
2. Violates any legally enforceable standard or permit condition related to compliance with generally applicable building, structural, electrical and/or safety codes;
3. Violates any legally enforceable standard or permit condition reasonably related to public health and/or safety; or
4. Does not qualify for mandatory approval under Section 6409(a) for any lawful reason.

C. Denial Without Prejudice. Any denial of an application for an eligible facilities request shall be without prejudice to the applicant, the real property owner or the project. Subject to the application and submittal requirements in this chapter, the applicant may submit a permit application (together with all required fees, costs and deposits) for a use permit, administrative site and architectural review permit, or zoning clearance, as appropriate.

D. Extensions. The approval of a zoning clearance for an eligible facilities request shall not automatically extend or renew the length or term of the underlying permit term or facility build out.

(Ord. No. 2226, § 5(Exh. A-1), 9-19-2017; Ord. No. 2293, § 1(Exh. B), 5-2-2023)

21.34.120090 Location Placement of wireless communications facilities.

This section establishes the City's preferred locations and structures for wireless facilities to minimize visual impacts, protect community character, and prioritize use of existing infrastructure, consistent with State and federal law.

A. Site location preferences. All applicants must, to the maximum extent feasible, propose new wireless facilities in locations according to the following preferences, ordered from most preferred to least preferred:

1. City-owned or controlled property;

2. Light Industrial, Research and Development, and General Commercial/Light Industrial designated parcels;
3. Public Facilities and Open Space designated parcels;
4. General Commercial designated parcels;
5. Neighborhood Commercial and Professional Office designated parcels;
6. Mixed Use designated parcels (excluding those designated General Commercial/Light Industrial), shall be prioritized based on their permitted residential density, with preference given to sites that allow for a higher maximum density within this priority level; then
7. Residential designated parcels (excluding those with a Mixed Use designation) shall be prioritized based on their permitted residential density, with preference given to sites that allow for a higher maximum density within this priority level; then
8. Historically designated parcels, regardless of any other designation above, and parcels with any other designation not specified above.

Proximity to Low-Density Residential Areas: Within each of the categories listed above, locations within 200 feet of a parcel designated for low-density residential land use shall be considered less preferable than other areas in the same category. However, such sites shall still be considered more preferable than locations in any lower-ranked category. This preference is intended to reduce potential land use conflicts and visual impacts on sensitive residential areas.

Note: For the purposes of this Section, parcels are designated by land use as depicted on the City General Plan Land Use Map, as amended from time to time.

B. Support structure preferences. Subordinate to the site location preferences described in subsection (A) above, all applicants must, to the maximum extent feasible, propose installations on support structures in the following order of preference, from most preferred to least preferred:

1. Installations of new stealth facilities within an existing building or structure that meet the design requirements and definition of a completely integrated facility;
2. Installations of new stealth facilities on the roof of existing buildings that have been constructed to at least to the maximum height permitted by the applicable zoning district, and installations that are flush-mounted to an existing high-voltage lattice tower, when meeting the design requirements and definition of a carefully placed facility;
3. Installations of new concealed roof mounted wireless facilities on existing structures;
4. Installations of new concealed façade mounted wireless facilities on existing structures; then
5. Installation of new freestanding wireless facilities (i.e., towers).

C. Less preferred locations or structures. For applications that involve lesser-preferred locations or structures pursuant to subsections A and B above, the applicant must demonstrate by clear and convincing evidence that any more preferred locations or support structures, within the targeted service area, would be technically infeasible.

~~A. To the extent feasible and when doing so would not conflict with applicable federal or state law, wireless communications facilities subject to the review and approval of a conditional use permit or an administrative site and architectural review permit shall be located in the most preferred location as described in this section and the General Plan, according to the following order of priority (ordered from the most preferred to the least preferred):~~

~~More preferred areas:~~

1. ~~City owned or controlled parcels; then~~
2. ~~Industrial, research and development & public facilities designated parcels; then~~
3. ~~General commercial, central business district, professional office, and mixed-use designated parcels; then~~
4. ~~Neighborhood commercial and open-space designated parcels; then~~

~~Less preferred areas:~~

5. ~~Residential, historical, and other designated areas, districts and/or parcels; then~~
6. ~~All other areas.~~

~~B. If an applicant proposes to locate a new facility or substantial change to an existing facility in a less preferred area, the applicant shall provide an additional alternative site analysis that, at a minimum, includes a meaningful comparative analysis of all the alternative sites in the more preferred locations that the applicant considered and states the underlying factual basis for concluding, and demonstrates, to the satisfaction of the decision making body, why each alternative in a more preferred location(s) is/are (i) not technically feasible, (ii) not potentially available, and/or (iii) more intrusive. The decision-making body may authorize a facility to be established in a less preferred location if doing so is necessary to prevent substantial aesthetic impacts.~~

~~C. Notwithstanding any provisions of this Section 21.34.090 (Location of wireless communications facilities) to the contrary, facilities in the public right-of-way may be found preferable to a location on private property, to the extent feasible and provided that the same order of priority, in consideration of the abutting land use(s), is maintained.~~

~~(Ord. No. 2226, § 5(Exh. A-1), 9-19-2017; Ord. No. 2293, § 1(Exh. B), 5-2-2023)~~

21.34.13000 Design requirements.

All wireless communications facilities ~~subject to a conditional use permit or an administrative site and architectural review permit~~ shall be designed as a stealth facility, or as a concealed facility, as defined in Section 21.34.22000 (Definitions), and incorporate concealment measures and/or techniques appropriate for the proposed location and design. All facilities and modifications thereto (except those facilities which qualify as an eligible facilities request pursuant to Section 6409(a) or as a subsequent collocation facility that is a permitted use not subject to a city discretionary permit pursuant to California Government Code ~~section~~Section 65850.6(a), for which these provisions shall serve only as guidelines) shall also comply with the Wireless Facility Design Requirements that have been adopted by the City. The cost or inconvenience to comply shall not provide justification to deviate from City design requirements.

(Ord. No. 2226, § 5(Exh. A-1), 9-19-2017)

21.34.140 Post decision procedures; discretionary permits.

Except as otherwise provided in this Chapter, all procedures set forth in Article 5 (Zoning Code Administration) shall apply to decisions on discretionary Wireless Communications Facility Permits. These include, but are not limited to, procedures related to appeals, permit modifications, performance guarantees, and revocation.

- A. Limitation on grounds for appeal. Pursuant to Section 332(c)(7) of the Telecommunications Act, local decisions may not be based, either directly or indirectly, on the environmental effects of radio frequency (RF) emissions if the facility complies with all applicable regulations of the FCC. Therefore,

appeals based on the environmental effects of RF emissions will not be considered when the facility is in compliance with FCC standards.

- B. Decisions made by the Community Development Director. Appeals of decisions made by the Community Development Director, filed in accordance with the requirements of Chapter 21.62 (Appeals), shall be referred to the City Council, rather than the Planning Commission.

~~21.34.110 Special findings for wireless communications facilities.~~

~~Whenever a conditional use permit or administrative site and architectural review permit is required for a wireless communications facility, the decision-making body shall first find all of the following conditions, in addition to those findings identified in CMC Section 21.46.040 (Findings and decision) and Section 21.42.050 (Action by community development director) respectively, are satisfied in order to approve the permit application:~~

- ~~A. The proposed facility, or modification to an existing facility, as conditioned will be a stealth or concealed facility as defined in Section 21.34.200;~~
- ~~B. The proposed facility, or modification to an existing facility, as conditioned will comply with all requirements of Chapter 21.34 (Wireless Communications Facilities);~~
- ~~C. The proposed facility, or modification to an existing facility, as conditioned will comply with all applicable design guidelines; and~~
- ~~D. The proposed facility, or modification to an existing facility, as conditioned will be consistent with the general plan.~~

~~(Ord. No. 2226, § 5 (Ex. A-1), 9-19-2017)~~

21.34.15020 Failure to act and remedies.

Under federal and/or State law, the City's failure to act on a wireless communications facility permit application within a reasonable period of time in accordance with the time periods and procedures established by applicable FCC decisions, accounting for tolling periods, may result in the permit being deemed granted by operation of law. To the extent federal or State law provides a "deemed grant" remedy for wireless communications facility applications not timely acted upon by the City, no such application shall be deemed granted unless and until the applicant satisfies the following requirements:

- A. For all facility applications:

- ~~1. Submits a complete application package, pursuant to the application procedures as specified in this chapter and applicable federal and state law and regulations.~~
12. Written notice. Following the date by which the City must take final action on the application (as determined in accordance with the time periods and procedures established by applicable FCC decisions and accounting for tolling), the applicant must provide written notice to the City that the application is deemed granted by operation of law.

- B. For discretionary~~conditional use permits and administrative site and architectural review permit~~ applications:

1. Completes all public noticing required pursuant to ~~CMC~~ Section 21.64.020 (Notice of hearing).
2. No more than thirty (30) calendar days before the date by which the City must take final action on the application (as determined in accordance with the time periods and procedures established by applicable FCC decisions and accounting for tolling), the applicant must provide the following written notice to all recipients identified in ~~CMC~~ Section 21.64.020(B)(2) (Mailing) and to the City.

- a. The notice shall be delivered to the City in person or by certified United States mail.
- b. The notice must include:
 - i. A statement that the applicant has submitted an application to the City;
 - ii. A project description including the location and general characteristics of the proposed facility;
 - iii. The following statement: "Pursuant to California Government Code Section 65964.1, State law may deem the application approved if the City fails to approve or deny the application within the time periods and procedures established by applicable FCC rules (unless otherwise agreed to by the City and applicant by mutual tolling agreement).";
 - iv. The applicant's identification and contact information as provided on the application submitted to the City and instructions on how to contact the applicant;
 - v. The following statement: "The City may not regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with FCC regulations concerning such emissions.
- b. ~~The notice must state that the applicant has submitted an application to the City, describe the location and general characteristics of the proposed facility, and include the following statement: "Pursuant to California Government Code Section 65964.1, state law may deem the application approved in thirty calendar days unless the City approves or denies the application, or the City and applicant reach a mutual tolling agreement."~~

(Ord. No. 2226, § 5(Exh. A-1), 9-19-2017)

~~21.34.130 Prohibited grounds for denial.~~

~~Notwithstanding any other provisions of this chapter, the denial of a conditional use permit, administrative site and architectural review permit, or zoning clearance may not be based on the environmental effects of RF emissions for wireless communications facilities that comply with FCC regulations, standards and guidelines concerning such RF emissions.~~

~~(Ord. No. 2226, § 5(Exh. A-1), 9-19-2017)~~

~~21.34.16040~~ **Revocation of permit.**

The City may revoke a permit for a wireless communications facility for noncompliance with any enforceable permit, permit condition, or law applicable to the facility. When the ~~community development director~~Community Development Director finds reason to believe that grounds for permit revocation exist, the director shall notify the permittee that a violation exists and request compliance within a reasonable amount of time. Upon failure to comply, the ~~community development director~~Community Development Director may schedule a public hearing before the ~~Planning Commission~~planning commission at which the commission may modify or revoke the permit. A revocation by the ~~Planning Commission~~planning commission may be appealed to the City Council as set forth by Chapter 21.62 (Appeals). All hearings for revocations or modification of previously approved permits and entitlements shall be noticed and conducted in compliance with the proceedings set forth in ~~CMC~~Chapter 21.68 (Revocations and modifications).

(Ord. No. 2226, § 5(Exh. A-1), 9-19-2017)

21.34.17050 Temporary wireless communications facilities.

A temporary wireless communications facility, such as a "cell-on-wheels" (COW) may be used during public emergencies, including when a local emergency is declared by the City Manager. A COW or similar temporary wireless communications facility or equipment shall not be permitted for maintenance activities or while awaiting an expected entitlement or pending plan review, and the temporary allowance of such equipment or facility during an emergency shall not be considered to establish a permanent use of such a facility or structure after the emergency has ended, as declared by the City Manager. Once the emergency has ended, the temporary wireless communications facility shall be removed by the owner.

(Ord. No. 2226, § 5(Exh. A-1), 9-19-2017)

21.34.180 Limited exception from standards.

The purpose of this Section is to establish a narrowly tailored process by which the City may grant limited exceptions to the requirements of this Chapter when necessary to comply with applicable State or federal law. This Section is intended to preserve the City's authority to enforce its local regulations to the greatest extent legally permissible, while recognizing that strict application of certain standards in limited circumstances may conflict with the rights conferred upon applicants under State or federal law. The procedures and findings set forth herein are designed to ensure that any exception granted is based on substantial evidence, adheres to legal constraints, and is limited in scope to avoid undermining the objectives of this Chapter.

- A. Requesting a limited exception. An applicant may request a limited exception at any time prior to the application being deemed complete. A request for a limited exception submitted after the application has been deemed complete shall require a new application. Exceptions are not automatically granted and must be reviewed as part of a discretionary permit application process (i.e., a Tier 1 or Tier 2 Wireless Communications Facility Permit). The request will be considered by the applicable decision-making body at the time it takes action on the associated Wireless Communications Facility Permit and account for any requested expansion of the facility which could occur as a result of a future eligible facility request pursuant to Section 6409(a) and FCC rules implementing Section 6409 of the Spectrum Act, codified at 47 U.S.C. 1455. Each exception is specific to the facts and circumstances in connection with each application. An exception granted in one instance shall not be deemed to create a presumption that an exception will be granted in any other instance.
- B. Application requirements. In order to request a limited exception, the applicant shall submit a written justification, supported by substantial evidence, to prove to the applicable decision-making body (or appellate authority on appeal) that strict compliance with this Chapter would prohibit or have the effect of prohibiting the provision of personal wireless services, or otherwise violate State or federal law, and that an exception should therefore be granted pursuant to this Section. The applicant must also provide clear and convincing evidence that alternative sites or facility configurations would not resolve the conflict with the applicable standard or are technically infeasible or not reasonably available.
- C. Minimum extent necessary. The requested exception shall be narrowly tailored so that the limited exception deviates from this Chapter to the least extent necessary to avoid violation of federal or State law.

~~**21.34.160 Limited exemption from standards.**~~

~~The applicant always bears the burden to demonstrate why an exemption should be granted. An applicant may request an exemption from one or more requirements of this chapter on the basis that a permit denial would effectively prohibit personal wireless services in the City. For the City to approve such an exemption, the applicant must demonstrate with clear and convincing evidence all of the following:~~

- ~~A. A significant gap in the applicant's service coverage exists; and~~

~~B. All alternative sites identified in the application review process are either technically infeasible or not potentially available.~~

21.34.19070 Independent consultant review.

- A. Authorization. The City Council authorizes the ~~community development director~~ Community Development Director to, in ~~their~~ his or her sole discretion, select and retain an independent consultant with expertise in specialized knowledge in telecommunications issues or any issues related to the application for a Wireless Communications Facilities Permit ~~telecommunications satisfactory to the community development director~~ in connection with any permit application.
- B. Scope. The ~~community development director~~ Community Development Director may request independent consultant review on any issue that involves specialized or expert knowledge in connection with the permit application. Such issues may include, but are not limited to:
1. Permit application completeness or accuracy;
 2. Pre-construction planned compliance or post-construction actual compliance with applicable regulations for human exposure to RF emissions; ~~Whether and where a significant gap exists or may exist, and whether such a gap relates to service coverage or service capacity;~~
 3. Whether technically feasible and potentially available alternative locations and designs exist;
 4. The applicability, reliability and/or sufficiency of analyses or methodologies used by the applicant to reach conclusions about any issue within the scope of this Chapter; and
 5. Any other issue that requires expert or specialized knowledge identified by the ~~community development director~~ Community Development Director.
- C. Deposit. To the full extent such costs are recoverable or collectible under applicable State and/or federal law, the applicant must pay for the reasonable cost of such review and for the technical consultant's testimony in any hearing as requested by the ~~community development director~~ Community Development Director and must provide a reasonable advance deposit of the estimated cost of such review with the City prior to the commencement of any work by the technical consultant. Where the advance deposit(s) are insufficient to pay for the reasonable cost of such review and/or testimony, the ~~community development director~~ Community Development Director shall invoice the applicant who shall pay the invoice in full within ten (10) calendar days after receipt of the invoice.

(Ord. No. 2226, § 5(Exh. A-1), 9-19-2017)

21.34.200180 Changes in law.

All facilities shall meet the current standards and regulations of the FCC, the California Public Utilities Commission, and any other agency of the federal or State government with the authority to regulate wireless communications providers and/or wireless communications facilities. If such standards and/or regulations are changed, the permittee and/or wireless communications provider shall bring its facilities into compliance with such revised standards and regulations within ninety (90) calendar days of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal or State agency. Failure to bring wireless communications facilities into compliance with such revised standards and regulations shall constitute grounds for the immediate removal of such facilities at the permittee and/or wireless communications provider's expense.

(Ord. No. 2226, § 5(Exh. A-1), 9-19-2017)

21.34.210190 Severability.

In the event that a court of competent jurisdiction holds any ~~section~~Section, subsection, paragraph, sentence, clause, or phrase in this ~~section~~Section-Chapter unconstitutional, preempted, or otherwise invalid, the invalid portion shall be severed from this ~~section~~SectionChapter and shall not affect the validity of the remaining portions of this ~~section~~SectionChapter. The City hereby declares that it would have adopted each ~~section~~Section, subsection, paragraph, sentence, clause, or phrases in this ~~section~~Chapter irrespective of the fact that any one or more ~~sections~~Sections, subsections, paragraphs, sentences, clauses or phrases in this ~~section~~SectionChapter might be declared unconstitutional, preempted, or otherwise invalid.

(Ord. No. 2226, § 5(Exh. A-1), 9-19-2017)

21.34.220200 Definitions.

As used in this ~~Chapter~~ chapter, the following terms shall have the meaning set forth below, unless the context clearly dictates a different meaning:

"Antenna" means ~~the same as defined by the FCC in 47 C.F.R. Section 1.6002(b), as may be amended or superseded,~~ which defines that term as follows: an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Commission authorization, for the provision of personal wireless service and any commingled information services, a device or system of wires, poles, rods, dishes, discs or similar devices used for the transmission and/or receipt of electromagnetic waves.

"Applicable FCC decisions" or "applicable FCC rules" means the same as defined by California Government Code ~~Section~~Section 65964.1(d)(1f), as may be amended or superseded, which defines that term as "In re Petition for Declaratory Ruling, 24 FCC Rcd. 13994 (2009) and In the Matter of Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, Report and Order, 29 FCC Rcd. 12865 (2014)."

"Applicable law" means all applicable federal, state and local law, ordinances, codes, rules, regulations and orders, as the same may be amended from time to time.

"Attached wireless facility" means any wireless communications facility that is not a free-standing wireless facility.

"Base station" means the same as defined in 47 C.F.R. Section 1.6100(b)(1), as may be amended or superseded.

~~"Base station" means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(1), as may be amended, which defines that term as follows: a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined as in this chapter or in 47 C.F.R. Section 1.6100(b)(9), or any equipment associated with a tower:~~

- ~~(i) The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.~~
- ~~(ii) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small cell networks).~~
- ~~(iii) The term includes any structure other than a tower that, at the time the relevant application is filed with the State or local government under 47 C.F.R. §1.6100, supports or houses equipment described in paragraphs (b)(1)(i)–(iv) of 47 C.F.R. §1.6100 that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.~~
- ~~(iv) The term does not include any structure that, at the time the relevant application is filed with the State or local government under 47 C.F.R. §1.6100, does not support or house equipment described in paragraphs (b)(1)(i)–(iv) of 47 C.F.R. Section 1.6100.~~

"Carefully placed facility" means a facility that is situated in a location which renders a facility virtually imperceptible to the public. As such, the emphasis for this category of stealth facility is on its location as opposed to its design. Carefully placed facilities require no camouflaging or screening, in that existing site features (e.g. buildings, walls, roof parapets, or existing equipment) render such a requirement unnecessary. Successful examples of carefully placed facilities may include those proposed within an existing building (requiring no alteration of existing materials), those sited on the roof of a particularly large or tall building, and those which are flush mounted to an existing high voltage lattice tower and treated to match.

"Cell site" means a parcel of real property on which a wireless communications facility is to be located.

"CMC" means the Campbell Municipal Code.

"Collocation" means:

1. Except as provided in subsection (2), "collocation" means the same as defined in 47 C.F.R Section 1.6002(g), as may be amended or superseded.
2. Notwithstanding subsection (1), with respect to eligible facilities requests, "collocation" means the same as defined in 47 C.F.R. Section 1.6100(b)(2), as may be amended or superseded, which defines that term as "[t]he mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes." As an illustration and not a limitation, the FCC's definition effectively means "to add" new equipment to an existing facility and does not necessarily refer to more than one wireless facility installed at a single site.

"Collocation" means:

- ~~(a) Except as provided in subsection (b), "collocation" means the same as defined in the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas, 47 CFR pt. 1, App. B, and applicable FCC decisions (including, but not limited to, In re Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B), 24 FCC Red. 13994 (2009)).~~
- ~~(b) Notwithstanding subsection (a), with respect to eligible facilities requests, "collocation" means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(2), as may be amended, which defines that term as "[t]he mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes." As an illustration and not a limitation, the FCC's definition effectively means "to add" new equipment to an existing facility and does not necessarily refer to more than one wireless facility installed at a single site.~~

"Communications" means any transmission, emission or reception of signals, images and sound or information of any nature by wire, radio, visual or electromagnetic system that work on a "line-of-sight" principle.

~~"Community development director~~Community Development Director" or "director" means the ~~community development director~~Community Development Director of the City of Campbell or his or her designee.

~~"Community Development Department~~development department" means the Community Development Department~~community development department~~ of the City of Campbell.

"Completely integrated facility" means a facility that is incorporated into an existing structure or site in a manner which does not result in a new feature being added. This stealth category may result in the removal of existing siding, or materials to achieve RF transparency, provided that the replacement materials match, to the extent feasible, the existing or abutting material. Where an equivalent material match cannot be adequately demonstrated, a stealth facility could propose to completely remove and replace an existing material if doing so serves to achieve a more cohesive design and does not disrupt the design of the building (e.g. the replacement of all roof shingles, as opposed to simply removing/replacing a smaller impacted roof or wall sections).

"Concealed facility" means any wireless communications facility which results in new site or architectural features being added to a property in a manner which complements, enhances, or seamlessly integrates into their surroundings. Examples of concealed facilities include, but are not limited to the construction of new rooftop, louver, chimney, silo, pole, railing, sign, window, parapets, dormers, steeples, penthouses, water towers, bell towers, artificial trees, and flag poles.

"Deemed granted" or "deemed granted status" means a wireless communications facility for which the applicant submitted an application in compliance with the procedures and requirements of this Chapter that was not acted upon by the City within a reasonable period of time in accordance with the time periods and procedures established by applicable FCC decisions (accounting for tolling periods), and satisfied the requirements of ~~CMC~~ Section 21.34.15~~20~~

(Failure to act and remedies), and as a result had its permit granted by operation of law in accordance with federal and/or State law.

"Electromagnetic field (EMF)" means the local electric and magnetic fields that envelop the surrounding space. The most ubiquitous source of electromagnetic fields is from the movement and consumption of electric power, (e.g., transmission lines, household appliances and lighting).

"Eligible facilities request" means the same as defined in 47 C.F.R. Section 1.6100(b)(3), as may be amended or superseded.

~~"Eligible facilities request" means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(3), as may be amended, which defines that term as "[a]ny request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:~~

- ~~i. Collocation of new transmission equipment;~~
- ~~ii. Removal of transmission equipment; or~~
- ~~iii. Replacement of transmission equipment."~~

"Eligible support structure" means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(4), as may be amended or superseded, which defines that term as "[a]ny tower or base station as defined in [47 C.F.R. Section 1.6100] provided that it is existing at the time the relevant application is filed with the State or local government under [47 C.F.R. Section 1.6100]."

"Existing" means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(5), as may be amended or superseded, which provides that "[a] constructed tower or base station is existing for purposes of the [FCC rules implementing Section 6409 of the Spectrum Act, codified at 47 U.S.C. 1455] if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition."

"FCC" means the Federal Communications Commission or any successor to that agency, which has primary regulatory control over communications providers through its powers to control interstate commerce and to provide a comprehensive national system in compliance with the Federal Communications Act.

"Freestanding wireless facility" means a wireless communications facility that is a self-supported structure and not mounted on or attached to any existing building or structure. This type of wireless facility specifically includes, but is not limited to, faux trees and towers, other than a temporary wireless communications facility.

"MPE" means maximum permissible exposure.

"Non-commercial communications service" includes amateur (HAM) radio facilities licensed by the FCC, and satellite dish antennas (see ~~CAC~~ Section 21.36.190 (Satellite dish antennas)) and when used for non-commercial exchange of messages, private recreation and emergency communication, except when associated with a wireless communication facility.

"Personal wireless services" means the same as defined in 47 U.S.C. §332(c)(7)(C)(i), as may be amended or superseded.

"RF" means radio frequency.

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

"Service provider" means a wireless communications provider, a company or organization, or the agent of a company or organization that provides wireless communications services.

"Significant gap" is a gap in the service provider's own wireless communications facilities, as defined in federal case law interpretations of the Federal Telecommunications Act of 1996.

"Site" means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(6), as may be amended or superseded, which provides in part that "[f]or towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground."

"Small wireless facility" means the same as defined in 47 C.F.R. Section 1.6002(l), as may be amended or superseded.

"State" means the State of California.

"Stealth facility" means facilities which result in no perceptible visual impact. As such, stealth facilities are generally preferable to concealed facilities except in rare circumstances when the concealment method serves to improve the aesthetic value or interest to a building or site. There are two primary categories of stealth facilities, those which are completely integrated into an existing structure or architectural feature and those which are imperceptible as a result of careful placement. Both stealth categories require the facility to remain integrated or imperceptible, even when the facility may be expanded upon under the provisions of an eligible facilities request.

"Substantial change" means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(7), as may be amended or superseded, which defines that term differently based on the particular facility type and location. For clarity, the definition in this ~~Chapter~~ chapter organizes the FCC's criteria and thresholds for a substantial change according to the facility type and location.

1. For towers outside the public right-of-way, a substantial change occurs when:
 - a. The proposed collocation or modification increases the overall height more than ten percent or the height of one additional antenna array not to exceed twenty feet (whichever is greater); or
 - b. The proposed collocation or modification involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance (whichever is greater); or
 - c. The proposed collocation or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four cabinets; or
 - d. The proposed collocation or modification involves excavation outside the current boundaries of the leased or owned property surrounding the wireless tower, including any access or utility easements currently related to the site.
2. For towers in the public rights-of-way and for all base stations, a substantial change occurs when:
 - a. The proposed collocation or modification increases the overall height more than ten percent or ten feet (whichever is greater); or
 - b. The proposed collocation or modification involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet; or
 - c. The proposed collocation or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four cabinets; or
 - d. The proposed collocation or modification involves the installation of any new equipment cabinets on the ground when there are no pre-existing ground cabinets associated with the structure; or
 - e. The proposed collocation or modification involves the installation of any ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure; or

- f. The proposed collocation or modification involves excavation outside the area in proximity to the structure and other transmission equipment already deployed on the ground.
3. In addition, for all towers and base stations wherever located, a substantial change occurs when:
 - a. The proposed collocation or modification would defeat the existing concealment elements of the support structure as determined by the ~~community development director~~ Community Development Director; or
 - b. The proposed collocation or modification violates a prior condition of approval, provided however that the collocation need not comply with any prior condition of approval related to height, width, equipment cabinets or excavation that is inconsistent with the thresholds for a substantial change described in this ~~section~~ Section.
 4. Interpretation of ~~t~~ Thresholds.
 - a. The thresholds for a substantial change described above are disjunctive. The failure to meet any one or more of the applicable thresholds means that a substantial change would occur.
 - b. The thresholds for height increases are cumulative limits. For sites with horizontally separated deployments, the cumulative limit is measured from the originally-permitted support structure without regard to any increases in size due to wireless equipment not included in the original design. For sites with vertically separated deployments, the cumulative limit is measured from the permitted site dimensions as they existed on February 22, 2012—the date that Congress passed Section 6409(a).

"Support Structure" or "Support Structures" means a structure or structures designed to support antenna(s) or other wireless transmission equipment to facilitate the transmitting and/or receiving of radio frequency signals. Support structures include, but are not limited to, masts, monopoles, guyed structures, lattice towers, and other like structures used to support wireless transmission devices.

"Targeted service area" means the geographic area identified by the applicant where the proposed wireless communications facility is intended to provide or improve service, based on the applicant's technical objectives such as coverage, capacity, or signal quality.

"Technically infeasible" means a situation where compliance with a specific requirement in this Chapter is physically impossible and not merely more difficult or more expensive than a noncompliant alternative.

"Temporary wireless communications facility" means a wireless communications facility located on a parcel of land and consisting of a vehicle-mounted facility, a building mounted antenna, or a similar facility, and associated equipment, that is used to provide temporary coverage for a large-scale event or an emergency, or to provide temporary replacement coverage due to the removal of an existing permitted, permanent wireless communications facility necessitated by the demolition or major alteration of a nearby property.

~~"Tower" means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(9), as may be amended or superseded, which defines that term as "[a]ny structure built for the sole or primary purpose of supporting any [FCC]-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. Examples include, but are not limited to, monopoles, mono-trees and lattice towers.~~

~~"Transmission equipment" or "wireless transmission equipment" means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(8), as may be amended, or superseded, which defines that term as "equipment that facilitates transmission for any [FCC]-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul."~~

"Visual impact" means the placement or design of a wireless communications facility such that it may be noticed by a person of average height when standing on the ground of a street, sidewalk or private property.

"Wireless communications facility" means a land use facility supporting antennas that sends and/or receives radio frequency signals, AM/FM, microwave, and/or electromagnetic waves for the purpose of providing voice, data, images or other information, including, but not limited to, cellular and/or digital telephone service, personal communications services, and paging services. Wireless communications facilities include antennas and all other types of equipment for the transmission or receipt of the signals; towers or similar structures built to support the equipment; equipment cabinets, base stations, generators, cables, conduit, and other accessory development and support features; and screening and concealment elements. Also referred to as a "communication facility", ~~or "facility"~~, "wireless facility", or "wireless communications facility."

"Wireless communications provider" means any company or organization that provides or who represents a company or organization that provides wireless communications services.

(Ord. No. 2226, § 5(Exh. A-1), 9-19-2017; Ord. No. 2293, § 1(Exh. B), 5-2-2023)