

RESOLUTION NO. PC-2019-02

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PLEASANTON
RECOMMENDING CITY COUNCIL APPROVAL OF AN ORDINANCE AMENDING CHAPTER
18.110 OF THE PLEASANTON MUNICIPAL CODE AND RECOMMENDING ADOPTION OF
A COUNCIL POLICY REGULATING SMALL WIRELESS FACILITIES [P19-0027]

WHEREAS, on September 26, 2018, the FCC adopted a declaratory ruling and report and order that, among other things, creates a new regulatory classification for small wireless facilities, requires State and local governments to process applications for small wireless facilities within 60 days or 90 days, establishes a national standard for an effective prohibition and provides that a failure to act within the applicable timeframe presumptively constitutes an effective prohibition;

WHEREAS, on February 20, 2019, the Planning Commission held a duly noticed public hearing on the proposed ordinance amendment to Chapter 18.110 of the Pleasanton Municipal Code and a new policy regulating small wireless facilities, reviewed and considered the staff report, other written reports, public testimony and other information contained in the record;

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of the City of Pleasanton, based on the entire record of proceedings, including the oral and written staff reports and all public comment and testimony, that:

- A. The Planning Commission hereby recommends that the City Council amend Chapter 18.110 of the Municipal Code and adopt a new policy regulating small wireless facilities based on the following:
1. Recent changes in federal law limit local governments from exercising full zoning controls over small wireless facilities. Although these new regulations are subject to a pending legal challenge, the regulations are currently in partial effect and failure to comply at this time may result in an even more significant loss of local control. The proposed code amendment would comply with the recent changes in federal law by providing reasonable aesthetic regulations and a review and approval process for such facilities within the City of Pleasanton that is consistent with the new, shorter timeframes to act on a permit application. (The recommended amendment to Chapter 18.110 of the Municipal Code is included as Exhibit A, attached hereto.)
 2. The proposal to the City Council includes the adoption of a new City Council policy that would include design and operational standards for small wireless facilities that would provide the maximum amount of local control legally established for the regulation of small wireless facilities. (The recommended Policy on Small Wireless Facilities is included as Exhibit B, attached.)
- B. The proposed code amendment is not considered a "project" under the California Environmental Quality Act (CEQA) because the proposal is not an activity that has the potential for a direct physical change or reasonably foreseeable indirect physical

change in the environment. If the proposed code amendment did qualify as a "project" subject to CEQA, the project would exempt from further environmental review in accordance with CEQA Guidelines section 15061(b)(3) because the project involves the adoption of regulations for small wireless facilities and does not directly or indirectly authorize or approve any actual physical change in the environment.

PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of Pleasanton at a regular meeting held on February 20, 2019, by the following vote:

AYES:
NOES:
ABSTAIN:
RECUSED:
ABSENT:
ATTEST:

Ellen Clark
Secretary, Planning Commission

Nancy Allen
Chair

APPROVED AS TO FORM:

Julie Harryman
Assistant City Attorney

Exhibits:

- A. Draft Ordinance amending Chapter 18.110 of the Pleasanton Municipal Code
- B. Draft City Council Policy, Small Wireless Facilities

URGENCY ORDINANCE NO. _____

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLEASANTON AMENDING CHAPTER 18.110 OF THE PLEASANTON MUNICIPAL CODE ESTABLISHING REGULATIONS FOR SMALL WIRELESS FACILITIES PURSUANT TO APPLICABLE FEDERAL LAWS

WHEREAS, pursuant to Article XI, section 7 of the California Constitution and sections 36931 et seq. of the California Government Code, the City Council may make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws; and

WHEREAS, significant changes in federal and State law that affect local authority over wireless communications facilities ("WCFs") have occurred, including but not limited to the following:

1) On November 18, 2009, the Federal Communications Commission ("FCC") adopted a declaratory ruling (the "2009 Shot Clock"), which established presumptively reasonable timeframes for State and local governments to act on applications for WCFs; and

2) On February 22, 2012, Congress adopted Section 6409(a) of the Middle Class Tax Relief and Job Creation Act ("Section 6409(a)"), which mandated that State and local governments approve certain modifications and collocations to existing WCFs; and

3) On October 17, 2014, the FCC adopted a report and order that, among other things, implemented new limitations on how State and local governments review applications covered by Section 6409(a), established an automatic approval for such applications when the local reviewing authority fails to act within 60 days, and also further restricted generally applicable procedural rules under the 2009 Shot Clock. This report and order effectively preempted local moratoria on WCFs by finding that the 2009 Shot Clock continues to run even when a valid moratorium is adopted; and

4) On October 9, 2015, California adopted Assembly Bill No. 57 (Quirk), which deemed approved any WCF applications when the local reviewing authority fails to act within the 2009 Shot Clock timeframes; and

5) On August 2, 2018, the FCC adopted a declaratory ruling that formally prohibited express and *de facto* moratoria for all telecommunications services and facilities under 47 U.S.C. § 253(a) and directed the Wireline Competition Bureau and the Wireless Telecommunications Bureau to hear and resolve all complaints on an expedited basis; and

6) On September 26, 2018, the FCC adopted a declaratory ruling and report and order that, among other things, creates a new regulatory classification for small wireless facilities, requires State and local governments to process applications for small wireless facilities within 60 days or 90 days, establishes a national standard for an effective prohibition and provides that a failure to act within the applicable timeframe presumptively constitutes an effective prohibition.

WHEREAS, given the rapid and significant changes in federal and State law, the actual and effective prohibition on moratoria to amend local policies in response to such changes and the significant adverse consequences for noncompliance with federal and State law, the City Council desires to amend Pleasanton Municipal Code Chapter 18.110, to allow greater flexibility

and responsiveness to new federal and State laws in order to preserve the City's traditional authority to the maximum extent practicable (collectively, the "Amendments"); and

WHEREAS, on February 20, 2019, the Planning Commission held a duly noticed public hearing on the Amendments, reviewed and considered the staff report, other written reports, public testimony and other information contained in the record, and recommended that the City Council adopt the Amendments; and

WHEREAS, on March 11, 2019, the City Council held a duly noticed public hearing on the Amendments, reviewed and considered the staff report, other written reports, public testimony and other information contained in the record.

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

SECTION 1. The City Council finds that:

a) The facts set forth in the recitals in this Ordinance are true and correct and incorporated by reference. The recitals constitute findings in this matter and, together with the staff report, other written reports, public testimony and other information contained in the record, are an adequate and appropriate evidentiary basis for the actions taken in this Ordinance.

b) The Amendments are consistent with the General Plan, Pleasanton Municipal Code, and applicable federal and State law.

c) The City Council finds that the public health need of the community is met by the immediate adoption of the Policy on Small Wireless Facilities since wireless communications facilities are aesthetically displeasing and out of harmony with the character of this community so as to constitute visual blight which reduces the quality of life within the community to the extent that the overall public health is detrimentally affected. Given the short time the City has to process applications for small wireless communication facilities, there is an immediate need for such Policy.

SECTION 2. Findings for California Environmental Quality Act (CEQA) Review

Pursuant to California Environmental Quality Act ("CEQA") Guidelines § 15378 and California Public Resources Code § 21065, the City Council finds that this Ordinance is not a "project" because its adoption is not an activity that has the potential for a direct physical change or reasonably foreseeable indirect physical change in the environment. Accordingly, this Ordinance is not subject to CEQA.

Even if this Ordinance qualified as a "project" subject to CEQA, the City Council finds that, pursuant to CEQA Guidelines § 15061(b)(3), there is no possibility that this project will have a significant impact on the physical environment. This Ordinance merely amends the Pleasanton Municipal Code to authorize the adoption of regulations related to WCFs. This Ordinance does not directly or indirectly authorize or approve any actual changes in the physical environment. Applications for any new WCF or change to an existing WCF would be subject to additional environmental review on a case-by-case basis. Accordingly, the City Council finds that this Ordinance would be exempt from CEQA under the general rule.

SECTION 3. Amending Pleasanton Municipal Code Chapter 18.110

A new section 18.110.010.B is added to the Pleasanton Municipal Code, which reads as follows:

B. Special Provisions for Small Wireless Facilities. Notwithstanding any other provision of this chapter as provided herein, all small wireless facilities as defined by the FCC in 47 C.F.R. § 1.6002(l), as may be amended or superseded, are subject to a permit as specified in City Council Policy, *Small Wireless Facilities*, which is adopted and may be amended by City Council resolution. All small wireless facilities shall comply with the Policy on Small Wireless Facilities. In the event that the FCC Order adopting said regulations is invalidated by a court of competent jurisdiction or repealed and not replaced, the provisions in this Chapter shall control over the Policy on Small Wireless Facilities.

SECTION 4. Conflicts with Prior Ordinances If the provisions in this Ordinance conflict in whole or in part with any other City regulation or ordinance adopted prior to the effective date of this section, the provisions in this Ordinance will control.

SECTION 5. A summary of this ordinance shall be published once within fifteen (15) days after its adoption in "The Valley Times," a newspaper of general circulation published in the City of Pleasanton, and the complete ordinance shall be posted for fifteen (15) days in the City Clerk's office within fifteen (15) days after its adoption.

SECTION 6. This Ordinance, pursuant to California Government Code Section 36937(b), shall become effective immediately.

SECTION 7. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

The foregoing Urgency Ordinance was adopted at a special meeting of the City Council of the City of Pleasanton on March 11, 2019, by the following vote:

- Ayes:
- Noes:
- Recused:
- Absent:
- Abstain:

Jerry Thorne, Mayor

ATTEST:

Karen Diaz, City Clerk

Dated: _____

APPROVED AS TO FORM:

Daniel G. Sodergren, City Attorney

CITY OF PLEASANTON	Policy No. [reserved]
CITY COUNCIL POLICY	Adopted: [date] Revised:
GENERAL SUBJECT: SMALL WIRELESS FACILITIES	

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SECTION 1. GENERAL PROVISIONS

SECTION 1.1. PURPOSE AND INTENT

- (a) On September 27, 2018, the Federal Communications Commission ("FCC") adopted a *Declaratory Ruling and Third Report and Order*, FCC 18-133 (the "*Small Cell Order*"), in connection with two informal rulemaking proceedings entitled *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79, and *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84. The regulations adopted in the *Small Cell Order* significantly curtail the local authority over wireless and wireline communication facilities reserved to State and local governments under sections 253 and 704 in the federal Telecommunications Act.
- (b) The City of Pleasanton intends this Policy to establish reasonable, uniform and comprehensive standards and procedures for small wireless facilities deployment, construction, installation, collocation, modification, operation, relocation and removal within the City's territorial boundaries, consistent with and to the extent permitted under federal and California state law. The standards and procedures contained in this Policy are intended to, and should be applied to, protect and promote public health, safety and welfare, and balance the benefits that flow from robust, advanced wireless services with the City's local values, which include without limitation the aesthetic character of the City, its neighborhoods and community. This Policy is also intended to reflect and promote the community interest by (1) ensuring that the balance between public and private interests is maintained; (2) protecting the City's visual character from potential adverse impacts and/or visual blight created or exacerbated by small wireless facilities and related communications infrastructure; (3) protecting and preserving the City's environmental resources; (4) protecting and preserving the City's public rights-of-way and municipal infrastructure located within the City's public rights-of-way; and (5) promoting access to high-quality, advanced wireless services for the City's residents, businesses and visitors.
- (c) This Policy is not intended to, nor shall it be interpreted or applied to: (1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services; (2) prohibit or effectively prohibit any entity's ability to provide any telecommunications service, subject to any competitively neutral and nondiscriminatory rules, regulations or other legal requirements for rights-of-way management; (3) unreasonably discriminate among providers of functionally equivalent personal wireless services; (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions; (5) prohibit any collocation or modification that the City may not deny under federal or

California state law; (6) impose any unreasonable, discriminatory or anticompetitive fees that exceed the reasonable cost to provide the services for which the fee is charged; or (7) otherwise authorize the City to preempt any applicable federal or California law.

SECTION 1.2. GENERAL DEFINITIONS

- (a) **Undefined Terms.** Undefined phrases, terms or words in this section will have the meanings assigned to them in 1 U.S.C. § 1, as may be amended or superseded, and, if not defined therein, will have their ordinary meanings. If any definition assigned to any phrase, term or word in this section conflicts with any federal or state-mandated definition, the federal or state-mandated definition will control.
- (b) **Defined Terms.**
- (1) **“antenna”** means the same as defined by the FCC in 47 C.F.R. § 1.6002(b), as may be amended or superseded.
 - (2)
 - (3) **“arterial road”** means a road designed to feed through-traffic to freeways, provide access to adjacent land uses – mostly at intersections – and feature traffic control measures. The term “arterial road” as used in this Policy is defined in the **City of Pleasanton General Plan, Circulation Element.**
 - (4) **“collector road”** means a road designed to provide access to adjacent land uses and feed local traffic to arterials. The term “collector road” as used in this Policy includes collectors and residential collectors as defined in the **City of Pleasanton General Plan, Circulation Element.**
 - (5) **“collocation”** means the same as defined by the FCC in 47 C.F.R. § 1.6002(g), as may be amended or superseded.
 - (6) **“Community Development Director”** means the Community Development Director or his/her designee and shall be the City official responsible for reviewing applications for small cell permits and vested with the authority to approve, conditionally approve or deny such applications as provided in this Policy.
 - (7) **“concealed”** or **“concealment”** means concealing techniques that integrate the transmission equipment into the surrounding natural and/or built environment such that the average, untrained observer cannot directly view the equipment but would likely recognize the existence of the wireless facility or concealment technique. Camouflaging concealment techniques include but are not limited to: (1) antennas mounted within a radome above a streetlight; (2) equipment cabinets in the public rights-of-way painted or wrapped to match the

background; and (3) cables and wiring concealed within a shroud and/or routed internally through the support structure.

- (8) **"decorative pole"** means any pole that includes decorative or ornamental features, design elements and/or materials intended to enhance the appearance of the pole or the public rights-of-way in which the pole is located.
- (9) **"FCC"** means the Federal Communications Commission or its duly appointed successor agency.
- (10) **"FCC Shot Clock"** means the presumptively reasonable time frame within which the City generally must act on a given wireless application, as defined by the FCC and as may be amended or superseded.
- (11) **"ministerial permit"** means any City-issued non-discretionary permit required to commence or complete any construction or other activity subject to the City's jurisdiction. Ministerial permits may include, without limitation, any building permit, construction permit, electrical permit, encroachment permit, excavation permit, traffic control permit and/or any similar over-the-counter approval issued by the City's departments.
- (12) **"personal wireless services"** means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended or superseded.
- (13) **"personal wireless service facilities"** means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended or superseded.
- (14) **"RF"** means radio frequency or electromagnetic waves.
- (15) **"Section 6409"** 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. § 1455(a), as may be amended or superseded.
- (16) **"small wireless facility"** or **"small wireless facilities"** means the same as defined by the FCC in 47 C.F.R. § 1.6002(f), as may be amended or superseded.
- (17) **"tower"** means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(9), as may be amended or superseded.

SECTION 2. SMALL WIRELESS FACILITIES

SECTION 2.1. APPLICABILITY; REQUIRED PERMITS AND APPROVALS

- (a) **Applicable Facilities.** Except as expressly provided otherwise in this Policy, the provisions in this Policy shall be applicable to all existing small wireless facilities

and all applications and requests for authorization to construct, install, attach, operate, collocate, modify, reconstruct, relocate, remove or otherwise deploy small wireless facilities within the public rights-of-way or on private property within the City's jurisdictional and territorial boundaries.

- (b) **Small Cell Permit.** A "small cell permit," subject to the Community Development Director's prior review and approval, is required for any small wireless facility proposed on an existing, new or replacement structure.
- (c) **Request for Approval Pursuant to Section 6409.** Notwithstanding anything in the Policy to the contrary, requests for approval to collocate, replace or remove transmission equipment at an existing wireless tower or base station submitted pursuant to Section 6409 will be subject to the current FCC rules and regulations "eligible facilities requests" as defined by FCC and as may be amended or superseded.
- (d) **Other Permits and Approvals.** In addition to a small cell permit, the applicant must obtain all other permits and regulatory approvals as may be required by any other federal, state or local government agencies, which includes without limitation any ministerial permits and/or other approvals issued by other City departments or divisions. All applications for ministerial permits submitted in connection with a proposed small wireless facility must contain a valid small cell permit issued by the City for the proposed facility. Any application for any ministerial permit(s) submitted without such small cell permit may be denied without prejudice. Furthermore, any small cell permit granted under this Policy shall remain subject to all lawful conditions and/or legal requirements associated with such other permits or approvals.

SECTION 2.2. SMALL CELL PERMIT APPLICATION REQUIREMENTS

- (a) **Small Cell Permit Application Contents.** All applications for a small cell permit must include all the information and materials required in this **Section 2.2(a)**.
 - (1) **Application Form.** The applicant shall submit a complete, duly executed small cell permit application on the then-current form prepared by the Community Development Director.
 - (2) **Application Fee.** The applicant shall submit the applicable small cell permit application fee established by City Council resolution. Batched applications must include the applicable small cell permit application fee for each small wireless facility in the batch. If no small cell permit application fee has been established, then the applicant must submit a signed written statement that acknowledges that the applicant will be required to reimburse the City for its reasonable costs incurred in connection with the application within 10 days after the City issues a written demand for reimbursement.

- (3) **Construction Drawings.** The applicant shall submit true and correct construction drawings, prepared, signed and stamped by a California licensed or registered engineer, that depict all the existing and proposed improvements, equipment and conditions related to the proposed project, which includes without limitation any and all poles, posts, pedestals, traffic signals, towers, streets, sidewalks, pedestrian ramps, driveways, curbs, gutters, drains, handholes, manholes, fire hydrants, equipment cabinets, antennas, cables, trees and other landscape features. The construction drawings must: (i) contain cut sheets that contain the technical specifications for all existing and proposed antennas and accessory equipment, which includes without limitation the manufacturer, model number and physical dimensions; (ii) identify all structures within 500 feet from the proposed project site and call out such structures' overall height above ground level; (iii) depict the applicant's plan for electric and data backhaul utilities, which shall include the locations for all conduits, cables, wires, handholes, junctions, transformers, meters, disconnect switches, and points of connection; and (iv) demonstrate that proposed project will be in full compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes, local street standards and specifications, and public utility regulations and orders.
- (4) **Site Survey.** For any small wireless facility, the applicant shall submit a survey prepared, signed and stamped by a California licensed or registered engineer. The survey must identify and depict all existing boundaries, encroachments and other structures within 500 feet from the proposed project site, which includes without limitation all: (i) traffic lanes; (ii) all private properties and property lines; (iii) above and below-grade utilities and related structures and encroachments; (iv) fire hydrants, roadside call boxes and other public safety infrastructure; (v) streetlights, decorative poles, traffic signals and permanent signage; (vi) sidewalks, driveways, parkways, curbs, gutters and storm drains; (vii) benches, trash cans, mailboxes, kiosks and other street furniture; and (viii) existing trees, planters and other landscaping features.
- (5) **Photo Simulations.** The applicant shall submit site photographs and photo simulations that show the existing location and proposed small wireless facility in context from at least three vantage points within the public streets or other publicly accessible spaces, together with a vicinity map that shows the proposed site location and the photo location for each vantage point. At least one simulation must depict the small wireless facility from a vantage point approximately 50 feet from the proposed support structure or location.
- (6) **Project Narrative and Justification.** The applicant shall submit a written statement that explains in plain factual detail whether and why the proposed wireless facility qualifies as a "small wireless facility" as defined by the FCC in 47 C.F.R. § 1.6002(f). A complete written narrative analysis will state the applicable standard and all the facts that allow the City to conclude the standard has been met—bare conclusions not factually supported do not constitute a

complete written analysis. As part of the written statement the applicant must also include (i) whether and why the proposed support is a “structure” as defined by the FCC in 47 C.F.R. § 1.6002(m); and (ii) whether and why the proposed wireless facility meets each required finding for a small cell permit as provided in **Section 2.4(c)**.

- (7) **RF Compliance Report.** The applicant shall submit an RF exposure compliance report that certifies that the proposed small wireless facility, as well as any collocated wireless facilities, will comply with applicable federal RF exposure standards and exposure limits. The RF report must be prepared and certified by an RF engineer acceptable to the City. The RF report must include the actual frequency and power levels (in watts effective radiated power) for all existing and proposed antennas at the site and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also the boundaries of areas with RF exposures in excess of the controlled/occupational limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.
- (8) **Public Notices.** The applicant shall reimburse the City for the cost of preparing and mailing public notices.
- (9) **Regulatory Authorization.** The applicant shall submit evidence of the applicant’s regulatory status under federal and California law to provide the services and construct the small wireless facility proposed in the application.
- (10) **Pole License Agreement.** For any small wireless facility proposed to be installed on any structure owned or controlled by the City and located within the public rights-of-way, the applicant shall submit an executed Pole License Agreement on a form prepared by the City that states the terms and conditions for such non-exclusive use by the applicant. No changes shall be permitted to the City’s Pole License Agreement except as may be indicated on the form itself. Any unpermitted changes to the City’s Agreement shall be deemed a basis to deem the application incomplete. Refusal to accept the terms and conditions in the City’s Agreement shall be an independently sufficient basis to deny the application.
- (11) **Title Report and Property Owner’s Authorization.** For any small wireless facility proposed to be installed on any private property not owned or controlled by the City, the applicant must submit: (i) a title report issued within 30 days from the date the applicant filed the application; and (ii) if the applicant is not the property owner, a written authorization signed by the property owner identified in the title report that authorizes the applicant to submit and accept a small cell permit in connection with the subject property. For any small wireless facility proposed to be installed on a support structure in the public right-of-way,

the applicant must submit a written authorization from the support structure owner(s).

(12) **Acoustic Analysis.** The applicant shall submit an acoustic analysis prepared and certified by an engineer licensed by the State of California for the proposed small wireless facility and all associated equipment including all environmental control units, sump pumps, temporary backup power generators and permanent backup power generators demonstrating compliance with the City's noise regulations. The acoustic analysis 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. In lieu of an acoustic analysis, the applicant may submit evidence from the equipment manufacturer(s) that the ambient noise emitted from all the proposed equipment will not, both individually and cumulatively, exceed the applicable noise limits.

(b) **Additional Requirements.** The City Council authorizes the Community Development Director to develop, publish and from time to time update or amend permit application requirements, forms, checklists, guidelines, informational handouts and other related materials that the Community Development Director finds necessary, appropriate or useful for processing any application governed under this Policy. All such requirements and materials must be in written form and publicly available to all interested parties.

SECTION 2.3. SMALL CELL PERMIT APPLICATION SUBMITTAL AND COMPLETENESS REVIEW

(a) **Requirements for a Duly Filed Application.** Any application for a small cell permit will not be considered duly filed unless submitted in accordance with the requirements in this [Section 2.3\(a\)](#).

(1) **Submittal Appointment.** All applications must be submitted to the City at a pre-scheduled appointment with the Community Development Director. Potential applicants may generally submit one application per appointment, or up to five individual applications per appointment for batched applications as provided in [Section 2.3\(d\)](#). Potential applicants may schedule successive appointments for multiple applications whenever feasible and not prejudicial to other applicants for any other development project. The Community Development Director shall use reasonable efforts to offer an appointment within five working days after the Community Development Director receives a written request from a potential applicant. Any purported application received without an appointment, whether delivered in-person, by mail or through any other means, will not be considered duly filed, whether the City retains, returns or destroys the materials received.

(2) **Pre-Submittal Conferences.** The City strongly encourages, but does not require, potential applicants to schedule and attend a pre-submittal conference with the Community Development Director for all proposed projects that involve small wireless facilities. A voluntary pre-submittal conference is intended to streamline the review process through informal discussion between the potential applicant and staff that includes, without limitation, the appropriate project classification and review process; any latent issues in connection with the proposed project, including compliance with generally applicable rules for public health and safety; potential concealment issues or concerns (if applicable); coordination with other City departments responsible for application review; and application completeness issues. To mitigate unnecessary delays due to application incompleteness, potential applicants are encouraged (but not required) to bring any draft applications or other materials so that City staff may provide informal feedback and guidance about whether such draft applications or other materials may be incomplete or unacceptable. The Community Development Director shall use reasonable efforts to provide the potential applicant with an appointment within five working days after receiving a written request and any applicable fee or deposit to reimburse the City for its reasonable costs to provide the services rendered in the pre-submittal conference.

- (b) **Applications Deemed Withdrawn.** To promote efficient review and timely decisions, and to mitigate unreasonable delays or barriers to entry caused by chronically incomplete applications, any application governed under this Policy will be automatically deemed withdrawn by the applicant when the applicant fails to tender a substantive response to the Community Development Director within 60 calendar days after the Community Development Director deems the application incomplete in a written notice to the applicant. As used in this [Section 2.3\(c\)](#), a “substantive response” must include the materials identified as incomplete in the Community Development Director’s notice.
- (c) **Batched Applications.** Applicants may submit up to five individual applications for a small cell permit in a “batch” to be reviewed together at the same time; provided, however, that (i) all small wireless facilities in a batch must be proposed with substantially the same equipment in the same configuration on the same support structure type; (ii) each application in a batch must meet all the requirements for a complete application, which includes without limitation the application fee for each application in the batch; (iii) if any individual application within a batch is deemed incomplete, the entire batch shall be automatically deemed incomplete; (iv) if any application is withdrawn or deemed withdrawn from a batch, all other applications in the entire batch shall be automatically deemed withdrawn; and (v) if any application in a batch fails to meet the required findings for approval, the entire batch shall be denied in the manner described in [Section 2.4\(e\)](#).

- (d) **Additional Procedures.** The City Council authorizes the Community Development Director to establish other reasonable rules and regulations for duly filed applications, which may include without limitation regular hours for appointments with applicants, as the Community Development Director deems necessary or appropriate to organize, document and manage the application intake process. All such rules and regulations must be in written form and publicly stated to provide all interested parties with prior notice.

SECTION 2.4. APPROVALS AND DENIALS; NOTICES

- (a) **Public Notice.** Within approximately 10 days after an application is received and prior to any approval, conditional approval or denial, the City shall mail public notice to all properties and record owners of properties within 300 feet from the project site. The notice must contain: (1) a general project description; (2) the applicant's identification and contact information as provided on the application submitted to the City; (3) contact information for the Community Development Director for interested parties to submit comments; (4) a statement that the Community Development Director will act on the application without a public hearing but that any interested person or entity may appeal the Community Development Director's decision directly to the City Council; and (5) a general statement that the FCC requires the City to take final action on small cell applications within 60 days or 90 days, depending on the nature of the proposed facility.
- (b) **Administrative Review.** Not less than 10 calendar days after the public notice required in **Section 2.4(a)** is sent, and not more than 29 calendar days after the application has been deemed complete, the Community Development Director shall approve, conditionally approve or deny a complete and duly filed small cell permit application without a public hearing.
- (c) **Required Findings.** The Community Development Director may approve or conditionally approve a complete and duly filed application for a small cell permit when the Community Development Director finds:
- (1) the proposed project meets the definition for a "small wireless facility" as defined by the FCC;
 - (2) the proposed project would be in the most preferred location within 750 feet from the proposed site in any direction or the applicant has demonstrated with clear and convincing evidence in the written record that any more-preferred location(s) within 750 feet would be technically infeasible;
 - (3) the proposed project would not be located on a prohibited support structure identified in this Policy;

- (4) the proposed project would be on the most preferred support structure within 750 feet from the proposed site in any direction or the applicant has demonstrated with clear and convincing evidence in the written record that any more-preferred support structure(s) within 750 feet would be technically infeasible;
 - (5) the proposed project complies with all applicable design standards in this Policy;
 - (6) the applicant has demonstrated that the proposed project will be in planned compliance with all applicable FCC regulations and guidelines for human exposure to RF emissions; and
 - (7) all public notices required for the application have been given.
- (d) **Conditional Approvals; Denials without Prejudice.** Subject to any applicable federal or California laws, nothing in this Policy is intended to limit the Community Development Director's ability to conditionally approve or deny without prejudice any small cell permit application as may be necessary or appropriate to ensure compliance with this Policy.
- (e) **Decision Notices.** Within five calendar days after the Community Development Director acts on a small cell permit application, the Community Development Director shall notify the applicant and all parties entitled to receive notice of the application by written notice. If the Community Development Director denies the application (with or without prejudice), the written notice must contain the reasons for the decision.
- (f) **Appeals.** Any interested person or entity may appeal the decision by the Community Development Director to the City Council. Appeals must be filed within seven days after the date of the Community Development Director's decision; provided, however, that appeals from an approval shall not be permitted when based solely on the environmental effects from radio frequency emissions that are compliant with applicable FCC regulations and guidelines. The notice of appeal must contain a short and plain statement of the basis for the appeal, which may be supplemented after the notice period has expired but before the hearing. The City Council shall hear appeals *de novo* and issue the applicant a written decision within five calendar days after the date of the public hearing.

SECTION 2.5. STANDARD CONDITIONS OF APPROVAL

- (a) **General Conditions.** In addition to all other conditions adopted by the Community Development Director for a small cell permit, all small cell permits issued under this Policy shall be automatically subject to the conditions in this **Section 2.5(a)**.

- (1) **Permit Term.** This permit will automatically expire 10 years and one day from its issuance unless California Government Code § 65964(b) authorizes the City to establish a shorter term for public safety reasons. Any other permits or approvals issued in connection with any collocation, modification or other change to this wireless facility, which includes without limitation any permits or other approvals deemed-granted or deemed-approved under federal or state law, will not extend this term limit unless expressly provided otherwise in such permit or approval or required under federal or state law.
- (2) **Permit Renewal.** Within one (1) year before the expiration date of this permit, the permittee may submit an application for permit renewal. To be eligible for administrative review and renewal, the permittee must demonstrate that (a) the subject wireless facility is in compliance with all the conditions of approval associated with this permit and all applicable provisions in the Pleasanton Municipal Code and this Policy that exist at the time the decision to renew the permit would be rendered. The Community Development Director shall have discretion to modify or amend the conditions of approval for permit renewal on a case-by-case basis as may be necessary or appropriate to protect and promote the public health, safety and welfare, allow for the proper operation of the approved wireless facility, maintain compliance with applicable laws and/or to advance the goals or policies in the General Plan and any specific plan, the Pleasanton Municipal Code and/or this Policy. Upon renewal, this permit will automatically expire 10 years and one day from its issuance, except when California Government Code § 65964(b), as may be amended or superseded in the future, authorizes the City to establish a shorter term for public safety reasons.
- (3) **Post-Installation Certification.** Within 60 calendar days after the permittee commences full, unattended operations of a small wireless facility approved or deemed-approved, the permittee shall provide the Community Development Director with documentation reasonably acceptable to the Community Development Director that the small wireless facility has been installed and/or constructed in strict compliance with the approved construction drawings and photo simulations. Such documentation shall include without limitation as-built drawings, GIS data and site photographs.
- (4) **Build-Out Period.** This small cell permit will automatically expire six (6) months from the approval date (the "build-out period") unless the permittee obtains all other permits and approvals required to install, construct and/or operate the approved small wireless facility, which includes without limitation any permits or approvals required by the any federal, state or local public agencies with jurisdiction over the subject property, the small wireless facility or its use. If this build-out period expires, the City will not extend the build-out period but the permittee may resubmit a complete application, including all application fees, for the same or substantially similar project.

- (5) **Site Maintenance.** The permittee shall keep the site, which includes without limitation any and all improvements, equipment, structures, access routes, fences and landscape features, in a neat, clean and safe condition in accordance with the approved construction drawings and all conditions in this small cell permit. The permittee shall keep the site area free from all litter and debris at all times. The permittee, at no cost to the City, shall remove and remediate any graffiti or other vandalism at the site within 48 hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.
- (6) **Compliance with Laws.** The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law ("laws") applicable to the permittee, the subject property, the small wireless facility or any use or activities in connection with the use authorized in this small cell permit, which includes without limitation any laws applicable to human exposure to RF emissions. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee's obligations to maintain compliance with all laws. No failure or omission by the City to timely notice, prompt or enforce compliance with any applicable provision in the Pleasanton Municipal Code, this Policy any permit, any permit condition or any applicable law or regulation, shall be deemed to relieve, waive or lessen the permittee's obligation to comply in all respects with all applicable provisions in the Pleasanton Municipal Code, this Policy, any permit, any permit condition or any applicable law or regulation.
- (7) **Adverse Impacts on Other Properties.** The permittee shall use all reasonable efforts to avoid any and all unreasonable, undue or unnecessary adverse impacts on nearby properties that may arise from the permittee's or its authorized personnel's construction, installation, operation, modification, maintenance, repair, removal and/or other activities on or about the site. The permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines except during normal construction work hours authorized by the Pleasanton Municipal Code. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the City or other state or federal government agency or official with authority to declare a state of emergency within the City. The Community Development Director may issue a stop work order for any activities that violates this condition in whole or in part.
- (8) **Inspections; Emergencies.** The permittee expressly acknowledges and agrees that the City's officers, officials, staff, agents, contractors or other designees may enter onto the site and inspect the improvements and

equipment upon reasonable prior notice to the permittee. Notwithstanding the prior sentence, the City's officers, officials, staff, agents, contractors or other designees may, but will not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The permittee, if present, may observe the City's officers, officials, staff or other designees while any such inspection or emergency access occurs.

- (9) **Permittee's Contact Information.** Within 10 days from the final approval, the permittee shall furnish the City with accurate and up-to-date contact information for a person responsible for the small wireless facility, which includes without limitation such person's full name, title, direct telephone number, mailing address and email address. The permittee shall keep such contact information up-to-date at all times and promptly provide the City with updated contact information if either the responsible person or such person's contact information changes.
- (10) **Indemnification.** The permittee and, if applicable, the property owner upon which the small wireless facility is installed shall defend, indemnify and hold harmless the City, City Council and the City's boards, commissions, agents, officers, officials, employees and volunteers (collectively, the "indemnitees") from any and all (i) damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs and other actions or proceedings ("claims") brought against the indemnitees to challenge, attack, seek to modify, set aside, void or annul the City's approval of this small cell permit, and (ii) other claims of any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the permittee's or its agents', directors', officers', employees', contractors', subcontractors', licensees' or customers' acts or omissions in connection with this small cell permit or the small wireless facility. In the event the City becomes aware of any claims, the City will use best efforts to promptly notify the permittee and the private property owner (if applicable) and shall reasonably cooperate in the defense. The permittee expressly acknowledges and agrees 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 and/or permittee (as applicable) shall promptly reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. The permittee expressly acknowledges and agrees that the permittee's indemnification obligations under this condition are a material consideration that motivates the City to approve this small cell permit, and that such indemnification obligations will survive the expiration, revocation or other termination of this small cell permit.
- (11) **Performance Bond.** Before the Building Division issues any permits required to commence construction in connection with this permit, the permittee shall

post a performance bond from a surety and in a form acceptable to the Community Development Director in an amount reasonably necessary to cover the cost to remove the improvements and restore all affected areas based on a written estimate from a qualified contractor with experience in wireless facilities removal. The written estimate must include the cost to remove all equipment and other improvements, which includes without limitation all antennas, radios, batteries, generators, utilities, cabinets, mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles, footings and foundations, whether above ground or below ground, constructed or installed in connection with the wireless facility, plus the cost to completely restore any areas affected by the removal work to a standard compliant with applicable laws. In establishing or adjusting the bond amount required under this condition, and in accordance with California Government Code § 65964(a), the Community Development Director shall take into consideration any information provided by the permittee regarding the cost to remove the wireless facility to a standard compliant with applicable laws. The performance bond shall expressly survive the duration of the permit term to the extent required to effectuate a complete removal of the subject wireless facility in accordance with this condition.

- (12) **Permit Revocation.** Any permit granted under this Policy may be revoked in accordance with the provisions and procedures in this condition. The Community Development Director may initiate revocation proceedings when the Community Development Director has information that the facility may not be in compliance with all applicable laws, which includes without limitation, any permit in connection with the facility and any associated conditions with such permit(s). Before the Community Development Director may conduct a public hearing to revoke any permit granted under this Policy, the Community Development Director must issue a written notice to the permittee that specifies (i) the facility; (ii) the violation(s) to be corrected; (iii) the timeframe in which the permittee must correct such violation(s); and (iv) that, in addition to all other rights and remedies the City may pursue, the City may initiate revocation proceedings for failure to correct such violation(s). A permit granted under this Policy may be revoked only by the City Council after a duly noticed public hearing. The City Council may revoke a permit when it finds substantial evidence in the written record to show that the facility is not in compliance with any applicable laws, which includes without limitation, any permit in connection with the facility and any associated conditions with such permit(s). Any decision by the City Council to revoke or not revoke a permit shall be final and not subject to any further appeals. Within five business days after the City Council adopts a resolution to revoke a permit, the Community Development Director shall provide the permittee with a written notice that specifies the revocation and the reasons for such revocation.
- (13) **Record Retention.** Throughout the permit term, the permittee must maintain a complete and accurate copy of the written administrative record, which includes

without limitation the small cell permit application, small cell permit, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval, any ministerial permits or approvals issued in connection with this approval and any records, memoranda, documents, papers and other correspondence entered into the public record in connection with the small cell permit (collectively, "records"). If the permittee does not maintain such records as required in this condition, any ambiguities or uncertainties that would be resolved by inspecting the missing records will be construed against the permittee. The permittee shall protect all records from damage from fires, floods and other hazards that may cause deterioration. The permittee may keep records in an electronic format; provided, however, that hard copies or electronic records kept in the City's regular files will control over any conflicts between such City-controlled copies or records and the permittee's electronic copies, and complete originals will control over all other copies in any form. The requirements in this condition shall not be construed to create any obligation to create or prepare any records not otherwise required to be created or prepared by other applicable laws. Compliance with the requirements in this condition shall not excuse the permittee from any other similar record-retention obligations under applicable law.

- (14) **Abandoned Wireless Facilities.** The small wireless facility authorized under this small cell permit shall be deemed abandoned if not operated for any continuous six-month period. Within 90 days after a small wireless facility is abandoned or deemed abandoned, the permittee and/or property owner shall completely remove the small wireless facility and all related improvements and shall restore all affected areas to a condition compliant with all applicable laws, which includes without limitation the Pleasanton Municipal Code. In the event that neither the permittee nor the property owner complies with the removal and restoration obligations under this condition within said 90-day period, the City shall have the right (but not the obligation) to perform such removal and restoration with or without notice, and the permittee and property owner (where private property) shall be jointly and severally liable for all costs and expenses incurred by the City in connection with such removal and/or restoration activities.
- (15) **Landscaping.** At the discretion of the Community Development Director, the permittee shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the permittee or at the permittee's direction on or about the site, or pay a fee to the City's Urban Forestry Fund if replacement landscaping is not feasible or desired at the location. If any trees are damaged or displaced, the permittee shall replace landscaping as determined by the City's arborist. Only International Society of Arboriculture certified workers under the supervision of a licensed arborist shall be used to install the replacement tree(s). Any replacement tree must be substantially the same size as the damaged tree

unless approved by the City's arborist. The permittee shall, at all times, be responsible to maintain any replacement landscape features.

- (16) **Cost Reimbursement.** The permittee acknowledges and agrees that (i) the permittee's request for authorization to construct, install and/or operate the wireless facility will cause the City to incur costs and expenses; (ii) the permittee shall be responsible to reimburse the City for all costs incurred in connection with the permit, which includes without limitation costs related to application review, permit issuance, site inspection and any other costs reasonably related to or caused by the request for authorization to construct, install and/or operate the wireless facility; (iii) any application fees required for the application may not cover all such reimbursable costs and that the permittee shall have the obligation to reimburse City for all such costs 10 days after a written demand for reimbursement and reasonable documentation to support such costs; and (iv) the City shall have the right to withhold any permits or other approvals in connection with the wireless facility until and unless any outstanding costs have been reimbursed to the City by the permittee.
- (b) **Conditions for Small Wireless Facilities in the Public Rights-of-Way.** In addition to all conditions in subsection (a), all small cell permits for small wireless facilities in the public rights-of-way issued under this Policy shall be automatically subject to the conditions in this Section 2.5(b).
- (1) **Future Undergrounding Programs.** Notwithstanding any term remaining on any small cell permit, if other utilities or communications providers in the public rights-of-way underground their facilities in the segment of the public rights-of-way where the permittee's small wireless facility is located, the permittee must also underground its equipment, except the antennas and any approved electric meter, at approximately the same time. Accessory equipment such as radios and computers that require an environmentally controlled underground vault to function shall not be exempt from this condition. Small wireless facilities installed on utility poles that will be removed pursuant to the undergrounding program may be reinstalled on a streetlight that complies with the City's standards and specifications. Such undergrounding shall occur at the permittee's sole cost and expense except as may be reimbursed through tariffs approved by the state public utilities commission for undergrounding costs.
- (2) **Electric Meter Upgrades.** If the commercial electric utility provider adopts or changes its rules obviating the need for a separate or ground-mounted electric meter and enclosure, the permittee on its own initiative and at its sole cost and expense shall remove the separate or ground-mounted electric meter and enclosure. Prior to removing the electric meter, the permittee shall apply for any encroachment and/or other ministerial permit(s) required to perform the removal. Upon removal, the permittee shall restore the affected area to its original condition that existed prior to installation of the equipment.

- (3) **Rearrangement and Relocation.** The permittee acknowledges that the City, in its sole discretion and at any time, may: (i) change any street grade, width or location; (ii) add, remove or otherwise change any improvements in, on, under or along any street owned by the City or any other public agency, which includes without limitation any sewers, storm drains, conduits, pipes, vaults, boxes, cabinets, poles and utility systems for gas, water, electric or telecommunications; and/or (iii) perform any other work deemed necessary, useful or desirable by the City (collectively, "City work"). The City reserves the rights to do any and all City work without any admission on its part that the City would not have such rights without the express reservation in this small cell permit. If the Public Works Director determines that any City work will require the permittee's small wireless facility located in the public rights-of-way to be rearranged and/or relocated, the permittee shall, at its sole cost and expense, do or cause to be done all things necessary to accomplish such rearrangement and/or relocation. If the permittee fails or refuses to either permanently or temporarily rearrange and/or relocate the permittee's small wireless facility within a reasonable time after the Public Works Director's notice, the City may (but will not be obligated to) cause the rearrangement or relocation to be performed at the permittee's sole cost and expense. The City may exercise its rights to rearrange or relocate the permittee's small wireless facility without prior notice to permittee when the Public Works Director determines that the City work is immediately necessary to protect public health or safety. The permittee shall reimburse the City for all costs and expenses in connection with such work within 10 days after a written demand for reimbursement and reasonable documentation to support such costs.

SECTION 2.6. LOCATION REQUIREMENTS

- (a) **Preface to Location Requirements.** This subsection (a) provides guidance as to how to interpret and apply the location requirements in this Section 2.6. To better assist applicants and decision makers understand and respond to the community's aesthetic preferences and values, subsections (b) (c), (d) and (e) set out listed preferences for locations and support structures to be used in connection with small wireless facilities in ordered hierarchies. Applications that involve lesser-preferred locations or structures may be approved so long as the applicant demonstrates that either (1) no more preferred locations or structures exist within 750 feet from the proposed site; or (2) any more preferred locations or structures within 750 feet from the proposed site would be technically infeasible as supported by clear and convincing evidence in the written record. Subsection (f) identifies "prohibited" support structures on which the City shall not approve any small cell permit application for any competitor or potential competitor.
- (b) **Locations in the Public Rights-of-Way.** The City prefers small wireless facilities in the public rights-of-way to be installed in locations, ordered from most preferred to least preferred, as follows:

- (1) locations within areas designated as any of the land use categories listed in the General Plan under the "Industrial, Commercial and Offices," "Mixed Use," or "Open Space" categories (except where in or adjacent to public parks and open space areas), on or along arterial roads as defined and mapped in the General Plan;
 - (2) locations within areas designated as any of the land use categories listed in the General Plan under the "Industrial, Commercial and Offices," "Mixed Use," or "Open Space" categories (except where in or adjacent to public parks and open space areas), on or along collector roads as defined and mapped in the General Plan;
 - (3) locations within areas designated as any of the land use categories listed in the General Plan under the "Industrial, Commercial and Offices," "Mixed Use," or "Open Space" categories (except where in or adjacent to public parks and open space areas), on or along local roads as defined and mapped in the General Plan;
 - (4) locations within or adjacent to public parks and open space areas, or areas designated "Community Facilities" in the General Plan, on or along arterial, collector or local roads as defined and mapped in the General Plan;
 - (5) within the Downtown Specific Plan Area, any location within any non-residential or mixed-use Specific Plan land use designation, except along Main Street;
 - (6) locations within areas designated as any of the land use categories listed in the General Plan under the "Residential" category, on or along arterial roads as defined and mapped in the General Plan;
 - (7) locations within areas designated as any of the land use categories listed in the General Plan under the "Residential" category, on or along collector roads as defined and mapped in the General Plan;
 - (8) locations within areas designated as any of the land use categories listed in the General Plan under the "Residential" category, on or along local roads as defined and mapped in the General Plan;
 - (9) within the Downtown Specific Plan Area, locations within residential Specific Plan land use designations;
 - (10) within the Downtown Specific Plan Area, on or along Main Street.
- (c) **Locations Outside the Public Rights-of-Way.** The City prefers small wireless facilities outside the public rights-of-way to be installed in locations, ordered from most preferred to least preferred, as follows:

- (1) locations within areas designated as any of the land use categories listed in the General Plan under the "Industrial, Commercial and Offices," "Mixed Use," or "Open Space" categories (except within any public park or open space areas);
 - (2) locations within areas designated "Community Facilities" in the General Plan;
 - (3) within the Downtown Specific Plan Area, any location within any non-residential or mixed-use Specific Plan land use designation, except for properties with a frontage on Main Street;
 - (4) locations within areas designated as any of the land use categories listed in the General Plan under the "Residential" category;
 - (5) locations within any public park or open space area;
 - (6) within the Downtown Specific Plan Area, locations within residential Specific Plan land use designations;
 - (7) within the Downtown Specific Plan Area, any property with a frontage on Main Street.
- (d) **Support Structures in the Public Rights-of-Way.** The City prefers small wireless facilities to be installed on support structures in the public rights-of-way, ordered from most preferred to least preferred, as follows:
- (1) existing or replacement metal or composite streetlight or utility poles;
 - (2) new, non-replacement metal or composite streetlight poles;
 - (3) new, non-replacement poles for small wireless facilities;
 - (4) existing or replacement wood utility or streetlight poles.
- (e) **Support Structures Outside the Public Rights-of-Way.** The City prefers small wireless facilities to be installed on support structures outside the public rights-of-way, ordered from most preferred to least preferred, as follows:
- (1) Existing, non-historic buildings, or other non-tower structures previously approved for use as a support structure for personal wireless service facilities;
 - (2) other existing non-historic buildings or non-tower structures;
 - (3) existing or replacement utility poles or towers;
 - (4) new, non-replacement towers for small wireless facilities;

- (5) existing historic buildings.
- (f) **Prohibited Support Structures.** The City prohibits small wireless facilities to be installed on the following support structures, whether located in the public rights-of-way or not:
 - (1) decorative poles and decorative streetlights, and on the Main Street "Pleasanton Arch;"
 - (2) traffic signals, signs, poles, cabinets and related devices;
 - (3) new, non-replacement wood poles.

SECTION 2.7. DESIGN STANDARDS

(a) **General Standards.**

- (1) **Noise.** Small wireless facilities and all accessory equipment and transmission equipment must comply with all applicable noise control standards and regulations in Pleasanton Municipal Code Chapter 9.04 and Section 18.110.140, as either may be amended or superseded, and shall not exceed, either on an individual or cumulative basis.
- (2) **Lights.** Small wireless facilities shall not include any lights that would be visible from publicly accessible areas, except as may be required under Federal Aviation Administration, FCC, other applicable regulations for health and safety. All equipment with lights (such as indicator or status lights) must be installed in locations and within enclosures that mitigate illumination impacts visible from publicly accessible areas. The provisions in this subsection shall not be interpreted or applied to prohibit installations on streetlights or luminaires installed on new or replacement poles as may be required under this Policy.
- (3) **Landscape Features.** At the discretion of the Community Development Director, the permittee shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the permittee or at the permittee's direction on or about the site, or pay a fee to the City's Urban Forestry Fund if replacement landscaping is not feasible or desired at the location. If any trees are damaged or displaced, the permittee shall replace landscaping as determined by the City's arborist. Only International Society of Arboriculture certified workers under the supervision of a licensed arborist shall be used to install the replacement tree(s). Any replacement tree must be substantially the same size as the damaged tree unless approved by the City's arborist. The permittee shall, at all times, be responsible to maintain any replacement landscape features.

- (4) **Site Security Measures.** Small wireless facilities may incorporate reasonable and appropriate site security measures, such as locks and anti-climbing devices, to prevent unauthorized access, theft or vandalism. The Community Development Director shall not approve any barbed wire, razor ribbon, electrified fences or any similarly dangerous security measures. All exterior surfaces on small wireless facilities shall be constructed from or coated with graffiti-resistant materials.
 - (5) **Signage; Advertisements.** All small wireless facilities must include signage that accurately identifies the site owner/operator, the owner/operator's site name or identification number and a toll-free number to the owner/operator's network operations center. Small wireless facilities may not bear any other signage or advertisements unless expressly approved by the City, required by law or recommended under FCC, Occupational Safety and Health Administration or other United States governmental agencies for compliance with RF emissions regulations.
 - (6) **Compliance with Health and Safety Regulations.** All small wireless facilities shall be designed, constructed, operated and maintained in compliance with all generally applicable health and safety regulations, which includes without limitation all applicable regulations for human exposure to RF emissions and compliance with the federal Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 *et seq.*).
- (b) **Small Wireless Facilities in the Public Right-of-Way.**
- (1) **Overall Height.** Small wireless facilities may not exceed either (A) the minimum separation from electrical lines required by applicable safety regulations, plus four feet or (B) four feet above the existing support structure.
 - (2) **Antennas.**
 - (A) **Concealment.** All antennas and associated mounting equipment, hardware, cables or other connectors must be completely concealed within an opaque antenna shroud or radome. The antenna shroud or radome must be painted a flat, non-reflective color to match the underlying support structure.
 - (B) **Antenna Volume.** Each individual antenna may not exceed three cubic feet in volume and all antennas may not exceed six cubic feet in volume.
 - (3) **Accessory Equipment.**
 - (A) **Installation Preferences.** All non-antenna accessory equipment shall be installed in accordance with the following preferences, ordered from most preferred to least preferred: (i) underground in any area in which the existing

utilities are primarily located underground; (ii) on the pole or support structure; or (iii) integrated into the base of the pole or support structure. Applications that involve lesser-preferred installation locations may be approved so long as the applicant demonstrates that no more preferred installation location would be technically feasible as supported by clear and convincing evidence in the written record.

- (B) **Undergrounded Accessory Equipment.** All undergrounded accessory equipment must be installed in an environmentally controlled vault that is load-rated to meet the City's standards and specifications. Underground vaults located beneath a sidewalk must be constructed with a slip-resistant cover. Vents for airflow shall be flush-to-grade when placed within the sidewalk and may not exceed two feet above grade when placed off the sidewalk. Applicants shall not be permitted to install an underground vault in a location that would cause any existing tree to be materially damaged or displaced, unless approved by the Community Development Director.
- (C) **Pole-Mounted Accessory Equipment.** All pole-mounted accessory equipment must be installed in a single equipment shroud unless the applicant demonstrates that a single shroud would be technically infeasible as supported by clear and convincing evidence in the written record. All pole-mounted accessory equipment must be installed flush to the pole to minimize the overall visual profile. If any applicable health and safety regulations prohibit flush-mounted equipment, the maximum separation permitted between the accessory equipment and the pole shall be the minimum separation required by such regulations. All pole-mounted equipment and required or permitted signage must be placed and oriented away from public view. Pole-mounted equipment may be installed behind street, traffic or other signs to the extent that the installation complies with applicable public health and safety regulations. All cables, wires and other connectors must be routed through conduits within the pole, and all conduit attachments, cables, wires and other connectors must be concealed from public view. To the extent that cables, wires and other connectors cannot be routed through the pole, applicants shall route them through a single external conduit or shroud that has been finished to match the underlying support structure.
- (D) **Base-Mounted Accessory Equipment.** All base-mounted accessory equipment must be installed within a shroud, enclosure or pedestal integrated into the base of the support structure. All cables, wires and other connectors routed between the antenna and base-mounted equipment must be concealed from public view.
- (E) **Ground-Mounted Accessory Equipment.** The Community Development Director shall not approve any ground-mounted accessory equipment

including, but not limited to, any utility or transmission equipment, pedestals, cabinets, panels or electric meters.

- (F) **Accessory Equipment Volume.** All accessory equipment associated with a small wireless facility installed above ground level shall not cumulatively exceed: (i) nine (9) cubic feet in volume if installed in a residential district; or (ii) seventeen (17) cubic feet in volume if installed in a non-residential district. The volume calculation shall include any shroud, cabinet or other concealment device used in connection with the non-antenna accessory equipment. The volume calculation shall not include any equipment or other improvements placed underground.
- (4) **Streetlights.** Applicants that propose to install small wireless facilities on an existing streetlight must remove and replace the existing streetlight with one substantially similar to and which meets the City's standards and specifications but designed to accommodate wireless antennas and accessory equipment. To mitigate any material changes in the streetlighting patterns, the replacement pole must: (A) be located as close to the removed pole as possible; (B) be aligned with the other existing streetlights; and (C) include a luminaire at substantially the same height and distance from the pole as the luminaire on the removed pole. All antennas must be installed above the pole within a single, canister style shroud or radome that tapers to the pole.
- (5) **Wood Utility Poles.** Applicants that propose to install small wireless facilities on an existing wood utility pole must install all antennas above the pole unless the applicant demonstrates that mounting the antennas above the pole would be technically infeasible as supported by clear and convincing evidence in the written record. Side-mounted antennas on a stand-off bracket or extension arm must be concealed within a shroud. All cables, wires and other connectors must be concealed within the side-arm mount or extension arm. The maximum horizontal separation between the antenna and the pole shall be the minimum separation required by applicable health and safety regulations. Applicants that propose to install small wireless facilities on a replacement wood utility pole must remove and replace the existing wood utility pole with one that is substantially similar in height and diameter unless the applicant demonstrates that a substantially similar replacement pole would be technically infeasible as supported by clear and convincing evidence in the written record.
- (6) **New, Non-Replacement Poles.** Applicants that propose to install small wireless facilities on a new, non-replacement pole must install a new streetlight in accordance with the City's standards, specifications and spacing requirements but designed to accommodate wireless antennas and accessory equipment located immediately adjacent to the proposed location. If there are no existing streetlights in the immediate vicinity, the applicant may install a metal or composite pole capable of concealing all the accessory equipment either within the pole or within an integrated enclosure located at the base of

the pole. The pole diameter shall not exceed twelve (12) inches and any base enclosure diameter shall not exceed sixteen (16) inches. All antennas, whether on a new streetlight or other new pole, must be installed above the pole within a single, canister style shroud or radome.

- (7) **Strand-Mounted Wireless Facilities.** No more than one strand-mounted wireless facility may be installed on any single span between two poles. The Community Development Director shall not approve any ground-mounted equipment in connection with any strand-mounted wireless facility. All equipment and other improvements associated with a strand-mounted wireless facility must comply with all applicable health and safety regulations. Strand-mounted wireless facilities shall not exceed one cubic foot in total volume. All strand-mounted equipment shall be finished in a non-reflective grey color. Any accessory equipment mounted on the pole shall be painted and textured to match the underlying pole. "Snow shoes" and other spooled fiber or cables are prohibited.
- (8) **Encroachments over Private Property.** Small wireless facilities may not encroach onto or over any private or other property outside the public rights-of-way without the property owner's express written consent.
- (9) **Backup Power Sources.** Fossil-fuel based backup power sources shall not be permitted within the public rights-of-way; provided, however, that connectors or receptacles may be installed for temporary backup power generators used in an emergency declared by federal, state or local officials.
- (10) **Obstructions; Public Safety.** Small wireless facilities and any associated equipment or improvements shall not physically interfere with or impede: (A) worker access to any above-ground or underground infrastructure for traffic control, streetlight or public transportation, including without limitation any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, or barricade reflectors; (B) access to any public transportation vehicles, shelters, street furniture or other improvements at any public transportation stop; (C) worker access to above-ground or underground infrastructure owned or operated by any public or private utility agency; (D) access to any fire hydrant or water valve; (E) access to any doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building appurtenant to the rights-of-way; or (F) access to any fire escape.
- (11) **Utility Connections.** All cables and connectors for telephone, data backhaul, primary electric and other similar utilities must be routed underground in conduits large enough to accommodate future collocated wireless facilities. Undergrounded cables and wires must transition directly into the pole base without any external doghouse. All cables, wires and connectors between the underground conduits and the antennas and other accessory equipment shall be routed through and concealed from view within: (A) internal risers or

conduits if on a concrete, composite or similar pole; or (B) a cable shroud or conduit mounted as flush to the pole as possible if on a wood pole or other pole without internal cable space. The Community Development Director shall not approve new overhead utility lines or service drops merely because compliance with the undergrounding requirements would increase the project cost.

- (12) **Spools and Coils.** To reduce clutter and deter vandalism, excess fiber optic or coaxial cables shall not be spooled, coiled or otherwise stored on the pole outside equipment cabinets or shrouds.
- (13) **Electric Meters.** Small wireless facilities shall use flat-rate electric service or other method that obviates the need for a separate above-grade electric meter. If flat-rate service is not available, applicants may install a shrouded smart meter. The Community Development Director shall not approve a separate ground-mounted electric meter pedestal.
- (14) **Street Trees.** To preserve existing landscaping in the public rights-of-way, all work performed in connection with small wireless facilities shall not cause any street trees to be trimmed, damaged or displaced. If any street trees are damaged or displaced, the applicant shall be responsible, at its sole cost and expense, to plant and maintain replacement trees at the site for the duration of the permit term.

(c) **Small Wireless Facilities Outside the Public Right-of-Way.**

- (1) **Overall Height.** Small wireless facilities on private property may not exceed the applicable height limit for primary structures in the applicable zoning district or overlay zone, except as follows.
 - (A) Residential or Open Space land use districts as designated in the General Plan: 30 feet
 - (B) Non-Residential General Plan land use designations (including designations listed under Industrial, Commercial and Office; Open Space; Mixed Use and Community Facilities categories): 40 feet
 - (C) Where the facility would be mounted on an existing building or structure, the height of the wireless facility shall not exceed the maximum height of the building or structure, including any existing parapet or roof-mounted screen, by more than five feet.
 - (D) Exceptions to height limits that are otherwise allowed by PMC Section 18.84.150 for antennas, transmission towers and similar appurtenances shall not apply to small wireless facilities in any zoning district or PUD.

- (2) **Setbacks.** Small wireless facilities on private property may not encroach into any applicable setback for Class I or Class II accessory structures in the subject zoning district.
- (3) **Backup Power Sources.** The Community Development Director shall not approve any fossil fuel generators or other similarly noisy or fume-emitting generators in or within 250 feet from any residence; provided, however, the Community Development Director may approve sockets or other connections used for temporary backup generators used in an emergency declared by federal, state or local officials.
- (4) **Parking; Access.** Any equipment or improvements constructed or installed in connection with any small wireless facilities must not reduce any parking spaces below the minimum requirement for the subject property. Whenever feasible, small wireless facilities must use existing parking and access rather than construct new parking or access improvements. Any new parking or access improvements must meet City standards.
- (5) **Towers, Poles and Other Freestanding Small Wireless Facilities.** All new towers, poles or other freestanding structures that support small wireless facilities must be made from a metal or composite material capable of concealing all the accessory equipment, including cables, mounting brackets, radios, and utilities, either within the support structure or within an integrated enclosure located at the base of the support structure. All antennas must be installed above the pole in a single, canister-style shroud or radome. The support structure and all transmission equipment must be painted with flat/neutral colors that match the support structure. The pole height shall not exceed thirty-five (35) feet or the applicable height limit listed in **Section (c)(1)**, whichever is less. The pole diameter shall not exceed twelve (12) inches and any base enclosure diameter shall not exceed sixteen (16) inches.
- (6) **Building-Mounted Small Wireless Facilities.**
 - (A) **Preferred Concealment Techniques.** All applicants must propose new non-tower small wireless facilities that are completely concealed and architecturally integrated into the existing facade or rooftop features with no visible impacts from any publicly accessible areas at ground level (examples include, but are not limited to, antennas behind existing parapet walls or facades replaced with RF-transparent material and finished to mimic the replaced materials). Alternatively, if the applicant demonstrates with clear and convincing evidence that integration with existing features is technically infeasible, the applicant may propose completely concealed new structures or appurtenances designed to mimic the support structure's original architecture and proportions (examples include, but are not limited to, steeples and chimneys).

- (B) **Facade-Mounted Equipment.** When small wireless facilities cannot be placed behind existing parapet walls or other existing screening elements, the Community Development Director may approve facade-mounted antenna equipment in accordance with this **Section 2.7(c)(6)(B)**. All facade-mounted equipment must be concealed behind screen walls and mounted flush to the facade. The Community Development Director may not approve “pop-out” screen boxes. The Community Development Director may not approve any exposed facade-mounted antennas, including but not limited to exposed antennas painted to match the facade.

DRAFT

Small Cell Wireless Facilities

The City of Pleasanton recognizes the need to balance the important benefits to the community provided by access to advanced wireless communications infrastructure against the legitimate local concerns about potential aesthetic impacts and threats to public safety. The City also recognizes that state and federal laws place certain limits on the City's police powers over wireless facilities. Since 1998, the City's zoning regulations have been applied to strike the balance most appropriate for Pleasanton in a manner consistent with applicable laws.

Recently, new and pending federal regulations for so-called "small wireless facilities" further restrict the City's authority to determine the appropriate balance between the various interests at stake. This FAQ provides information about the City's current regulations and changes that are planned in response to these new federal regulations, as well as information about the City's current regulations and changes that are planned in response to the new laws.

Why are changes to the City's Wireless Regulations needed?

In September 2018 the FCC issued an order focused on "small wireless facilities" that are part of the shift from 4th Generation (4G) to 5th Generation (5G) wireless technology. The FCC order imposes new limits on state and local government authority to make decisions based on aesthetics, shortens review time frames even more than those currently in place, and establishes a new standard of review for courts that is more favorable to wireless providers who challenge local regulations. Updates to the City's regulations are needed to make sure they are consistent with the FCC order, and, within those limits, guide the design and location of new small cell facilities in Pleasanton. Without compliant regulations, the City may not be able to regulate these deployments.

What is wireless technology?

In simple terms, wireless technology refers to any system that allows for communication or transmission of information without use of cables or other wired connections. Although most people think of wireless technology in conjunction with personal cell phones and other "smart" devices, wireless facilities also serve to connect city infrastructure, emergency communication systems, and other key networks. All wireless facilities are supported by a network of wired data connections, usually cables in the ground or overhead, that provide the stream of data to and from the antenna, which is then transmitted wirelessly to the end user.

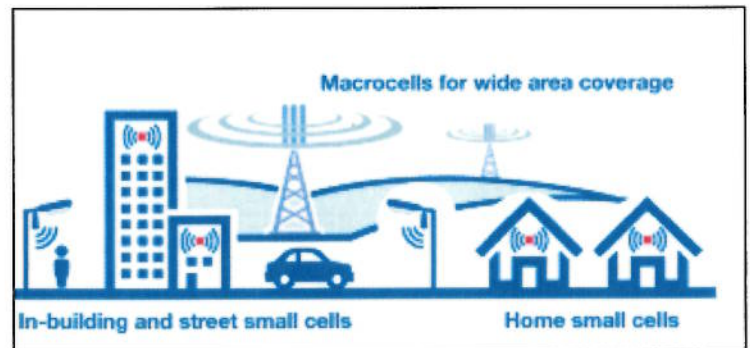
What is 5G wireless? How is it different from 4G wireless?

"4G" and "5G" are abbreviations for the 4th and 5th Generations of wireless technology standards. The standards are differentiated by their performance capabilities—how much and how fast the data moves through the networks and the applications that the network can support. The most recent and significant shift is from 4G to 5G wireless technology. Unlike 4G technology, which primarily relies on larger "macro" antennas or cells to send and receive wireless signals at relatively low frequencies, 5G will generally operate on higher frequencies in the radio spectrum, with smaller and more numerous service areas "cells" to allow the carrier to reuse the frequencies more efficiently and reduce the number of users attempting to access each cell. 5G has significantly faster data transmission rates than 4G and reduced "latency" or time lag between when a signal is sent and when it is received. The smaller

facilities are also known as “small cells.” 5G is not currently available but early tests have begun in a handful of locations in the country, including Sacramento, Los Angeles and Houston Actual 5G deployments are predicted to begin by 2020.

What is a small cell wireless facility?

Small wireless facilities typically take the form of small antennas (i.e., 3-4 feet tall) that are placed on existing structures (e.g., utility poles, street lights, or road signs) and are accompanied by equipment cabinets installed lower on the pole. With the expansion of 5G technology, the amount of small cell facilities, versus the large macro cell facilities that are designed to provide wide area coverage, is expected to increase substantially.



Who governs the deployment of wireless facilities?

The City reviews and approves the location of individual wireless applications, however, it must do so within parameters established by both federal and state laws that limit the City’s discretion. Collectively, these federal and state laws prohibit cities from the following:

1. *Denying a carrier the ability to provide service* either through explicit prohibitions (e.g., banning new wireless facilities) or through actions that effectively prohibit service.
2. *Denying Wireless Applications based on health concerns.*
3. *Stalling or failing to make a decision within expedited timeframes.* The FCC imposes a short time frame, often referred to as a shot clock (i.e., 60-days for small cell on an existing structure, 90-days for a new small cell, 90-days for collocation of facilities other than small cell, and 150-days for new freestanding facilities other than small cell), for a city to review a wireless application. Failure for a city to act results in the application being automatically approved without the ability to impose conditions of approval.
4. *Denying a carrier from using the public right-of-way* to install their equipment.

Does the City of Pleasanton have regulations regarding the deployment of small cell wireless?

Yes. The City of Pleasanton’s wireless ordinance was last updated in 2014, which means it does not reflect the most recent FCC order. It also doesn’t explicitly address small cell facilities. The Planning Commission and City Council will be considering potential amendments to the ordinance in February and March, with the goal of having these new rules in place by mid-April, when some provisions of the new FCC ruling will come into effect.

The changes are to clarify that small cell facilities are within the scope of the City’s regulations. A city-wide policy establishing requirements for small cell planning applications and approvals, including application contents, processing and approval procedures, design standards and locational criteria is also proposed. The City is working closely with a specialized legal team to help ensure the new regulations conform to Federal law, while giving the City the ability to appropriately review and regulate location and design of small cell facilities to minimize their potential impacts.

Are there size and height limitations for small cell wireless facilities?

The FCC order from September 2018 notes that small wireless facilities must meet certain size requirements including the following:

- The structures (e.g., the utility poles) containing small cell wireless antennas cannot be more than 50-feet tall or 10-percent taller than neighboring structures (whichever is taller).
- The antennas cannot be more than 3-cubic-feet in volume.
- The equipment cabinets cannot be more than 28-cubic-feet in volume.

The FCC rules don't require the City to approve anything that falls within these thresholds. Rather, these thresholds define what facilities qualify for additional restrictions on local authority. State and local governments may restrict small wireless facilities to smaller dimensions so long as the restrictions do not effectively prohibit the deployment of services.

Where can small cell wireless facilities be located?

Small cell wireless facilities can be located in public rights-of-way and most are installed on existing or replacement structures (such as light poles, as shown in this image). Given their smaller service area as compared to macro wireless facilities, most small cells can service an area within approximately 500 to 1,000-feet. Small cells may also be placed on private property, but most carriers favor the public rights-of-way where they have additional rights under state law.

Can the City provide direction in terms of design?

The FCC allows aesthetic considerations (i.e. design standards) to be applied to wireless facilities. However, they must be "reasonable" and "no more burdensome" than those applied to other types of infrastructure deployments, and must be objective and published in advance. The City's proposed small cell policy will include a section on design that includes requirements for shrouding of antennas and concealing cables and equipment, standards for mounting of auxiliary equipment, height and dimensional standards among other requirements.



Can potential health effects prevent these installations from being approved?

Under the federal Telecommunications Act, the Federal Communications Commission ("FCC") completely occupies the field with respect to radiofrequency ("RF") emissions regulation. The FCC established comprehensive rules for human exposure to RF emissions (the "FCC Guidelines"). Although the FCC requires all new and modified facilities to demonstrate compliance with the FCC Guidelines prior to construction, the FCC does not require compliance testing at regular intervals thereafter. The FCC requires all applications to include a written statement that the proposed emissions will be compliant, may require that the applicant provide a theoretical model and technical data to support the certification and, in some cases, may require the applicant to perform on-site field tests.

State and local governments cannot regulate wireless facilities based on environmental effects from RF emissions to the extent that the emissions comply with the FCC Guidelines. State and local governments may require applicants to demonstrate compliance with the FCC Guidelines, but they cannot establish compliance requirements that differ from the FCC Guidelines. Accordingly, the City's RF compliance review process is modeled after the FCC's review process—all applicants are required to submit an RF compliance report with technical data to prove that the emissions will be in compliance, and the City retains the option to require on-site testing if the technical data suggests that additional analysis is warranted.

Questions regarding potential RF hazards from FCC-regulated transmitters can be directed to the Federal Communications Commission, Consumer & Governmental Affairs Bureau, 445 12th Street, S.W., Washington, D.C. 20554; phone: 1-888-225-5322 (1-888-CALL-FCC); e-mail: rf-safety@fcc.gov. If you have concerns in the future that the facility is not in compliance with the FCC Guidelines, you should report your concerns to the FCC's Enforcement Bureau, 445 12th Street, SW, 3rd floor, Washington, DC 20554; phone: (202) 418-7450.

For additional information regarding RF emissions safety and compliance, please see the following resources from various federal, state and independent sources. Please note that these links are provided for information purposes only and the views expressed in them should be attributed to the original source.

- **Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures and Practical Guidance**
(http://wireless.fcc.gov/siting/FCC_LSGAC_RF_Guide.pdf)
- **FCC Website on RF Safety**
(<https://www.fcc.gov/general/radio-frequency-safety-0>)
- **FDA Website on RF Safety**
(<https://www.fda.gov/Radiation-EmittingProducts/RadiationEmittingProductsandProcedures/HomeBusinessandEntertainment/CellPhones/default.htm>)
- **California Department of Public Health Advisory on Cell Phones**
(<https://www.cdph.ca.gov/Programs/CCDCPHP/DEODC/EHIB/CDPH%20Document%20Library/Cell-Phone-Guidance.pdf>)
- **U.S. Department of Labor Occupational Safety and Health Administration**
(<https://www.osha.gov/SLTC/radiofrequencyradiation/healtheffects.html>)

Can the City require fiber underground as an alternative?

No, cities cannot regulate the type of technology a cellular carrier chooses to provide. Regardless, fiber optic cable is a wired technology that does not serve wireless devices (such as cellular phones).

Can the City favor one location in the community for facilities over another?

The City may establish preferences and make it easier to deploy in those locations. The City may also require applicants who propose less-preferred locations to demonstrate why more preferred locations are not technically feasible. However, the City cannot generally prohibit these facilities in broad areas (such as residential neighborhoods) and cannot force carriers to use property owned by one specific person or entity.

Is there a limit to the number of cell facilities in Pleasanton?

Cities cannot deny a carrier the ability to provide service either through explicit or implicit prohibitions (e.g., banning new wireless facilities or establishing a maximum cap).

Has the FCC's new order been challenged?

A number of lawsuits have been filed challenging the order and seeking a stay of its effective date until the litigation is resolved. In the meantime, the City will continue to review applications consistent with its Wireless Ordinance and existing federal law. In addition to the FCC Order, cities in California are also keeping an eye on a case pending in the California Supreme Court. In that case (*T-Mobile West v. City and County of San Francisco*), the court will decide whether San Francisco's ordinance regulating wireless installations in the public right of way based on aesthetics is preempted by state law. The court will likely rule in this case during the first half of 2019.