

Small Wireless Facility Installation Policy
(City Council Resolution No. 11348, September 14, 2021)

SECTION 1. PURPOSE AND INTENT

(a) The City of Orange (City) intends this Policy to establish reasonable, uniform and comprehensive standards and procedures for the deployment, construction, installation, collocation and design of small wireless telecommunications facilities within the City's public rights-of-way, consistent with and to the extent permitted under federal and California state law.

(b) The standards and procedures contained in this Policy are intended 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, commercial corridors, historic districts, open spaces and recreational areas.

(c) This Policy is not intended, nor shall it be interpreted or applied: (1) to prohibit a personal wireless service provider's ability to provide personal wireless services; (2) to prohibit an entity's ability to provide telecommunications service, subject to competitively neutral and nondiscriminatory rules, regulations or other legal requirements for rights-of-way management; (3) to unreasonably discriminate among providers of functionally equivalent personal wireless services; (4) to deny a request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency (RF) emissions to the extent that such wireless facilities comply with FCC regulations concerning such emissions; (5) to prohibit any collocation or modification that the City may not deny under federal or California state law; (6) to impose unreasonable discriminatory or anticompetitive fees that exceed the reasonable cost to provide the services for which the fee is charged; or (7) to otherwise authorize the City to preempt any applicable federal or California law.

SECTION 2. APPLICABILITY

(a) **Small Wireless Telecommunications Facilities.** This Policy shall be applicable to all existing small wireless telecommunications facilities and all applications and requests for authorization to construct, install, attach, operate, collocate, modify, reconstruct, relocate, remove or otherwise deploy such facilities within the City's rights-of-way. This Policy does not apply to small wireless facilities on private property.

(b) **Other Infrastructure Deployments.** To the extent that other wireless communication infrastructure deployments, including any that require approval pursuant to Orange Municipal Code (OMC) Chapter 12.64, involve the same or substantially similar structures, apparatus, antennas, equipment, fixtures, cabinets, cables or improvements, the Director of Public Works or other official responsible to review and approve or deny requests for authorization in connection with such other infrastructure deployment shall apply the provisions in this Policy unless specifically prohibited by applicable law.

SECTION 3. DEFINITIONS

All references to CFR or OMC sections in this Section 3 shall be as those sections exist at the adoption of Resolution No. 11348, or as they may be amended or superseded.

“Antenna” is defined as in 47 CFR §1.6002(b).

“Collector street” or **“local street”** means a 2-lane roadway as defined in OMC §12.52.020.A.5 and §12.52.022.E.

“Commercial area” means a commercial district as defined in OMC §17.18.020.

“CDD” means the Community Development Director or the Director’s designee.

“Industrial area” means an industrial district as defined in OMC §17.20.020.

“Major arterial” means a 6-lane divided roadway as defined in OMC §12.52.022.B.

“Primary arterial” means a 4-lane divided roadway as defined in OMC §12.52.022.C.

“Principal arterial” means an 8-lane divided roadway as defined in OMC §12.52.022.A.

“Prohibited support structure” means any support structure on which the City prohibits the deployment of wireless facilities, except when authorized as a pre-approved design pursuant to this Policy. Prohibited support structures include decorative poles; traffic signal poles, cabinets or related structures; new, nonreplacement wood poles; and any utility pole scheduled for removal within 18 months from the time the PWD acts on the ROW application for such pole.

“PWD” means the Public Works Director or the Director’s designee.

“Residential area” means a residential district as defined in OMC §17.14.020.

“Secondary arterial” means a 4-lane undivided roadway as defined in OMC §12.52.022.D.

“Shot clock” means the number of calendar days counted toward the presumptively reasonable time for the City to process small wireless facility encroachment permit applications, as established by the FCC, not including any calendar days on which the shot clock is tolled. The presumptively reasonable timeframes after receipt of application are: 10 days for initial determination of completeness; 60 days for final determination regarding collocation on existing structures; and 90 days for final determination regarding new builds.

“Small wireless telecommunications facility” or “small wireless facility” is defined in 47 CFR §1.6002(m).

“Support structure” means a “structure” as defined in 47 CFR §1.6002(m).

SECTION 4. REQUIRED PERMITS AND APPROVALS

(a) **Encroachment Permit.** An application for an encroachment permit for installation of a small wireless facility is required.

(b) **Master License Agreement.** An encroachment permit will only be considered for City owned assets if the applicant has an existing, valid Master License Agreement authorizing installation of the small wireless facility.

(c) **Design Review.** An application for an encroachment permit will undergo design review by the PWD and, if the installation is requested in a historic district, by the CDD. Design review shall be conducted pursuant to objective criteria set forth in Section 8, below.

(d) **Design Review Exemptions.** Notwithstanding anything in this Policy to the contrary, design review shall not be required for:

(1) Wireless facilities or other infrastructure deployments owned and operated by the City for its use.

(2) Requests for approval to collocate, replace or remove transmission equipment at an existing wireless tower or base station.

(e) **Other Permits and Approvals.** The applicant shall obtain all other permits and regulatory approvals as may be required by any other federal, state or local government agencies, including ministerial permits and/or other approvals issued by other City departments. A design review exemption under Subsection 4(d) does not exempt the same wireless facility or other infrastructure deployment from any other permits or approvals, which includes without limitation ministerial permits from the City.

SECTION 5. APPLICATION DOCUMENTATION AND PROCEDURES

(a) **Application Requirements.** An application for a small wireless facility encroachment permit shall, in addition to those general permit requirements, be accompanied by the following:

(1) Encroachment Permit Application Form. The applicant shall submit a completed City encroachment permit application.

(2) Application Fee. The applicant shall submit the small wireless facility encroachment permit fee as determined by Resolution of the City Council, which fee shall

not exceed the reasonable cost to the City to provide the services in connection with the small wireless facility.

(3) Construction Drawings. The applicant shall submit construction drawings prepared, signed and stamped by a licensed engineer, that depict all the existing and proposed improvements, equipment and conditions related to the proposed project. The construction drawings shall: (i) contain cut sheets that contain the technical specifications for all existing and proposed antennas and accessory equipment, including the manufacturer, model number and physical dimensions; (ii) identify all potential support structures within 200 feet from the proposed project site and call out such structures' overall height above ground level; and (iii) depict the plan for electric and data backhaul utilities, including the anticipated locations for all conduits, cables, wires, handholes, junctions, transformers, meters, disconnect switches, and points of connection.

(4) Site Survey. The applicant shall submit a survey prepared, signed and stamped by a licensed engineer. The survey shall identify and depict all existing boundaries, encroachments and other structures within 75 feet from the proposed project site and any new improvements, including all: (i) traffic lanes; (ii) 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 shall depict the small wireless facility from a vantage point approximately 50 feet from the proposed support structure or location. The photo simulations and vicinity map shall be incorporated into the construction plans submitted with the application. The photo simulations shall show all required elements of the facility that will be visible and shall be based on actual site photographs. The applicant may meet this requirement by preparing a master photo simulation that depicts the design from all perspectives regardless of location and that is acceptable to PWD.

(6) RF Compliance Report. The applicant shall submit an RF exposure compliance report that certifies that the proposed small wireless facility, will comply with applicable federal RF exposure standards and exposure limits. The RF report shall be prepared and certified by an RF engineer acceptable to the PWD. The RF report shall 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. The applicant may meet this requirement by submitting a master emissions compliance report that is acceptable to PWD.

(7) **Structural Analysis.** The applicant shall submit a report, prepared, signed and stamped by a licensed structural engineer, that evaluates whether the underlying pole or support structure has the structural integrity to support all the proposed equipment and attachments. At a minimum, the analysis shall be consistent with all applicable requirements in CPUC General Order 95 (including, but not limited to, load and pole overturning calculations), the National Electric Safety Code, and safety and construction standards required by law and the utility provider. The report shall contain tolerances including but not limited to guy tensions if applicable, plumb, twist, slip splices and take-up devices.

(8) **Truth and Accuracy Statement.** The applicant, or a person knowledgeable about the proposed small wireless facility and authorized to act on the applicant's behalf, shall submit a signed statement attesting that all information, representations and disclosures in the application are true, correct and complete.

(b) **Exception Request.** An application that involves a request for an exception pursuant to Section 10 of this Policy shall include a written statement in a separate document that includes all the following information: (i) whether the applicant seeks an exception pursuant to Subsections 10(b)(1), 10(b)(2) or both; (ii) the specific provision(s) and/or requirement(s) in this Policy from which the applicant seeks an exception; (iii) the specific provision(s) of federal or state law under which the applicant seeks an exception; (iv) the standard of evidence applicable to each specific provision(s) of federal or state law under which the applicant seeks an exception; (v) a statement of the factual evidence that supports the findings for the exception requested; (vi) a statement that describes the extent of the exception required and the factual evidence to show the exception would be narrowly tailored in compliance with Subsection 10(e); and (vii) any other information the applicant believes relevant to the issues raised in the exception request. Given the short timeframe in which the City must review the application, this written statement shall be included with the initial submittal to afford City staff a reasonable time to act on the application. A request by the applicant to consider an exception after the initial submittal shall be treated as a new application.

(c) **On-Site Inspection.** A physical inspection by City staff or a designee may be required for an application that involves: (i) a new small wireless facility on a new or replacement structure; (ii) a modification to an existing facility if no physical inspection has occurred in the last 12-month period; (iii) a request for an exception pursuant to Section 10 of this Policy.

(d) **Incomplete Application Deemed Withdrawn.** An application may be deemed withdrawn by the applicant unless the applicant fails to submit a substantive

response or a request for an extension of time to the PWD within 120 calendar days after the PWD deems the application incomplete by written notice. A “substantive response” shall include, at a minimum, the complete materials identified as incomplete in the written notice. A request for an extension of time shall include the reasons for the delay and a reasonable timeframe for the extension, not to exceed 90 days. The City shall not unreasonably withhold approval of such request.

(e) **Additional Administrative Requirements and Regulations.** The City Council authorizes the PWD to develop, publish and from time to time update or amend small wireless facility encroachment permit application requirements that the PWD finds necessary, appropriate or useful for processing an application subject to this Policy. The City Council further authorizes the PWD to establish other reasonable rules and regulations as the PWD deems necessary or appropriate to organize, document and manage the application process. All such requirements, materials, rules and regulations shall be in written form and publicly available to provide interested parties with prior notice.

(f) **Decisions.**

(1) Within the applicable number of shot clock days after the application has been deemed complete, the PWD shall approve, conditionally approve, or deny an encroachment permit application.

(2) Approval or conditional approval shall be accompanied by the following findings:

(A) The project complies with all applicable design and location standards in this Policy.

(B) The project is in the City’s most preferred location or the applicant has demonstrated with clear and convincing evidence in the written record that any more-preferred location(s) within 200 feet is technically infeasible.

(C) The project is not located on a prohibited support structure identified in this Policy.

(D) The project is on the most preferred support structure or the applicant has demonstrated with clear and convincing evidence in the written record that any more-preferred support structure(s) within 200 feet is technically infeasible.

(E) The applicant has demonstrated that the proposed project is in compliance with all applicable FCC regulations and guidelines for human exposure to RF emissions.

(3) Denial shall be without prejudice and shall be accompanied by a written statement of reasons for the denial as specified in this Policy.

(4) Appeal.

(A) The applicant may appeal the PWD decision to the City Manager by filing an appeal notice within 15 calendar days after the date of the PWD decision notice. Said appeal shall contain a concise statement of the grounds for the appeal.

(B) The appeal hearing shall be scheduled to take place within 10 calendar days from receipt of the appeal notice. The City Manager shall hear the appeal de novo and shall issue a written decision within 5 calendar days after the appeal hearing. If the City Manager denies the appeal, the written notice shall contain the reasons for the denial.

SECTION 6. CONDITIONS OF APPROVAL

(a) **General Conditions for Encroachment Permit.** All General Conditions for encroachment permits shall apply to small wireless facility encroachment permits to the extent not inconsistent with this Policy.

(b) **Orange Municipal Code.** All provisions contained in OMC Chapter 12.64, Encroachments in the Public Rights-of-Way, shall apply to small wireless facility encroachments to the extent not inconsistent with this Policy.

(c) **Compliance with the Master License Agreement.** All terms and conditions of the Master License Agreement (MLA) between the applicant and the City shall apply to the installation and maintenance of a small wireless facility on City owned assets installed pursuant to the MLA.

(d) **Term.** The term of the permitted small wireless facility on City owned assets shall be as provided in the MLA, unless sooner terminated by the City as authorized by Government Code §65964(b).

(e) **Compliance with Laws.** The applicant shall comply with all federal, state and local statutes, regulations, orders or other rules that carry the force of law ("laws") applicable to the applicant, the subject property, and the facility. No failure or omission by the City to timely enforce compliance with any applicable provision in the OMC, this Policy, an encroachment permit, any permit condition or any applicable law, shall be deemed to relieve, waive or lessen the applicant's obligation to comply in all respects with all applicable provisions thereof.

(f) **Adverse Impacts on Other Properties.** The applicant shall use all reasonable efforts to prevent adverse impacts on nearby properties that may arise from the applicant's construction, installation, operation, maintenance, repair, removal and/or other activities on or about the site, including noise or damage to surrounding property. The applicant shall, at its sole cost and expense, repair and restore any and all damages

to public and private properties resulting from its activities performed in connection with the encroachment permit.

(g) **Contact Information.** The applicant shall keep on file with the PWD the following information:

(1) Current contact information including the name, address, direct telephone number and email address for the applicant, the site operator, the equipment owner, and the site manager.

(2) The site identification number for the small wireless facility.

(3) A telephone number to the facility's network operations center where a live person with power-down control over the facility is available on a 24-hour basis.

(h) **Landscaping.** The applicant shall replace landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the applicant or at the applicant's direction on or about the site. If any trees are damaged or displaced, the applicant shall hire and pay for a licensed arborist to select plants and maintain replacement landscaping in consultation with the City.

(i) **Cost Reimbursement to City.** The applicant shall pay the fee established by the City as reimbursement for the City's costs and expenses incurred in application review, permit issuance, site inspection, ongoing administration, and other costs incurred in connection with the permitted facility.

(j) **Assignment.** The permitted facility may be assigned by the applicant upon prior written notice, and approval by, the PWD. The terms and conditions of the encroachment permit will bind and inure to the benefit of the successors and assigns of the applicant.

(k) **Indemnification.** The applicant shall indemnify, hold harmless, and defend the City, its officers, agents and employees from any and all liability or claims that may be brought against the City arising out of its approval of this permit and the small wireless facility, including claims for personal injury, death or property damage, save and except that caused by the City's active negligence. The applicant expressly acknowledges that this indemnification is a material consideration for the City's approval of the facility, and that such indemnification obligation will survive the expiration, revocation or other termination of the permit.

(l) **Severability.** If any provision in these conditions or such provision's application to any person, entity or circumstances is held by any court with competent jurisdiction to be invalid or unenforceable such provision or its application to such person, entity or circumstance will be deemed severed from the permit; all other provisions in the permit or their application to any person, entity or circumstance will not be affected and will be valid and enforceable to the fullest extent permitted by law.

SECTION 7. LOCATIONS

(a) **Location Preferences.** To assist applicants and decision makers respond to community aesthetic preferences and values, this subsection lists an ordered hierarchy of preferences for locations to be used in connection with small wireless facilities. Applications that involve lesser-preferred locations may be approved if (i) the applicant demonstrates by clear and convincing evidence in the record that any more preferred locations or structures within 200 feet from the proposed site would be technically infeasible and (ii) the applicant qualifies for an exception pursuant to Section 10 of this Policy. The City prefers small wireless facilities in the public rights-of-way to be installed in the following locations, ordered from most preferred to least preferred:

(1) Locations within industrial areas, commercial areas, business parks or office professional areas, in that order, on or along principal arterials.

(2) Locations within industrial areas, commercial areas, business parks or office professional areas, in that order, on or along major arterials.

(3) Locations within industrial areas, commercial areas, business parks or office professional areas, in that order, on or along primary arterials.

(4) Locations within industrial areas, commercial areas, business parks or office professional areas, in that order, on or along secondary arterial streets.

(5) Locations within industrial areas, commercial areas, business parks or office professional areas, in that order, on or along local streets.

(6) Locations within a historic district. Within a historic district, the City prefers locations in an alley rather than along the street frontage, and facilities shall not be placed on a decorative light pole.

(7) Locations in or within 200 feet from a residential area or residential dwelling unit. Within a residential area, the City prefers locations on or along roadways in the following order: major arterials; primary arterials; secondary arterial streets; local streets.

(8) Locations within an open space or recreational area.

(9) Locations within the Ecological Resource/Open Space/Park Zone.

(b) **No Interference with Other Uses.** Small wireless facilities and associated antennas, accessory equipment or improvements shall not be located in a place or manner that would physically interfere with or impede:

(1) Worker access to an above-ground or underground infrastructure for traffic control, streetlight or public transportation, including a curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, barricade reflectors.

(2) Access to a public transportation vehicle, shelter, street furniture or other improvements at a public transportation stop.

(3) Worker access to an above-ground or underground infrastructure owned or operated by a public or private utility agency.

(4) A fire hydrant or water valve.

(5) Access to doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to a building appurtenant to the rights-of-way.

(6) Access to a fire escape.

(c) **Replacement Pole Location.** All replacement poles shall:

(1) Be located as close to the removed pole as possible.

(2) Be aligned with other existing poles along the public rights-of-way.

(3) Be compliant with all applicable standards and specifications identified or required by the PWD.

(d) **Additional Placement Requirements.** In addition to all other requirements in this Policy, small wireless facilities, other infrastructure deployments and all related equipment and improvements shall:

(1) To the extent possible, be placed at the location of existing poles or collocated with other small wireless facilities.

(2) Be placed as close as possible to the property line between two parcels that abuts the public rights-of-way.

(3) Not be placed in direct alignment with the front of a door or window.

(4) Not be placed in a location that obstructs views of traffic signs or signals.

(5) Not be placed in a location that obstructs illumination patterns for existing streetlights.

SECTION 8. DESIGN STANDARDS

(a) **Antennas.** All antennas and associated cables, jumpers, wires, mounts, masts, brackets and other connectors and hardware shall be installed within a single shroud or radome. For pole-top antennas, the shroud shall not exceed 2.5 times the median pole diameter. For side-arm antennas, the shroud shall cover the cross arm and any cables, jumpers, wires or other connectors between the vertical riser and the antenna.

(b) **Poles.** Poles shall be constructed according to the size, bolt pattern and other standards established by the PWD.

(c) **Finishes.** Exterior surfaces of antennas and visible support equipment shall be painted, colored and/or wrapped in flat, nonreflective hues that match the underlying support structure or blend with the surrounding environment. Surfaces shall be treated with graffiti-resistant sealant. Finishes shall be subject to PWD prior approval.

(d) **Lights.** Streetlights and streetlight fixtures shall be aimed and shielded so that their illumination effects are directed downwards and confined within the public rights-of-way in a manner consistent with standards and specifications required by the PWD. Antennas, accessory equipment and other improvements with indicator or status lights shall be installed in locations and within enclosures that eliminate illumination impacts visible from publicly accessible areas.

(e) **Trees and Landscaping.** Small wireless facilities and other infrastructure deployments shall not be installed (in whole or in part) within a tree drip line. Such facilities may not displace an existing tree or landscape features unless: (i) such displaced tree or landscaping is replaced with trees, plants or other landscape features approved by the PWD; or (ii) the applicant submits and adheres to a landscape maintenance plan. The applicant shall, at all times, be responsible for maintaining replacement landscape features.

(f) **Signs and Advertisements.** Small wireless facilities and other infrastructure deployments may not bear signage or advertisements unless expressly approved by the City, required by law or recommended under FCC or other United States governmental agencies for compliance with RF emissions regulations.

(g) **Site Security Measures.** Small wireless facilities and other infrastructure deployments may incorporate reasonable and appropriate site security measures such as locks and anti-climbing devices, to prevent unauthorized access, theft or vandalism. Barbed wire, razor ribbon, electrified fences or similarly dangerous security measures shall not be allowed. Cabinets and equipment shroud shall be kept secured to prevent unauthorized access.

(h) **Compliance with Health and Safety Regulations.** Small wireless facilities and other infrastructure deployments shall be designed, constructed, operated and maintained in compliance with all generally applicable health and safety regulations, including all applicable regulations for human exposure to RF emissions and compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. §§12101 et seq.).

(i) **Undergrounded Accessory Equipment.**

(1) Where Required. Accessory equipment, other than an electric meter where permitted, and an emergency disconnect switch, shall be placed underground when proposed in (i) an underground utility district; or (ii) a location where the PWD finds substantial evidence that the additional above-ground accessory equipment would interfere with the public's uses in the public rights-of-way. Notwithstanding the preceding provision, the PWD may grant an exception when the applicant demonstrates by clear and convincing evidence that compliance with this section would be technically infeasible.

(2) Vaults. Undergrounded accessory equipment shall 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 shall be constructed with a slip-resistant cover and properly secured to prevent unauthorized access. Vents for airflow shall be flush-to-grade when placed within the sidewalk and may not exceed 2 feet above grade when placed off the sidewalk. Vault lids shall not exhibit logos or commercial advertisements.

(j) **Pole-Mounted Accessory Equipment.**

(1) Preferred Concealment Techniques. Applicants shall place pole-mounted accessory equipment in the least conspicuous position under the circumstances presented by the proposed pole and location. Pole-mounted accessory equipment may be installed behind street, traffic or other signs to the extent that the installation complies with applicable public health and safety regulations.

(2) Minimum Vertical Clearance. The lowest point on a pole-mounted accessory equipment shall be at least 10 feet above ground level adjacent to the pole. If applicable laws require pole-mounted accessory equipment to be placed less than 10 feet above ground level, the clearance from ground level shall be no less than required for compliance with such laws.

(3) Orientation. Unless placed behind a street sign or some other concealment that dictates the equipment orientation on the pole, pole-mounted accessory equipment should be located on the street side of the pole.

(k) **Ground-Mounted or Base-Mounted Accessory Equipment.**

(1) Ground-Mounted Concealment. On local streets and secondary arterials, the City prefers ground-mounted accessory equipment to be concealed as follows: (i) within a landscaped parkway, median or similar location, behind or among new/existing landscape features and painted or wrapped in flat natural colors to blend with the landscape features; or (ii) if landscaping concealment is not technically feasible, disguised as other street furniture adjacent to the support structure, such as mailboxes, benches, trash cans and information kiosks. On arterial roadways, proposed ground mounted accessory equipment should be completely shrouded or placed in a cabinet

substantially similar in appearance to existing ground-mounted accessory equipment cabinets.

(2) Sight Lines. To promote and protect public health and safety and prevent potential hazards hidden behind large equipment cabinets, no individual ground-mounted accessory equipment cabinet may exceed 4 feet in height or 4 feet in width. Ground-mounted and base-mounted equipment cabinets shall not have any horizontal flat surfaces greater than 1.5 square inches to prevent litter or other objects left on such surfaces.

(I) **Utilities.**

(1) Overhead Lines. The PWD shall not approve any new overhead utility lines in underground utility districts. In areas with existing overhead lines, new communication lines shall be “overlashed” with existing communication lines. No new overhead utility service drops shall be permitted to traverse a roadway used for vehicular transit.

(2) Vertical Cable Risers. Cables, wires and other connectors shall be routed through conduits within the pole or other support structure, and conduit attachments, cables, wires and other connectors shall be concealed from public view. To the extent that cables, wires and other connectors cannot be routed through the pole, such as with wood utility poles, they shall be routed through external conduit or shroud that has been finished to match the underlying pole.

(3) 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.

(4) Electric Meters. Small cells and other infrastructure deployments shall use flat-rate electric service or other method that eliminates the need for a separate above grade electric meter. If flat-rate service is not available, a shrouded smart meter not exceeding the width of the pole shall be installed. If the proposed project involves a ground-mounted equipment cabinet, an electric meter may be integrated with and recessed into the cabinet, but the PWD shall not approve a separate ground-mounted electric meter pedestal.

(5) Existing Conduit or Circuits. Joint use of new or existing City-owned conduits and/or electric circuits generally shall not be permitted; and applicant is responsible to provide service via separate circuit and conduit. Access to a conduit and/or circuits owned by the City may be considered if no feasible alternative exists. Such access requires prior written approval of the PWD, which may be withheld or conditioned as the PWD deems necessary or appropriate to protect the City’s infrastructure, prevent interference with municipal functions and protect public health and safety.

(n) **Preapproved Designs.** To expedite the review process and encourage collaborative designs among applicants and the City, the City Council authorizes the PWD or CDD to designate one or more preapproved designs for small wireless facilities and other infrastructure deployments.

(o) **Historic District Applications.** For encroachment permit applications proposed in historic districts, the CDD shall perform the design review based on the standards contained in this Section 8 and in conjunction with applicable historic district design standards.

SECTION 9. REVOCATION

A small wireless facility permitted under this Policy may be revoked in accordance with the following procedures.

(a) The PWD may initiate revocation proceedings when the PWD has information that the facility may not be in compliance with all applicable laws, including any permit in connection with the facility and any conditions of such permit(s).

(b) The PWD shall issue a written notice to the applicant that specifies (i) the facility; (ii) the violation(s) to be corrected; (iii) the timeframe in which the applicant shall 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).

(c) If the applicant does not correct the violations within the timeframe required in the notice, a public hearing before the City Council will be scheduled to consider revocation of the permitted facility.

(d) After the public hearing, the City Council may revoke the permitted facility if it finds substantial evidence in the written record to show that the facility is not in compliance with applicable laws, including any permit in connection with the facility and any conditions of such permit(s).

(e) If the City Council revokes the permitted facility, the PWD shall, within 5 business days thereafter, provide the applicant with written notice specifying the reasons for such revocation.

(f) A decision by the City Council to revoke or not revoke a permitted facility shall be by resolution and shall be final and not subject to any further appeals.

SECTION 10. EXCEPTIONS

(a) The provisions in this Section 10 establish a procedure by which the City may grant an exception to the standards in this Policy but only to the extent necessary to avoid conflict with applicable federal or state law. When the applicant requests an

exception, the PWD, in conjunction with the CDD for applications in a historic district (or the City Manager, on appeal), shall consider the findings in Subsection 10(b) in addition to the findings required under Subsection 5(f). Each exception shall be specific to the facts and circumstances in connection of the application. An exception granted in one instance shall not be deemed to create a presumption or expectation that an exception will be granted in any other instance.

(b) **Findings for an Exception.** The PWD, in conjunction with the CDD for applications in a historic district (or the City Manager, on appeal), may grant an exception to any provision or requirement in this Policy only if the PWD and CDD, as appropriate, (or City Manager, on appeal) finds that:

(1) A denial based on the application's noncompliance with a specific provision or requirement would violate federal or state law; or

(2) A provision in this Policy, as applied to the applicant, would violate any rights or privileges conferred on the applicant by federal or state law.

(c) **Exception Requests.** The applicant may request an exception only at the time an application is submitted. The PWD, in conjunction with the CDD for applications in a historic district (or City Manager, on appeal), may consider additional information provided by the applicant after submittal to supplement the initial exception request. A request for an exception after the initial submittal shall be deemed to be a new application.

(d) **Burden of Proof.** The applicant shall have the burden to prove to the PWD and CDD, as appropriate (or City Manager, on appeal), that an exception should be granted pursuant to Subsection 10(b). The standard of evidence shall be the same as required by applicable federal or state law for the issue raised in the applicant's request for an exception.

(e) **Scope of Exception.** If the PWD, in conjunction with the CDD for applications in a historic district (or the City Manager, on appeal), finds that an exception should be granted, the exception shall be narrowly tailored so that the exception deviates from this Policy to least extent necessary for compliance with federal or state law.