

ITEM 11.A.

ORDINANCE NO. 396

AN ORDINANCE OF THE CITY OF MOORPARK, CALIFORNIA, APPROVING ZONING ORDINANCE AMENDMENT NO. 2007-01, AMENDING CHAPTER 17.20 (USES BY ZONE) AND CHAPTER 17.42 (WIRELESS COMMUNICATIONS FACILITIES) OF THE MOORPARK MUNICIPAL CODE TO UPDATE THE REVIEW PROCESS AND ENSURE CONSISTENCY WITH CHANGES IN STATE LAW REGARDING THE REGULATION OF WIRELESS COMMUNICATIONS FACILITIES

WHEREAS, at its meeting of January 17, 2007, the City Council adopted Resolution No. 2007-2556 directing the Planning Commission to consider a Zoning Ordinance Amendment that would amend Chapters 17.20 and 17.42 of the Moorpark Municipal Code to ensure that regulations related to wireless communications collocation facilities are consistent with State law, the City's General Plan and other provisions of the City's Zoning Ordinance; and

WHEREAS, at a duly noticed public hearing on October 26, 2010, the Planning Commission considered Zoning Ordinance Amendment No. 2007-01, to amend Chapter 17.20 (Uses By Zone) and amend Chapter 17.42 (Wireless Communications Facilities) of the Moorpark Municipal Code and adopted Resolution No. PC 2010-558 recommending approval of this Zoning Ordinance Amendment to the City Council; and

WHEREAS, at a duly noticed public hearing held on December 15, 2010, the City Council considered the agenda report and any supplements thereto and any written public comments; opened the public hearing, took and considered public testimony, closed the public hearing, and reached a decision on this matter; and

WHEREAS, the City Council concurs with the Community Development Director's determination that this project is exempt from the provisions of the California Environmental Quality Act by the general rule that CEQA only applies to projects that may have a significant effect on the environment.

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

SECTION 1. GENERAL PLAN AND SPECIFIC PLAN CONSISTENCY: The City Council finds the proposed amendments under Zoning Ordinance Amendment No. 2007-01 to Chapter 17.20 Uses by Zone and Chapter 17.42 Wireless Communications Facilities of Title 17 Zoning of the Moorpark Municipal Code to be consistent with the City of Moorpark General Plan and all adopted Specific Plans.

SECTION 2. Part C of Table 17.20.050 of Section 17.20.050 Permitted Uses in Open Space, Agricultural, Residential, and Special Purpose Zones and Part E of Table 17.20.060 of Section 17.20.060 Permitted Uses in Commercial and Industrial Zones of Chapter 17.20 Uses by Zone of Title 17 Zoning of the Moorpark Municipal Code are hereby amended as shown in Exhibits A and B, attached.

SECTION 3. Chapter 17.42 Wireless Communications Facilities of Title 17 Zoning is hereby amended in its entirety to read as shown in Exhibit C attached.

SECTION 4. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

SECTION 5. This ordinance shall become effective thirty (30) days after its passage and adoption.

SECTION 6. The City Clerk shall certify to the passage and adoption of this ordinance; shall enter the same in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published once in the Moorpark Star a newspaper of general circulation, as defined in Section 6008 of the Government Code, for the City of Moorpark, and which is hereby designated for that purpose.

PASSED AND ADOPTED this 5th day of January, 2011.

Janice S. Parvin, Mayor

ATTEST:

Maureen Benson, City Clerk

Exhibit A - Table 17.20.050.C
Exhibit B - Table 17.20.060.E
Exhibit C - Chapter 17.42

EXHIBIT A

Table 17.20.050, Permitted Uses in the Open Space, Agricultural, Residential, and Special Purpose Zones, Section C et seq. of the Moorpark Municipal Code, is amended as shown below:

**Table 17.20.050
PERMITTED USES IN OPEN SPACE, AGRICULTURAL,
RESIDENTIAL, AND SPECIAL PURPOSE ZONES**

- [Blank] = Not permitted
- AP = Administrative Permit
- CUP = Conditional Use Permit
- NZC = No Zoning Clearance required
- TUP = Temporary Use Permit
- ZC = Permitted by Zoning Clearance

Zones	O-S	A-E	R-A	R-E	R-O	R-1	R-2	RPD	TPD
C. Public and Quasi-Public Uses									
1. Places of religious worship, with or without schools		CUP							
2. Clubhouses with or without alcoholic beverage sales			CUP	CUP		CUP	CUP	CUP	
3. Colleges and universities				CUP					
4. Energy production from renewable resources	CUP	CUP	CUP						
5. Governmental uses including, but not limited to city offices, community rooms, fire stations, human service centers, libraries, police stations, public utility facilities	CUP								

Zones	O-S	A-E	R-A	R-E	R-O	R-1	R-2	RPD	TPD
6. Utility structures (electrical boxes, transformers and valve apparatus that have no covered floor area and are attached to the ground by poles, columns or pedestals shall not require a zoning clearance)	AP								
7. Wireless communications facilities, in accordance with the requirements of Chapter 17.42									
a. Major wireless communications facilities	CUP								
b. Minor wireless communications facilities	AP								
c. Collocation wireless communications facilities (consistent with definition of "collocation facility" in Section 17.42.020)	ZC								

The balance of Table 17.20.050 remains unchanged.

EXHIBIT B

Table 17.20.060, Permitted Uses in the Commercial and Industrial Zones, Section E, et seq. of the Moorpark Municipal Code, is amended as shown below:

**Table 17.20.060
PERMITTED USES IN COMMERCIAL AND INDUSTRIAL ZONES**

[Blank] = Not permitted
 AP = Administrative Permit
 CUP = Conditional Use Permit
 NZC = No Zoning Clearance required
 TUP = Temporary Use Permit
 ZC = Permitted by Zoning Clearance

Zones	C-O	C-1	CPD C-2	C- OT	M-1	M-2	I
E. Public and Semi-Public Uses							
1. Amusement and recreational facilities as defined in Chapter 17.08							
a. Arcades (video and computer) and cyber cafés	CUP	CUP	CUP	CUP			
b. Health club/gymnasium/fitness center/spa (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)	AP*	AP*	AP*	AP*	AP*		
2. Care facilities, including adult day care facilities, Alzheimer's day care facilities, congregate living health facilities, child day care centers, community treatment facilities, foster family and adoption agencies, hospices, long-term health care facilities, residential care facilities for the elderly, residential care facilities for persons with chronic life-threatening illness, skilled nursing and intermediate care facilities, social rehabilitation facilities, therapeutic day services facilities, transitional	CUP	CUP	CUP				

Zones	C-O	C-1	CPD C-2	C- OT	M-1	M-2	I
housing placement facilities, and transitional shelter care facilities as defined in Division 2 of the Health and Safety Code							
3. Clubhouses, social clubs, service clubs with or without alcohol					CUP		CUP
4. Energy production from renewable resources						CUP	CUP
5. Governmental uses including, but not limited to city offices, community rooms, fire stations, human service centers, libraries, police stations, public utility facilities	CUP	CUP	CUP	CUP	CUP	CUP	CUP
6. Hospitals including urgent care (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)	AP*		AP*		AP*		AP*
7. Places of religious worship					CUP		CUP
8. Private education facilities including, but not limited to colleges and universities, elementary, middle and high schools							CUP
9. Private training facilities including, but not limited to professional and vocational schools, art and craft schools, music schools not part of a music store, and driver training schools (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)	AP*	AP*	AP*	AP*	AP*		

Zones	C-O	C-1	CPD C-2	C- OT	M-1	M-2	I
10. Recreational facilities (private) with/without food services, including but not limited to bicycle and skate parks, golf courses, gymnasiums, fitness, health spas, martial arts, racquetball, yoga. Bicycles and skate parks shall be in compliance with Chapter 17.28 (*if within one hundred (100) feet of a residentially zoned property a conditional use permit is required)	AP*	AP*	AP*	AP*	AP*		CUP
11. Utility structures (electrical boxes, transformers and valve apparatus that have no covered floor area and are attached to the ground by poles, columns or pedestals shall not require a zone clearance)	AP	AP	AP	AP	AP	AP	AP
12. Wireless communications facilities, in accordance with the requirements of Chapter 17.42							
a. Major wireless communications facilities	CUP	CUP	CUP	CUP	CUP	CUP	CUP
b. Minor wireless communications facilities	AP	AP	AP	AP	AP	AP	AP
c. Collocation wireless communications facilities (consistent with definition of "collocation facility" in Section 17.42.020)	ZC	ZC	ZC	ZC	ZC	ZC	ZC

The balance of Table 17.20.060 remains unchanged.

EXHIBIT C

Existing Chapter 17.42 Wireless Communications Facilities is amended as shown below:

Chapter 17.42

WIRELESS COMMUNICATIONS FACILITIES

Sections:

- 17.42.010 Purpose.**
- 17.42.020 Definitions.**
- 17.42.030 Applicability.**
- 17.42.040 Application requirements for all wireless communications facilities.**
- 17.42.050 Development requirements for all wireless communications facilities.**
- 17.42.060 Additional regulations for minor facilities.**
- 17.42.070 Additional regulations for major facilities.**
- 17.42.080 Required findings for all wireless facilities.**
- 17.42.090 Facility removal.**
- 17.42.100 Temporary use during declared emergency.**

17.42.010 Purpose.

A. The purpose of these requirements and guidelines is to regulate the location and design of wireless communications facilities as defined herein to facilitate the orderly deployment and development of wireless communications services in the city, to ensure the design and location of wireless communications facilities are consistent with policies of the city previously adopted to guide the orderly development of the city to promote the public health, safety, comfort, convenience, quality of life and general welfare of the city's residents, to protect property values and enhance aesthetic appearance of the city by maintaining architectural and structural integrity, and by protecting views from obtrusive and unsightly accessory uses and facilities.

B. In adopting and implementing the regulatory provisions of this chapter, it is the intent of the City Council to further the objectives specified above, and to create reasonable regulations in conformance with the provisions of the Telecommunication Act of 1996 without unnecessarily burdening the federal interests in ensuring access to telecommunication services, in promoting fair and effective competition among competing communication service providers, and in eliminating local restrictions and regulations that, with regard to antennas, may preclude reception of an acceptable signal quality or may unreasonably delay, prevent, or increase the cost of installation, maintenance, or use of such antennas.

C. With regard to applications to place wireless communications facilities in the public right-of-way, these regulations are intended to be reasonable time, place, and manner regulations in accordance with the city's powers, California Public Utilities Code section 7901, and the Telecommunications Act of 1996 (specifically, Title 47, United

States Code, Section 253 and Section 332 (c) (7)). If an application to place wireless communications facilities in the public right-of-way complies with the rules and guidelines set forth in this chapter, then the city shall issue any necessary permits for completion of the facilities with conditions as determined necessary to comply with the Moorpark Municipal Code.

17.42.020 Definitions.

For purposes of this chapter, the following words, terms, phrases and their derivations shall have the meanings given herein. The word "shall" is always mandatory and not merely directory. If a definition is not listed in this Chapter, Chapter 17.08 of the Moorpark Zoning Code shall control.

"Accessory equipment" means any equipment installed, mounted, operated or maintained in close proximity to an antenna structure to provide power to the antenna structure or to receive, transmit, or store signals or information received by or sent from an antenna. For the purposes of this chapter, facilities are categorized by the manner in which antennas are mounted and not by the placement of accessory equipment. It is presumed that all facilities shall include accessory equipment, which shall not affect how the facility is mounted.

"Antenna structure" means an antenna, any structure designed specifically to support an antenna, and/or any appurtenances mounted on such structure or antenna.

"Collocation" or "collocated" means the location of multiple antennas which may be owned or operated by one (1) or more service providers at single or adjacent parcels or lots and which may or may not be mounted to a common supporting structure, wall or building.

"Collocation facility" means the placement or installation of wireless facilities, including multiple antennas, and related equipment, which may be owned or operated by one (1) or more service providers at single or adjacent parcels or lots and which may or may not be mounted to a common supporting structure, wall or building, consistent with a duly approved discretionary permit for a collocation wireless communications facility which may be either a major wireless communications facility or a minor wireless communications facility as defined herein.

"Commercial mobile service" means any mobile service that (1) is offered in return for monetary compensation, (2) is available to the public or a substantial portion of the public and (3) provides subscribers with the ability to access or receive communication from the public switched telephone network. Commercial mobile service includes, but is not limited to, paging service, wireless data transmission, cellular telephone service, specialized mobile radio service (SMR), and personal communications service (PCS).

"Disguised facility" means any wireless communications facility, which is designed to blend into the surrounding land, typically one that is architecturally integrated into a building or other concealing structure.

"Fixed wireless service" means any service providing radio communication to or from antenna structures at fixed and specified locations which are not designed to be moved during operation and which offers the ability to access or receive communication from the public switched telephone network.

“Ground mounted” means a wireless communications facility that is mounted to a pole, lattice tower or other freestanding structure that is primarily constructed for the purpose of supporting an antenna.

“Lattice tower” means a tower-like structure used to support antennae and comprised of up to two (2) or more steel support legs.

“Major facility” means a wireless communications or collocation facility that is ground mounted, or is wall mounted, utility mounted, or roof mounted but does not meet the definition of a minor facility.

“Microwave communication” means the transmission or reception of radio communication at frequencies of a microwave signal (generally, in the 3GHz to 300GHz frequency spectrum).

“Minor facility” means a wireless communications or collocation facility that is wall mounted, utility mounted, or roof mounted as follows:

1. If wall mounted, the facility is architecturally compatible with the building structure and surrounding land uses;
2. If utility mounted, the facility is required to be compatible with surrounding land uses, must be proposed for attachment to an existing above-ground structure, and comply with all other provisions of Section 17.42.060(B), 17.42.060(C), and 17.42.060(D) of this code;
3. If roof mounted, the entire facility must be screened with solid material on four (4) sides or integrated into the architecture of the building, must be architecturally compatible with surrounding land uses, and must not exceed the maximum building height of the applicable zone district in which the facility is located; and
4. If wall mounted, utility mounted, or roof mounted, qualifies as a disguised facility or a stealth facility.

“Mobile service” means any temporary service providing radio communication to or from at least one (1) antenna that is designed to be moved during operation or used during halts at unspecified locations; or as otherwise defined in 47 USCS Section 153 and interpreted by the Code of Federal Regulations and the Federal Register.

“Mounted” means any manner of antenna attachment, support, or connection, whether on ground or on a structure.

“Multipoint distribution service” means a microwave communication service that delivers video programming directly to subscribers, including multichannel, multipoint distribution services, instructional television fixed services, and local multipoint distribution services, or as otherwise defined by the Section 207 of the Telecommunications Act of 1996, Section 1.4000 of Title 47 of the Code of Federal Regulations and any interpretive decisions thereof issued by the Federal Communications Commission.

“Radio communication” means the transmission and/or reception of impulses, writing, signs, signals, pictures, and sounds of all kinds through space by means of electromagnetic waves.

“Roof mounted” means a facility that is mounted on any structure that is not specifically constructed for the purpose of supporting antennae, in any manner that does not satisfy either the definition of wall mounted or utility mounted, and is typically mounted on the roof of a building.

“Satellite antenna” means a device used to transmit and/or receive radio or electromagnetic waves between terrestrially and orbitally-based uses. This definition is meant to include, but not limited to, what are commonly referred to as satellite earth stations, TVRO’s (Satellite Television Receiving Antenna), and satellite microwave antennas.

“Stealth facility” means any wireless communications facility which is disguised to appear as another natural or artificial object that is prevalent in the surrounding environment or which is architecturally integrated into a building or other concealing structure.

“Utility mounted” means a facility that is mounted to an above-ground structure that is primarily designed and installed to support electrical power lines, cable television lines, street lighting, traffic signal equipment, park lighting or a structure on public or private property deemed by the city to be similar in nature.

“Wall mounted” means a facility that is mounted on any vertical surface or nearly vertical surface of a building or other existing structure that is not specifically constructed for the purpose of supporting an antenna i.e., the exterior walls of a building, an existing parapet, the side of a water tank, the face of a church steeple, or the side of a freestanding sign such that the highest point of the antenna structure is at an elevation equal to or lower than the highest point of the surface on which it is mounted.

“Wireless communications facility” or “facility” means an antenna structure and any appurtenant facility or accessory equipment located within city limits and that is used in connection with the provision of wireless service.

“Wireless service” means any type of wireless service providing radio communication that satisfies the definition of commercial mobile service, fixed wireless service, or wireless video service.

“Wireless video service” means any service providing radio communication, which delivers video programming.

17.42.030 Applicability.

The regulations in this chapter apply to all wireless communication facilities except the following:

A. Any antenna structure that is one (1) meter (39.37 inches) or less in diameter and is designed to receive direct broadcast satellite service, including direct-to-home satellite service, as defined by Section 207 of the Telecommunications Act of 1996, Title 47 of the Code of Federal Regulations, and any interpretive decisions thereof issued by the Federal Communications Commission;

B. Any Antenna Structure that is two (2) meters (78.74 inches) or less in diameter located in a commercial or industrial zone and is designed to transmit or receive radio communication by satellite antenna;

C. Any antenna structure that is one (1) meter (39.37 inches) or less in diameter or diagonal measurement and is designed to receive multipoint distribution service, provided that no part of the antenna structure extends more than eight (8) feet above the principal building on the same lot.

D. Any antenna structure that is designed and used solely to receive UHF, VHF, AM, and FM broadcast signals from licensed radio and television stations.

E. Any antenna structure that is designed and used solely in connection with authorized operations of an amateur radio station licensed by the FCC (i.e., a "HAM" radio transmission).

17.42.040 Application requirements for all wireless communications facilities.

A. Each applicant applying for a wireless communications facility shall submit the required completed application in accordance with the requirements set forth in Chapter 17.44 of the Moorpark Municipal Code, and such additional or different requirements as are made applicable by this chapter. At a minimum, a wireless communications facility application shall include the following:

1. A scaled site plan and facility elevations with the following information:
 - a. The proposed location of the wireless communications facility including access;
 - b. The elevations of the wireless communications facility with dimensions identified;
 - c. The height of any existing or proposed structure(s);
 - d. The location of any accessory equipment;
 - e. The location of all guy-wires;
 - f. The location of all above and below ground wiring and connection cables;
 - g. The location of existing or proposed easements on the property affecting the facility;
 - h. The height of any panels, microwave dishes, or whip antennas, above ground level;
 - i. The distance between the antenna structure and any existing or proposed accessory equipment; and
 - j. Any other necessary information as may be required by the director of community development.
2. A letter of justification accompanied by written documentation that explains the applicant's efforts to locate the facility in accordance with the screening and site selection guidelines set forth in Section 17.42.050.C.
3. A narrative and map that discloses the exact location and nature of any and all existing facilities that are owned, operated or used by the applicant within the city or within one (1) mile of its geographic borders, as well as any proposed or planned sites within said boundary that may reasonably be known to the applicant at the time the application is made.
4. A narrative and appropriate maps that disclose the geographic area(s) within the city that will be serviced by the proposed facility, the geographic area(s) bordering the city, if any, that will be serviced by the proposed facility, and the nature of the service to be provided or purpose of the facility.
5. A radio-frequency (RF) report prepared by a qualified RF engineer acceptable to the city to demonstrate that the proposed facility, as well as any collocated facilities, complies with current Federal RF emission standards. This RF report shall also include signal strength exhibits, including calculations and measurements under maximum loading conditions.

6. Computerized visual assessments or other exhibits equivalent in a form and manner acceptable to the director of community development showing the before and after visual appearances of the proposed facility.

7. A description of the required maintenance visits to the site and security proposed to protect the site from vandalism and trespass.

8. A list of any other required licenses and approvals to provide wireless services in the city.

17.42.050 Development requirements for all wireless communications facilities.

A. General Development Requirements. The facility shall comply with each of the following requirements:

1. Any signs or advertising devices other than certification, public safety, warning, or other required seals or required signage are prohibited.

2. Any and all accessory equipment, or other equipment associated with the operation of a minor facility, including but not limited to transmission cables, when not located within an existing above-ground building in a manner that is not visible from the outside, in association with a stealth facility, must be located within conduit or in an underground vault. Any and all accessory equipment, or other equipment associated with the operation of a major facility, including but not limited to transmission cables, must be located within conduit, an underground vault, or an above-ground building or enclosure in a manner that complies with the development standards of the zoning district in which such equipment is located. Equipment located above ground must be visually compatible with the surrounding buildings and structures and either shrouded by sufficient landscaping to screen the equipment from view, or designed to match the architecture of adjacent buildings.

3. The wireless communications facility's exterior finish shall be comprised of non-reflective material(s) and painted, screened, or camouflaged to blend with the materials and colors of surrounding buildings, structures, topography and vegetation.

4. Wireless communications facilities and/or support equipment that are accessible to pedestrians shall be covered with a clear anti-graffiti material of a type approved by the Planning Commission or Community Development Director. The Planning Commission or Community Development Director may grant an exception to this requirement if the applicant demonstrates to the satisfaction of the Planning Commission or Community Development Director that there is adequate security around the facility to prevent graffiti.

5. All screening used in connection with a wall mounted and/or roof mounted wireless facility must be compatible with the architecture, color, texture, and materials of the building or structure to which it is attached, and must be maintained to the satisfaction of the Community Development Director.

6. Wireless facilities may not be illuminated unless specifically required by the Federal Aviation Administration or other governmental agencies with appropriate jurisdiction.

7. The applicant, and the property owner if different from the applicant, shall not enter into any exclusive agreement which prohibits future Collocation of other facilities on or with the applicant's facility, unless technological requirements preclude that collocation.

B. **Setback Requirements.** All facilities must comply with the main structure setback requirements for the zone in which they are located as specified in Chapter 17.24 of the Moorpark Municipal Code, with the exception of utility mounted facilities, if all other requirements in Sections 17.42.070(B) and 17.42.070(C) can be met. In all instances, the determination of need for a larger setback for the facility may be considered by the city in connection with the processing of the applicable permit.

17.42.060 Additional regulations for minor facilities.

In addition to the requirements of Section 17.42.050 , the following requirements shall apply to the following types of facilities:

A. **Height.** Notwithstanding any other provision in the Moorpark Municipal Code, no minor facility may exceed the maximum building height for a main structure in the applicable zoning district unless such facility has been designed as a disguised or stealth facility, and the applicant demonstrates that exceeding the height limitation is necessary for operation of the facility, or the facility is collocated, or contains adequate space suitable for future collocation, and the height in excess of zoning requirements is necessary to the proposed shared use.

B. **Utility Mounted Facilities-Vertical Extensions.** A utility mounted facility may exceed the maximum building height limit for the applicable zoning district, if approved by the decision making authority as provided herein. The extent that the utility mounted facility exceeds the height of the existing utility pole or structure and the need for such height increase shall be taken into consideration by the city in conjunction with the processing of the discretionary permit application for the utility mounted facility.

C. **Utility Mounted Facilities-Horizontal Extension.** The extent that the utility mounted facility protrudes or extends horizontally from the existing utility pole or structure shall be taken into account by the city in conjunction with its processing of a discretionary permit application for a utility mounted facility. A utility mounted facility may not protrude or extend horizontally more than thirty-six (36) inches from the existing utility pole or structure unless the applicant demonstrates a technical need for such extension in order to provide service or to comply with the regulations and requirements of the utility pole owner.

D. **Additional Requirement for All Utility Mounted Facilities.** Any accessory equipment accompanying or that forms part of the utility mounted facility, must be located within conduit or an underground vault.

17.42.070 Additional regulations for major facilities.

In addition to the requirements of Section 17.42.050 , the following requirements shall apply to the following types of facilities:

A. **Location Requirements.**

1. A major facility shall not be located within two hundred (200) feet of any property containing a residential use.

2. No portion or extension of a major facility shall protrude beyond property lines or extend into any portion of property where such facility is not itself permitted; provided, however, that the city may approve the location of guy wires in a required setback if such approval is consistent with the guidelines and requirements set forth in this chapter.

3. Latticed towers shall not be located in any zone except M-2 and I, and shall not be located within two hundred (200) feet of any property containing a residential structure.

4. A ground mounted facility shall not be located in a required parking area, vehicle maneuvering area, vehicle/ pedestrian circulation area or area of landscaping such that it interferes with, or in any way impairs, the utility or intended function of such required area.

5. A ground mounted facility shall not be permitted unless the reviewing authority makes the additional finding that, based upon evidence submitted by the applicant, no existing building or support structure can reasonably accommodate the proposed facility. Evidence supporting this finding will be reviewed by the reviewing authority and may consist of any of the following:

a. No existing buildings or support structures located in near proximity of the proposed perimeter of service area will provide the service coverage necessary for applicant to provide wireless services within the proposed perimeter of service area.

b. Existing buildings or support structures are not of sufficient height or structural strength to satisfy the applicant's operational or engineering requirements.

c. The applicant's proposed facility would create electromagnetic interference with another facility on an existing structure, or the existing facility on a building or support structure would create interference with the applicant's proposed facility.

d. The costs, fees, or contractual provisions required by a property owner, or by an incumbent wireless service provider, in order to collocate a new facility on an existing building or structure, or to adapt an existing building or structure for the location of the new facility, are unreasonable.

e. There are other limiting factors that render existing buildings and structures unsuitable for use by the applicant.

f. A ground mounted facility shall be located in close proximity to existing above ground utilities, such as electrical tower or utility poles [not scheduled for removal or undergrounding in the next eighteen (18) months], light poles, trees of comparable height, water tanks and other areas where the facility will not detract from the image or appearance of the city.

6. If the proposed major facility cannot be collocated, it must be sited at least one thousand five hundred (1,500) feet from any existing major facility unless the reviewing authority determines that a shorter distance is required for technological reasons, or that it would result in less visual obtrusiveness in the surrounding area. If technical data requires the placement of a major facility to be located within one thousand five hundred (1,500) feet of an existing major facility, the new major facility shall be located at least five hundred (500) feet from the existing major facility.

B. Additional Design Requirements.

1. A ground mounted facility shall be secured from access by the general public with a fence of a type or other form or screening approved by the Planning Commission.

2. No part of a ground mounted facility shall be located in any required setback.

3. A roof mounted facility that extends above the existing parapet of the building on which it is mounted shall be screened by a material and in a manner that is compatible with the existing design, color and architecture of the building.

4. A roof mounted facility, requiring the placement of any guy wires, supporting structures, or accessory equipment shall be located and designed so as to minimize the visual impact as viewed from surrounding properties and public streets, including any pertinent public views from higher elevations.

C. Height. Notwithstanding any other provision in the Moorpark Municipal Code, no major facility shall exceed the maximum building height for the applicable zoning district in which the facility is proposed to be located, nor shall a roof mounted facility exceed the height of the structure on which it is mounted by more than the minimum amount necessary for operation and safety, not to exceed ten (10) feet. Any application for a permit exceeding these height limits shall not be approved unless the Planning Commission determines that the major facility has been designed as a disguised or stealth facility and:

1. The applicant demonstrates that exceeding the height limitation is reasonably necessary for operation of the facility; or

2. The facility is collocated, or contains adequate space suitable for future collocation, and the excess in height is reasonably necessary to the proposed shared use.

17.42.080 Required findings for all wireless facilities.

A. Wireless Communications Facilities Findings. In addition to the required findings for conditional use permits and administrative permits contained in Chapter 17.44 of the Moorpark Municipal Code, the following findings are required for wireless communications facilities:

1. That the proposed facility will not create any significant blockage to public views; and

2. That the proposed facility will be an enhancement to the city due to its ability to provide additional communication capabilities in the city; and

3. That the proposed facility will be aesthetically integrated into its surrounding land uses and natural environment; and

4. That the proposed facility will comply with FCC regulations regarding interference with the reception or transmission of other wireless service signals within the city and surrounding community; and

5. That the proposed facility will operate in compliance with all other applicable federal regulations for such facilities, including safety regulations; and

6. That the public need for the use of the facility has been documented consistent with California law; and

7. That the applicant will provide at its own expense a field survey or other method consistent with federal law to provide written verification that the facility is in compliance with applicable federal regulations regarding electromagnetic frequency emissions. This radio-frequency (RF) report shall also include signal strength exhibits, including calculations and measurements under maximum loading conditions. Such field survey shall be provided to the city upon request, not to exceed one such request in any twenty-four (24) month period.

B. If the Community Development Director, Planning Commission and / or City Council does not approve an application for such administrative permit or conditional use permit, the decision making body shall make a written determination supported by findings as required by 47 U.S.C. § 332(c)(7)(B)(iii).

17.42.090 Facility removal.

A. Discontinued Use. The operator of a lawfully erected facility, and the owner of the premises upon which it is located, shall promptly notify the director of community development in writing in the event that use of the facility is discontinued for any reason. In the event that discontinued use is permanent, then the owner(s) and/or operator(s) shall promptly remove the facility, repair any damage to the premises caused by such removal, and restore the premises as appropriate so as to be in conformance with applicable zoning codes. All such removal, repair and restoration shall be completed within one-hundred eighty (180) days after the use is discontinued, and shall be performed in accordance with all applicable health and safety requirements. For purposes of this paragraph, a discontinued use shall be permanent unless the facility is likely to be operative and used within the immediately following six (6) month period.

B. Abandonment. A facility that is inoperative or unused for a period of one-hundred eighty (180) days shall be deemed abandoned. An abandoned facility shall be a public nuisance, subject to abatement pursuant to the provisions of Chapter 1.12. To facilitate removal of an abandoned facility, all wireless communications facility projects shall be conditioned to require a surety be provided to the city prior to building permit approval to guarantee removal of equipment and structures if the city determines the facility to be abandoned and a public nuisance.

C. Utility Mounted Facility Removal or Relocation. All utility mounted facilities shall be removed or relocated at the facility owner's expense when a city-approved project requires relocation or undergrounding of the utility structure on which the facility is mounted. Any CUP or administrative permit for a utility mounted facility shall be conditioned to require such removal or relocation at the facility owner's expense, to require reimbursement of the city's costs and expenses to remove or relocate the facility if the facility owner refuses to remove or relocate the facility when required, and to waive any claims of damage or loss (including, but not limited to, consequential damages) resulting from the city's removal or relocation of the facility.

17.42.100 Temporary use during declared emergency.

A. Temporary Use. The director of community development or city emergency operations center director shall have the authority to approve a temporary use permit for wireless communications facilities needed during a declared emergency. The temporary use permit shall contain the conditions for removal of the temporary facilities as soon as possible after the conclusion of the declared emergency.