

ITEM 8.C.

MOORPARK CITY COUNCIL AGENDA REPORT

TO: Honorable City Council

FROM: David A. Bobardt, Community Development Director
Prepared By: Joseph R. Vacca, Principal Planner 

DATE: November 18, 2010 (CC Meeting of 12/15/2010)

SUBJECT: Consider an Ordinance Approving Zoning Ordinance Amendment 2007-01 to Amend Chapter 17.20 (Uses by Zone) and Chapter 17.42 (Wireless Communications Facilities) to Update the Review Process and Ensure Consistency with Changes in State Law Regarding the Regulation of Wireless Communications Facilities

BACKGROUND / DISCUSSION

On March 8, 2002, City Council adopted Ordinance No. 278, which established regulations for wireless communications facilities in Chapter 17.42 of the Moorpark Municipal Code, and updated Chapter 17.20, making wireless communications facilities conditionally permitted uses in all zones. On September 29, 2006, California Senate Bill No. 1627 was enacted, limiting a city's review authority to a ministerial permit for previously approved wireless communications collocation facilities. The law became effective January 1, 2007. An example of a collocation facility is where a cellular phone company adds antenna panels to an existing antenna structure, with electronic equipment either within or next to the existing equipment structure or underground vault. Current city regulations require Planning Commission discretionary approval of a Conditional Use Permit for such a facility, which needs to be updated for consistency with State law.

On January 17, 2007, the City Council adopted Resolution No. 2007-2556 which directed staff and Planning Commission to study, hold a public hearing and provide a recommendation to City Council on a Zoning Ordinance Amendment regarding Moorpark Municipal Code Chapters 17.20 and 17.42, which establish the city's review process and standards for wireless communications antennas and equipment structures, including wireless communications collocation facilities.

On October 26, 2010, the Planning Commission reviewed a draft Zoning Ordinance Amendment prepared by staff. A copy of the staff report is attached. The Planning Commission asked staff for clarification on the updated ordinance, on whether or not accessory equipment for a minor wireless communications facility will be allowed above ground when the facility is to be located within an existing above ground building. The draft ordinance has language that addresses this item, stating that any and all accessory equipment, or other equipment associated with the operation of a minor facility, including but not limited to transmission cables, shall be located within conduit, or in an underground vault in a manner that complies with the development standards of the zoning district in which such equipment is located; and there is also language that states that accessory equipment may be allowed within an existing above-ground building in a manner that is not visible from the outside when the facility is approved as a stealth facility. This language is reflected in the draft ordinance in Section 17.42.050.A.2. - Development requirements for all wireless communications facilities.

The Planning Commission unanimously approved Resolution No. PC 2010-558, recommending to the City Council adoption of this Zoning Ordinance Amendment to address updates to Chapter 17.20, along with recommended changes to Chapter 17.42. The City Attorney has reviewed and approved the draft ordinance.

FISCAL IMPACT

None.

STAFF RECOMMENDATION

1. Open the public hearing, accept public testimony and close the public hearing.
2. Introduce Ordinance No. ____ approving Zoning Ordinance Amendment 2007-01, for first reading, waive full reading, and schedule second reading and adoption for January 5, 2011.

ATTACHMENTS:

1. October 26, 2010 Planning Commission Agenda Report (without draft resolution)
2. Ordinance No. ____

**MOORPARK PLANNING COMMISSION
AGENDA REPORT**

TO: Honorable Planning Commission

FROM: David A. Bobardt, Community Development Director
Prepared by Joseph R. Vacca, Principal Planner



DATE: October 5, 2010 (Meeting of 10/26/10)

SUBJECT: Consider the Approval of Zoning Ordinance Amendment 2007-01 to Amend Chapter 17.20 (Uses by Zone) and Chapter 17.42 (Wireless Communications Facilities) of the Moorpark Municipal Code to Update the Wireless Communication Facilities Review Process and Ensure Consistency With Changes in State Law Regarding the Regulation of Wireless Communications Facilities.

BACKGROUND

On March 8, 2002, City Council adopted Ordinance No. 278, which established regulations for wireless communications facilities in Chapter 17.42 of the Moorpark Municipal Code, and updated Chapter 17.20, making wireless communications facilities conditionally permitted uses in all zones. On September 29, 2006, California Senate Bill No. 1627 was enacted, limiting a city's review authority to a ministerial permit for previously approved wireless communications collocation facilities. The law became effective January 1, 2007. An example of a collocation facility is where a cellular phone company adds antenna panels to an existing antenna structure, with electronic equipment either within or next to the existing equipment structure or underground vault. Current city regulations require Planning Commission discretionary approval of a Conditional Use Permit for such a facility, which needs to be updated for consistency with State law.

On January 17, 2007, the City Council adopted Resolution No. 2007-2556 which directed staff and Planning Commission to study, hold a public hearing and provide a recommendation to City Council on a Zoning Ordinance Amendment regarding Moorpark Municipal Code Chapters 17.20 and 17.42, which establish the city's review process and standards for wireless communications antennas and equipment structures, including wireless communications collocation facilities. The City Council will be considering the Planning Commission recommendation on this Zoning Ordinance Amendment to address Chapter 17.20, along with recommended changes to Chapter 17.42.

DISCUSSION

The wireless communications facilities ordinance, Chapter 17.42 has been reformatted to make it easier to read and use. The zoning ordinance amendment also addresses the discretionary review process for wireless communications facilities. Ultimately the permitted use tables of Chapter 17.20 are being amended so that a collocation facility can be constructed with the approval of a zoning clearance, (non-discretionary approval) and a building permit, without requiring a public hearing so long as a wireless communications collocation facility is already duly approved.

ANALYSIS

The proposed ordinance includes the following five modifications:

- It reorganizes Chapter 17.42.
- It amends the Use Matrix Table 17.20.050.C and 17.20.060.E allowing over-the-counter review of a wireless facility that is part of an approved collocation wireless communications facility.
- It adds a collocation facility definition.
- It amends the discretionary review process for wireless communications facilities, including collocation facilities.
- It requires the placement of accessory support equipment within underground vaults for minor facilities.

Reorganization: The regulations and standards of Chapter 17.42 have been readjusted into an outlined table format for ease of use by staff and the public. This is consistent with the city's most recently approved zoning ordinance amendments. Original Section 17.42.060, "Required findings for all wireless facilities" -is proposed to be relocated and renumbered as Section 17.42.080. The Sections of the Chapter are to be renumbered and placed in locations of the chapter according to the following:

- Section 17.42.050 Regulations for major, minor wireless communications facilities; and
- Section 17.42.060 Additional regulations for minor facilities; and
- Section 17.42.070 Additional regulations for major facilities.
- Section 17.42.080 Required findings for all wireless facilities
- ~~Section 17.42.090 Public property facilities – to be deleted because it is not used~~
- ~~Section 17.42.100 Appeal of review and notices – to be deleted because it is repetitive~~
- ~~Section 17.42.110 Reservation of right to review and permits – to be deleted because it is unnecessary~~
- Section 17.42.090-120 Facility Removal – to be renumbered
- Section 17.42.100-130 Temporary use during declared emergency – to be renumbered

As part of the reorganization of Chapter 17.42, superfluous language or text that is repeated in other Chapters of the municipal code is recommend to be deleted.

Tables 17.20.050 and 17.20.060 (Use Matrices): Tables 17.20.050 and 17.20.060 would be modified so that major wireless communication facilities would still require Conditional Use Permits, and minor wireless communications facilities would require Community Development Director-approved Administrative Permits instead of Planning Commission-approved Conditional Use Permits. In order to comply with updates to State law, applications for a building permit for construction of pre-approved collocation wireless communications facilities (consistent with conditions of approval of a pre-approved discretionary permit for collocation wireless communications facilities), would be approved with an over-the-counter zoning clearance.

Collocation facility: A definition has been added to clarify that a 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, which may be approved by a zoning clearance when consistent with a duly approved discretionary permit for a collocation wireless communications facility.

Discretionary review process: In order to streamline the review process and encourage “stealth” wireless communications facilities, staff is recommending that minor wireless communications facilities, (including collocation facilities when characterized as minor wireless communications facilities), be reviewed by the Community Development Director in compliance with the Administrative Permitting review process. Minor wireless communications facilities or collocation facilities are 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.

As the existing code explains above a minor facility is one that will blend within the surrounding land uses and is compatible with the site in which it is to be located and will be a disguised or stealth facility. If a wireless communications facility is not categorized as a minor facility than it is considered to be a major wireless communications facility and it is recommended to continue to require conditional use permit applications for major facilities.

Support Equipment within Underground Vaults: Section 17.42.050.A.2 Regulations for major, minor wireless communications facilities, would be modified by requiring underground vaults for support equipment for minor facilities. Language has been proposed stating that any and all accessory equipment, or other equipment associated with the operation of a minor facility, including but not limited to transmission cables, shall be located within conduit, or in an underground vault in a manner that complies with the development standards of the zoning district in which such equipment is located. Any and all accessory equipment, or other equipment associated with the operation of a major facility, including but not limited to transmission cables, shall be located within conduit or in an underground vault in a manner that complies with the development standards of the zoning district in which such equipment is located; but accessory equipment for a major facility may be located within an above ground building, or an enclosure only if reviewed and approved by the Planning Commission in conjunction with review of a conditional use permit application.

The City Attorney's office has reviewed the draft Zoning Ordinance Amendment No. 2007-01, (Attachment 1) and has determined that the changes are acceptable and do not conflict with Federal or State Law.

PROCESSING TIME LIMITS

Since this is an action initiated by the City, the processing time limits under the Permit Streamlining Act (Government Code Title 7, Division 1, Chapter 4.5), the Subdivision Map Act (Government Code Title 7, Division 2), and the California Environmental Quality Act Statutes and Guidelines (Public Resources Code Division 13, and California Code of Regulations, Title 14, Chapter 3) are not applicable.

ENVIRONMENTAL DETERMINATION

In accordance with the City's environmental review procedures adopted by resolution, the Community Development Director determines the level of review necessary for a project to comply with the California Environmental Quality Act (CEQA). Some projects may be exempt from review based upon a specific category listed in CEQA. Other projects may be exempt under a general rule that environmental review is not necessary where it can be determined that there would be no possibility of significant effect upon the environment. A project which does not qualify for an exemption requires the preparation of an Initial Study to assess the level of potential environmental impacts.

Based upon the results of an Initial Study, the Director may determine that a project will not have a significant effect upon the environment. In such a case, a Notice of Intent to Adopt a Negative Declaration or a Mitigated Negative Declaration is prepared. For many projects, a Negative Declaration or Mitigated Negative Declaration will prove to be sufficient environmental documentation. If the Director determines that a project has the potential for significant adverse impacts and adequate mitigation can not be readily identified, an Environmental Impact Report (EIR) is prepared.

The Director has reviewed this project and found it to qualify for a General Rule Exemption in accordance with Section 15061 of California Code of Regulations (CEQA Guidelines). No further environmental documentation is required.

STAFF RECOMMENDATION

1. Open the public hearing, accept public testimony and close the public hearing.
2. Adopt Resolution No. PC-2010-____ recommending that the City Council approve Zoning Ordinance Amendment 2007-01.

ATTACHMENTS:

1. Draft PC Resolution which contains the following:
 - Exhibit A – Table 17.20.050, Sections C et seq. in legislative format
 - Exhibit B – Table 17.20.060, Sections E et seq. in legislative format
 - Exhibit C – Chapter 17.42 as proposed

ORDINANCE NO. ____

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 ____ 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. Communications facilities, including wireless in accordance with the requirements of Chapter 17.42 (pre-approved locations require only an AP)	CUP								
5.4. Energy production from renewable resources	CUP	CUP	CUP						

Zones	O-S	A-E	R-A	R-E	R-O	R-1	R-2	RPD	TPD
6.5. Governmental uses including, but not limited to city offices, community rooms, fire stations, human service centers, libraries, police stations, public utility facilities	CUP								
7.6. 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								
8.7. Wireless communications facilities, in accordance with the requirements of Chapter 17.42 (pre-approved locations require only an AP)	CUP								
a. Major wireless communications facilities	<u>CUP</u>								
b. Minor wireless communications facilities	<u>AP</u>								
c. Collocation wireless communications facilities (consistent with definition of 'collocation facility' in Section 17.42.020)	<u>ZC</u>								

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. Communication facilities, including wireless in accordance with the requirements of Chapter 17.42 (pre-approved locations require only an AP)	CUP	CUP	CUP	CUP	CUP	CUP	CUP
54. Energy production from renewable resources						CUP	CUP
65. 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
76. 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*
87. Places of religious worship					CUP		CUP
98. Private education facilities including, but not limited to colleges and universities, elementary, middle and high schools							CUP
109. 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
41.10. 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
42.11. 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						
<u>12. Wireless communications facilities, in accordance with the requirements of Chapter 17.42</u>							
<u>a. Major wireless communications facilities</u>	<u>CUP</u>						
<u>b. Minor wireless communications facilities</u>	<u>AP</u>						
<u>c. Collocation wireless communications facilities (consistent with definition of "collocation facility" in Section 17.42.020)</u>	<u>ZC</u>						

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 DistancesApplication requirements for all wireless communications facilities.**
- 17.42.050 Regulations for both major and minor wireless communications facilities Development requirements for all wireless communications facilities.**
- ~~17.42.060 Required findings for all wireless facilities.~~
- ~~17.42.070060 Additional regulations for minor facilities.~~
- ~~17.42.080070 Additional regulations for major facilities.~~
- ~~17.42.090 Public property facilities.~~
- ~~17.42.100 Appeal or review and notices.~~
- ~~17.42.110 Reservation of right to review permits.~~
- 17.42.080 Required findings for all wireless facilities.**
- ~~17.42.120090 Facility removal.~~
- ~~17.42.130100 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. — The city council has found and determined that these requirements and guidelines for wireless communications facilities are necessary to attain such purposes.~~

~~D. — These regulations are intended to supersede any applicable provisions of Title 17, Zoning, hereinafter in this chapter referred to as the Moorpark Zoning Code, pertaining to such antenna structures and appurtenant communication equipment and to establish minimum requirements and flexible guidelines for the governance of wireless communications facilities, taking into consideration the rapid technological advances and the proliferation in use of radio communication services.~~

E.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. (~~Ord. 278 § 2 (part), 2002~~)

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, ~~Section~~Chapter 17.08-010 of the Moorpark Zoning Code shall be referenced~~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 17.42.070060(B), 17.42.070060(C), and 17.42.070060(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. ~~(Ord. 278 § 2 (part), 2002)~~

17.42.030 Applicability.

~~A. All wireless communications facilities which are erected, located, mounted or modified within the city on or following the effective date of the ordinance codified in this chapter shall comply with this chapter, are subject to the categorical exemptions under subsection (D) of this section, provided that:~~

~~1. All facilities for which applications were determined complete by the community development department prior to the effective date of the ordinance codified in this chapter shall be exempt from the regulations and guidelines of this chapter and shall be subject to Chapter 17.52 of the Moorpark Zoning Code regulating nonconforming structures and uses and any other applicable permit requirements of the Moorpark Zoning Code.~~

~~2. All Facilities for which building permits were issued by the city prior to the effective date of the ordinance codified in this chapter shall be exempt from the regulations and guidelines of this chapter, and shall be subject to the regulations and guidelines of Chapter 17.52 of the Moorpark Zoning Code, regulating nonconforming structures and uses, unless and until such time as subsection (B) of this section applies.~~

~~B. All facilities for which building permits and any extension thereof have expired shall comply with the provisions of this chapter.~~

~~C. All facilities constructed or erected prior to the effective date of the ordinance codified in this chapter that are in violation of applicable laws, ordinances, or other regulations shall be considered an illegal nonconforming facility, no longer permitted, and shall be subject to abatement as a nonconforming use pursuant to Section 17.52.060 of the Moorpark Zoning Code.~~

~~D. The following uses shall be exempt from the provisions of this chapter until such time as federal regulations are repealed or amended to eliminate the necessity of the exemption:~~

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

~~4A. 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;

~~2B.~~ 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;

~~3C.~~ 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.

~~E.~~ The following uses shall be exempt from the provisions of this chapter, so long as the antenna structure complies with all other zoning requirements:

~~4D.~~ Any antenna structure that is designed and used solely to receive UHF, VHF, AM, and FM broadcast signals from licensed radio and television stations.

~~2E.~~ 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). (Ord. 278 § 2 (part), 2002)

~~17.42.040 Distances.~~

~~For the purpose of this chapter, all distances shall be measured in a straight line without regard to intervening structures, from the nearest point of the proposed facility to the relevant property line at a point five (5) feet above ground level. (Ord. 278 § 2 (part), 2002)~~

~~17.42.050040 Regulations for both major and minor Application requirements for all wireless communications facilities.~~

~~A.~~ Both major and minor facilities shall be erected, located, mounted, operated and maintained at all times in compliance with this chapter and all applicable laws and regulations of the city, the state of California, and the United States of America.

~~B.~~ Both major and minor facilities are conditionally permitted as a wireless communications facility in the applicable zoning district as set forth in Section 17.20.050, Table 17.20.050, and Section 17.20.060, Table 17.20.060, of the Moorpark Zoning Code.

~~C.~~ Application Requirements and Procedures.

~~1.~~ Except as otherwise provided in this chapter, major and minor facilities proposed to be erected, located, mounted, operated and maintained at all times shall require a conditional use permit (CUP). Each applicant applying for a CUP shall submit a completed CUP application in accordance with the requirements set forth in Chapter 17.44 of the Moorpark Zoning Code, and such additional or different requirements as are made applicable by this chapter.

~~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:

~~21. The A scaled site plan and facility elevations required for the city CUP application shall include 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.

~~3. Any application that is improperly submitted or fails to contain all of the information as required by the Moorpark Zoning Code, including this chapter, shall be deemed incomplete.~~

~~42. Each application shall contain a 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 subsection (F) of this sSection 17.42.050.C.~~

~~53. Each application shall contain a 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.~~

~~64. Each application shall contain a 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.~~

~~75. Each application shall contain a 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.~~

~~86.~~ Each application shall contain ~~e~~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.

~~97.~~ Each application shall contain ~~a~~A description of the required maintenance visits to the site and security proposed to protect the site from vandalism and trespass.

~~10.~~ Each application shall contain a preliminary environmental review in accordance with the city submittal requirements, with special emphasis placed upon the nature and extent of visual, public, health, and safety impacts to the extent permitted by federal law.

~~118.~~ Each application shall contain evidence A list of any other required licenses and approvals to provide wireless services in the city.

~~12.~~ Notwithstanding any permit that may be granted in accordance with this chapter, the facility shall be erected, located, mounted, operated and maintained at all times in compliance with this chapter and all applicable laws, regulations and requirements of the Building Code, and every other code and regulation imposed or enforced by the city, the state of California, and the United States Federal Government. Applicants are separately required to obtain all applicable building and construction permits that may be required prior to erecting or installing the facility.

~~13.~~ The director of community development shall determine applicable entitlement processing fees and deposits for the application, as established by city council resolution, including any applicable contract staff fees and/or deposits for the purpose of peer review of the CUP application submittals, including but not limited to review of the radio frequency (RF) report.

17.42.050 Regulations for both major and minor Development requirements for all wireless communications facilities.

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

1. ~~A Facility shall not bear a~~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 the facility, including but not limited to transmission cables, shall be located within a building, conduit, an enclosure, or underground vault in a manner that complies with the development standards of the zoning district in which such equipment is located. In addition, if equipment is located above ground, it shall be visually compatible with the surrounding buildings and either shrouded by sufficient landscaping to screen the equipment from view, or designed to match the architecture of adjacent buildings. If accessory equipment will be visible from a residential area or an arterial street, the applicant shall provide a solid masonry block wall that will screen the equipment from the~~

~~residential area or another material, such as landscaping, that is acceptable to the director of community development. If no recent and/or reasonable architectural theme is present, the director of community development may require a particular design that is deemed suitable to the subject location. 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. ~~All screening used in connection with a wall mounted and/or roof mounted facility shall be compatible with the architecture, color, texture, and materials of the building or structure to which it is attached. 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. ~~Facilities may not be illuminated unless specifically required by the Federal Aviation Administration or other governmental agencies. 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.

~~EB. Setback Requirements and Guidelines. If the facility is proposed to be located in an open space, agricultural or residential zone or within two hundred (200) feet of a residential use in any zone district, then the facility shall at a minimum comply with the main structure setback requirements for such zone as specified in Tables 17.24.020A and 17.24.020B of the Moorpark Zoning Code, with the exception of utility mounted facilities, if all other requirements in Sections 17.42.070(B), 17.42.070(C), and 17.42.070(D) can be met. In commercial and industrial zones, the facility shall at a minimum comply with the building setback requirements from the edge of roadway right of way as specified in Table 17.24.020B of the Moorpark Zoning Code, with the exception of utility mounted facilities, if all other requirements in Sections 17.42.070(B), 17.42.070(C), and 17.42.070(D) can be met. In all instances, the determination of need for a larger setback for the facility shall be considered by the city in connection with the processing of the CUP. 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.~~

~~F. — Screening and Site Selection Guidelines. In addition to the above requirements, the city shall consider the following factors in conjunction with the processing of a CUP.~~

~~1. — The proposed facility shall be designed to either be a disguised facility or stealth facility, taking into consideration alternate sites that are available, including Collocation.~~

~~2. — The proposed facility shall be screened or camouflaged by existing or proposed new topography, vegetation, buildings, or other structures. Any such improvements shall be appropriate for and compatible with the site and surrounding area.~~

~~3. — The total size of the proposed facility shall be compatible with surrounding and supporting structures.~~

~~4. — If feasible, the location of the proposed facility shall conform to the following in order of preference:~~

~~a. — Collocated with an existing facility or located at a pre-approved location;~~

~~b. — Attached to an existing structure such as an existing building, communication tower, church steeple or utility;~~

~~c. — Located in an industrial zoning district;~~

~~d. — Located in a commercial zoning district.~~

~~5. — Proximity of the proposed facility to residential structures and to boundaries of residentially zoned districts.~~

~~6. — The nature of existing uses on adjacent and nearby properties.~~

~~7. — Proposed ingress and egress to the facility. (Ord. 278 § 2 (part), 2002)~~

17.42.060 — Required findings for all wireless facilities.

~~A. — Wireless Communications Facilities Findings. In addition to the required findings for conditional use permits contained in Section 17.44.030(A)(2) of the Moorpark Zoning Code, the following findings are required for every major and minor conditional use permit (CUP) 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; 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 planning commission does not approve an application for such conditional use permit, the planning commission shall make a written determination supported by findings as required by 47 U.S.C. § 332(c)(7)(B)(iii). (Ord. 278 § 2 (part), 2002)~~

17.42.070060 Additional regulations for minor facilities.

In addition to the requirements of Sections 17.42.050 and 17.42.060, the following requirements shall apply to the following types of facilities:

~~A. Minor Facility Height Requirements. Notwithstanding any other provision in the Moorpark Zoning Code, no minor facility shall exceed the maximum building height for the applicable zoning district unless such facility receives planning commission or director of community development approval as provided herein, has been designed as a disguised or stealth facility, and:~~

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

~~2. — 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.~~

~~The need for exceeding the maximum building height for the applicable zoning district shall be taken into consideration by the city in conjunction with the~~

~~processing of the CUP or administrative permit for the minor facility~~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 planning commission or director of community development 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 CUP or administrative 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 CUP or administrative 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, and is must be located on the ground in the area surrounding the utility pole or structure, shall be visually compatible with the surrounding environment, such as shrouded by sufficient landscaping to screen the accessory equipment from view, and/or designed to match the architecture of adjacent buildings. If accessory equipment will be visible from a residential area or an arterial street, the applicant shall provide a solid masonry block wall or another material, such as landscaping, that will screen the equipment from view, as determined acceptable by the planning commission within conduit or an underground vault. (Ord. 278 § 2 (part), 2002)~~

17.42.080070 Additional regulations for major facilities.

In addition to the requirements of Sections 17.42.050 and ~~17.42.060~~, 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.

23. 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.

34. 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.

45. 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.

56. 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. ~~A ground mounted facility shall be covered with a clear anti-graffiti material of a type approved by the planning commission. The planning commission or director of community development may grant an exception to this requirement if the applicant demonstrates to the satisfaction of the planning commission or director of community development that there is adequate security around the facility to prevent graffiti.~~ 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 Requirements. Notwithstanding any other provision in the Moorpark Municipal Zoning 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.

~~D. Additional Screening and Site Selection Guidelines. The following screening and site selection guidelines shall be considered by the city in conjunction with the processing of all major facility CUPs:~~

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

~~2. If technical data require the placement of a major facility to be located within one thousand five hundred (1,500) feet of an existing major facility, under Subsection 17.42.080(A)(5), the new major facility shall be located at least five hundred (500) feet from the existing major facility.~~

~~3. 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.~~

~~4. 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.~~

~~5. 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.~~

~~6. No part of a ground mounted facility shall be located in any required setback. (Ord. 278 § 2 (part), 2002)~~

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 — Public property facilities.

A. — Pre-Approved Locations.

~~1. — The city may approve by resolution, following a duly noticed public hearing, a list of sites located on public property or within the public right-of-way and which are approved for minor and major facilities. Each site, including designated right-of-way areas, shall include a description of permissible development and design characteristics, including but not limited to maximum height requirements. The city shall make said resolution available to all persons upon request. The approved list of locations may be subsequently amended by resolution from time to time.~~

~~2. — All facilities located on a public property or public right-of-way site, which is pre-approved in accordance with this section following the effective date of the ordinance codified in this chapter, must obtain approval of an administrative permit in accordance with Chapter 17.44, and all additional or different requirements made applicable by this chapter for the CUP application and processing for a wireless facility, including findings for approval.~~

~~3. — All leases of a public property that is pre-approved in accordance with this section shall be non-exclusive. The operator of a facility located on such public property shall make the supporting structure of the facility available to any other applicant wishing to colocate to the extent technically feasible.~~

~~B. — Requirement for Separate Lease Agreement. Subject to state law regarding use of public right-of-way, any lease of city-owned property for the purpose of erecting a wireless communications facility shall require a negotiated lease agreement or other written license granted by the city. The existence of a lease agreement or license shall not relieve an applicant of any obligations to obtain appropriate permits hereunder or otherwise comply with the Moorpark Zoning Code. (Ord. 278 § 2 (part), 2002)~~

17.42.100 — Appeal or review and notices.

~~Any applicant, the operator and/or owner of a facility, or member of the city council may appeal a final decision of the director of community development or the planning commission. All appeals shall be processed in accordance with Moorpark Zoning Code Section 17.44.090, including payment of required fees and statement for grounds of appeal. (Ord. 278 § 2 (part), 2002)~~

17.42.110 — Reservation of right to review permits.

~~A. — Changed Circumstance. Any conditional use permit granted or approved pursuant to this chapter shall be granted or approved by the city and its planning commission with the reservation of the right and jurisdiction to review and modify the permit (including the conditions of approval) based on changed circumstances. Changed circumstances include, but are not limited to, the following in relation to the approved facility as described and diagrammed in the related site plan: increased height or size of the facility; additional impairment of the views from surrounding properties; change in the type of antenna or~~

~~supporting structure; changed color or materials; substantial change in location on the site; and an effective increase in signal output above the maximum permissible exposure (MPE) limits imposed by the revised radio frequency emissions guidelines by the Federal Communications Commission.~~

~~B. — Additional Right to Revoke for Violation. The reservation of right to review any permit granted or approved hereunder by the city, its planning commission and/or city council is in addition to, and not in lieu of, the right of the city, its planning commission and/or city council to review and revoke or modify any permit granted or approved hereunder for any violations of the conditions imposed on such permit pursuant to Section 17.44.070 of the Moorpark Zoning Code.~~

~~C. — Modification of Permit/Collocation. Upon review, any changed circumstance as determined by the director of community development shall require the application and approval of a modification to the original conditional use permit, provided that any modification to accommodate collocated facilities may be approved administratively without the approval of the planning commission. (Ord. 278 § 2 (part), 2002)~~

17.42.120090 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 ~~six (6) continuous months~~ 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. (~~Ord. 278 § 2 (part), 2002~~)

17.42.130100 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. (~~Ord. 278 § 2 (part), 2002~~)