



CITY COUNCIL MEETING

AGENDA

7:00 PM - Tuesday, April 12, 2022
via Teleconference

AMENDED 04.07.2022

Please Note: Per California Executive Order N-29-20, the City Council will meet via Telephone/Video Conference Only.

Telephone: 1-650-242-4929 Meeting ID:146 765 8410

<https://webinar.ringcentral.com/j/1467658410>

TO PARTICIPATE VIA VIDEO: Follow the link above. Members of the public will need to have a working microphone on their device and **must have the latest version of Ringcentral installed** (available at <http://www.ringcentral.com/download.html>). To request to speak, please use the “Raise hand” feature located at the bottom of the screen.

TO PARTICPATE VIA TELEPHONE: Members of the public may also participate via telephone by calling the number listed above. To request to speak, press *9 on your telephone.

TO SUBMIT WRITTEN COMMENTS: Prior to the meeting, comments on matters listed on the agenda may be emailed to PublicComment@losaltosca.gov. Emails sent to this email address are sent to/received immediately by the City Council. Please include a subject line in the following format:

PUBLIC COMMENT AGENDA ITEM ## - MEETING DATE

Correspondence submitted in hard copy/paper must be received by 2:00 PM on the day of the meeting to ensure distribution prior to the meeting. Correspondence received prior to the meeting will be included in the public record. [Please follow this link for more information on submitting written comments.](#)

Public testimony will be taken at the direction of the Mayor, and members of the public may only comment during times allotted for public comments.

AGENDA

CALL MEETING TO ORDER

ESTABLISH QUORUM

PLEDGE ALLEGIANCE TO THE FLAG

REPORT ON CLOSED SESSION

CHANGES TO THE ORDER OF THE AGENDA

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Members of the audience may bring to the Council's attention any item that is not on the agenda. Speakers are generally given two or three minutes, at the discretion of the Mayor. Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during the Public Comment Period. According to State Law (also known as "The Brown Act") items must first be noted on the agenda before any discussion or action.

CONSENT CALENDAR

These items will be considered by one motion unless any member of the Council or audience wishes to remove an item for discussion. Any item removed from the Consent Calendar for discussion will be handled at the discretion of the Mayor.

- 1. Minutes:** Approve Minutes of the March 22, 2022 Regular Meeting (A. Chelemengos)
- 2. Public Art Donation:** Accept the donation of sculpture Alegria and add it to the City's permanent public art collection. (J. Maginot)
- 3. Professional Services Agreement:** Adopt Resolution authorizing City Manager to execute professional services agreement for sewer rate structure analysis with NBS Government Finance Group, dba NBS; find that the approval of the agreement is exempt from review under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15061(b)(3) (Common Sense Exemption), 15273 (Rates, Tolls, Fares, and Charges), and 15306 (Information Collection).(A. Fairman)
- 4. Extension of Local Emergency:** Adopt a Resolution extending the declaration of a local emergency due to the COVID-19 pandemic. (J. Maginot)
- 5. Rental Fee Waiver Request:** Approve the request from Ye Olde Towne Band and the Serenaders Band for an annual waiver of rental fees at Garden House in the amount of \$5,400.(M. Price)

PUBLIC HEARINGS

- 6. Wireless Telecommunications Facilities:** Hold Public Hearings and adopt Resolution of the City Council of the City of Los Altos adopting the Negative Declaration Of Environmental Impact prepared in accordance with the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code § 21000 et seq.) and the CEQA Guidelines (14 California Code of Regulations, Title 14 Chapter 3, Section 15000 et seq.) on the possible environmental consequences of the adoption of the ordinance and design guidelines; and

Introduce, as read by title only, and waive further readings of an Ordinance of the City Council of the City of Los Altos for Wireless Telecommunications Facilities Locational Standards with the modifications reflected in the annotated version of the Ordinance proposed to the Planning Commission; and

Adopt Resolution of the City Council of the City of Los Altos adopting Telecommunications Facilities Design Guidelines with the modifications reflected in the annotated version of the Design Guidelines proposed to the Planning Commission

DISCUSSION ITEMS

- 7. Mid Year Budget Update :** Adopt the Mid-Year 2022 Budget Update and amendments as presented. (J. Furtado)
- 8. City Council 2022 Strategic Goals and Priorities:** Review the City's 5-Year Strategic Goals and provide modifications as needed. (J. Maginot)
- 9. Council Legislative Subcommittee Update And Potential Council Action:** Receive update from the City Council Legislative Subcommittee; discuss pending legislation and consider suggestions for additional bills to track. (Mayor Enander; Council Member Lee Eng)

INFORMATIONAL ITEMS ONLY

- A.** Tentative Council Calendar

COUNCIL/STAFF REPORTS AND DIRECTIONS ON FUTURE AGENDA ITEMS

ADJOURNMENT

(Council Norms: It will be the custom to have a recess at approximately 9:00 p.m. Prior to the recess, the Mayor shall announce whether any items will be carried over to the next meeting. The established hour after which no new items will be started is 11:00 p.m. Remaining items, however, may be considered by consensus of the Council.)

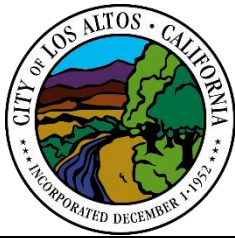
SPECIAL NOTICES TO THE PUBLIC

In compliance with the Americans with Disabilities Act, the City of Los Altos will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the City Clerk 72 hours prior to the meeting at (650) 947-2610.

Agendas Staff Reports and some associated documents for City Council items may be viewed on the Internet at <http://www.losaltosca.gov/citycouncil/online/index.html>.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, and that are distributed to a majority of the legislative body, will be available for public inspection at the Office of the City Clerk's Office, City of Los Altos, located at One North San Antonio Road, Los Altos, California at the same time that the public records are distributed or made available to the legislative body.

If you wish to provide written materials, please provide the City Clerk with 10 copies of any document that you would like to submit to the City Council for the public record.



**CITY COUNCIL MEETING
MINUTES
7:00 PM - Tuesday, March 22, 2022
via Teleconference**

AMENDED

CALL MEETING TO ORDER

At 7:28p.m., Mayor Enander called the meeting to order.

ESTABLISH QUORUM

- PRESENT: Council Members Fligor, Lee Eng, Weinberg, Vice Mayor Meadows, and Mayor Enander
- ABSENT: None

PLEDGE ALLEGIANCE TO THE FLAG

Sia Gupta, Girl Scout Troop 60045 led the Pledge of Allegiance.

REPORT ON CLOSED SESSION

Conference with Legal Counsel: Significant exposure to litigation pursuant to Government Code Section 54956.9(e)(3)- 1 case Allegations of harassment, discrimination, and retaliation against Cities Association of Santa Clara County.

Mayor Enander stated that a Closed Session had been held earlier in the evening and reported that there was no action taken and nothing to report.

SPECIAL ITEM

- A. **Commission Appointments:** Consider Commission applications and make appointments as appropriate

Mayor Enander provided background information on the interview and selection process. Several Council Members commented. The Council Members were provided preprinted ballots and asked to complete the ballots and email them to the Assistant City Manager.

While the ballots were tallied the meeting proceeded.

CHANGES TO THE ORDER OF THE AGENDA

None

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Teresa Morris, Jeanine Valadez, and Ning provided public comment.

CONSENT CALENDAR

Council Member Fligor requested that Item # 3 *Housing Element Annual Progress Report* be removed from the Consent Calendar.

1. **Minutes:** Approve Minutes of the March 8, 2022, City Council Meeting
2. **Design Contract Amendment:-Annual Storm Drain Improvements, Milverton Road, Project CD-01012:** Adopt Resolution authorizing the City Manager to execute an amendment on behalf of the City with Schaaf & Wheeler Consulting Civil Engineers in the amount of \$13,665 to provide additional consulting services for design validation for the Annual Storm Drain Improvements, Milverton Road Drywells Project and up to 10% contingency funds of the total design cost in the amount of \$10,245 for additional construction support, if needed.

There was no public comment on the Consent Calendar Items #1 and #2. Upon motion of Council Member Weinberg, Seconded by Vice Mayor Meadows, Consent Calendar Items #1 and #2 were approved 5-0 with the following roll call vote:

AYES: Council Members Fligor, Lee Eng, Weinberg, Vice Mayor Meadows, and Mayor Enander
 NOES: None
 ABSENT: None
 ABSTAIN: None

3. **Housing Element Annual Progress Report:** Receive Housing Element Annual Progress Report For Calendar Year 2021 and adopt Resolution of the City Council of the City of Los Altos accepting the Housing Element Annual Progress Report for Calendar Year 2021 and authorizing staff to submit the report to the Governor's Office of Planning and Research and The California Department of Housing and Community Development.

Interim Planning Services Manager Golden provided information and answered questions from the Council.

The Mayor opened the floor for public comment. Anne Paulson commented

Following discussion, Council Member Lee Eng moved that the Council receive the Housing Element Annual Progress Report For Calendar Year 2021 and adopt the resolution of the City Council of the City of Los Altos accepting the Housing Element Annual Progress Report for Calendar Year 2021 and authorizing staff to submit the report to the Governor's Office of Planning and Research and the California Department of Housing and Community Development with the addition of language in the Resolution that acknowledges that prior year data has yet to be corrected. The motion was seconded by Mayor Enander and the motion passed 5-0 with the following roll call vote:

AYES: Council Members Fligor, Lee Eng, Weinberg, Vice Mayor Meadows, and Mayor Enander
 NOES: None
 ABSENT: None
 ABSTAIN: None

PUBLIC HEARINGS – None**SPECIAL ITEM (continued from earlier in the meeting)**

Assistant City Manager Maginot announced that the Commission appointment ballots had been tallied and the following appointments had been made:

Parks And Recreation Commission: 1 partial term expiring in March 2025

- Scott Jacob Pietka

Complete Streets Commission: 3 full terms expiring March, 2026

- Stacy Banerjee
- Tom Gschneidner
- Nadim Maluf

Public Arts Commission: 1 partial term expiring September 2025

- Dana Tasic

Environmental Commission: 4 Full terms expiring in March 2026

- Shiao-ping Lu
- Donald Weiden
- Carl van Reis
- Tom Hecht

DISCUSSION ITEMS

4. **Story Pole Exemption Request PPR21-006:** -330 Distel Circle - EAH Housing - The City Council will consider a request for an exemption from the City's Story Pole policy for a for a 5-story, 64 feet tall, 90-unit, 100% affordable development proposal at 330 Distel Circle and if approved, adopt resolution granting an exception from the City's story pole policy and making findings of CEQA exemption pursuant to CEQA Guidelines Sections 15303 and/or 15061(b)(3) The applicant has submitted a pre-application for the proposed project.

Planner Hayagreev introduced Welton Jordan and Lily Ciammaichella of EAH Housing who provided an overview of the project and the request for the exemption as well as answered questions from the Council.

The following members for the public provided comments: Teresa Morris, Rick Gonsalves, Eric Steinle, Freddie Park Wheeler, Roberta Phillips, Debbie, Jon Baer, Daniel Hulse, Joe Beninato, and Anne Paulson.

Council discussion commenced. Council Member Lee Eng and Mayor Enander expressed interest in attachments to the roof of the existing building to depict the proposed project height and concern for the view from the residential properties to the rear of the proposed building.

Upon motion of Council Member Fligor, seconded by Vice Mayor Meadows, the Council adopted the resolution granting an exception from the City's story pole policy and making findings of CEQA exemption pursuant to CEQA Guidelines Sections 15303 and/or 15061(b)(3) and directed staff to work with the applicant to create alternatives that show different angles of the building including dimensions at pedestrian eye level renderings, particularly to include a rendering from the residential neighborhood

behind the proposed parcel to be showcased on the on-site billboard for noticing. The motion passed 3-2 with the following roll call vote:

AYES: Council Members Fligor, Weinberg, and Vice Mayor Meadows
 NOES: Council Member Lee Eng and Mayor Enander
 ABSENT: None
 ABSTAIN: None

At 9:19 p.m., Mayor Enander called for a brief recess. At 9:30 p.m. the meeting was reconvened. The Mayor announced that Agenda Item #8. *Council Legislative Subcommittee Update And Potential Council Action* would be deferred.

5. **El Camino Real Bike Lanes:** Consider and Adopt Resolution supporting Class IIB - Buffered Bicycle Lane Installation on El Camino Real – City Limits between Adobe Creek and ~500-FT South of Rengstorff Avenue as part of Caltrans Street Resurfacing Improvements scheduled for Summer 2023; Approve Removal of Street Parking to Accommodate this Improvement. Lane restriping along El Camino Real for bicycle traffic is exempt from review under CEQA pursuant to CEQA Guidelines Section 15301 (Existing Facilities) in that it entails minor alterations to existing public facilities involving negligible or no expansion of existing or former uses, it would not create additional automobile lanes, and none of the circumstances described in CEQA Guidelines Section 15300.2 would apply.

Engineering Services Director Sandoval introduced Transportation Engineer Lee who provided an overview of the project and answered questions from the Council.

The following members of the public commented: Leia Mehlman, Sharlene Liu, Bryan Johnson, Susan B. Teresa Morris, Chris Hoerber, Lada Adamic, Eric Stienle, Tim Oey, Gary Hedden, Terry Barton, Roberta Phillips, Jon Baer, Jim Fenton, Kevin Ma, Ning, Daniel Hulse, Anne Paulson, Annie Franco, Ari Feinsmith, Jeanine Valdez, Salim, Don W., Joe Beninato, Emily Ramos, Bill Sheppard, Delia Kreitter and Sandhya Laddha.

Following Council discussion, Council Member Weinberg moved to adopt the Resolution supporting Class IIB - Buffered Bicycle Lane Installation on El Camino Real – City Limits between Adobe Creek and ~500-FT South of Rengstorff Avenue as part of Caltrans Street Resurfacing Improvements scheduled for Summer 2023; Approve Removal of Street Parking to Accommodate this Improvement and make findings that Lane restriping along El Camino Real for bicycle traffic is exempt from review under CEQA pursuant to CEQA Guidelines Section 15301 (Existing Facilities) in that it entails minor alterations to existing public facilities involving negligible or no expansion of existing or former uses, it would not create additional automobile lanes, and none of the circumstances described in CEQA Guidelines Section 15300.2 would apply. The motion was seconded by Council Member Fligor and the motion passed 3-2 with the following roll call vote:

AYES: Council Members Fligor, Weinberg, and Vice Mayor Meadows
 NOES: Council Member Lee Eng and Mayor Enander
 ABSENT: None
 ABSTAIN: None

6. **Housing Element:** Receive staff update on the status of the Housing Element Update (2023-2031) community engagement process, consultant contract, and next steps, and approve the expansion of the role of the Housing Element Council Subcommittee.

Interim Community Development Director Simpson introduced consultants Jen Murillo, David Bergman, and Stefano Richichi, of Lisa Wise Consulting, who provided a detailed overview of the Housing Element Update and certification process. They also answered questions from the Council.

Mayor Enander opened the floor for public comment. The following individuals commented: Nancy M., Joe Beninato, Anne Paulson, Jon Baer, Roberta Phillips, Salim, Teresa Morris, Jeanine Valadez, Debbie, Mehruss Ahi, Emily Ann Ramos, Freddie Wheeler, and Agnes Caufield.

Council discussion commenced, in which the Council provided input and feedback with regard to the Housing Element process, timeline, number of meetings and outreach. Council Member Fligor, with Mayor Enander indicating agreement, clarified that any Housing Element related policy questions or decisions would be brought to the Council and not be handled by the Housing Element subcommittee.

Council Member Lee Eng moved that the Council approve expansion of the term and scope of the Council Housing Element Subcommittee beyond community outreach to include involvement in the Housing Element process through its final completion/certification. The motion was seconded by Mayor Enander and the motion passed 5-0 with the following roll call vote:

AYES: Council Members Fligor, Lee Eng, Weinberg, Vice Mayor Meadows, and Mayor Enander
 NOES: None
 ABSENT: None
 ABSTAIN: None

7. **City of Los Altos Compensation Philosophy:** Consider proposed Compensation Policy and adopt or provide direction to staff.

Human Resources Manager Silipin provided a staff report and presentation and answered questions from the Council.

There were no members of the public wishing to comment.

Following Council discussion, Council Member Lee Eng moved to adopt the Compensation Philosophy with the addition of language suggested by Council Member Fligor relative to diversity and inclusivity. Vice Mayor Meadows seconded the motion. The motion passed 5-0 with the following roll call vote:

AYES: Council Members Fligor, Lee Eng, Weinberg, Vice Mayor Meadows, and Mayor Enander
 NOES: None
 ABSENT: None
 ABSTAIN: None

INFORMATIONAL ITEMS ONLY

Tentative Council Calendar

City Manager Engeland reviewed the tentative agenda for the April 12th City Council meeting.

COUNCIL/STAFF REPORTS AND DIRECTIONS ON FUTURE AGENDA ITEMS

Council Member Fligor suggested that staff follow up regarding the point she made during the El Camino bike lane item discussion that the city look at different solutions to support the business community, understand the impact, and identify ways the City can support them, for example, signage pointing to parking areas. There was support for staff to do that and since the bike lane is scheduled for Summer 2023, staff's follow up did not have to be immediate.

Council Member Fligor, with support from Council Member Lee Eng, requested a discussion matter on creation of a Grant Writing Subcommittee.

Council Member Weinberg, with support from Vice Mayor Meadows and Council Member Fligor, requested initiation of review of the City's Story Pole Policy. There was discussion as to the appropriate body to begin the review. City Attorney Houston advised that the review should start in the Open Government Subcommittee.

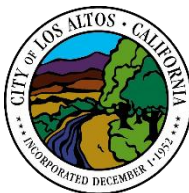
ADJOURNMENT

At 1:17 a.m., Wednesday, March 24, 2022, Mayor Enander adjourned the meeting.

Anita Enander, MAYOR

Attest:

Andrea Chelemengos, MMC



AGENDA REPORT SUMMARY

Meeting Date: April 12, 2022

Subject Public Art Donation: *Alegria*

Prepared by: Jon Maginot, Assistant City Manager

Approved by: Gabriel Engeland, City Manager

Attachment(s):

- 1. Donation of Artwork form for *Alegria*

Initiated by:

Artist

Previous Council Consideration:

None

Fiscal Impact:

There is no immediate fiscal impact. There may be future costs for maintenance of the sculpture, however, these costs are anticipated to be minimal.

Environmental Review:

Not applicable

Policy Question(s) for Council Consideration:

- Does the Council wish to accept donation of this artwork?

Summary:

- The artwork is a donation from the artist
- The sculpture would become part of the City’s permanent collection

Staff Recommendation:

Accept the donation of *Alegria* from the artist

Reviewed By:

City Manager

GE

City Attorney

JH

Finance Director

JE



Subject: Title

Purpose

To review the proposed donation of artwork for *Alegria*

Background

The sculpture *Alegria* by Adrian Litman was installed in Village Park in 2017 as part of the City’s Sculpture Loan Program. The artist has offered to donate the sculpture to the City.

Discussion/Analysis

Per the City’s Artwork Donation Policy, the Public Arts Commission reviewed the proposed donation and voted 5-0 (one member was absent) to recommend that the City Council accept the donation. Should the Council accept the donation of artwork, the sculpture will become a part of the City’s permanent collection.

Options

- 1) Accept the donation of *Alegria*

Advantages: The City would add a unique piece of art to the City’s permanent public art collection

Disadvantages: The City would be responsible for future maintenance of the piece. This maintenance is anticipated to be minimal.

- 2) Do not accept the donation of *Alegria*

Advantages: None identified

Disadvantages: The City does not add this unique artwork to its permanent collection

Recommendation

The Public Arts Commission and staff recommend Option 1.

City of Los Altos Donation of Artwork

Artwork Title: **ALEGRIA**

Created By: **Adrian Litman**

Please attach four images (one from each side) with frame of reference. Digital images are also acceptable.
Please e-mail digital images to: Public Arts Commission -- administration@losaltosca.gov

Artist Information:

Artist's Full Name **Adrian Susnea Litman**
Address _____
City, State, Zip **Santa 95404**
Contact Phone # _____ Email Address _____

Donor Information (if different from above):

Donor Name _____
Address _____
City, State, Zip _____
Contact Phone # _____ Email Address _____

Artwork Information:

Title of work for label **ALEGRIA**
Dimensions: **14'H x 6'W x 6'D** Weight **250** lbs. Piece #/Edition: **1**
Inscriptions and/or markings: _____
Description: **Kinetic sculpture**

Intended for outdoor placement: Yes No _____ both indoor or outdoor _____
Suggested site description: **Any location that has a concrete surface for installation**
(Please note that the Los Altos City Council will make the final site selection.)

New Casting: Yes No _____ *(if no, any provenance?)* _____ **Brushed stainless steel**
Completion Date: **2017**
Purchase Price: **\$1,500** Appraised Value: _____
Appraised by/date: _____

Materials Information: (please be as detailed and specific as possible):

Medium (wood, stone, plastic, metal, etc.): **Stainless steel and painted steel**

Surface Finish (sandblasted, glass beads, wire-wheeled, sanded, painted with, etc.): _____

Patina Information (if applicable):

Original Coloration(s) _____
Protective Sealer(s) _____ Whether resistant sealer _____
Preservation measures taken at the time of creation: _____

Expected lifespan: **25 years with minimum maintenance**

Installation Information:

Details of installation (please include drawings if necessary): The metal base of the sculpture is attached to a concrete pad with 3/4" bolts

Please give a brief description of assembly including connecting methods: The sculpture is composed of a 10' H x 4" metal pipe supporting the kinetic elements at the top.

Materials used: Stainless steel and perforated painted steel

Mounting instructions: The kinetic elements at the top are assembled with screws to a rotating disc

A letter stating recommendations from an architect/engineer and conservator concerning the design selection of materials may be requested.

Potential for Vandalism: (circle one): High Medium X Low

How the effects of any vandalism may be mitigated: Graffiti on the metal column can be removed

with solvent. Damage to the kinetic parts need to be evaluated for fixing or possible replacement

Maintenance Agreement:

Donor agrees that the following maintenance procedures shall be followed. Please check one:

1. To be maintained by the City of Los Altos in the following manners as needed:
 - a. Cold Wax Method
 1. Clean with non-ionic detergent using natural sponges and/or cotton rags.
 2. Apply a coat of carnauba paste wax to entire surface.
 - b. Hot Wax Method
 1. Clean with non-ionic detergent using natural sponges and/or cotton rags.
 2. Carefully heat surface with a propane driven torch (not to exceed 200')
 3. Apply a coat of carnauba-micro-crystalline wax to entire surface.
 4. Let cool, shine with rag, and apply 1 coat of tree wax.
 5. Shine again.
 - c. Treatment as needed to maintain the piece in good condition as determined by a qualified maintenance consultant.

2. **Specific maintenance requests:** Occasional maintenance needed for dust or dirt accumulated around the base. The colors on the kinetic parts may fade in 10 years and may need recoloring with spray paint

Signature: _____  **Date:** February 4, 2022

Donor Agreement:

The undersigned hereby offers to make a gift to the City of Los Altos as described in this document. The artwork may be displayed, moved, stored, or de-acquisitioned, according to policies adopted by the Public Arts Commission. The undersigned is the owner of the artwork, free of all liens and encumbrances and has the right to make this gift.

Donor's Signature: _____  **Date:** February 4, 2022

Please submit the original of this form and all supporting materials to: City of Los Altos c/o Public Arts Commission, One North San Antonio Road, Los Altos, CA 94022 or administration@losaltosca.gov





AGENDA REPORT SUMMARY

Meeting Date: April 12, 2022

Subject Authorize City Manager to execute professional services agreement for sewer rate structure analysis with NBS Government Finance Group, dba NBS; find that the approval of the agreement is exempt from review under the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Sections 15061(b)(3) (Common Sense Exemption), 15273 (Rates, Tolls, Fares, and Charges), and 15306 (Information Collection).

Prepared by: Aida Fairman, Engineering Services Manager
Reviewed by: James Sandoval, Engineering Services Director
Approved by: Gabriel Engeland, City Manager

Attachment: None

Initiated by:
Staff

Previous Council Consideration:
June 13, 2017; March 13, 2018; June 26, 2018; July 10, 2018; June 25, 2019; October 22, 2019; June 9, 2020; June 8, 2021

Fiscal Impact:
Not-to-exceed \$105,478

The following action will cost \$105,478 for the consultant to perform a Sewer Rate Structure Analysis, Administration of Proposition 218 Process for FY 2024-28, and Annual Administration of the City of Los Altos’ Sewer Service Charge for FY 2023-24.

- Breakdown of funds to be used:
 - o \$105,478 from Sewer Fund
- Amount already included in the approved budget: N
 - Total budget requested including a 5% contingency is \$105,478

<p>City Manager <i>GE</i></p>	<p>Reviewed By: City Attorney <i>JH</i></p>	<p>Finance Director <i>JE</i></p>
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Subject: Professional Services Agreement: Sewer rate Structure Analysis

Environmental Review:

The award of the professional services agreement to NBS, and the preparation of a rate structure analysis, is exempt from review under CEQA pursuant to CEQA Guidelines Sections 15061(b)(3) (Common Sense Exemption), 15273 (Rates, Tolls, Fares, and Charges), and 15306 (Information Collection), in that the analysis will not result in any direct or reasonably foreseeable impacts on the physical environment, but instead will be used to determine rates for the purpose of funding existing operating expenses and capital projects to maintain existing sewer service within the City, and none of the circumstances in CEQA Guidelines Section 15300.2 applies.

Summary:

- In 2018, the City went through the Proposition 218 process to adopt Ordinance No. 2018-445, which established the annual sewer service charge rate for a period of five years (from FY 2018-19 through FY 2022-23).
- The City of Los Altos needs to perform a Sewer Rate Analysis and go through the Proposition 218 process in FY 2022-23 to establish the annual sewer service charge rate for the next five years (FY 2023-24 through FY 2027-28).
- On January 25, 2022, the City advertised a request for proposals (RFP) and received one proposal on February 24, 2022, for the Sewer Rate Structure Analysis, Administration of Proposition 218 Process, and Annual Administration of the City’s Sewer Service Charge.

Staff Recommendation:

Authorize the City Manager to execute an agreement on behalf of the City with NBS in the amount of \$105,478 for a Sewer Rate Structure Analysis, Administration of Proposition 218 Process for FY 2024-28, and Annual Administration of the City of Los Altos’ Sewer Service Charge for FY 2023-24



Subject: Professional Services Agreement: Sewer rate Structure Analysis

Purpose

The City of Los Altos needs to establish the annual sewer service charge rate for Fiscal Years 2023-24 through 2027-28.

Background

In 2017-2018, NBS performed a Sewer Rate Structure Analysis, and the City went through the Proposition 218 process to adopt Ordinance No. 2018-445, which established the annual sewer service charge rate for a period of five years (from FY 2018-19 through FY 2022-23). The sewer service charge that was adopted on July 10, 2018, was based on a hybrid sewer charge model that considered parcel water usage and a fixed charge component. The purpose of the hybrid sewer charge was to ensure adequate funds for the ongoing operation and maintenance and to fund capital improvements of the sewer system in the Los Altos area.

Discussion/Analysis

A new sewer rate structure analysis must be performed to continue adequately funding the sanitary sewer fund. The analysis will again consider a 5-year study period and review upcoming costs associated with the maintenance and operations as well as capital improvements both within the City’s sewer system and the City’s share of cost at the joint wastewater treatment plant located in Palo Alto.

A charge for each parcel based on the benefit received must be calculated in such a way that the total revenue requirement of the Sewer Fund over the next five-year period is met. Some tasks for the consultant include evaluating water use and parcel information for all parcels connected to the sewer, assigning a charge to each parcel based on the benefit received or used, and preparation of the sewer service charge tax roll. In accordance with Municipal Code Sections 10.12.135 and 10.12.140 and Ordinance No. 2018-445, the rate structure for the sewer service charges is comprised of two components: (1) a fixed annual per parcel base charge that is determined on the basis of the number of equivalent dwelling units (“EDU”) assigned to a property; and (2) variable quantity charge. One EDU equates to the quantity of wastewater an average single-family residential customer contributes to the sewer system. One EDU is assigned to each single-family residential home. The number of EDUs assigned to other customers is based on their expected wastewater flows relative to an average single-family residential customer. The quantity charge is imposed on a per unit basis. The total amount of the quantity charge is based on a customer’s average winter water use from the previous year (using the three wettest months of the previous year) and multiplied by 12 and is designed to reflect a customer’s estimated wastewater flow. Estimated average winter water usage is used because individual sewer flows are not metered, and winter months’ water usage, when outdoor water usage is least likely to occur, best reflects actual flows into the sewer system.



Subject: Professional Services Agreement: Sewer rate Structure Analysis

A request for proposals (RFP) was developed and advertised on the City’s website. The City received one proposal. The proposal received from NBS was responsive to the City’s requirements based on their qualifications, experience statements, and description of the required tasks. NBS has demonstrated the experience and expertise needed to develop and present a sewer rate study through a public process that will result in timely submission of the tax roll information to the County Assessor’s Office at a reasonable cost.

The proposed not-to-exceed fee of \$105,478 is considered reasonable for the sewer rate structure analysis, administration of Proposition 218, and Annual Administration of the City of Los Altos’ Sewer Service Charge for FY2023-24.

Once the sewer rate structure analysis is completed, staff will return to Council through a public hearing to approve the sewer rates for the next 5-years, and the sewer service charges will be approved annually based on the adopted 5-year rates.

Recommendation

The staff recommends that the City Council authorize the City Manager to execute an agreement on behalf of the City with NBS in the amount of \$105,478 and appropriate additional budget from the Sewer Fund, for a Sewer Rate Structure Analysis, Administration of Proposition 218 Process for FY 2024-28, and Annual Administration of the City of Los Altos’ Sewer Service Charge for FY 2023-24.

ATTACHMENT A

RESOLUTION NO. 2022-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH NBS GOVERNMENT FINANCE GROUP, dba NBS FOR A SEWER RATE STRUCTURE ANALYSIS, ADMINISTRATION OF PROPOSITION 218 PROCESS FOR FY 2024-28, AND ANNUAL ADMINISTRATION OF THE CITY OF LOS ALTOS’ SEWER SERVICE CHARGE FOR FY 2023-24, NOT TO EXCEED \$100,455, AND UP TO 5% CONTINGENCY FUNDS NOT TO EXCEED \$5,023, AND AMENDING THE FY2021-22 OPERATING BUDGET FOR THE SEWER FUND

WHEREAS, in 2018, the City went through the Proposition 218 process to adopt Ordinance No. 2018-445, which established the annual sewer service charge rate for a period of five years (from FY 2018-19 through FY 2022-23); and

WHEREAS, the City of Los Altos needs to perform a Sewer Rate Analysis and go through the Proposition 218 process in FY 2022-23 to establish the annual sewer service charge rate for the next five years (FY 2023-24 through FY 2027-28); and

WHEREAS, on January 25, 2022, the City advertised a request for proposals (RFP) and received one proposal on February 24, 2022, for the Sewer Rate Structure Analysis, Administration of Proposition 218 Process for FY 2024-28, and Annual Administration of the City’s Sewer Service Charge for FY 2023-24; and

WHEREAS, the proposal received from NBS Government Finance Group, dba NBS (“NBS”) was responsive to the City’s requirements based on their qualifications, experience statements, and description of the required tasks; and

WHEREAS, NBS has demonstrated the experience and expertise needed to develop and present a sewer rate study through a public process that will result in timely submission of the tax roll information to the County at a reasonable cost.

NOW THEREFORE, BE IT RESOLVED, the City Council of the City of Los Altos hereby authorizes the City Manager to take the following actions:

1. To execute an agreement with NBS in the amount not to exceed \$100,455 and up to 5% contingency not to exceed \$5,023 for a Sewer Rate Structure Analysis, Administration of Proposition 218 Process for FY 2024-28, and Annual Administration of the City of Los Altos’ Sewer Service Charge for FY 2023-24;
2. Transfer with a Budget Increase of \$105,478 from the Sewer Fund to the Professional Services category under the FY 2021-22 Sewer Operating Budget; and
3. To take such further actions as may be necessary or convenient to implement the transactions contemplated hereby.

ATTACHMENT A

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the 12th day of April, 2022 by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Anita Enander, MAYOR

Attest:

Andrea Chelemengos, MMC, CITY CLERK



AGENDA REPORT SUMMARY

Meeting Date: April 12, 2022

Subject: Emergency Declaration Resolution

Prepared by: Jon Maginot, Assistant City Manager

Approved by: Gabriel Engeland, City Manager

Attachment(s):

- 1. Resolution No. 2022-xx

Initiated by:

Staff

Previous Council Consideration:

March 12, 2020 (Declaration of Emergency); March 17, 2020; August 24, 2021; October 12, 2021; November 9, 2021; December 7, 2021; January 11, 2022; February 8, 2022; March 8, 2022

Fiscal Impact:

None. However, a local emergency declaration is a prerequisite for requesting state or federal assistance.

Environmental Review:

Not applicable

Policy Question(s) for Council Consideration:

- Does the Council wish to renew its existing declaration by adopting a resolution declaring a local emergency to emphasize the need for continued adherence to public health guidance?

Summary:

- AB 361 requires the City to adopt a resolution every 30 days extending a local emergency declaration to continue to allow legislative bodies to meet virtually

Staff Recommendation:

Adopt a Resolution extending the declaration of a local emergency due to the COVID-19 pandemic

Reviewed By:

City Manager

GE

City Attorney

JH

Finance Director

JE



Subject: Emergency Declaration Resolution

Purpose

To adopt a resolution extending the existing declaration of emergency

Background

On March 12, 2020, the City Manager issued an Emergency Declaration in response to the COVID-19 pandemic. On March 17, 2020, the City Council adopted Resolution No. 2020-08 ratifying the Emergency Proclamation. The City Council most recently adopted a resolution on January 11, 2022 continuing the declaration of the existence of a local emergency due to the COVID-19 pandemic.

The threat posed by COVID-19 continues to pose a serious risk to the public health and safety of the City of Los Altos.

Discussion/Analysis

Resolution No. 2021-46 states that the Director of Emergency Services (City Manager) is to report to the City Council within sixty (60) days on the need for further continuing the local emergency.

AB 361, signed into law on September 15, 2021, allows a public agency to continue to hold virtual City Council and Commission meetings while under a declaration of emergency without complying with certain elements of the Ralph M. Brown Act. The bill requires that a legislative body renew the declaration of emergency every 30 days in order to continue meeting in this matter. AB 361 applies to local agencies until January 1, 2024.

Recommendation

The staff recommends Council adopt the attached resolution extending the declaration of emergency due to the COVID-19 pandemic.

RESOLUTION NO. 2022-___**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
DECLARING THE EXISTENCE OF A LOCAL EMERGENCY DUE TO THE
COVID-19 PANDEMIC**

WHEREAS, on March 4, 2020, the Governor issued a proclamation of a state of emergency relating to the respiratory illness known as COVID-19, which is caused by the novel corona virus SARS-CoV02; and

WHEREAS, on March 11, 2020, the World Health Organization declared the existence of a pandemic due to the global spread of COVID-19; and

WHEREAS, on March 12, 2020, the Los Altos City Manager, in his capacity as the City's Director of Emergency Services, proclaimed a local emergency in response to the escalation of COVID-19 to a pandemic, and on March 17, 2020, the City Council adopted Resolution No. 2020-08 ratifying and continuing the proclamation of local emergency; and

WHEREAS, on March 16, 2020, the Santa Clara County Health Officer issued the first of successive orders requiring all individuals residing in the County to shelter in their places of residence as specified, to socially distance, and to take other measures to prevent community spread of COVID-19; and

WHEREAS, on March 19, 2020, the Governor issued a statewide shelter-in-place order; and on August 28, 2020, the Governor announced a "Blueprint for a Safer Economy," which provided protocols for slowly reopening the state's economy following the initial shelter-in-place mandate; and

WHEREAS, on August 24, 2021; October 12, 2021; November 9, 2021; December 7, 2021; January 11, 2022 and February 8, 2022, the City Council adopted Resolutions extending the declaration of a local emergency; and

WHEREAS, by the beginning of March 2022, over 2,000 Santa Clara County residents have died of COVID-19; and

WHEREAS, due to the diligence of Los Altos residents in complying with health guidance, Los Altos has one of the lowest rates of reported incidence of COVID-19 infection in Santa Clara County; and

WHEREAS, vaccines provide proven protection against COVID-19; and

WHEREAS, by the beginning of March 2022, approximately 89 percent of Santa Clara County residents over the age of 5 had been vaccinated, and statewide vaccination rates were higher than the national average; and

WHEREAS, the Governor lifted the Blueprint for a Safer Economy on June 15, 2021, and local health restrictions have also been lifted due to sharp declines in COVID-19 case counts since vaccines first became available; and

WHEREAS, despite progress in addressing the pandemic, not all eligible individuals are fully vaccinated, and new, more virulent variants of the SARS-CoV-2 virus are spreading in California and throughout the world; and

WHEREAS, according to the Santa Clara County Health Department, by July 1, 2021, the 7-day average of new COVID-19 cases reported in Santa Clara County was down to 37 cases per day, but three weeks later on July 22, 2021, the 7-day average was up to 188 cases per day; and

WHEREAS, as a result of rising case counts, on August 2, 2021, the Santa Clara County Health Officer issued a new health order requiring the use of face coverings indoors by all persons; and

WHEREAS, despite significant progress, COVID-19 remains a threat to public health and safety in the Los Altos community; and

WHEREAS, throughout the pandemic, the City of Los Altos has taken steps to address the health crisis, for example, by facilitating outdoor dining within the City; and

WHEREAS, AB 361 requires the City Council make findings every thirty (30) days reaffirming the existence of a local emergency; and

WHEREAS, in view of the ongoing health crisis, the City Council now desires to affirm its existing declaration of local emergency.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Los Altos that:

1. The City Council has reviewed the need for continuing the declaration of local emergency and finds, based on substantial evidence, that the foregoing recitals are true and correct and that the public interest and necessity require the continuance of the proclamation of local emergency related to COVID-19.
2. Said local emergency shall be deemed to continue to exist until terminated by the City Council of the City of Los Altos.
3. The Director of Emergency Services is hereby directed to report to the City Council within thirty (30) days on the need for further continuing the local emergency and, if deemed appropriate, the City Council may take further action.

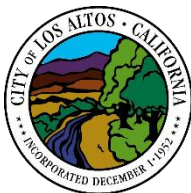
I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the ___ day of ____, 2022 by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Anita Enander, MAYOR

Attest:

Andrea Chelemengos, MMC, CITY CLERK



AGENDA REPORT SUMMARY

Meeting Date: April 12, 2022

Subject Rental Fee Waiver Request by Ye Olde Towne Band and The Serenaders Band

Prepared by: Mary Jo Price, Recreation Supervisor

Reviewed by: Donna Legge, Recreation Director

Approved by: Gabriel Engeland, City Manager

Attachment(s):

- 1. Fee Waiver Policy Memorandum dated March 4, 2008
- 2. Fee Waiver Request from Ye Olde Towne Band dated March 7, 2022
- 3. Recreation Facility Rental Fee Schedule

Initiated by:

Ye Olde Towne Band and the Serenaders Band

Previous Council Consideration:

None.

Fiscal Impact:

Approval of the full fee waiver will result in the loss of \$5,400 in rental revenue and utilize a total of 90 hours which represents 30 evenings, from 7pm to 10pm, per fiscal year at the Garden House. The revenue is not budgeted so would require no budget adjustments.

Environmental Review:

Not applicable

Policy Question(s) for Council Consideration:

- Does Council wish to support a waiver of rental fees for Ye Olde Towne Band and The Serenaders Band?

Summary:

- Fee waivers over \$1,000 requires City Council approval
- Ye Olde Towne Band has requested a rental fee waiver in the amount of \$5,400 per year
- Ye Old Towne Band was previously approved for free use of the Garden House for rehearsals for both Ye Old Towne Band and the Serenaders Band

City Manager

GE

Reviewed By:

City Attorney

JH

Finance Director

JE



Subject: Title

Staff Recommendation:

Consider the request from Ye Olde Towne Band and the Serenaders Band for an annual waiver of rental fees at Garden House in the amount of \$5,400. Staff is recommending that the waiver be granted for one year in anticipation that the current waiver policy will be reviewed and established as a new policy in the next fiscal year.

Purpose

Consider rental fee waiver for Ye Olde Towne Band and the Serenaders Band.

Background

On March 11, 2008, Council adopted the following Fee Waiver Policy:

For fee waiver requests from community and non-profit groups for one-time events or facility usage, the City Manager or his/her designee is authorized to consider the request and to render a decision **if** the amount of the waiver is less than \$1,000. For requests greater than \$1,000, a written request shall be placed on the agenda of the City Council for its determination.

The Garden House is a City facility located in Shoup Park at 400 University Avenue and is one of many reservable spaces managed by the Recreation Department. The rental fee schedule was approved at the regular City Council meeting of October 26, 2021, per resolution 2021-54 (Attachment 3). The Garden House is rented regularly throughout the year for a variety of events. For fiscal year 2021/2022, the Garden House has generated \$18,750 in revenue, to date.

Discussion/Analysis

Beginning in 1973, Ye Olde Towne Band has been granted free use for rehearsals at various City facilities including the Hillview Community Center, the Los Altos Youth Center, and the Garden House. Ye Olde Towne Band began using the Garden House in the 1990’s. They currently utilize storage space under the Garden House, also, at no cost. In 2019, the Ye Olde Towne Band and the Serenaders Band were granted 83.5 hours of free use, equivalent to \$5,010 in rental revenue. Ye Olde Towne Band is currently requesting 90 hours of free usage per year at the Garden House.

Ye Olde Towne Band and the Serenaders Band provide a public benefit by performing several free concerts each year. For 50 years, they have been performing one free concert per month from May through September at Shoup Park that attract approximately 300 attendees to each concert. They have also performed at the City’s Glorious 4th event and in both annual downtown parades. In addition, they provide free recreational and instructional opportunities for the 60 band participants.



Subject: Title

With the opening of the Los Altos Community Center and approval of the new facility rental fee schedule for all City facilities, the Recreation Department has streamlined the process for handling all fee waiver requests to include formal approval by City Council. As part of the City Council retreat held on January 18 and 22, 2022, the agenda included a policy question to City Council asking if they wish to subsidize certain users and groups using City facilities, and if so, to what extent? Does the City Council wish to update the current fee waiver policy? Staff is working on scheduling an agenda item on fee waivers in the future.

Recommendation

Consider the request from Ye Olde Towne Band and the Serenaders Band for an annual waiver of rental fees at Garden House in the amount of \$5,400. Staff is recommending that the waiver be granted for one year.



MEMORANDUM

DATE: March 4, 2008

TO: Val Carpenter, Mayor
City Council members

FROM: Douglas J. Schmitz

SUBJECT: FEE WAIVER POLICY

BACKGROUND:

Several times over the past six months, the City Council has been asked to waive municipal fees for facility usage.

In many cities, small waivers are usually addressed by the staff pursuant to guidelines established by the Council. I am proposing that the Council consider the following proposed policy for the future handling of waivers.

POLICY:

For fee waiver requests from community and non-profit groups for one-time events or facility usage, the City Manager or his/her designee is authorized to consider the request and to render a decision IF the amount of the waiver is less than \$1000. For requests greater than \$1000, a written request shall be placed on the agenda of the City Council for its determination.

The City Manager or his/her designee shall provide notification to the members of the City Council of his/her decision on either the granting or rejecting of a request.

RECOMMENDATION:

Adopt the policy for fee waivers for community and non-profit groups up to the listed limits.

From: John DeLoach <jrdeloach@earthlink.net>
Sent: Monday, March 7, 2022, 12:42 PM
To: William Wells <wwells@losaltosca.gov>
Cc: Donna Legge <dlegge@losaltosca.gov>; Jaime Chew <jchew@losaltosca.gov>
Subject: FW: Ye Olde Towne Band & Serenaders Garden House Rehearsals

Los Altos Rec Dept
Mr. William Wells, et al;

I am submitting this letter on behalf of Ye Olde Towne Band (YOTB) and the Serenaders Band to obtain a fee waiver for holding our rehearsals in the Garden House. Our band has been enriching the Los Altos community for 50 years with our once a month concert May through September, Glorious 4th program and in both downtown parades. Additional information is attached to this letter as examples of our contributions to the community.

Ye Olde Towne Band is a concert band of about 60 members and have been rehearsing and playing in Los Altos since 1972. Membership is open to all ages, but we have a high percentage of older adults, offering an excellent recreational and instructional opportunity for the community. Over the years, YOTB has rehearsed at the Hillview Community Center, the Los Altos youth Center, and most recently, the Garden House.

We are asking to resume our rehearsals at the Garden House starting this April. The reasonable health restrictions set by the CDC, State, and County of Santa Clara made rehearsals unavailable two years ago, but now, low case levels allow rehearsals to resume. YOTB would like to return to our customary rehearsal hall to prepare for performances at the 2022 Pet Parade and our Last Sunday Summer Concerts.

YOTB rehearses the last three Thursdays of the month April through September, 7-10pm. YOTB performs a concert in Shoup Park the last Sunday of May through September. It is a highly popular concert among the town's citizens with attendance at about 300, from children dancing to retirees tapping their toes.

The Serenaders is a 10 piece group (Compact Big Band) that is an off shoot of and governed by YOTB. It is available to provide music for small venues with playing 2 gigs per year for any Los Altos function as payment for rehearsing in the Garden House. The Serenaders rehearse the 2nd Tuesday of the month 7-10pm year round.

Both bands are staffed by voluntary musicians. We have benefitted from donations from local service clubs, the public and our musicians. These donations provide the funds to pay for insurance, to purchase music, and to maintain the parade float. Both bands are self-sufficient and cause Los Altos no extra work. We clean up after ourselves, have insurance, and would follow whatever Covid protocols are in place to build back community events. Our concert risers and chairs are stored in the store room under the Garden House and our float is housed in the city public works barn. I worked successfully with your predecessor Greg Milano for many years.

YOTB has never paid a fee for use of rehearsal facilities. The city over the years has looked upon YOTB as an asset that provided a musical outlet for its citizens, both players and audiences. It was also understood that by advertising as being sponsored by The City of Los Altos we would have a rehearsal

facility. See example of sponsorship advertising on attached concert program. Also attached is a past copy of the 2019 Rec Dept's Sales Receipt showing no payment necessary and the Rec Dept Household Reservation Report showing our schedule.

Attention to this matter is time sensitive as a schedule needs to be published to our players and in the Town Crier. Your direct and timely positive attention to this matter would be greatly appreciated.

Thank you.

John DeLoach
Director
Ye Olde Towne Band
650-465-0521

"Adapt, Improve, Persist & Overcome"





Sunday Afternoon Concerts in the Park

The last Sunday of each Summer Month

Come and enjoy a free, old-fashioned band concert in a beautiful park setting. Each month, Ye Olde Towne Band of Los Altos provides an enjoyable concert presenting music ranging from rousing marches to popular musicals. Bring a picnic lunch, use the barbeques in the park, or just sit on the grass and enjoy the concert. A playground is available for the youngsters.



Shoup Park

400 University Avenue, Los Altos

1:30 ~ 3:30 PM

May 26

June 30

July 28

August 25

September 29

Free Admission

Ye Olde Towne Band of Los Altos

John DeLoach, Conductor

<http://windband.org/oldtowne/>

Ye Olde Towne Band is sponsored by the City of Los Altos, BridgePoint at Los Altos, Lee Smith, Los Altos Community Foundation, and the Service Clubs serving Los Altos: Rotary and Kiwanis

Sunday Afternoon Concerts in the Park

THE LAST SUNDAY OF EACH MONTH - MAY THROUGH SEPTEMBER – 1:30PM

Shoup Park - Los Altos, CA

Ye Olde Towne Band of Los Altos

John DeLoach – Conductor

Always Free Admission

Ye Olde Towne Band welcomes your contributions to defray the cost of maintenance, supplies, music for the concerts, and upkeep of our famous motorized gazebo style parade float. Cash or checks are accepted. Sorry, no credit cards or bit-coin. Make checks payable to **Ye Olde Towne Band** and give to the **Maestro** or mail to YOTB, 1040 Estrellita Way Los Altos, CA 94022. Ye Olde Towne Band is a not-for-profit charitable organization under the IRS Code Section 501[c][3] and all donations are tax deductible.

2018 Concert Calendar

May 27
June 24
July 29
August 26
September 30

“Like Us On Facebook”

Ye Olde Towne Band is sponsored by The City of Los Altos,
The Los Altos Community Foundation - The Kiwanis & Rotary Clubs
of Los Altos - BridgePoint at Los Altos - Lee Smith

Ye Olde Towne Band is a member of the Association of
Concert Bands and is a licensed BMI/ASCAP performance band

<http://www.windband.org/oldtowne>

The Glorious 4th of July 2018

Shoup Park, Los Altos, CA

Ye Olde Towne Band

_____ **Program Music** _____

(Played from 10:30am to 11:00 am)

Join The Circus

The Liberty Bell March

This Is My Country

Americans We March

Them Bases March

The Black Horse Troop March

The Thunderer March

Colonel Bogey March

The National Emblem March

The Sousa Scramble

The Stars And Stripes Forever March

(Yankee Doodle Dandy) Star Spangled Spectacular (Grand Old Flag) < FROM M129

Concert Finale

(America, America The Beautiful, Battle Hymn, God Bless America)

_____ **When Called To Play** _____

The Star Spangled Banner

_____ **Time Filler** _____

The Teddy Bear's Picnic

2018

Agenda Item # 5.

Ye Olde Towne Band

Summer Concert Series

Shoup Park – Los Altos, CA



John DeLoach – Conductor

FACILITY SALES RECEIPT

Agenda Item # 5.

Receipt # 153894
Payment Date: 01/28/2019
Household #: 6260
Home Phone: (650)941-1511
Work Phone: (650) -
Cell Phone: (650)233-4601

YE OLDE TOWN BAND (94-2395964)
 1040 ESTRELLITA WAY
 LOS ALTOS CA 94022

Recreation Office
 97 Hillview Ave
 Los Altos CA 94022

Phone:
 www.losaltosrecreation.org

Facility Reservation Details

Facility:	Shoup Park, Garden House Multi	<u>Fees + Tax</u>	<u>Discount</u>	<u>Amount Due</u>
Reserv. Contact:	Ye Olde Towne Band, Cell: (650)233-4601	0.00	0.00	0.00
Reserv. Number:	16552 Status: Firm			
Purpose:	Band Rehearsals *Serendaders			
Anticipated Count:	60			
Date(s): Tue @ 8:00PM - 10:30PM: 04/09, 05/14, 07/16, 08/13				
Tue @ 6:30PM - 10:30PM: 06/11				

Facility:	Shoup Park, Garden House Multi	<u>Fees + Tax</u>	<u>Discount</u>	<u>Amount Due</u>
Reserv. Contact:	Ye Olde Towne Band, Cell: (650)233-4601	0.00	0.00	0.00
Reserv. Number:	16552 Status: Firm			
Purpose:	Band Rehearsals			
Anticipated Count:	60			
Date(s): Thu @ 8:00PM - 10:30PM: 04/18, 04/25, 05/09, 05/16, 05/23, 06/20, 06/27, 07/11, 07/18, 07/25, 08/08, 08/15, 08/22				
Thu @ 6:30PM - 10:30PM: 06/13				

Processed on 01/28/19 @ 14:01:27 by AF	FEES CHARGED ON NEW LINE ITEMS (+)	0.00
	DISCOUNT APPLIED AGAINST THESE FEES (-)	0.00
	TAX CHARGED ON NEW FEES (+)	0.00
	HH DEPOSIT/VISIT CHARGED	0.00
	NEW AMOUNT DUE	0.00
	PREVIOUS NET HOUSEHOLD BALANCE	0.00
	TOTAL DUE	0.00
	NEW FEES PAID ON THIS RECEIPT (-)	0.00
	NEW DEPOSIT PAID (-)	0.00
	TOTAL PAID	0.00
	NEW NET HOUSEHOLD BALANCE	0.00

Payment of ==> 0.00 Made By ==> CASH With Reference ==> Spring-Summer '19

Household Reservation Report

Agenda Item # 5.

Date: 01/30/2019
 Household #: 6260
 Home Phone: (650)941-1511
 Work Phone: (650) -
 Cell Phone: (650)233-4601

YE OLDE TOWN BAND (94-2395964)
 1040 ESTRELLITA WAY
 LOS ALTOS CA 94022

Recreation Office
 97 Hillview Ave
 Los Altos CA 94022

Phone:
www.losaltosrecreation.org

Day	Date	Time Period	Facility Type	Facility Location	Facility ID	Rsv #	Fees	Paid	Due
X Thu	09/12/2019	6:30PM - 9:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16210	0.00	0.00	0.00
	Purpose: Band Rehearsals								
X Thu	09/19/2019	6:30PM - 9:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16210	0.00	0.00	0.00
	Purpose: Band Rehearsals								
X Thu	09/26/2019	6:30PM - 9:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16210	0.00	0.00	0.00
	Purpose: Band Rehearsals								
X Tue	01/08/2019	7:00PM - 9:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16217	0.00	0.00	0.00
	Purpose: Band Rehearsals *Serenaders								
X Tue	02/12/2019	7:00PM - 9:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16217	0.00	0.00	0.00
	Purpose: Band Rehearsals *Serenaders								
X Tue	03/12/2019	7:00PM - 9:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16217	0.00	0.00	0.00
	Purpose: Band Rehearsals *Serenaders								
X Tue	09/10/2019	6:30PM - 9:00PM	Multi Purpose Room	Shoup Park	Garden House Multi	16217	0.00	0.00	0.00
	Purpose: Band Rehearsals *Serenaders								
X Tue	10/08/2019	6:30PM - 9:00PM	Multi Purpose Room	Shoup Park	Garden House Multi	16217	0.00	0.00	0.00
	Purpose: Band Rehearsals *Serenaders								
X Tue	11/12/2019	6:30PM - 9:00PM	Multi Purpose Room	Shoup Park	Garden House Multi	16217	0.00	0.00	0.00
	Purpose: Band Rehearsals *Serenaders								
X Tue	12/10/2019	6:30PM - 9:00PM	Multi Purpose Room	Shoup Park	Garden House Multi	16217	0.00	0.00	0.00
	Purpose: Band Rehearsals *Serenaders								
X Sun	09/29/2019	12:00PM - 7:00PM	Multi Purpose Room	Shoup Park	Garden House Multi	16230	72.00	72.00	0.00
	Purpose: End-of-Season Potluck								
	Fee Detail:								
		Description	Amount	Count	Sales Tax	Discount	Extension		
		Alcohol Permit RES	72.00	1.00	0.00	0.00	72.00		
		Free Rental Non Prof	0.00	1.00	0.00	0.00	0.00		
X Thu	01/24/2019	7:00PM - 9:00PM	Classroom	Hillview Com Center	HV RM 16	16368	0.00	0.00	0.00
	Purpose: Board of Directors Meeting								
X Tue	04/09/2019	8:00PM - 10:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16552	0.00	0.00	0.00
	Purpose: Band Rehearsals *Serendaders								
X Thu	04/18/2019	8:00PM - 10:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16552	0.00	0.00	0.00
	Purpose: Band Rehearsals								
X Thu	04/25/2019	8:00PM - 10:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16552	0.00	0.00	0.00
	Purpose: Band Rehearsals								
X Thu	05/09/2019	8:00PM - 10:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16552	0.00	0.00	0.00
	Purpose: Band Rehearsals								
X Tue	05/14/2019	8:00PM - 10:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16552	0.00	0.00	0.00
	Purpose: Band Rehearsals *Serendaders								
X Thu	05/16/2019	8:00PM - 10:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16552	0.00	0.00	0.00
	Purpose: Band Rehearsals								

Recreation Office
 97 Hillview Ave
 Los Altos CA 94022
 Phone:

Household Reservation Report

Ye OLde Town Band (94-2395964)
 1040 Estrellita Way
 Los Altos CA 94022

Agenda Item # 5.

Day	Date	Time Period	Facility Type	Facility Location	Facility ID	Rsv #	Fees	Paid	Due
Thu	05/23/2019	8:00PM - 10:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16552	0.00	0.00	0.00
	Purpose:	Band Rehearsals							
Tue	06/11/2019	6:30PM - 10:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16552	0.00	0.00	0.00
	Purpose:	Band Rehearsals *Serendaders							
Thu	06/13/2019	6:30PM - 10:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16552	0.00	0.00	0.00
	Purpose:	Band Rehearsals							
Thu	06/20/2019	8:00PM - 10:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16552	0.00	0.00	0.00
	Purpose:	Band Rehearsals							
Thu	06/27/2019	8:00PM - 10:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16552	0.00	0.00	0.00
	Purpose:	Band Rehearsals							
Thu	07/11/2019	8:00PM - 10:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16552	0.00	0.00	0.00
	Purpose:	Band Rehearsals							
Tue	07/16/2019	8:00PM - 10:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16552	0.00	0.00	0.00
	Purpose:	Band Rehearsals *Serendaders							
Thu	07/18/2019	8:00PM - 10:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16552	0.00	0.00	0.00
	Purpose:	Band Rehearsals							
Thu	07/25/2019	8:00PM - 10:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16552	0.00	0.00	0.00
	Purpose:	Band Rehearsals							
Thu	08/08/2019	8:00PM - 10:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16552	0.00	0.00	0.00
	Purpose:	Band Rehearsals							
Tue	08/13/2019	8:00PM - 10:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16552	0.00	0.00	0.00
	Purpose:	Band Rehearsals *Serendaders							
Thu	08/15/2019	8:00PM - 10:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16552	0.00	0.00	0.00
	Purpose:	Band Rehearsals							
Thu	08/22/2019	8:00PM - 10:30PM	Multi Purpose Room	Shoup Park	Garden House Multi	16552	0.00	0.00	0.00
	Purpose:	Band Rehearsals							

Totals For: Ye OLde Town Band (94-2395964)

RESERVATION LINES:	31	NET FEES CHARGED:	72.00	DAMAGE DEPOSIT CHARGED:	0.00
RESERVATION HOURS:	86.00	NET FEES PAID:	72.00	DAMAGE DEPOSIT PAID:	0.00
ACTUAL HEADCOUNT:	0	NET FEES DUE:	0.00	DAMAGE DEPOSIT DUE:	0.00



FACILITY RENTAL FEES FY21/22

All fees hourly unless noted with an asterisk (*)

	Max Occupancy	RESIDENT	NON-RESIDENT	NONPROFIT	COMMERCIAL
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Los Altos Community Center \$500 deposit required for Multi Purpose/\$250 Deposit for classrooms Dining/Standing

Grand Oak	180/430	\$250	\$300	\$125	\$375
Sequoia	48/83	\$100	\$125	\$50	\$150
Manzanita	36/49	\$80	\$100	\$40	\$120
Maple	25	\$80	\$100	\$40	\$120
Birch	24/37	\$80	\$100	\$40	\$120
Apricot	36/49	\$80	\$100	\$40	\$120
Juniper	20/41	\$80	\$100	\$40	\$120
Sycamore	32/62	\$80	\$100	\$40	\$120
Cedar	16/61	\$80	\$100	\$40	\$120
Grand Oak Kitchen Add-On		\$50	\$75	\$25	\$100
Courtyard Add-On		\$50	\$60	\$25	\$100
Lobby		\$100	\$125	\$50	\$150

Grant Park Community Center

Grant Multi-Purpose Room	120 / 150	\$120	\$150	\$60	\$240
Classroom 1	30	\$50	\$60	\$40	\$100
Classroom 2	30	\$50	\$60	\$40	\$100
Classroom 3	30	\$50	\$60	\$40	\$100

Garden House

Garden House		\$120	\$150	\$60	\$240
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Tennis/Bocce Courts

McKenzie	Tennis	\$9	N/A	\$7	
Marymeade	Tennis	\$9	N/A	\$7	
Montclair	Tennis	\$9	N/A	\$7	
Rosita	Tennis	\$9	N/A	\$7	
LACC	Bocce ball	\$9	N/A	\$7	

San Antonio Club

San Antonio Club		\$120	\$150	\$60	\$240
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FIELDS

Hillview, Rosita, Grant	Baseball/ Soccer	\$50	\$60	\$25	N/A
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GYMS - Egan & Blach

Half Gym		\$85	\$110	\$45	\$160
Full Gym		\$140	\$180	\$80	\$280

OUTDOOR SPACES

Veteran's Community Plaza (*)					
Half Day	75	\$145	\$180	\$55	N/A
Full Day	75	\$220	\$275	\$90	N/A
Patriot Corner Picnic Area (*)					
Half Day	75	\$150	\$190	N/A	\$300
Full Day	75	\$220	\$275	N/A	\$440
Grant Picnic Area (*)					
Half Day	30	\$90	\$110	N/A	\$180
Full Day	30	\$120	\$145	N/A	\$245

BANNERS

Fremont/Grant - two weeks					\$336
Lincoln Park 9 ft. - one week					\$168
Lincoln Park 18 ft. - one week					\$336
Lincoln 30 ft. - one week					\$406
Main St - two weeks					\$406
San Antonio/ El Camino - two weeks					\$406



_____ CALENDAR

AGENDA REPORT SUMMARY

Meeting Date: April 12, 2022

Subject Wireless Telecommunications Facilities Ordinance and Design Guidelines

Prepared by: Gabriel Engeland, City Manager

Attachment(s):

1. Resolution 2022-___, Wireless Telecommunications Facilities CEQA Resolution
2. Ordinance 2022-___, Wireless Telecommunications Facilities Locational Standards
3. Resolution 2022-___, Wireless Telecommunications Facilities Design Guidelines
4. Public Comments

Initiated by:
City Council

Fiscal Impact:
None

Environmental Review:

Negative Declaration. An Initial Study/Proposed Negative Declaration was distributed for a 30-day public review on January 26, 2022. No comments specifically directed to the initial study were received by the City. There is no substantial evidence, in light of the whole record that the project may have a significant effect on the environment.

Summary Background:

- The technology for wireless telecommunications facilities is moving away from large, powerful towers that are very visually intrusive to smaller, less powerful facilities that are less visually intrusive. As a result, a greater number of wireless telecommunications facilities are needed to provide coverage.
- Proposed locational standards address this shift in wireless technology by offering a revised, tiered approach to providing additional locations for small wireless telecommunications facilities moving from “preferred” to “less preferred” to “least preferred” locations.
 - Preferred locations include non-residential sites and adjacent rights-of-way.
 - Less Preferred locations include the rights-of-way of expressways, arterials, collectors, and local collectors adjacent to residentially zoned properties. Such

City Manager
GE

Reviewed By:
City Attorney
JH

Interim Community
Development Director
JF



Subject: Wireless Telecommunications Facilities Ordinance and Design Guidelines

locations could be approved only upon demonstration that no preferred locations are feasible.

- Least preferred sites include rights-of-way along residentially zoned streets. Such locations could be approved only upon demonstrations that no preferred or less preferred sites would be feasible.
- Revised and expanded Design Guidelines are proposed to insure that new wireless facilities are tailored to the City’s unique characteristics and preserve the community’s aesthetic quality and rural character.
- Los Altos is permitted to regulate the placement of wireless facilities on the grounds of aesthetics, traffic safety, noise, and other criteria, but the City cannot regulate the placement of wireless facilities based on the environmental effects of radio frequency (“RF”) emissions that comply with FCC regulations. Neither is a city permitted to require or prohibit any specific type of technology.

Policy Question(s) for Council Consideration:

- Does the City Council wish to repeal and replace the City’s current locational, design, and development standards for wireless telecommunications facilities to:
 - Expand locations where small wireless telecommunications facilities may be permitted?
 - Limit the visual and physical effects of wireless telecommunications facilities through appropriate location, siting, design, and visual screening of facilities?
 - Expand the City’s existing design guidelines to ensure any small cell installations have aesthetic design and placement in line with community expectations?

Staff Recommendation:

1. Approve Resolution 2022-__, Wireless Telecommunications Facilities Adopting a Negative Declaration in compliance with CEQA.
2. Introduce and waive further reading of Ordinance 2022-__, Wireless Telecommunications Facilities Locational Standards, as recommended by the Planning Commission with additional modifications identified in the Agenda Report.
3. Approve Resolution 2022-__, Wireless Telecommunications Facilities Design Guidelines, as recommended by the Planning Commission with additional modifications identified in the Agenda Report.

Purpose

The overarching intent of the proposed Ordinance and Design Guidelines is to make wireless telecommunications reasonably available throughout the community while preserving its



Subject: Wireless Telecommunications Facilities Ordinance and Design Guidelines

essential rural character. The proposed Ordinance and Design Guidelines achieve this by minimizing the visual and physical effects of wireless telecommunications facilities through appropriate location, siting, design, and visual screening of facilities; encouraging the installation of wireless telecommunications facilities at locations where other such facilities already exist; and providing for the installation of wireless facilities so as to minimize potential adverse impacts to Los Altos.

Proposed locational standards and design guidelines are intended to better reflect the community’s land use and transportation patterns and address technological advancements in wireless telecommunications facilities away from large, powerful, and very visually intrusive towers and “macro” facilities to smaller, less powerful, and less visually intrusive small wireless facilities.

Background

Current regulation of wireless telecommunications facilities within the City of Los Altos is provided in two documents:

- City of Los Altos Resolution No. 2019-35, *Design and Siting Guidelines and Standards for Wireless Facilities*, which provides design guidelines and locational standards for the installation of wireless facilities within the City.
- City of Los Altos Municipal Code Chapter 11.12, *Wireless Facilities*, which addresses wireless telecommunications facility permit requirements and sets forth standard conditions of approval for such facilities.

The City adopted Resolution No. 2019-35 and Municipal Code Chapter 11.12 in August 2019 following a City Council study session and several public hearings, at which stakeholders discussed wireless and other infrastructure deployment issues; reviewed potential local regulatory responses to the recent changes in federal law in the FCC orders; and expressed their design and location preferences, practical and safety concerns, aesthetic concerns, policy views and the essential local values that make Los Altos a uniquely small suburban community. In the summer of 2019, Los Altos residents identified numerous concerns with the aesthetic impacts of wireless telecommunications facilities focusing on the visual intrusiveness of wireless facilities and their adverse effects on the community, such as:

- Cell towers and small cell facilities are unsightly, noisy and add to the visual intrusiveness of existing above-ground electric and telephone lines.
- Small cell nodes previously proposed by to the City of Los Altos carriers such as AT&T and Verizon, have been visually intrusive and unsightly;



Subject: Wireless Telecommunications Facilities Ordinance and Design Guidelines

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- The City should continue to be judicious about wireless facilities and recognize the need to eliminate visual blight; mitigate noise and heat impacts; and protect residents’ enjoyment of their properties and their market value;
 - Cell towers should be placed in commercial areas and within the medians of major streets rather than within residential neighborhoods close to people’s homes; and
 - Los Altos neighborhood aesthetic guidelines and property values are among the main reasons people are willing to stay in this great City.
 - These same issues of safety, noise, and aesthetics were reiterated by public comments during the Planning Commission’s public hearings.

Discussion/Analysis

Proposed Revisions to Locational Preferences and Standards for Wireless Telecommunications Facilities

In addition to specifying permitted locations for wireless telecommunications facilities, the City’s existing and proposed development standards also establish specific preferences among the various locations where wireless telecommunications facilities could be permitted. Proposed revisions to locational preferences for wireless telecommunications facilities are summarized in Table A, below.



Subject: Wireless Telecommunications Facilities Ordinance and Design Guidelines

Table A
Existing and Proposed Locational Preferences for Wireless Telecommunications Facilities

Existing Locational Preferences	Proposed Locational Preferences
Locational Preferences for Wireless Telecommunications Facilities on Properties Outside of Roadway Rights-of-Way and Public Easements	
<p>The order of preference for the location of wireless telecommunications facilities from most preferred to least preferred is:</p> <ol style="list-style-type: none"> 1. Commercial Districts (Office-Administrative [OA, OS-1, OA-4.5], Commercial [CD, CRS, CT, CRS/OAD] and the Loyola Corners Specific Plan 2. Public Facilities District (PCF) 	<p>The preferred locations for wireless telecommunications facilities include properties within non-Residential Zoning Districts (Municipal Code Sections 14.04.010 K-L, N-S, V)</p> <p>Less preferred locations for wireless telecommunications facilities include any City-owned property and properties within one of the following Zoning Districts identified in the following subsections of Municipal Code Section 14.04.010.</p> <ul style="list-style-type: none"> N. Commercial Neighborhood District (CN); and S. Public and Community Facilities District (PCF). T. Public and Community Facilities/Single-Family District (PCF/R1-10)
Locational Preferences for Wireless Telecommunications Facilities within Roadway Rights-of-Way and Public Easements	
<p>The order of preference for the location of wireless telecommunications facilities from most preferred to least preferred is:</p> <ol style="list-style-type: none"> 1. Commercial Districts (Office-Administrative [OA, OS-1, OA-4.5], Commercial [CD, CRS, CT, CRS/OAD] and the Loyola Corners Specific Plan 2. Public Facilities District (PCF) 	<p>Preferred locations for wireless telecommunications facility within a public right-of-way or public utility easement include rights-of-way for:</p> <ul style="list-style-type: none"> • Expressways, Arterials, and Collectors fronting non-Residential Zoning Districts (Municipal Code Sections 14.04.010 K-L, N-S, V) • Collectors fronting the Public and Community Facilities District (PCF) (Municipal Code Section 14.04.010 S). <p>Less preferred location for wireless telecommunications facility within a public right-of-way or public utility easement include the following rights-of-way and easements:</p> <ul style="list-style-type: none"> • Local Collectors fronting non-Residential Zoning Districts (Municipal Code Sections Municipal Code Sections 14.04.010 K-L, N-S, V) • Public utility easements fronting non-Residential Zoning Districts (Municipal Code Sections Municipal Code Sections 14.04.010 K-L, N-S, V)



Subject: Wireless Telecommunications Facilities Ordinance and Design Guidelines

Existing Locational Preferences	Proposed Locational Preferences
	<ul style="list-style-type: none"> • Local streets fronting non-Residential Zoning Districts (Municipal Code Sections 14.04.010 K-L, N-S, V) • Expressways, Arterials, and Collectors fronting Residential Zoning Districts (Municipal Code Sections 14.04.010 A-J, M, U, W) <p>To avoid concentration of facilities along any one street within the City, small wireless telecommunications facilities may also be located within the rights-of-way for local streets fronting Residential Zoning Districts (Municipal Code Sections 14.04.010 A-J, M, U, W) where the facility would be within:</p> <ul style="list-style-type: none"> • 200 feet of the Foothill Expressway right-of-way • 500 feet of the San Antonio Avenue, El Monte Drive, Magdalena Avenue, or Homestead Road right-of-way; or • 300 feet of a Collector or Local Collector right-of-way.

Requirements for Approval of Less Preferred Locations	
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None.	<p>As proposed, applications that involve less-preferred locations may be approved only if:</p> <ol style="list-style-type: none"> 1. No preferred location exists within 500 feet from the proposed site; or 2. Any preferred location within 500 feet from the proposed site would be technically infeasible. <p>The burden of proof for demonstrating that either of these two conditions exists is on the applicant and must be satisfied with clear and convincing evidence.</p> <p>Applications that involve a less-preferred location are proposed to be required to be accompanied by clear and convincing written evidence demonstrating the need for approval of the proposed location rather than a more preferred location.</p> <p>The proposed ordinance specifically grants the City authority to hire an independent consultant at the applicant's expense to evaluate the need for the proposed less-preferred location.</p>
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Subject: Wireless Telecommunications Facilities Ordinance and Design Guidelines

Existing Locational Preferences	Proposed Locational Preferences
Provisions for Approval of a Wireless Telecommunications Facility when no Preferred or Less Preferred Site could Provide Adequate Coverage	
<p>Municipal Code Section 11.12.090 permits exceptions to wireless telecommunications standards, including, but not limited to, exceptions from findings that would otherwise justify denial, if the city makes the finding that:</p> <ol style="list-style-type: none"> 1. Denial of the facility as proposed would violate federal law, state law, or both; or 2. A provision of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both. <p>The burden for proving that denial of the facility as proposed would violate federal law, state law, or would deprive applicant of its rights under federal law, state law, or both, using the evidentiary standards required by that law at issue, rests with the applicant. This section of the Municipal Code explicitly permits the city to hire an independent consultant, at the applicant’s expense, to evaluate the issues raised by the exception request and submit rebuttal evidence to refute the applicant’s claim.</p>	<p>The proposed ordinance deletes the exception provisions contained in Municipal Code Section 11.12.090.</p> <p>The proposed ordinance also includes a provision that would allow for approval of a small wireless telecommunications facility within the right-of-way of a local residential street that is neither a preferred nor a less preferred location if:</p> <ol style="list-style-type: none"> 1. A combination of macro and small wireless telecommunications facilities, as well as colocation with existing facilities of other carriers at preferred and less preferred locations within the City would not be feasible; and 2. The total number of wireless telecommunications facilities within Residential Zoning Districts (Municipal Code Sections 14.04.010 A-J, M, U, W) would be minimized. <p>The burden of proof for such demonstration is placed upon the applicant. In addition, should an applicant provide such demonstration, proposed Section 14.82.050 requires the City to hire an independent consultant at the applicant’s expense to evaluate the applicant’s current network configuration and the applicant’s demonstration of need for a facility or facilities not otherwise meeting the locational requirements of the proposed ordinance.</p>

Proposed Revisions to Design Guidelines and Preferences for Wireless Telecommunications Facilities

Proposed design guidelines for wireless telecommunications facilities retain, reorganize, and supplement existing guidelines by adding a set of basic design principles that would apply to all wireless telecommunications facilities, and identifying configuration preferences along with design guidelines for specific types of wireless facilities.



Subject: Wireless Telecommunications Facilities Ordinance and Design Guidelines

Basic Design Principles. Proposed design guidelines add three basic design principles—impact minimization, integration and concealment, and context—to ensure wireless telecommunications facilities within the City are designed and maintained so as to minimize visual, noise, and other impacts on the surrounding community.

1. The first principle, **impact minimization**, directs that the overall impacts of a wireless telecommunications facility be minimized in relation to aesthetic, land use, noise, traffic, and other considerations. Although this is generally accomplished with the smallest feasible design for any given facility, this principle and subsequent design guidelines recognize that a larger facility may sometimes be appropriate if it is well concealed, compatible with the surrounding neighborhood, and can reduce the overall number of wireless telecommunications facilities required to provide service within the City.
2. The second principle, **integration and concealment**, provides for new wireless telecommunications facilities and modifications to existing facilities to be visually integrated into their sites and as hidden from view as feasible. Whereas existing preferences for the configuration of wireless telecommunications facilities list various types of configurations in order of preference,¹ the principle of integration and concealment specifies that non-integrated (unconcealed) installations are less preferred and permitted only where an integrated (concealed) facility is either infeasible or would reduce the number and overall visual intrusiveness of wireless telecommunications facilities required to provide service within the City.
3. The third principle, **context**, recognizes that specific situations require specific design solutions and that what may integrate well and conceal a wireless telecommunications facility at one location might not be appropriate for another situation at a different site. Overall, a wireless telecommunications facility that introduces a feature that changes the visual character of a site—such as by increasing the height of an onsite structure or

¹ The City’s current design standards for wireless telecommunication facilities contained in Resolution No. 2019-35 identify the following order of preference for the configuration of wireless facilities from most preferred to least preferred:

1. Collocation with existing wireless facilities.
2. Roof-mounted.
3. Building-mounted.
4. Mounted on an existing pole or utility pole.
5. Mounted on a pole or utility pole that will replace an existing pole or utility pole.
6. Mounted on a new telecommunication tower.



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introducing a tree species that is not otherwise present—is generally more visually intrusive than a facility that maintains the site’s character, even if the facility is itself concealed from public view.

Design Guidelines Applying to all Wireless Telecommunications Facilities. Proposed design guidelines applying to all wireless facilities within Los Altos expand upon the City’s existing guidelines by adding provisions to require:

- Wireless telecommunications facility design to be consistent with the existing and/or proposed landscape design of the adjacent site, using a similar or complementary plant palette.
- Retain existing, mature trees wherever feasible.
- Any proposed underground vault to be designed and constructed so as to protect existing street trees.
- All landscaping proposed to screen, conceal, complement, or soften the visual intrusiveness of a wireless telecommunications facility to remain for the life of the permit, even if not located within the applicant’s lease area.
- Noise from backup generators to comply with the noise levels specified in Municipal Code Chapter 6.16.
- Passive louvers and/or other passive ventilation to be provided as the primary means of temperature control rather than mechanical ventilation wherever feasible.

Design Guidelines for Wireless Telecommunications Facilities on Properties Outside Public Rights-of-Way and Utility Easements. Proposed design guidelines for wireless telecommunications facilities on properties outside of public rights-of-way and utility easements identify specific preferred and less preferred configurations for building-, and roof-, and pole-mounted facilities along with specific design guidelines and illustrative examples for the following types of installations.

- Preferred Configurations
 - Facade-Concealed Antennas. Façade-concealed antennas have antennas, mounting apparatus, and any associated components fully concealed from all sides within a structure that achieves complete architectural integration with the existing building (for example, antennas behind fiber-reinforced plastic [FRP] in a parapet, and equipment inside an existing building), or within outbuildings that are architecturally integrated into a site and are expected components of the setting.



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- Faux Architectural Elements. Faux architectural elements are existing or proposed architectural elements on a building that completely conceal antennas. They are distinguished from façade-concealed antennas in that they appear to be architectural elements of a building.
 - Rooftop Concealment. If accessory equipment for roof-mounted facilities cannot be installed inside the building or underground, such accessory equipment may be located on the roof of the building that the facility is mounted on, provided that both the equipment and screening materials are painted the color of the building, roof, or surroundings. Rooftop facilities that appear to be a building façade, architectural element, or parapet are considered to be façade-concealed, façade-mounted, or faux architectural facilities. Rooftop concealment is considered to be a preferred design where façade integration is not feasible.
 - Architecturally Designed Stand-Alone Towers. Towers that are designed to appear as buildings or signs, and that conceal antennas completely within them, may be permitted where appropriate to the site on which they are proposed. Examples include, but are not limited to, clock towers and obelisks.
 - Athletic Field Lights. These include wireless telecommunications facilities that are integrated with lighting used to illuminate large areas for the purposes of recreation.
 - Other Permitted but Less Preferred Designs
 - Façade-Mounted Antennas. Façade-mounted antennas are any antennas mounted on the exterior of a building that are not faux architectural elements.
 - Faux Trees. Wireless telecommunications facilities may be designed to emulate trees where trees similar in size and species are present. Faux trees may also be appropriate when natural trees of similar species are planted concurrent with faux tree installation, depending on the density and size of trees being planted.
 - Pole-Mounted Telecommunications Facilities. Existing guidelines for facilities mounted to a telecommunications tower on properties outside or public rights-of-way and utility easements, including, but not limited to, attached antennas, are retained in the proposed design guidelines.

Design Guidelines for Wireless Telecommunications Facilities Proposed within Public Rights-of-Way and Utility Easements. Proposed design guidelines for wireless telecommunications facilities within public rights-of-way and utility easements identify specific preferred and less preferred configurations for pole-mounted facilities along with specific design guidelines and illustrative examples for the following types of installations.



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- Preferred Configuration
 - Use of light poles wherein all equipment, cabling, and antennas are within the pole itself and/or entirely under the ground.
 - Other Permitted but Less Preferred Configurations
 - Use of existing or replacement utility poles.
 - Stand-alone poles along rights-of-way with no existing overhead utility poles and lines.
 - Use of light poles wherein equipment, cabling, and antennas are not completely within the pole itself and/or entirely under the ground.

Requirements for Approval of Less-Preferred Configurations. Proposed design guidelines add the requirements for applications that involve less-preferred configurations. Such applications may be approved only if the applicant demonstrates that:

- No preferred configuration would be technically feasible; or
- The proposed configuration would be aesthetically superior to a preferred configuration due to existing conditions at the proposed site.

Proposed design guidelines place the burden of proof upon the applicant to demonstrate that one of these two conditions exists and requires that applications for a less-preferred configuration be accompanied by clear and convincing written presentation of evidence demonstrating the need for approval of the proposed configuration rather than a preferred configuration. The proposed design guidelines also authorize the City to retain an independent consultant at the applicant’s expense to evaluate the applicant’s demonstration of need for the proposed less-preferred configuration.

Options for Consideration by the City Council

1,000 Buffer between Small Wireless Telecommunications Facilities (Proposed Ordinance Section 14.82.030 A.4.)

The proposed ordinance would reduce the required separation between small wireless telecommunications facilities from 1,500 to 1,000 feet. In their letters and testimony to the Planning Commission, carriers noted that size limitations for small wireless telecommunications facilities generally precludes co-location of such facilities. The carriers stated that, once a specific carrier would install a small wireless facility, all other carriers would be precluded from



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installing a small facility within 1,000 feet, the long-term net effect of which would be to make service to Los Altos residents and businesses by multiple carriers difficult.

The Planning Commission thus recommended that the City Council adopt one of three alternative methods to replace the proposed 1,000-foot separation requirement for all small wireless telecommunications facilities contained in Section 14.82.030 A.4. of the proposed ordinance by:

1. Making the 1,000-foot buffer applicable only to small wireless facilities belonging to the same carrier and establishing a minimum 200-foot separation between all carriers' facilities;
2. Reducing the size of the buffer between small wireless facilities to, for example, 700 feet
3. Modifying the 1,000-foot buffer requirement into simply calling it out as a preference for all carriers.

Each of these three options would provide the opportunity for multiple carriers to provide service to residents and businesses throughout the community recognizing changes in technology and the movement from large, powerful telecommunications towers to less powerful and less visually intrusive small wireless telecommunications facilities.

The first option would require, for example, carrier "a" to maintain a 1,000-foot separation between each of its own facilities but permit carrier "b" to install a facility within 1,000 feet of a small facility operated by carrier "a." The advantage of this option is that it would provide opportunities for multiple carriers to provide service within the community. The disadvantage of this option is that multiple carrier's small wireless facilities could be located in close proximity.

In the second option, a smaller separation distance between small wireless facilities would replace the currently proposed 1,000-foot separation. This option would resolve issues associated with an individual carrier's small wireless facility prohibiting other carriers from locating a facility within the 72-acre area surrounding the first carrier's facility without necessarily providing other carriers with a feasible means to service residents and businesses throughout Los Altos.

The third option would provide for carriers to locate a small wireless facility closer than 1,000 feet to another small facility upon demonstration that provision of adequate service could not be feasibly accomplished by maintaining the preferred 1,000-foot separation between small cell facilities. This option has the same advantage of the first option in that it would provide opportunities for multiple carriers to provide service within the community.



Subject: Wireless Telecommunications Facilities Ordinance and Design Guidelines

The City wireless facilities team recommends the adoption of the first option as in our view it most effectively balances the need to allow for the technological advances in wireless facilities while preserving the beauty and aesthetics of Los Altos.

Recommendation: Revise Section 14.82.030 A.4. to read as follows.

- 4. No wireless telecommunications carrier shall be permitted to locate a small wireless telecommunications facility ~~ies are not permitted~~ within 1,000 feet of another of its small wireless telecommunications facilities ~~y~~ or within 200 feet of any small wireless telecommunications regardless of its ownership and maintenance.

Approval of Facilities along Expressways, Arterials, Collectors, and Local Collectors (Lees Preferred Locations or at Locations not Identified as being Preferred or Less Preferred (Proposed Ordinance Section 14.82.050))

Carriers have recognized that the proposed three-tiered system of location preferences generally seeks to direct wireless facilities away from residential areas or onto wider and busier streets within residential areas, and that “this type of preference system could help guide deployments in the city².” This system clearly states the city’s preference that wireless telecommunications facilities be located:

- 1. Outside of residential areas (preferred); or,
- 2. In less preferred locations along the primary roadways serving Los Altos identified in the General Plan as expressways, arterials, collectors, and local collectors, should it be infeasible to provide service with facilities in preferred locations;
- 3. Or, in the alternative, along local residential streets should a carrier’s system be incapable of providing service solely with facilities in preferred and less preferred locations.

However, the carriers also argue that the City’s proposed locational standards are essentially a prohibition on wireless telecommunications facilities and that the information to be required by the City in applications for third-tier locations goes too far in seeking an analysis of an applicant’s broader system to find ways to reconfigure its wireless network.” The Planning Commission; City staff; and the City’s outside land use, wireless telecommunications, and legal experts disagree with the carriers’ conclusion. The carriers have misconstrued proposed Ordinance Section 14.82.050 as providing an exceptions process for approving facilities at otherwise prohibited locations rather than a system to ensure that the feasibility of locating a

² Letter from Aaron Shank, attorney for AT&T Mobility to the Los Altos Planning Commission, March 16, 2022.



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small wireless facility at a third-tier location along a local street is thoroughly explored before approving a wireless facility at a location that is neither preferred nor less preferred.

Proposed Ordinance Section 14.82.050 is intended to replace Municipal Code Section 11.12.090 that permits granting of “exceptions” to locational and other standards and allows for wireless telecommunications facilities to be approved in locations where they would not otherwise be permitted. The proposed Ordinance instead provides a path for approval of a wireless telecommunications facility when no preferred or less preferred site could provide adequate coverage. As currently written, Section 14.82.050 requires applications for facilities on such site to be “accompanied by clear and convincing written evidence that demonstrates the applicant’s existing network configuration serving the City of Los Altos cannot be expanded and/or reconfigured or modified to provide adequate service through a combination of new and relocated wireless telecommunications facilities, as well as colocation with existing facilities of other carriers at preferred and less preferred locations.”

Proposed Ordinance Section 14.82.050 provides assurance to the public that a carrier has explored a wide variety of options to provide coverage using facilities within preferred and less preferred locations. It also facilitates the City’s ability to understand and explain to the public why (1) locating a proposed facility within a preferred or less preferred location is infeasible and (2) approval of a location that is neither preferred nor less preferred would be needed to provide coverage.

As discussed at the Planning Commission’s March 17, 2022 public hearing, the focus of the information that is requested for less preferred or third-tier locations is on the feasibility (or lack thereof) of providing coverage using more preferred locations and not to put the City in the position of redesigning a carrier’s system.

Testimony was received by the Planning Commission from residents living along arterials, collectors, and local collectors requesting that the City not permit wireless telecommunications facilities along these roadways adjacent to residentially zoned properties. These residents cited health and safety³, noise, and visual intrusiveness in support of their requests. In addition, several members of the public testifying before the Planning Commission requested the City assist in providing improved wireless coverage.

³ As noted above, cities cannot regulate the placement of wireless facilities based on the environmental effects of radio frequency (“RF”) emissions that comply with FCC regulations.



Subject: Wireless Telecommunications Facilities Ordinance and Design Guidelines

Recommendation: Recognizing these issues and the carriers’ reluctance to publicly disclose their systems’ inner workings, staff recommends that the proposed ordinance be modified to clarify that (1) third-tier sites are the “least preferred” locations for small wireless facilities rather than an exception to otherwise prohibited sites and (2) the review of less preferred and third-tier sites is based on the feasibility (or lack thereof) of more preferred sites. Specific recommended modifications are identified below.

Revise Sections 14.82.040 and 14.82.050 to read as follows:

14.82.040 Requirements for Approval of Less Preferred Locations:

- A. Applications that involve a less-preferred location shall be accompanied by clear and convincing written evidence demonstrating that a preferred location per Section 14. 82.030 A or B is infeasible and that ~~the need for~~ approval of the proposed location rather than a ~~more~~ preferred location per the requirements of Section 14.82.040 A or B is needed, including a written description of the facility’s intended service area.
- B. Applications that involve less-preferred locations may be approved only if the applicant demonstrates that:
 - (1) It does not own any property or facilities within 500 feet from the proposed site that could provide service in lieu of the proposed facility;
 - (2) No preferred location exists within 500 feet from the proposed site; or
 - (3) Any preferred location within 500 feet from the proposed site would be technically infeasible.
- C. The burden of proof for demonstrating compliance with these above noted conditions shall be on the applicant and must be satisfied with clear and convincing evidence.
- D. In reviewing a request for a less-preferred location, the City may hire an independent consultant at the applicant’s expense to evaluate the applicant’s demonstration of need for the proposed less-preferred location.



Subject: Wireless Telecommunications Facilities Ordinance and Design Guidelines

14.82.050 Requirements for Least ~~Alternative to Wireless Telecommunications~~ Facilities at Preferred and Less Preferred Locations

- A. The right-of-way of a local residential street that is neither a preferred nor a less preferred location per the requirements of this Chapter is the least preferred location for a small wireless telecommunications facility. An application for such a least preferred location may be approved ~~for a small wireless telecommunications facility within the right-of-way of a local residential street that is neither a preferred nor a less preferred location per the requirements of this Chapter~~ only if:
 - (1) A combination of macro and small wireless telecommunications facilities, as well as colocation with existing facilities of other carriers at preferred and less preferred locations within the City would be infeasible; and
 - (2) The total number of wireless telecommunications facilities within Residential Zoning Districts (Municipal Code Sections 14.04.010 A-J, M, U, W) is minimized.

- B. The burden of proof for demonstrating the need for one or more small wireless telecommunications facilities within ~~the right-of-way of a local residential street that are neither a preferred nor a less~~ least preferred location per the requirements of Section 14.82.053 0A shall lie with the applicant and the evidence offered to meet that burden shall be included in the application submitted to the City.

- C. Applications pursuant to Section 14.82.050 shall be accompanied by clear and convincing written evidence that demonstrates ~~the applicant's existing network configuration serving the City of Los Altos cannot be expanded and/or reconfigured or modified to provide adequate service through~~ a combination of new and relocated macro and micro wireless telecommunications facilities, as well as colocation with existing facilities of other carriers at preferred and less preferred locations would be infeasible; and

- D. In reviewing a permit request for facilities covered by Section 14.82.050, the City shall hire an independent consultant at the applicant's expense to evaluate whether achieving the applicant's stated service objectives through existing or new macro and small wireless facilities in preferred and less preferred locations would be technically infeasible ~~the applicant's~~



Subject: Wireless Telecommunications Facilities Ordinance and Design Guidelines

~~current network configuration and demonstration of need to verify that a combination of facilities within the preferred and less preferred locations cannot provide service throughout the City.~~

Clean-Up Items

Two additional clean-up items should be considered by the City Council:

1. **Removal of Section 11.12.050.A.9 (Acoustic Analysis) from the ordinance.** Existing Municipal Code Section 11.12.050.A.9, which specified requirements for acoustic analysis of proposed wireless facilities equipment, was recommended to be removed from the Municipal. This was recommended since compliance with City of Los Altos noise standards was made a mandatory condition of approval (proposed Ordinance Section 11.12.060.A.6.e. However, while compliance with City noise standards would be required as a condition of approval, the ordinance remains silent on the specific means of determining that compliance. City staff therefore recommends that the current provisions of Section 11.12.050.A.9 requiring acoustic analysis be incorporated into proposed Ordinance Section 11.12.060.A.6.c as indicated below.

- e. Noise generated by equipment will not be detrimental to the public health, safety and welfare and shall not exceed the standards set forth in [Chapter 6.16](#) of the Municipal Code.

- (1) [A written report that analyzes acoustic levels for the proposed wireless telecommunications facility and all associated equipment including, without limitation, all environmental control units, sump pumps, temporary backup power generators, and permanent backup power generators in order to demonstrate compliance with Los Altos Municipal Code, Chapter 6.16, Noise Regulations shall be submitted as part of applications for wireless telecommunications facilities.](#)

- (2) [The acoustic analysis must be prepared and certified by an engineer and include an analysis of the manufacturers' specifications for all noise-emitting equipment and a depiction of the proposed equipment relative to all adjacent property lines.](#)

- (3) [In lieu of a written report, the applicant may submit evidence from the equipment manufacturer that the ambient noise emitted from all the proposed equipment will not, both individually and cumulatively, exceed the applicable limits.](#)



Subject: Wireless Telecommunications Facilities Ordinance and Design Guidelines

Carriers have willingly complied these acoustic analysis requirements. Most times, such compliance has been simply provided in the form of a specifications document that City staff can compare against Los Altos Noise Ordinance standards. Removal of this language would have put the onus on staff to confirm facility noise emission levels only in response to receipt of a noise complaint.

- 2. **Development and Setback Standards for Placement of Wireless Facilities in the right-of-way of a street that does not have curbs and gutters.** Current standards in the proposed Design Guidelines address rights-of-way for streets have curbs, gutters, and sidewalks. However, most streets in Los Altos have shoulders instead of curbs, gutters, and sidewalks. Clear requirements are needed for siting wireless facilities within unpaved shoulders parallel to requirements for streets with curbs, gutters, and sidewalks

City staff therefore recommends the revisions be added to proposed design guidelines.

Section II.D.2, Design And Development Standards for all Wireless Telecommunications Facilities, to read as follows.

- 2. **Traffic Safety.** All facilities shall be designed and located in such a manner as to avoid adverse impacts on traffic safety.
 - a. Any wireless telecommunications facility attachments placed less than 16 feet above ground level shall not be placed closer than 18 inches to a curb where one is installed or as determined by the Engineering Services Department where no curb is installed, nor shall they extend over a sidewalk (Caltrans Highway Design Manual Section 309).
 - b. All wireless telecommunications facility equipment shall maintain at least 3 feet separation from any curb cut.

Section IV.B.1.b, to read as follows.

IV. Additional Design and Development Standards for Facilities in the Public Right-of-Way and in Public Utility Easements.

B. Preferred Configurations

1. Light Poles Wherein all Equipment, Cabling, and Antennas are Within the Pole Itself and/or Entirely Under the Ground.

- b. The maximum height of any antenna mounted to a street light pole shall not exceed seven feet above the existing height of a street light pole in a location where the closest adjacent district is a commercial zoning district and shall not exceed three feet above the existing



Subject: Wireless Telecommunications Facilities Ordinance and Design Guidelines

height of a street light pole in any other zoning district. Any portion of the antenna or equipment mounted on such a pole shall be no less than 18 feet above any drivable road surface (including driveways, areas between roadway curb lines where curbs are provided, and as determined by the Engineering Services Department along roadways with shoulders).

RESOLUTION NO. 2022-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS MAKING FINDINGS ADOPTING A NEGATIVE DECLARATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the City of Los Altos is proposing revisions to its existing standards for development of wireless telecommunications facilities, including a new wireless ordinance to regulate the permissible location of wireless facilities along with revisions to Municipal Code Chapter 11.12 modifying permit requirements; and

WHEREAS, the City also proposes to expand existing development standards and design guidelines and preferences for wireless telecommunications facilities; and

WHEREAS, the City prepared an Initial Study in accordance with the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code § 21000 *et seq.*) and the CEQA Guidelines (14 California Code of Regulations, Title 14 Chapter 3, Section 15000 *et seq.*); and

WHEREAS, the Initial Study determined that no significant impacts would result from adoption of the proposed wireless telecommunications ordinance and design guidelines; and

WHEREAS, the City issued a Notice of Intent to Adopt a Notice of Declaration (Notice of Intent) on January 26, 2022; and

WHEREAS, the Initial Study/Negative Declaration was made available for a 30-day public review period beginning on January 26 and ending on February 24, 2022; and

WHEREAS, written comments were received during the 30-day public review period and are set forth in Attachment B; and

WHEREAS, none of the information contained in the written comments present substantial evidence that the proposed wireless telecommunications ordinance and design guidelines would have a significant effect upon the environment; and

WHEREAS, on March 3, 2022, the Planning Commission conducted a public hearing on the proposed wireless telecommunications ordinance, design guidelines,

and Negative Declaration, at which time interested persons and organizations had an opportunity to testify and provide comments; and

WHEREAS, the Planning Commission reviewed and considered the proposed Negative Declaration as required by CEQA Guidelines Section 15074(a); and

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission that the above recitals are true and correct and are incorporated herein by reference as if set forth in full.

BE IT FURTHER RESOLVED that the Planning Commission recommends that the City Council of the City of Los Altos adopt the Negative Declaration contained in Attachment A.

Attachment A

NEGATIVE DECLARATION

The City Council of the City of Los Altos has considered the project identified below and has adopted the following Negative Declaration pursuant to the California Environmental Quality Act:

1. Project Title: Wireless Telecommunications Facilities Ordinance and Design Guidelines

2. Lead Agency: City of Los Altos

3. Contact Person: Gabriel Engeland, City Manager
City of Los Altos
One North San Antonio Road
Los Altos, CA 94022
(650) 947-2632

4. Project Location: Citywide

5. Project Description: The proposed project involves revisions to the City of Los Altos’ existing standards for development of wireless telecommunications facilities, including an ordinance to regulate permissible locations and preferences for the location of wireless facilities. These locational standards, which would replace the locational standards now provided in City of Los Altos Resolution No. 2019-35, would be adopted by ordinance into Chapter 11.82 of the Los Altos Municipal Code.

In addition, the City proposes to expand and supplement existing development standards and design guidelines and preferences for wireless telecommunications facilities contained in Resolution No. 2019-35 by (1) adding a set of basic design principles that would apply to all wireless telecommunications facilities and (2) identifying configuration preferences along with design guidelines for specific types of wireless facilities.

6. Findings: The Initial Study prepared for the proposed Wireless Telecommunications Facilities Development Standards and Design Guidelines indicates for each environmental issue it analyzed that environmental impacts would be less than significant or that no impact would occur. There is no substantial evidence, in light of the whole record before the lead agency (the City of Los Altos), that the project may have a significant effect on the environment.

Attachment B

**Written Comments on the
Proposed Negative Declaration**

From: [Ed Nieda](#)
To: [Los Altos Planning Commission](#); [City Council](#); [Gabriel Engeland](#)
Subject: Please cease on the Cell Phone tower project
Date: Monday, February 14, 2022 11:22:13 AM

To: PlanningCommission@losaltosca.gov

CC: council@losaltosca.gov, gengeland@losaltosca.gov

Subject: No Cell Towers Near Homes & Schools

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

Visual blight: The City's utility poles are visually unappealing. I don't want to increase the unsightliness with cell towers on the tops of these poles, not to mention a refrigerator's worth of equipment hanging to the side.

Noise: Cell towers make considerable noise from their cooling fans. Having these towers placed so close to our homes would negatively impact our living environment.

Safety: Most cell towers have a refrigerator's worth of equipment, including lithium ion batteries that have been known to cause fires. It's not safe to place flammable materials on combustible wooden poles that could potentially burn down a home or neighborhood.

Property Values: Cell towers placed so close to homes will reduce the attractiveness of homes in the area. According to Realtor Magazine, a study found that [94% of homebuyers](#) would not purchase a home near a cell tower.

Cell Towers, Antennas Problematic for Buyers
Home buyers and renters say they are less interest and would pay less for properties located near cell towers an...

Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident
Ed Nieda
[REDACTED] Ave.

From: [Melissa Smith](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 11:27:14 AM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Melissa Smith
Los Altos Resident

From: [Los Altos](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 11:29:36 AM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident

From: [Ken Elefant](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 12:21:46 PM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Ken Elefant
Los Altos Resident

From: [Phyliss Brazell](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes
Date: Monday, February 14, 2022 12:23:10 PM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos website that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes. Please find alternative locations.

Sincerely,
Los Altos Resident

From: [Judith Simon](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 12:25:39 PM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident

From: [Alex Liang](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 12:55:48 PM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident

Alex Liang


From: [Patrick yuen](#)
To: [Los Altos Planning Commission](#); [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 1:10:20 PM

Dear City of Los Altos Planning Commission,

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident
Patrick Yuen

Cell : 650-996-6181

From: [Sean Chen](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 1:18:04 PM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,

Los Altos Resident

--
Sean

From: [Aronson, Jeff](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#); [Kristine Chin \(kchin5001@gmail.com\)](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 3:11:07 PM
Attachments: [image001.png](#)

Dear City of Los Altos Planning Commission,

We have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. We implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, we understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues we would like the City to consider including visual blight, noise, safety and property values.

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Sincerely,
Jeff & Kristine Aronson



Los Altos

Jeffrey D. Aronson
Partner



DLA Piper LLP (US)
2000 University Avenue
East Palo Alto, CA 94303-2215



dlapiper.com

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From: [mary ann kanyal](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: Please honor the decision that was agreed to in 2019 and stay true to the original ordinance
Date: Monday, February 14, 2022 3:34:57 PM

To: PlanningCommission@losaltosca.gov

CC: council@losaltosca.gov, gengeland@losaltosca.gov

Subject: No Cell Towers Near Homes & Schools

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Property Values: Cell towers placed so close to homes will reduce the attractiveness of homes in the area. **According to Realtor Magazine, a study found that [94% of homebuyers](#) would not purchase a home near a cell tower.**

Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident
Mary Ann Kanyal

From: [REYNETTE AU](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 5:48:15 PM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

Visual blight: The City's utility poles are visually unappealing. I don't want to increase the unsightliness with cell towers on the tops of these poles, not to mention a refrigerator's worth of equipment hanging to the side.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Reynette Au
30 year Los Altos Resident

From: [Allison Marras](#)
To: [Los Altos Planning Commission](#)
Subject: No Cell Towers Near Homes & Schools
Date: Monday, February 14, 2022 6:28:43 PM

Subject: No Cell Towers Near Homes & Schools

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident

[Sent from Yahoo Mail for iPhone](#)

From: [Yeeping Zhong](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#); [Gabriel Engeland](#)
Date: Monday, February 14, 2022 8:22:19 PM

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident

Yeeping Zhong ([REDACTED])

From: [R. K. Johnson](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#)
Subject: The "wireless emergency ordinance" that was put into place in 2019
Date: Tuesday, February 15, 2022 2:54:18 PM

Dear City of Los Altos Planning Commission,

NO CELL TOWERS near homes or schools

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident

From: [Freddie Park](#)
To: [Los Altos Planning Commission](#)
Cc: [City Council](#)
Subject: 5G cell towers
Date: Saturday, February 19, 2022 4:10:39 PM

Dear Los Altos Planning Commissioners,

I am a resident and home owner of 27+ years in Los Altos. I understand that the city is amending the Urgency Ordinance relating to 5G towers due to the litigation against the city by AT&T and Verizon. I realize we are in between a rock and a hard place regarding the ordinance and federal law. I would ask that you do your very best to make certain that 5G towers are required to be as far away from our homes and schools as possible.

Thank you for your consideration.

Sincerely,

Freddie Park Wheeler

Steve Golden

From: C. Y. <[REDACTED]>
Sent: Tuesday, February 22, 2022 10:00 AM
To: Los Altos Planning Commission
Cc: City Council; Gabriel Engeland
Subject: No Cell Towers Near Homes & Schools

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
C.Y.

Steve Golden

From: Los Altan <[REDACTED]>
Sent: Wednesday, February 23, 2022 11:04 AM
To: Los Altos Planning Commission
Cc: City Council; Gabriel Engeland
Subject: Re: No Cell Towers Near Homes & Schools

I also wanted to mention that when this issue was raised in 2019, we had over 1,100 residents in Los Altos sign the following petition: <https://www.change.org/p/town-of-los-altos-no-cell-towers-next-to-homes-and-schools-in-los-altos-ca>

Please keep this in mind when augmenting this ordinance.

Thanks,
Los Altos Resident

On Mon, Feb 14, 2022 at 11:29 AM Los Altan <losaltan94022@gmail.com> wrote:

Dear City of Los Altos Planning Commission,

I have learned from the City of Los Altos [website](#) that the city is currently seeking to change the wireless emergency ordinance that was put into place in 2019. I implore the City to stay as true to the original ordinance as possible and ensure we don't have cell towers placed close to schools and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools and homes, I understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues I'd like the City to consider including visual blight, noise, safety and property values.

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Again, please do not place cell towers close to our homes and schools. Please find alternative locations.

Sincerely,
Los Altos Resident

Steve Golden

From: Gregory Burns <[REDACTED]>
Sent: Wednesday, February 23, 2022 12:04 PM
To: Los Altos Planning Commission
Cc: Gregory Burns; City Council; Gabriel Engeland
Subject: Los Altos small cell node ordinance

Dear City of Los Altos Planning Commission,

It is my understanding that the city is proposing changes to the wireless emergency ordinance that was put into place in 2019.

Please stay as true to the original ordinance as possible; cell nodes should not be installed close to residences and schools. I feel you should strongly enforce preferred location requirements; as well as consider setback requirements to keep utility pole mounted cell nodes away from our homes. The noise and visual blight from these units negatively affect the quality of life and property values of our quiet neighborhoods.

Furthermore, I also request you reconsider even stricter proposed noise limits for residential zones. A product designed to run 24 hours a day should not be allowed to negatively impact our living environment. Please require noise limits to be INAUDIBLE at any property lines.

Again, please do not place cell nodes close to our homes and schools. Please find alternative locations.

Sincerely,
Gregory Burns
Los Altos Resident

Steve Golden

From: Donna Wing <[REDACTED]>
Sent: Wednesday, February 23, 2022 9:46 PM
To: Los Altos Planning Commission
Cc: City Council
Subject: Cell Towers In Los Altos

Dear City of Los Altos Planning Commission,
I just received information that the Council plans on revisiting the possibility of placing cell towers on the telephone poles.

I live at 689 Linden Ave and the decision would impact our home since there are telephone poles in the back and in front of our home. I am a cancer survivor and had chemo and radiation as treatment. I do not wish to have any cell towers near me due to health reasons.

Also, the cell towers are unsightly and noisy. We moved to Los Altos for the trees and quiet beauty of nature. Having cell towers would decrease property values and they are unsafe near schools. We live in an area where there are 3 schools near us within walking distance: Egan Jr. High, Bullis Charter School and Santa Rita.

Please find alternative locations to place cell towers- not near schools and homes.
Sincerely,
Donna Wing

MACKENZIE & ALBRITTON LLP

155 SANSOME STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE 415 / 288-4000
FACSIMILE 415 / 288-4010

February 22, 2022

VIA EMAIL

Gabriel Engeland
City Manager
City of Los Altos
One North San Antonio Road
Los Altos, California 94022

Re: Draft Ordinance and Design Guidelines, Wireless Telecommunications Facilities

Dear Gabriel:

We write on behalf of Verizon Wireless regarding the draft ordinance regulating wireless telecommunications facilities (the “Draft Ordinance”) and the accompanying draft *Design and Development Standards for Wireless Telecommunications Facilities* (the “Draft Guidelines”). Verizon Wireless appreciates the opportunity for advance review, and we suggest several revisions to ensure that these proposed regulations are consistent with federal and state law.

The Draft Ordinance location standards must be revised so that all Los Altos rights-of-way are subject to the reasonable 500-foot search distance for preferred locations, without subjecting certain local residential streets to preempted approval criteria. Some location prohibitions should be restated as preferences, including the ban on new small cells within 1,000 feet of existing small cells. The Draft Guidelines should be revised to accommodate typical small cell designs required for service, providing specific standards that are technically feasible. We urge staff to revise the Draft Ordinance and Draft Guidelines prior to review by the Planning Commission.

The FCC’s Infrastructure Order

In its 2018 Infrastructure Order, the FCC confirmed that a city’s aesthetic criteria for small cells must be “reasonable,” that is, technically feasible and meant to avoid “out-of-character” deployments, and also “published in advance.” *See Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, 33 FCC Rcd. 9088, ¶¶ 86-88 (September 27, 2018). The FCC also found that that local requirements that “materially inhibit” service improvements and new technology constitute an effective prohibition of service under the Telecommunications Act. *Id.*, ¶¶ 35-37; *see also* 47 U.S.C. §§ 253(a), 332(c)(7)(B)(i)(II). In 2020, the Ninth Circuit Court of Appeals upheld these FCC requirements. *See City of Portland v. United States*, 969 F.3d 1020 (9th Cir. 2020), *cert. denied*, 141 S.Ct. 2855 (Mem) (U.S. June 26, 2021).

Our comments are as follows.

Draft Ordinance

14.82.030 – Location Preferences

The City should avoid location restrictions that would “materially inhibit” service improvements in contradiction of the FCC’s Infrastructure Order, and that would violate California Public Utilities Code Section 7901 which grants telephone corporations a statewide right to place their equipment along any right-of-way. The City should include all rights-of-way in the location preference lists, while converting absolute location prohibitions to less-favored preferences. This will ensure that all rights-of-way are subject to the reasonable 500-foot search distance for any preferred location options, avoiding conflict with federal and state law.

A(2), (3). Preferred, less-preferred locations. All right-of-way locations should be included in one of these preference lists, but several are missing, notably the following.

- **All local streets.** As drafted, Section (A)(3)(e) addresses only certain stretches of local streets in residential zones: those within 200 feet of Foothill Expressway, 500 feet of listed arterials, or 300 feet of collectors or local collectors. Local streets away from those major roadways are not included in the preference lists, and so would be subject to different approval criteria under Section 14.82.050 that are preempted, as we explain below. *Section 14.82.030(A)(3)(e) should be revised to simply state “local streets in residential zones.”*
- **CN zone.** A few parcels zoned CN—Commercial Neighborhood are not located along preferred expressways or arterials. *The CN zone should be added to the preferred location list of Section 14.82.030(A)(2).*
- **Local streets fronting schools in PCF zone.** The presence of a school should not bar placement of a small cell on an adjacent local street. *The phrase “local street” should be added to Section 14.82.030(A)(3)(f).*
- **PCF/R1-10 zone.** There are seven school properties zoned PCF/R1-10, and their adjacent rights-of-way should be available, as with the PCF zone. *The phrase “Public and Community Facilities/Single-Family District” should be added to Section 14.82.030(A)(3)(f) after the reference to the PCF zone.*

A(4). 1,000-foot separation of small cells. Phrased as a prohibition, not a preference, this would bar new small cells in all rights-of-way within a 72-acre area surrounding an existing small cell. This could prohibit new facilities at busy intersections that otherwise are preferred locations, and where clustering small cells could avoid placement on local residential streets. *We suggest converting this prohibition to a preference, by adding “a location within 1,000 feet of an existing small wireless telecommunications facility” to the less-preferred list of 14.82.030(A)(3), and deleting Section A(4).*

A(5)(c). Ban on central 50% of parcel frontage. Another prohibition, this could bar use of some existing poles already located along the middle of parcel frontages in residential zones. By converting this to a preference, the City could steer small cells to any nearby poles closer to property lines, if feasible. *We suggest adding “rights-of-way adjacent to Residential Zoning Districts within the central fifty percent (50%) of an immediately adjacent parcel’s street frontage” to the less-preferred list of Section 14.82.030(A)(3), and deleting Section A(5)(c).*

A(6), (7). Not in front of business. This blunt prohibition could materially inhibit service improvements in commercial areas, and it is unnecessary because the accompanying language already directs applicants to locate as close as feasible to property lines. *The phrase “not directly in front of a business” should be deleted.*

A(8). Inconvenience to public use of right-of-way. The vague term “inconvenience” exceeds the standard in Public Utilities Code Section 7901, that telephone equipment not “incommode” the public use of the right-of-way. *We suggest replacing “inconvenience” with “impair.”*

A(11). Requirement to use poles outside sight lines. Because small cell equipment is elevated above motorist sight lines, there is no reason to bar placement on poles that are already within sight lines. The small cell would pose no more safety impact than the existing pole. *This prohibition should be deleted.*

B(1), (2). Private property location preferences. There are several churches in residential zones where a new facility could be fully-concealed within compatible architecture. *The City should consider allowing camouflaged facilities on residentially-zoned parcels with a non-residential use.*

14.82.040 – Requirements for Approval of Less-Preferred Locations

C. Evidence of need. There is no reason to require additional “evidence demonstrating the need for approval of the proposed location” because Section A already allows less-preferred locations if any preferred options are unavailable or technically infeasible. Technical feasibility is a factor for the FCC’s “reasonableness” standard, but the need for a facility is not. The City cannot compel applicants to demonstrate the need for new small cells in the right-of-way. The FCC found that small cells are needed to densify networks, enhance existing service and introduce new services, so denials based on need would materially inhibit these goals. Infrastructure Order, ¶ 37. Further, Section 7901 grants telephone corporations a statewide right to place their equipment along any right-of-way with no demonstration of need. *This provision should be deleted.*

14.82.050 – Alternative to Wireless Telecommunications Facilities at Preferred and Less Preferred Locations

This section imposes a different scheme for approval of locations that are neither preferred or less-preferred, such as those on local residential streets away from major roadways. Instead of the reasonable 500-foot search distance and technical feasibility standard, this section requires

applicants to evaluate alternative macro and/or small cell facilities in a broad area beyond the target coverage area. As noted, requirements to prove the need for a right-of-way facility are preempted by Section 7901, which grants telephone corporations the right to use any right-of-way. Section 7901 also bars the City from redirecting a proposed facility from the right-of-way to private property (e.g., a macro site).

Further, the City cannot require small cell applicants to evaluate a “significant gap,” because the FCC determined that small cells are needed to densify networks, enhance existing service and introduce new services. These are Verizon Wireless’s goals in placing small cells in Los Altos. The FCC also disfavored dated service standards based on “coverage gaps” and the like. Infrastructure Order, ¶¶ 37-40.

The direction to minimize wireless facilities in residential areas where needed would “materially inhibit” service improvements, constituting a prohibition of service. It also could penalize and discriminate against wireless carriers in the future, in conflict with the Telecommunications Act. 47 U.S.C. § 332(c)(7)(B)(i)(I). *This section should be deleted. Instead, as discussed above, all right-of-way locations should be addressed in the location preferences so they are subject to the reasonable 500-foot search distance and the FCC’s technical feasibility standard.*

14.82.070 – Eligible Facilities Requests

The only factors for approval of eligible facilities requests are the FCC’s “substantial change” thresholds codified at 47 C.F.R. Section 1.6100(b)(7) and restated in Municipal Code Section 11.12.020(A)(23). The ordinance location preferences and any City design guidelines are preempted by FCC rules. Eligible facilities requests provide a streamlined path to approval of collocations compared to Government Code Section 65850.6, which is superseded. *This section is preempted and unnecessary, and should be deleted.*

Following are comments on the Draft Ordinance changes to the existing Municipal Code.

11.12.050 – Application for Permit

E(2). Submittal appointment. The FCC confirmed that a mandatory pre-application process starts the Shot Clock, so Verizon Wireless will calculate the clock to start on the day it requests an appointment. Infrastructure Order, ¶ 145; 47 C.F.R. § 1.6003(e). By delaying the appointment, the City could consume most or all of its 10-day period to issue a notice of incomplete application that would pause the Shot Clock. 47 C.F.R. § 1.6003(d)(1). A limit of one appointment would constitute an effective moratorium on applications, but that is preempted by FCC rules and would not delay the start of the Shot Clock. Infrastructure Order, ¶ 145 (“...the shot clock begins to run when the application is proffered”). The City should ensure that applicants can submit batch applications, consistent with FCC rules. 47 C.F.R. § 1.6003(c)(2). *A submittal appointment should be optional, not mandatory.*

11.12.060 – Conditions of Approval for All Facilities

A(1). Incorporating wireless permit into plans for building permit application. This would require sequential submittal and review of zoning and building permit applications. However, the FCC confirmed that all authorizations required for a new wireless facility must be reviewed within the same “Shot Clock” period. Infrastructure Order, ¶ 132. The City could run afoul of this requirement by delaying submittal of a building permit application until after the Planning Division approves a wireless permit. *This condition should be deleted.*

A(3). Undergrounding/replacement due to new technology. The City cannot compel wireless carriers to dismantle and rebuild any portion of a permitted facility that was constructed in reliance on approved plans. This would violate the vested rights of permittees as well as Government Code Section 65964(b) which generally guarantees a 10-year term for wireless facility permits. *This condition must be deleted.*

A(6)(e). Noise limit. The City is proposing to repeal the referenced Resolution 2019-35. *That reference should be deleted.*

A(7). Annual RF emissions testing. Once an installed wireless facility is shown to comply with the FCC’s radio frequency exposure guidelines, the City cannot require repeat exposure tests, as that regulation of operational requirements is preempted by federal law. *See 47 U.S.C. § 332(c)(7)(B)(iv); see also Crown Castle USA Inc. v. City of Calabasas* (Los Angeles Superior Court BS140933, 2014) (“...the regulation of a facility’s planned or ongoing operation constitutes an unlawful supplemental regulation into an area of federal preemption.”) *The reference to “annually thereafter” should be deleted.*

Existing Code Provisions Requiring Revision

Several problematic Code provisions are not addressed by the Draft Ordinance, including the following.

11.12.050(A)(8). Submittal of geographic service area. With respect to small cells and the right-of-way, this is a preempted demonstration of need. *This provision should not apply to small cells.*

11.12.050(A)(14). Alternatives analysis. This is unnecessary if siting in a most-preferred location. *Instead, the City should require small cell applicants to identify any more-preferred locations within 500 feet and provide evidence that they are technically infeasible or unavailable.*

11.12.050(C). 1,000-foot public notice. This is excessive for small cells, which pose minimal visual impact compared to other right-of-way utility infrastructure. Such broad notice would capture residences well beyond the 500-foot search distance. *We suggest reducing public notice for right-of-way facilities to 500 feet.*

Draft Guidelines

II – Design and Development Standards for all Wireless Telecommunications Facilities

B, D. Basic design principles, general guidelines. The Draft Guidelines impose various subjective standards such as “minimize visual, noise, and other impacts on the surrounding community” and “prevent facility from dominating the surrounding area.” Such vague standards could be used to deny facilities that otherwise satisfy specific design criteria, and would be unreasonable if applied to small cells that are not “out-of-character” among other right-of-way infrastructure. Denials based on vague, subjective determinations would frustrate applicants who followed specific design criteria (such as equipment dimension limits), and would “materially inhibit” service improvements. *For small cells, the City should rely on reasonable, specific design standards.*

D(7)(b). 45 dBA noise limit. This imposes a stringent noise limit for all wireless facilities in Los Altos, without specifying the location where noise is measured. In contrast, the City’s noise ordinance evaluates the noise level as “measured on any other property,” which is an appropriate standard. Code § 6.16.050(A)(2). The noise ordinance also provides a higher noise limit in non-residential zones. Code § 6.16.050(A)(1), Table 1. *The blanket 45 dBA limit should be deleted, and this section revised to require compliance with Code Chapter 6.16.*

D(9). Upgrades with new technology. Per our comment on Draft Ordinance Section 11.12.060(A)(3), requiring applicants for modifications to change unaltered existing facility components would violate their vested rights and Government Code Section 65964(b). *This provision must be deleted.*

III – Additional Design and Development Standards for Facilities in the Public Right-of-Way and in Public Utility Easements

The City must ensure that its small cell design standards are consistent with federal and state law. To be reasonable per the FCC’s Infrastructure Order, equipment dimension limits must be technically feasible for new and emerging technologies, accommodating the antenna and radio models available from manufacturers. In addition to the low-band frequencies currently in use, Verizon Wireless recently licensed mid-band and high-band frequencies from the FCC. These require different equipment. Accordingly, certain small cells may involve several types of antennas, and up to three of each, facing different directions where they provide service. The design standards must accommodate multiple types of antennas to avoid violating California Government Code Section 65964.1(h) which bars cities from “unreasonably discriminating in favor of, or against, any particular wireless technology.”

Verizon Wireless would be pleased to work with the City to ensure that the design standards are technically feasible for its anticipated deployments.

B, C, D. Preferred, less-preferred configurations. These lists favor light poles owned by the City, but if strictly applied, that would contradict California Government Code Section 65964(c)

which bars local governments from limiting wireless facilities to sites owned by particular parties. Verizon Wireless may place its equipment on joint utility poles as a member of the North California Joint Pole Authority, and may place and own new stand-alone poles in the right-of-way pursuant to Public Utilities Code Section 7901.

Structure preferences are akin to location preferences, and so should be qualified by the 500-foot search distance, which is missing from Section (D). Section D(1)(b) introduces an optional “aesthetically superior” criterion that could be a factor when choosing between several feasible poles, but also a mechanism to favor City-owned poles. *We suggest a clear list of structure preferences: 1) An existing or replacement pole of any owner, or 2) A new stand-alone pole, if there is no technically feasible, available existing pole within 500 feet along the right-of-way.*

B(1)(c), C(3)(c). Light poles – antenna shroud limited to pole diameter, base limited to 6 inches wider than pole. These provisions impose antenna and equipment size constraints that are technically infeasible and therefore unreasonable. As noted, some small cells may require multiple types of antennas, and up to three of each, mounted at the same height and facing different directions. In this configuration, the antenna models available from manufacturers cannot fit into a single shroud limited to a narrow pole diameter. Further, some mid- and high-frequency antennas cannot be fully shrouded or otherwise covered because that impedes signal propagation. However, they can be placed in specially-designed partial shrouds with “cut-outs” allowing unimpeded signal. *These sections should specify that antennas and any shrouds should not exceed 21 inches in total diameter.*

Radio units, other network gear, mounting hardware and cables cannot fit into a pole base only six inches wider than a typical streetlight pole. *Section C(1) (light pole facilities with all equipment within the pole) should allow a base up to 20 inches square and four feet tall to conceal radios and associated network components. Section C(3) (light pole facilities with some equipment not within the pole) should allow for small radio units and other gear on the side of a pole, not to exceed nine cubic feet, aside from any PG&E electric meter and disconnect switch.*

C(1)(a). Utility poles – antenna height limited to 24 inches above pole, minimum equipment height of 18 feet. These limits run afoul of Public Utilities Commission General Order 95 (“GO 95”), referenced in the same provision. Pole-top antennas must be elevated six feet above electric supply conductors. GO 95 Rule 94.4(C). The City should allow four-foot antennas, as Section C(1)(b) suggests that the City would be comfortable with a four-foot antenna shroud. In some cases, four-foot antennas provide expanded service and can lessen the need for additional small cells. *We recommend allowing an antenna to extend up to four feet above a utility pole, plus the safety clearance required by GO 95.*

As to associated (non-antenna) equipment, there generally is not enough room above 18 feet, particularly on utility poles shared by communication companies. The area above 18 feet is used for the communication lines, which are subject to their own GO 95 clearances. In some cases, Verizon Wireless can fit a two-foot tall side-mounted antenna and mounting bracket in a pole’s communication zone, occupying only approximately 3.5 feet of vertical space. However, there would be insufficient room for associated equipment that may include radios, power supplies,

fiber boxes, meters and disconnect switches. Further, PG&E requires that electric meters on utility poles be mounted between 7 and 8 feet. PG&E Document 027911, *Installation Details for Service to Pole-Mounted Communication Equipment*. Generally, radios and other equipment are stacked vertically above the meter, up to 18 feet. *The minimum height of associated equipment on a utility pole should be changed from 18 feet to 7 feet.*

We note that the facility on a utility pole next to 745 Distel Drive, shown on Page 16 of the Draft Guidelines, is one of the typical small cell designs for utility poles, with the antenna elevated six feet above the electric supply lines, and associated equipment below 18 feet.

C(1)(b). All equipment within one shroud on utility pole. A typical “cantenna” placed on a utility pole is manufactured in its own sleek radome, and does not require an additional shroud that only adds bulk. Requiring all radios and other hardware in the same shroud as antennas would be infeasible if they cannot fit within the narrow 15-inch diameter limit, and generally radios are placed on the side of a utility pole below 18 feet. For side-mounted antennas, GO 95 requires two feet of separation from the pole centerline, so Verizon Wireless may place a single two-foot tall “cantenna” on a side-arm mount, or two or three small integrated antenna/radio units on opposite ends of a cross-arm, facing different directions. GO 95 Rule 94.4(E). As noted above, some mid- and high-band antennas cannot be shrouded as that impedes signal propagation. For these reasons, this blanket shrouding requirement would be technically infeasible and unreasonable. *This provision should be deleted.*

C(2), F, G(2). New stand-alone poles. These sections regulate new stand-alone poles in the right-of-way (also using the terms “telecommunication tower” and “monopole”). Section C(2) limits antenna shrouds to 14 inches, but per our comments on Sections B(1) and C(3) (light poles), the allowed maximum antenna and shroud diameter should be 21 inches. Associated equipment can be placed within a pole base, given adequate dimensions, or on the side of the pole and covered in a shroud. *These provisions should be consolidated for clarity and to avoid contradiction. Section C(2)(b) should be revised to specify that antennas and any shrouds should not exceed 21 inches in total diameter, and associated equipment can be concealed in a pole base up to 20 inches square and four feet tall, or within a side-mounted shroud up to 16 inches wide, 12 inches deep and 5.5 feet tall.*

C(3)(b). Light poles – minimum equipment height of 18 feet. This section regulates light pole facilities with some equipment not within the pole, and would require associated equipment on the side to be placed above 18 feet. This would be infeasible for electric meters and/or disconnect switches that must be placed between 7 and 8 feet per PG&E rules, as described above. On some light poles, there may not be room above 18 feet for small radio units if that area is occupied by the luminaire arm and multiple antennas. All of this equipment could lead to a crowded appearance if placed high on a pole, whereas small radio units can be placed much lower on a pole and vertically stacked to reduce visual impact. *The minimum height of associated equipment on a light pole should be changed from 18 feet to 7 feet.*

E(1)(b). Limit of pole-mounted equipment to six cubic feet. For small cells on utility poles, this may not accommodate all antennas, radios, meters, disconnect switches and mounting

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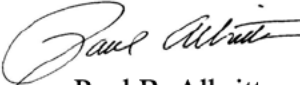
hardware required for service. This volume limit should be modestly expanded, and should not include antennas or PG&E electric equipment. *We suggest specifying a nine cubic foot volume limit for “associated” (non-antenna) equipment, aside from any PG&E electric meter and disconnect switch.*

G(2). Accessory equipment (ground cabinets). This provision appears to be drafted for private property sites, not the right-of-way (e.g., placing equipment “within a nearby building,” with references to “landscape plantings, decorative walls, fencing”). The Draft Guidelines should better address ground-mounted cabinets in the right-of-way, which would be required for associated equipment in some cases, such as Verizon Wireless’s proposed facility in the right-of-way next to Los Altos High School. New ground cabinets are not “out-of-character” because the City has already allowed them in various rights-of-way (such as the corner of South El Monte Avenue and Benvenue Avenue). Section 7901 allows telephone corporations to place equipment upon the right-of-way. Electric meters can be attached directly to ground-mounted wireless equipment cabinets, avoiding a separate meter pedestal. *The City should allow placement of ground-mounted cabinets for associated equipment up to 28 cubic feet, with no requirement for landscaping or screening.*

G(5). Wires within utility pole. PG&E will not allow any utility to bore through wood utility poles to conceal wires within, because that would compromise structural integrity and safety. Instead, vertical wires and conduit for all utilities are concealed within risers mounted flush to the side of the wood pole. *This provision should be deleted.*

G(6), (7). Undergrounding. These provisions would require small cell accessory equipment such as radios to be placed underground where feasible. This is unreasonable in two ways. First, undergrounding generally is technically infeasible due to sidewalk space constraints, utility lines already routed underground, and undue environmental and operational impacts for required active cooling and dewatering equipment. Second, small radios are not “out-of-character” compared to other right-of-way infrastructure such as poles, utility lines, electric transformers and cable television boxes. *The City should allow up to nine cubic feet of associated (non-antenna) equipment on the side of a pole before undergrounding is considered, aside from any PG&E electric meter and disconnect switch, per our comment on Section E(1)(b). The City could require radios to be concealed within a narrow shroud, but not meters or disconnect switches, which cannot be covered per PG&E rules.*

Verizon Wireless appreciates the opportunity to provide comment on the Draft Ordinance and Draft Guidelines. We urge the City to incorporate our suggested revisions prior to review by the Planning Commission.

Very truly yours,

Paul B. Albritton

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City of Los Altos
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Agenda Item # 6.

cc: Jolie Houston, Esq.
David Mehretu, Esq.
Deborah Fox, Esq.
Laura Simpson
Steve Golden

ORDINANCE NO. ____

AN ORDINANCE OF THE LOS ALTOS CITY COUNCIL AMENDING CHAPTER 11.12 AND ADDING CHAPTER 14.82 RELATING TO WIRELESS TELECOMMUNICATIONS FACILITIES AND UTILITY INFRASTRUCTURE SETTING NEW LOCATIONAL REQUIREMENTS AND REVISING DEVELOPMENT STANDARDS

THE LOS ALTOS CITY COUNCIL HEREBY FINDS AND ORDAINS:

SECTION 1. FINDINGS

A. Pursuant to the California Constitution, Article XI, section 7; California Government Code § 37100 and other applicable law, the City Council may make and enforce within its limits all local, police, sanitary and other ordinances, resolutions and other regulations not in conflict with general laws.

B. Los Altos’ public rights-of-way are a uniquely valuable public resource, closely linked with the City’s rural character and natural beauty. Los Altos has a population of 30,000 and is suburban community near Silicon Valley. The City has a small town, semi-rural atmosphere – with wooded, quiet low-density single-family homes. The regulation of wireless communication facilities both within the public right-of-way and other locations within the City, is necessary to protect and preserve the aesthetics of the community. The City’s General Plan also provides for the undergrounding of new telephone and utility lines, “maintaining the low density, low profile residential character of the community through zoning regulations and design guidelines,” and “ensuring compatibility between residential and non-residential development through zoning regulations and design review.” The City’s concerns for preservation of its community including public safety, visual impact, and aesthetics relate to preserving the residential character of the community by imposing various design standards that relate to location, camouflaging, height, size and spacing of wireless telecommunications facilities. Providing separation between wireless telecommunications facilities and the front of homes along permitted rights-of-way within residential zones serves to reduce the intrusiveness of any new wireless telecommunications facilities.

C. The City is mindful of the need to minimize the potential adverse impacts on the community which includes amongst other things, limiting wireless site visibility and impacts to the City’s aesthetic well-being, while balancing same against the need for sufficient cell coverage for emergency needs and complying with both federal and state laws. The regulation as to wireless site visibility is particularly focused on minimizing visibility from residences, encouraging undergrounding of utilities, and limiting the height of such facilities to be consistent with the single-family residences that predominate the housing stock of Los Altos. In keeping with these goals, the City has revised the locational standards to encourage the location of wireless telecommunications facilities within the rights-of-way of Expressways, Arterials, Collectors, and Local Collectors designated on the City’s General Plan Circulation Map, while continuing to permit these facilities along local non-residential streets. And, allowing for the permitting wireless telecommunications facilities within the rights-of-way of local residential streets in close proximity to Expressways, Arterials, Collectors, and Local Collectors, as an

alternative to concentrating facilities along any one street right of way. These sound land use locational provisions will serve to ensure the preservation of the local residential areas while also being mindful of avoiding the over saturation of wireless telecommunication facilities on a single roadway.

D. If not adequately regulated, installation of small cell and other wireless telecommunications facilities within the public right-of-way can pose a threat to the public health, safety and welfare, including disturbance to the right-of-way through the installation and maintenance of wireless telecommunication facilities; traffic and pedestrian safety hazards due to the unsafe location of wireless facilities; impacts to trees where proximity conflicts may require unnecessary trimming of branches or require removal of roots due to related undergrounding of equipment or connection lines; land use conflicts and incompatibilities including excessive height of poles and/or towers; creation of visual and aesthetic blights and potential safety concerns arising from excessive size, heights, noise or lack of camouflaging of wireless telecommunications facilities including the associated pedestals, meters, equipment and power generators; and the creation of unnecessary visual and aesthetic blight by failing to utilize alternative technologies or capitalizing on collocation opportunities, all of which has the potential to yield serious negative impacts on the unique quality and character of Los Altos. The reasonably regulated and orderly development of wireless telecommunication facilities in the public-right-of-way is desirable, and unregulated or disorderly development represents a threat to the health, welfare, and safety of the Los Altos community.

E. The City’s beauty is an important reason for businesses to locate in the City and for residents to live here. Beautiful views enhance property values and increase the City’s tax base. The City’s economy, as well as the health and well-being of all who visit, work or live in the City, depends in part on maintaining the City’s beauty. The City has been moving towards the undergrounding of various utilities, including the First Street and Lincoln Park Undergrounding Utility projects, and needs to ensure that this effort is not hindered by the addition of numerous wireless telecommunications facilities cabinet, wires, cables, and bulky equipment that visually impede and clutter the City’s public rights of way. The City’s development and operational standards serve to encourage the reduction of all appurtenant equipment, screening of same, and efforts at undergrounding.

F. The City Council takes legislative notice of the various federal court decisions that have set applicable standards and metrics that the City must meet in the regulation of wireless telecommunications facilities. The City recognizes that there is a long-standing test in California that looks to whether and applicant has shown that there is a “significant gap” in service and an applicant has chosen the “least intrusive means of closing that gap.” *MetroPCS, Inc v. City & County of San Francisco*, 400 F.3d 715,733 (9th Cir. 2005) abrogated on other grounds in *T-Mobile S., LLC v. City of Roswell, Georgia*, 574 U.S. 293 (2015). More recently, the FCC adopted an Order in a proceeding focused on small wireless facilities and 5G, which found that local regulations are preempted if those regulations “materially inhibit” the provision of wireless services. The FCC Order goes on to state that local aesthetic requirements that are reasonable in that they are technically feasible and reasonably directed to avoiding or remedying the intangible public harm of unsightly or out-of-character deployments are permissible. *In the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Inv.*, 33 F.C.C. Rcd. 9088 (2018), *aff’d in part, rev’d in part, City of Portland v United States*, 969 F.3d

1020, 1032 (9th Cir. 2020). That is, reasonable aesthetic requirements by definition do not “materially inhibit” service. The City is mindful of these various evolving legal decisions and FCC Orders in its provision of these revised siting and various development standards.

G. The City acknowledges that there have been significant changes in federal laws that affect local authority over wireless telecommunication facilities and other related infrastructure deployments have occurred. These changes in federal law have occurred concurrently with an ever-increasing demand for the placement of wireless telecommunication facilities within the public rights of way, in order to offer increased coverage in the way of numerous expanding technologies such as: cell phones, video streaming, and on line access to work from home during the COVID -19 pandemic. In connection with the ever increasing demand for expanding technologies, the City is also mindful of the carriers desire to move forward with 5G and the recent published decision in *Environmental Health Trust v. Federal Communications Commission*, 9 Fed. 4th 893, 905 (D.C. Cir. 2021) , wherein that Court noted that the FCC had failed to provide a reasoned explanation for its determination that exposure to RF as implicated by various technological developments that have occurred since 1996, including the ubiquity of wireless devices and Wi-Fi, and the emergence of 5G technology.

H. The City takes legislative notice of the Federal Communications Commission ("FCC") adoption on August 2, 2018, of a Third Report & Order and Declaratory Ruling in the rulemaking proceeding titled Accelerating Wireline and Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, 33 FCC Red. 7705 (rel. Aug. 3, 2018) (“the August 2018 Order”), that, among other things, contained a declaratory ruling prohibiting express and de facto moratoria for all personal wireless services, telecommunications services and their related facilities; and that the FCC adopted a Declaratory Ruling and Third Report and Order in September of 2018, --- FCC Red. ---, FCC 18-133 (rel. Sep. 27, 2018) (the "September 2018 Order"), which, among many other things, creates new shorter "shot clocks" for small wireless facilities (as defined in the September 2018 Order), alters existing "shot clock" regulations to require local public agencies to do more in less time.

I. The City recognizes its responsibilities under the Federal Telecommunications Act of 1996 and state law, and believes that it is acting consistent with the current state of the law in ensuring that irreversible development activity does not occur that would harm the public health, safety, or welfare. The City does not intend that this Ordinance prohibit or have the effect of prohibiting telecommunications service, as those terms are used in the Federal Telecommunications Act; rather, the City includes appropriate regulations to ensure that the installation, augmentation and relocation of wireless telecommunications facilities in the public rights-of-way are conducted in such a manner as to lawfully balance the legal rights of applicants under the Federal Telecommunications Act and the California Public Utilities Code while, at the same time, protect to the full extent feasible against the safety and land use concerns described herein. Indeed, the City has engaged a land use expert to map the available sites that are permissible for the siting of wireless telecommunication facilities under these siting criteria and he concludes that these current locations standards would permit small wireless

telecommunications along more than 101,185 linear feet of roadway right-of-way within Los Altos.

J. The overarching intent of this Ordinance is to make wireless telecommunications reasonably available while preserving the essential rural character of Los Altos. This will be realized by: minimizing the visual and physical effects of wireless telecommunications facilities through appropriate design, siting, screening techniques and location standards; encouraging the installation of Wireless Telecommunications Facilities at locations where other such facilities already exist; and encouraging the installation of such facilities where and in a manner such that potential adverse impacts to Los Altos is minimized.

K. The City adopted an Ordinance regulating wireless telecommunication facilities in August of 2019. This occurred after the City held a study session and several public hearings, at which stakeholders discussed wireless and other infrastructure deployment issues, potential local regulatory responses to the recent changes in federal law in the FCC orders and expressed their design and location preferences, practical and safety concerns, aesthetic concerns, policy views and the essential local values that make Los Altos a uniquely small suburban community. The City's residents in the summer of 2019 called out the numerous concerns at play with aesthetics, and these concerns included numerous objections that were focused on visual blight such as:

- Small cell nodes previously proposed by carriers, AT&T and Verizon, to the City of Los Altos were visually intrusive and unsightly;
- The City should continue to be judicious about and distaste for visual blight;
- The need to eliminate visual blight;
- The need to consider potential visual blight, to mitigate noise, heat, and exposure to EMF, and to protect our enjoyment of our property and its market value;
- These cell towers should be placed in commercial areas, in the medians of major streets, and such. They should not be placed in residential neighborhoods;
- Wireless facilities should be installed in some public/commercial place instead of residential street and so close to people's house. Los Altos neighborhood aesthetic guidelines and property value is one of the main reasons people are willing to stay in this great City.
- Cell towers or small cells are unsightly, noisy and add to the visual blight from the existing electric and telephone lines. While urging that small cells should not be placed in a small residential neighborhood cul de sac street but rather, it would be better to locate same on a major street or in the back of a commercial property;
- Cell towers are ugly and there is no need for extra eye sores;
- The mounting of "small" refrigerator-sized boxes on the side of an existing utility poles is unsightly and adds to visual blight; and
- The cell tower is an eye sore that emits an annoying fan type noise that has a negative impact on the quality of life of the residents who live there or who walk within the community.

These same concerns as to visual blight, aesthetic impairment and noise remain at play today. The visual and aesthetic impacts of the proposed wireless telecommunications facilities is much greater in a residential area versus in a non-residential area such as downtown Los Altos, or Loyola Corners, or along a main arterial or collector streets within Los Altos.

L. On March 3 and March 17, 2022, the City Planning Commission held duly noticed public hearings to consider an Ordinance to add Chapter 14.82 and to amend Chapter 11.12 at which the Planning Commission received, reviewed, and considered the staff report, written and oral testimony from the public and other information in the record, and recommended to the City Council the adoption of this Ordinance regulating the placement of wireless telecommunication facilities.

M. The City recognizes its responsibilities under the Federal Telecommunications Act of 1996 and state law, and believes that it is acting consistent with the current state of the law in ensuring that irreversible development activity does not occur that would harm the public health, safety, or welfare. The City does not intend that this Ordinance prohibit or have the effect of prohibiting telecommunications service; rather, the City includes appropriate regulations to ensure that the installation, augmentation and relocation of wireless telecommunications facilities in the public rights-of-way are conducted in such a manner as to lawfully balance the legal rights of applicants under the Federal Telecommunications Act and the California Public Utilities Code while, at the same time, protect to the full extent feasible against the safety and land use concerns described herein.

N. It is not the purpose or intent of this Ordinance, nor shall it be interpreted or applied to: (1) prohibit or to have the effect of prohibiting wireless telecommunications services; or (2) unreasonably discriminate among providers of functionally equivalent wireless communications services; or (3) regulate the placement, construction or modification of Wireless Telecommunication Facilities on the basis of the environmental effects of radio frequency ("RF") emissions where it is demonstrated that the Wireless Telecommunication Facilities does or will comply with the applicable FCC regulations; or (4) prohibit or effectively prohibit any entity's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulation for rights-of-way management; or (5) prohibit or effectively prohibit collocations or modifications that the City must approve under state or federal law; or (6) otherwise authorize the City to preempt any applicable federal or state law.

O. The regulations of wireless installations are necessary to protect and preserve the aesthetic character of the community and to ensure that all wireless telecommunications facilities are installed using the least intrusive means possible. The City is also mindful of the fact that there are a number of different bands that can be utilized by carriers for wireless telecommunication facilities (including 700 MHz, 800 MHz, 1900 MHz, and 2100 MHz), and that these additional available band options need to be reviewed and considered in the determination of the least intrusive alternatives. As well, there are available a number of alternative means to provide coverage within Los Altos, including but not limited to: the

upgrading of existing telecommunications facilities, the placement of macro towers, the co-location of wireless telecommunications facilities, the provision of micro towers, etc.

SECTION 2. LOCATIONAL CRITERIA

A. Chapter 14.82 of the Los Altos Municipal Code is added to provide as follows:

Chapter 14.82 Standards for the Location of Wireless Telecommunications Facilities

- 14.82.010 Purpose**
- 14.82.020 Definitions**
- 14.82.030 Wireless Telecommunications Facilities Locational Preferences**
- 14.82.040 Requirements for Approval of Less Preferred Locations**
- 14.82.050 Alternative to Wireless Telecommunications Facilities at Preferred and Less Preferred Locations**
- 14.82.060 Additional Locational Preferences**
- 14.82.070 Eligible Facilities Requested Per Municipal Code 12.12.100 and Applications Pursuant to Government Code § 65850.6**

14.82.010 Purpose

The purpose of the following siting criteria is to provide for the location of wireless telecommunications facilities within the City of Los Altos in a manner that minimizes the visual intrusiveness of wireless telecommunications facilities and provides for coverage throughout the City.

14.82.020 Definitions

The definitions called out in Chapter 11.12 shall apply here unless a specific alternative definition is provided.

14.82.030 Wireless Telecommunications Facilities Locational Preferences

A. Wireless Telecommunications Facilities Located within Public Rights-of-Way and Utility Easements

1. Only facilities qualifying for a Section 6409(a) approval and those meeting the definition of a “small wireless facility” shall be permitted within public rights-of-way and public utility easements.
2. The preferred location for a wireless telecommunications facility within a public right-of-way or public utility easement is within the right-of-way of

one of the following roadway types as designated on the Los Altos General Plan Circulation Element as may be amended from time to time.

- (a) Expressways;
- (b) Arterials;
- (c) Collectors fronting **non-Residential Zoning Districts** identified in the following subsections of Municipal Code Section 14.04.010.
 - K. Office-Administrative District, OA (OA);
 - L. Office-Administrative District (OA-1 and OA-4.5);
 - O. Commercial Downtown District (CD);
 - P. Commercial Retail Sales District (CRS);
 - Q. Commercial Thoroughfare District (CT);
 - R. Commercial Retail Sales/Office District (CRS/OAD); and
 - V. Loyola Corners Specific Plan Overlay District (LCSPZ).
- (d) Collectors fronting the Public and Community Facilities District (PCF) (Municipal Code Section 14.04.010 S).

3. Less preferred locations for wireless telecommunications facilities within public rights-of-way and public utility easements include:

- (a) Rights-of-way for all streets fronting the Commercial Neighborhood (CN) District (Municipal Code Section 14.04.010 N).
- (b) Rights-of-way for Local Collectors fronting non-Residential Zoning Districts (Municipal Code Sections 14.04.010 K-L, O-R, V); and
- (c) Public utility easements adjacent to non-Residential Zoning Districts (Municipal Code Sections 14.04.010 K-L, O-R, V) as designated on the City of Los Altos General Plan Circulation Plan (Figure C-1).
- (d) Rights-of-way for Local Streets fronting non-Residential Zoning Districts (Municipal Code Sections 14.04.010 K-L, O-R, V);
- (e) Rights-of-way for Expressways, Arterials, Collectors, and Local Collectors fronting Residential Zoning Districts identified in the following subsections of Municipal Code Section 14.04.010.

1. Single-Family District (R1-10);
2. Single-Family District (R1-H);
3. Single-Family District (R1-20);
4. Single-Family District (R1-40);
5. Single-Story Single-Family Overlay District (R1-S);
6. Multiple-Family District (R3-4.5);
7. Multiple-Family District (R3-5);
8. Multiple-Family District (R3-3);
9. Multiple-Family District (R3.1.8);
10. Multiple-Family District (R3-1);
11. Commercial Downtown/Multiple-Family District (CD/R3);
12. Planned Community (PC); and
13. W. Planned Unit Development (PUD).

(f) To avoid concentration of wireless telecommunications facilities within the right-of-way of any one street within the City, small wireless telecommunications facilities may also be located within the street rights-of-way for local streets fronting Residential Zoning Districts (Municipal Code Sections 14.04.010 A-J, M, U, W) where the facility would be:

- i. Within 200 feet of the Foothill Expressway right-of-way;
- ii. Within 500 feet of the San Antonio Avenue, El Monte Drive, Magdalena Avenue, or Homestead Road right-of-way;
- iii. Within 300 feet of a Collector or Local Collector right-of-way.

(g) Rights-of-way for Expressways, Arterials, Collectors, Local Collectors and public utilities easements fronting a school in the Public and Community Facilities District (Municipal Code Section 14.04.010 S)

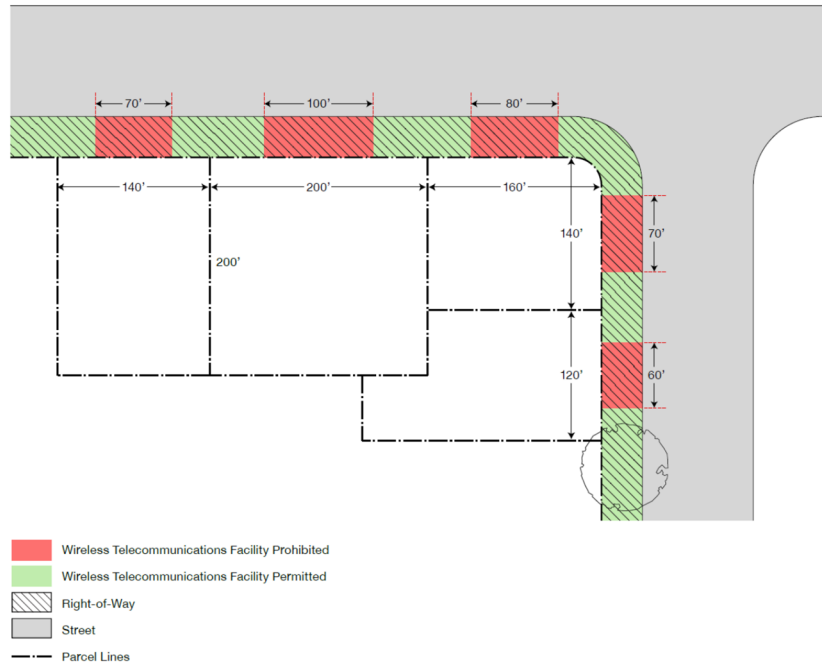
4. No wireless telecommunications carrier shall be permitted to locate a
Ssmall wireless telecommunications facilityies are not permitted within

1,000 feet of another small wireless telecommunications facility it operates or within 200 feet of any small wireless telecommunications regardless of its ownership and maintenance.

5. Placement Criteria

- (a) No portion of any wireless communications facility within a public right-of-way shall overhang a property line.
- (b) Wireless telecommunications facilities and any associated equipment or improvements shall not physically interfere with or impede access to any:
 - 1. Worker access to any above-ground or underground infrastructure for traffic control, streetlight or public transportation, including without limitation any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, barricade reflectors;
 - 2. Access to any public transportation vehicles, shelters, street furniture or other improvements at any public transportation stop;
 - 3. Worker access to above-ground or underground infrastructure owned or operated by any public or private utility agency;
 - 4. Fire hydrant or water valve;
 - 5. Access to any doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building appurtenant to the rights-of-way; or
 - 6. Access to any fire escape.
- (c) No wireless telecommunications facility within a roadway right-of-way adjacent to Residential Zoning Districts (Municipal Code Sections 14.04.010 A-J, M, U, W) shall be placed within the central fifty percent (50%) of an immediately adjacent parcel's street frontage unless:
 - 1. No feasible alternative exists within 500 feet of the proposed location.
 - 2. Landscaping and/or screening is provided to conceal the facility from view from adjacent dwelling units to the extent feasible.

For corner lots, this standard shall apply to both roadway frontages.



6. Wireless telecommunication facilities within roadway rights-of-way adjacent to non-Residential Zoning Districts (Municipal Code Sections 14.04.010 K-L, O-R, V) should be located on poles that are as close as feasible to shared property lines between two adjacent lots and not directly in front of a business.
7. Wireless telecommunication facilities should be located on poles that are as close as feasible to shared property lines between two adjacent lots and should not be located directly in front of a business.
8. All components of a wireless telecommunications facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, impair the public's use of the right-of-way, or create safety hazards to pedestrians and motorists.
9. Wireless telecommunications facilities shall not be located so as to interfere with access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital public health and safety facility.

- 10. Facilities mounted to a telecommunications tower, above-ground accessory equipment, or walls, fences, landscaping or other screening methods shall be setback a minimum of 18 inches from the front of a curb.
- 11. Wireless telecommunication facilities shall be located on poles that are outside of driveways and shall not impair intersection sight lines.

B. Wireless Telecommunications Facilities Located on Properties Outside of Public Rights-of-Way and Public Utility Easements

- 1. The preferred locations for wireless telecommunications facilities include properties within one of the following Zoning Districts identified in the following subsections of Municipal Code Section 14.04.010.
 - K. Office-Administrative District, OA (OA);
 - L. Office-Administrative District (OA-1 and OA-4.5);
 - O. Commercial Downtown District (CD);
 - P. Commercial Retail Sales District (CRS);
 - Q. Commercial Thoroughfare District (CT);
 - R. Commercial Retail Sales/Office District (CRS/OAD); and
 - V. Loyola Corners Specific Plan Overlay District (LCSPZ).
- 2. Less preferred locations for wireless telecommunications facilities include any City-owned property and properties within one of the following Zoning Districts identified in the following subsections of Municipal Code Section 14.04.010.
 - N. Commercial Neighborhood District (CN); and
 - S. Public and Community Facilities District (PCF).
 - T. Public and Community Facilities/Single-Family District (PCF/R1-10)
- 3. Location of Wireless Telecommunications Facilities on Properties Outside of Public Rights-of-Way and Public Utility Easements
 - (a) No portion of a wireless telecommunications facility may be permitted to encroach into any applicable setback for main structures for the zoning district within which it is located unless the facility is designed per the City’s Design Guidelines.

- (b) Wireless telecommunications facilities and any associated equipment or improvements shall not physically interfere with or impede access to any:
 - i. Worker access to above-ground or underground infrastructure owned or operated by any public or private utility agency;
 - ii. Fire hydrant or water valve;
 - iii. Doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building; or
 - iv. Fire escape.
- (c) No wireless telecommunications facility shall be located so as to replace or interfere with parking spaces in such a way as to reduce the total number of parking spaces below the number that is required, nor shall any facility be located so as to interfere with require access to parking spaces.

14.82.040 Requirements for Approval of Less Preferred Locations

- A. Applications that involve a less-preferred location shall be accompanied by clear and convincing written evidence demonstrating that a preferred location per Section 14. 82.030 A or B is infeasible and that ~~the need for~~ approval of the proposed location rather than a ~~more~~-preferred location is needed. including a written description of the facility’s intended service area.
- B. Applications that involve less-preferred locations may be approved only if the applicant demonstrates that:
 - (1) It does not own any property or facilities within 500 feet from the proposed site that could provide service in lieu of the proposed facility;
 - (2) No preferred location exists within 500 feet from the proposed site; or
 - (3) Any preferred location within 500 feet from the proposed site would be technically infeasible.
- C. The burden of proof for demonstrating compliance with these above noted conditions shall be on the applicant and must be satisfied with clear and convincing evidence.

- D. In reviewing a request for a less-preferred location, the City may hire an independent consultant at the applicant’s expense to evaluate the applicant’s demonstration of need for the proposed less-preferred location.

14.82.050

Requirements for Least Preferred Locations

- A. The right-of-way of a local residential street that is neither a preferred nor a less preferred location per the requirements of this Chapter is the least preferred location for a small wireless telecommunications facility. An application for such a least preferred location may be approved ~~for a small wireless telecommunications facility within the right-of-way of a local residential street that is neither a preferred nor a less preferred location per the requirements of this Chapter~~ only if:

- (1) A combination of macro and small wireless telecommunications facilities, as well as colocation with existing facilities of other carriers at preferred and less preferred locations within the City would be infeasible; and
- (2) The total number of wireless telecommunications facilities within Residential Zoning Districts (Municipal Code Sections 14.04.010 A-J, M, U, W) is minimized.

- B. The burden of proof for demonstrating the need for one or more small wireless telecommunications facilities within ~~the right-of-way of a local residential street that are neither a preferred nor a less preferred~~ location per the requirements of Section 14.82.050A shall lie with the applicant and the evidence offered to meet that burden shall be included in the application submitted to the City.

- C. Applications pursuant to Section 14.82.050 shall be accompanied by clear and convincing written evidence that demonstrates ~~the applicant’s existing network configuration serving the City of Los Altos cannot be expanded and/or reconfigured or modified to provide adequate service through a combination of new and relocated macro and small~~ wireless telecommunications facilities, as well as colocation with existing facilities of other carriers at preferred and less preferred locations would be infeasible; and

- D. In reviewing a permit request for facilities covered by Section 14.82.050, the City shall hire an independent consultant at the applicant’s expense to evaluate whether achieving the applicant’s stated service objectives through existing or new macro and small wireless facilities in preferred and less preferred locations would be technically infeasible~~the applicant’s current network configuration and demonstration of need to verify that a~~

~~combination of facilities within the preferred and less preferred locations cannot provide service throughout the City.~~

14.82.060 Additional Locational Preferences

- A. Mid-block locations are preferred to more visible corners and intersections unless:
 - (1) The wireless telecommunications facility is mounted on a traffic signal control pole or streetlight;
 - (2) The wireless telecommunications facility is designed per the City’s Design Guidelines.
- B. The location of a new pole, if permitted, is preferred:
 - (1) Within the parkway strip if one is present.
 - (2) In alignment with existing trees, utility poles, and streetlights.
 - (3) At an equal distance between trees, when possible, with a minimum separation of 15 feet from the tree’s trunk or outside of the tree's drip line, whichever is greater, such that no disturbance occurs within the critical root zone of any tree.

14.82.070 Eligible Facilities Requested per Municipal Code Section 12.12.100 and Applications Pursuant to Government Code Section 65850.6

Eligible facilities requested per Municipal Code Section 12.12.100 and applications pursuant to California Government Code Section 65850.6 (see Municipal Code Section 12.12.110), are permitted within all Zoning Districts and within all public rights-of-way.

SECTION 3. WIRELESS TELECOMMUNICATIONS FACILITIES; PERMIT PROVISIONS

- A. Title 11.12 of the Municipal Code for the City shall be repeal and/or amended to make the following changes to the existing text of Chapter 11.12:
 - 1. Section 11.12.040.A is repealed and replaced as follows:

Section 11.12.040A. Permit Required. No wireless telecommunications facility shall be located or modified within the City on any property, including the public right-of-way, without the issuance of a permit as required by this Chapter. Such permit must comply with the locational standards set forth in Chapter 14.82 of the City’s Municipal Code regulating zoning. In addition, such permit shall be subject to the conditions of Chapter 11.12, along with the City’s Design Guidelines calling forth various design and placement standards adopted by the City Council by resolution, and shall be in addition to any other permit required pursuant to the Los Altos Municipal Code.

- 2. Section 11.12.050.A.9 is repealed and replaced as follows:
- 3. Section 11.12.050.A.9. Intentionally omitted
- 4. Section 11.12.050.B.1.c. is repealed and replaced as follows:

Section 11.12. 050.B.1.c. Analysis of an application that involves a less-preferred location as set forth in the locational standards of this Chapter, to determine if the applicant owns any property or facilities within 500 feet of the proposed site that could provide service in lieu of the proposed facility, and whether there is a preferred location within 500 feet and to determine whether any such preferred location is technically feasible.

- 5. Section 11.12.050.E.2 is repealed and replaced as follows:

Section 11.12.050.E.2 Submittal Appointment. All applications must be filed with the City at a pre-scheduled appointment. Applicants may generally submit one application per appointment, but may schedule successive appointments for multiple applications whenever feasible and not prejudicial to other applicants. Any application received without an appointment, whether delivered in person or through any other means, will not be considered duly filed until a submittal appointment is obtained.

- 6. Section 11.12.060 is repealed and replaced as follows:

11.12.060 - Conditions of approval for all facilities.

A. In addition to compliance with the requirements of this Chapter, upon approval all facilities shall be subject to each of the following conditions of approval, as well as any modification of these conditions or additional conditions of approval deemed necessary by the City:

- 1. Before the permittee submits any application for a building permit or other permits required by the Los Altos Municipal Code, the permittee must incorporate the wireless telecommunication facility permit granted under this Chapter, all conditions associated with the wireless telecommunications facility permit and the approved plans and any photo simulations (the "approved plans") into the project plans.
- 2. The permittee must construct, install and operate the wireless telecommunications facility in strict compliance with the approved plans. The permittee shall submit an as built drawing within ninety (90) days after installation of the facility.
- 3. Where feasible, as new technology becomes available, the permittee shall:
 - a. Place above-ground wireless telecommunications facilities below ground, including, but not limited to, accessory equipment that has

- been mounted to a telecommunications tower or mounted on the ground; and
- b. Replace larger, more visually intrusive facilities with smaller, less visually intrusive facilities, after receiving all necessary permits and approvals required pursuant to the Los Altos Municipal Code.
4. The permittee shall submit and maintain current at all times basic contact and site information on a form to be supplied by the City. The permittee shall notify the city of any changes to the information submitted within seven days of any change, including change of the name or legal status of the owner or operator. This information shall include, but is not limited to, the following:
- a. Identity, including the name, address and twenty-four (24) hour local or toll free contact phone number of the permittee, the owner, the operator, and the agent or person responsible for the maintenance of the facility.
 - b. The legal status of the owner of the wireless telecommunications facility, including official identification numbers and FCC certification.
 - c. Name, address, and telephone number of the property owner if different than the permittee.
5. The permittee shall not place any facilities that will deny access to, or otherwise interfere with, any public utility, easement, or right-of-way located on the site. The permittee shall allow the city reasonable access to, and maintenance of, all utilities and existing public improvements within or adjacent to the site, including, but not limited to, pavement, trees, public utilities, lighting and public signage.
6. To minimize environmental effects of installation and operations, wireless telecommunications facilities shall comply with the following performance standards:
- a. Where ground disturbance is required for installation of a wireless telecommunications facility, applicable best management practices (BMPs) shall be implemented to minimize loss or topsoil and site erosion and to reduce diesel particulate (PM₁₀) and PM_{2.5} emissions.
 - b. In the event of an unanticipated discovery of historical, archaeological, or Tribal cultural resources during construction, ground-disturbing activities shall be halted until a City-approved qualified consulting archaeologist assesses the significance of the find according to CEQA Guidelines §15064.5. If any find is

determined to be a potential Tribal cultural resource or a unique archaeological resource, the City, consulting archaeologist, and the applicable Tribal authority would determine the appropriate measures to be taken. Any Tribal cultural resources identified would be subject to Tribal mitigation requirements. Any archaeological resources recovered would be subject to scientific analysis, professional museum curation, and documentation according to current professional standards.

- c. Installations of wireless telecommunications facilities shall meet the most current California Building Code standards required at the time of construction to reduce the potential for substantial adverse effects related to ground shaking.
- d. In the event of an unanticipated discovery during project construction, ground-disturbing activities would be halted until a qualified paleontologist meeting the Society of Vertebrate Paleontology (SVP) Standards determines their significance, and, if significant, supervises their collection for curation. Any fossils collected during site-specific development project-related excavations, and determined to be significant by the qualified paleontologist, shall be prepared to the point of identification and curated into an accredited repository with retrievable storage.
- e. Noise generated by equipment will not be detrimental to the public health, safety and welfare and shall not exceed the standards set forth in [Chapter 6.16](#) of the Municipal Code.

(1) A written report that analyzes acoustic levels for the proposed wireless telecommunications facility and all associated equipment including, without limitation, all environmental control units, sump pumps, temporary backup power generators, and permanent backup power generators in order to demonstrate compliance with Los Altos Municipal Code, Chapter 6.16, Noise Regulations shall be submitted as part of applications for wireless telecommunications facilities.

(2) The acoustic analysis must be prepared and certified by an engineer and include an analysis of the manufacturers' specifications for all noise-emitting equipment and a depiction of the proposed equipment relative to all adjacent property lines.

(3) In lieu of a written report, the applicant may submit evidence from the equipment manufacturer that the ambient noise emitted from all the proposed equipment will not, both individually and cumulatively, exceed the applicable limits.

- f. Where temporary closure of a sidewalk or roadway travel lane would be necessary for installation of a wireless telecommunications facility, preparation and implementation of a Traffic Control Plan approved by the City Engineer shall be required. Should installation of a wireless telecommunications facility occur adjacent to a transit stop and require temporary relocation of the stop, the applicant for such facility shall provide needed improvements for such a temporary transit stop.
- 6. At all times, all required notices and signs shall be posted on the site as required by the FCC and California Public Utilities Commission, and as approved by the City. The location and dimensions of a sign bearing the emergency contact name and telephone number shall be posted pursuant to the approved plans.
- 7. At all times, the permittee shall ensure that the facility complies with the most current regulatory and operational standards including, but not limited to, radio frequency emissions standards adopted by the FCC and antenna height standards adopted by the Federal Aviation Administration. Permittee shall conduct on-site testing to ensure the facility is in compliance with all radio frequency emissions standards adopted by the FCC. Tests shall occur upon commencement of operations, and annually thereafter. Copies of the reports from such testing shall be submitted to the city within thirty (30) days of the completion of testing. The City may retain a consultant to perform testing to verify compliance with current regulatory and operational standards.
- 8. If the City Manager determines there is good cause to believe that the facility may emit radio frequency emissions that are likely to exceed FCC standards, the City Manager may require the permittee to submit a technically sufficient written report certified by a qualified radio frequency emissions engineer, certifying that the facility is in compliance with such FCC standards.
- 9. Annual Certification. Each year on July 1, the permittee shall submit an affidavit which shall list, by location, all facilities it owns within the city by location, and shall certify (1) each such installation remains in use; (2) that such in-use facility remains covered by insurance; and (3) each such installation which is no longer in use. Any facility which is no longer in use shall be removed by permittee within sixty (60) days of delivery of the affidavit.
- 10. Permittee shall pay for and provide a performance bond, which shall be in effect until the facilities are fully and completely removed and the site reasonably returned to its original condition, to cover permittee's

obligations under these conditions of approval and the Los Altos Municipal Code. The bond coverage shall include, but not be limited to, removal of the facility, maintenance obligations and landscaping obligations. The amount of the performance bond shall be set by the City Manager in an amount rationally related to the obligations covered by the bond and shall be specified in the conditions of approval.

- 11. Permittee shall defend, indemnify, protect and hold harmless the City, its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees, and volunteers from and against any and all claims, actions, or proceeding against the city and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers to attack, set aside, void or annul, an approval of the City, Planning Commission or City Council concerning this permit and the project. Such indemnification shall include damages, judgments, settlements, penalties, fines, defensive costs or expenses, including, but not limited to, interest, attorneys' fees and expert witness fees, or liability of any kind related to or arising from such claim, action, or proceeding. The City shall promptly notify the permittee of any claim, action, or proceeding. Nothing contained herein shall prohibit city from participating in a defense of any claim, action or proceeding. The City shall have the option of coordinating the defense, including, but not limited to, choosing counsel for the defense at permittee's expense.
- 12. All conditions of approval shall be binding as to the applicant and all successors in interest to permittee.
- 13. A condition setting forth the permit expiration date in accordance with Section 11.12.060 shall be included in the conditions of approval.
- 7. Section 11.12.080 A. is repealed and replaced as follows:

Section 11.12.080. Findings.

A. Where a wireless telecommunication facility requires a telecom use permit as provided for in this Chapter, the City shall not approve any application unless, all of the following findings are made:

- 1. The proposed facility complies with the locational and siting standards set forth in Chapter 14.82 and with all applicable building, electrical and fire safety codes.
- 2. The proposed facility complies with all applicable provisions of Chapter 14.82 and with the Design Guidelines adopted by the City.
- 3. The proposed facility complies with all applicable building, electrical and fire safety codes.

- 4. The proposed facility has been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.
- 5. The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.
- 8. Section 11.12.090 Exceptions is repealed in its entirety.
- 9. Section 11.12.160.B is repealed and replaced as follows:

Section 11.12.160B. After the expiration of the wireless telecommunications permit provided for in Section A, above, a permittee shall apply for a new permit and comply with all the requirements of the City Code then at play.

- 10. Section 11.12.160. C and D are repealed in their entirety.
- 11. Section 11.12.180.A is repealed and replaced as follows:

A. Permittee’s Removal Obligation. Upon the expiration date of the permit, or upon earlier termination or revocation of the permit, or abandonment of the facility after a period of ninety (90) days, the permittee, owner, or operator shall remove its wireless telecommunications facility and restore the site to its natural condition except for retaining the landscaping improvements and any other improvements at the discretion of the City. Removal shall be in accordance with proper health and safety requirements and all ordinances, rules, and regulations of the City. The facility shall be removed from the property within 30 days, at no cost or expense to the City. If the facility is located on private property, the private property owner shall also be independently responsible for the expense of timely removal and restoration. Should the City be required to remove the facility or restore a site within the public right-of-way, the owner/operator of the facility shall reimburse the City for its actual costs.

- 12. Section 11.02.080.C is repealed and replaced as follows:

Section 11.02.080.C. A copy of any decision on an application made under this section shall be provided to the applicant, and to any party who submitted comments to the City Manager pursuant to notice required by this Chapter. Decisions shall also be posted on the Los Altos website within twenty-four (24) hours of their issuance or as soon as reasonably practicable, in a manner clearly identifying the application to which the decision relates. And, the decision shall also be posted on the site of the proposed wireless telecommunications facility.

SECTION 4. DESIGN STANDARDS

The City Council hereby reviews the prior Design Standards called forth in Resolution No. 2019-35 adopted on August 5, 2019 and repeals same in its entirety and concurrently adopts New Design Guidelines in a separation resolution to regulate the design standards for wireless telecommunication facilities.

SECTION 5. CEQA

The Initial Study prepared for the proposed Wireless Telecommunications Facilities Development Standards and Design Guidelines indicates for each environmental issue it analyzed that environmental impacts would be less than significant or that no impact would occur. There is no substantial evidence, in light of the whole record before the lead agency (the City of Los Altos), that the project may have a significant effect on the environment.

SECTION 6. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be unconstitutional or otherwise invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Los Altos City Council hereby declares that it would have adopted the remainder of this ordinance, including each section, subsection, sentence, clause, phrase or portion irrespective of the invalidity of any other article, section, subsection, sentence, clause, phrase, or portion.

SECTION 7. AUTHORITY AND EFFECTIVE DATE.

This Ordinance is enacted pursuant to the authority conferred upon the Los Altos City Council by Government Code Section 36934 and will be effective thirty (30) days after second reading.

Anita Enander
Mayor, City of Los Altos

Attest: Andrea Chelemengos
City Clerk

ORDINANCE NO. _____ of the City of Los Altos adopted on _____, 2022 by the following roll call vote of the City Council:

Vote:

Vice Mayor Sally Meadows: _____

Councilmember Lynette Lee Eng: _____

Councilmember Neysa Fligor: _____

Councilmember Jonathan D. Weinberg: _____

RESOLUTION NO. 2022-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS ADOPTING DESIGN GUIDELINES AND STANDARDS FOR WIRELESS FACILITIES

THE CITY COUNCIL OF THE CITY OF LOS ALTOS DOES RESOLVE AS FOLLOWS:

SECTION 1. FINDINGS

A. Pursuant to the California Constitution, Article XI, section 7; California Government Code § 37100 and other applicable law, the City Council may make and enforce within its limits all local, police, sanitary and other ordinances, resolutions and other regulations not in conflict with general laws.

B. It is in the public interest for the City to establish reasonable, uniform and comprehensive design and siting guidelines for the installation of wireless facilities . The City having previously established design guidelines pursuant to Resolution No. 2019-35 adopted on August 5, 2019 (hereinafter “the Existing Design Guidelines”), now wishes to rescind the Existing Design Guidelines and replace them with new design guidelines set forth below in the **Appendix** as discussed below in Section 2 (“New Design Guidelines”), in order to protect the City of Los Altos and its aesthetics and preserve the public health and safety of the community.

C. These New Design Guidelines are intended to, and should be applied to, protect and promote public health, safety and welfare, and also balance the benefits that flow from wireless services with the City's local rules which include, without limitation, the aesthetic character of the City, its neighborhoods and community.

D. Los Altos’ public rights-of-way are a uniquely valuable public resource, closely linked with the City’s rural character and natural beauty. Los Altos has a population of 30,000 and is suburban community near Silicon Valley. The City has a small town, semi-rural atmosphere – with wooded, quiet low-density single-family homes. The regulation of wireless communication facilities both within the public right-of-way and other locations within the City, is necessary to protect and preserve the aesthetics of the community. The City’s General Plan also provides for the undergrounding of new telephone and utility lines, “maintaining the low density, low profile residential character of the community through zoning regulations and design guidelines,” and “ensuring compatibility between residential and non-residential development through zoning regulations and design review.” The City’s concerns for preservation of its community including public safety, visual impact, and aesthetics relate to preserving the residential character of the community by imposing these New Design Guidelines that relate to location, camouflaging, height, size and spacing of wireless telecommunications facilities. As well, the New Design Guidelines also provide separation between wireless telecommunications facilities and the front of homes along permitted rights-of-way within residential zones serves to reduce the intrusiveness of any new wireless telecommunications facilities.

E. The City is mindful of the need to minimize the potential adverse impacts on the community which includes amongst other things, limiting wireless site visibility and impacts to

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the City’s aesthetic well-being, while balancing same against the need for sufficient cell coverage for emergency needs and complying with both federal and state laws. These New Design Guidelines are particularly focused on minimizing visibility from residences, encouraging undergrounding of utilities, and limiting the height of such facilities to be consistent with the single-family residences that predominate the housing stock of Los Altos. In keeping with these goals, these New Design Guidelines serve to ensure the preservation of the local residential areas.

F. These New Design Guidelines serve to help minimize and/or alleviate possible threats to the public health, safety and welfare of the City of Los Altos, including but not limited to, potential disturbance to the right-of-way through the installation and maintenance of wireless telecommunication facilities; traffic and pedestrian safety hazards due to the unsafe location of wireless facilities; impacts to trees where proximity conflicts may require unnecessary trimming of branches or require removal of roots due to related undergrounding of equipment or connection lines; land use conflicts and incompatibilities including excessive height of poles and/or towers; creation of visual and aesthetic blights and potential safety concerns arising from excessive size, heights, noise or lack of camouflaging of wireless telecommunications facilities including the associated pedestals, meters, equipment and power generators; and the creation of unnecessary visual and aesthetic blight by failing to utilize alternative technologies or capitalizing on collocation opportunities, all of which has the potential to yield serious negative impacts on the unique quality and character of Los Altos.

G. The reasonably regulated and orderly development of wireless telecommunication facilities in the public-right-of-way is desirable, and unregulated or disorderly development represents a threat to the health, welfare, and safety of the Los Altos community.

H. The City’s beauty is an important reason for businesses to locate in the City and for residents to live here. The City’s economy, as well as the health and well-being of all who visit, work or live in the City, depends in part on maintaining the City’s beauty. The City has been moving towards the undergrounding of various utilities, including the First Street and Lincoln Park Undergrounding Utility projects, and needs to ensure that this effort is not hindered by the addition of numerous wireless telecommunications facilities cabinet, wires, cables, and bulky equipment that visually impede and clutter the City’s public rights of way. The New Design Guidelines serve to encourage the reduction of all appurtenant equipment, screening of same, and efforts at undergrounding.

I. The City Council takes legislative notice of the various federal court decisions and FCC Order that have recognized the City’s ability to impose the New Design Guidelines to protect the aesthetics of Los Altos. In fact, the FCC Order goes on to state that local aesthetic requirements that are reasonable in that they are technically feasible and reasonably directed to avoiding or remedying the intangible public harm of unsightly or out-of-character deployments are permissible. *In the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Inv.*, 33 F.C.C. Rcd. 9088 (2018), *aff’d in part, rev’d in part, City of*

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Portland v United States, 969 F.3d 1020, 1032 (9th Cir. 2020) and *see also Sprint PCS v. City of Palos Verdes Estates* (2009) 583 F.3d 716.

J. The City acknowledges that there has been an ever-increasing demand for the placement of wireless telecommunication facilities within the public rights of way, in order to offer increased coverage in the way of numerous expanding technologies such as: cell phones, video streaming, and on line access to work from home during the COVID -19 pandemic. In connection with the ever increasing demand for expanding technologies, the City is also mindful of the carriers desire to move forward with 5G and the potential increase in applications for wireless facilities within this small suburban community has the potential to greatly impact the quality of life and the bucolic nature of the community.

K. The overarching intent of the New Design Guidelines is to make wireless telecommunications reasonably available while preserving the essential rural character of Los Altos. The New Design Guidelines will foster such by minimizing the visual and physical effects of wireless telecommunications facilities through appropriate design, screening techniques and location standards; and encouraging the installation of such facilities where and in a manner such that potential adverse impacts to Los Altos is minimized.

L. The City adopted its Current Design Guidelines back in August of 2019. This occurred after the City held a study session and several public hearings, at which stakeholders discussed wireless and other infrastructure deployment issues, and expressed their design and location preferences, practical and safety concerns, aesthetic concerns, policy views and the essential local values that make Los Altos a uniquely small suburban community. The City’s residents in the summer of 2019 called out the numerous concerns at play with aesthetics, and these concerns included numerous objections that were focused on visual blight such as:

- Small cell nodes previously proposed by carriers, AT&T and Verizon, to the City of Los Altos were visually intrusive and unsightly;
- The City should continue to be judicious about and distaste for visual blight;
- The need to eliminate visual blight;
- The need to consider potential visual blight, to mitigate noise and heat;
- Wireless facilities should be regulated in order to preserve Los Altos’ neighborhood aesthetic guidelines;
- Cell towers or small cells are unsightly, noisy and add to the visual blight from the existing electric and telephone lines;
- Cell towers are ugly and there is no need for extra eye sores;
- The mounting of "small" refrigerator-sized boxes on the side of an existing utility poles is unsightly and adds to visual blight; and
- The cell tower is an eye sore that emits an annoying fan type noise that has a negative impact on the quality of life of the residents who live there or who walk within the community.

These same concerns as to visual blight, aesthetic impairment and noise remain at play today.

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SECTION 2. DESIGN GUIDELINES: REPEAL OF PRIOR RESOLUTION.

The City Council previously adopted Resolution No. 2019-35 on August 5, 2019. The Council hereby repeals Resolution No. 2019-35 in its entirety as of the effective date of Ordinance No. 2022-___ setting forth locational standards for wireless telecommunications facilities (“Wireless Locational Ordinance”) This Resolution and the Design Guidelines found in the attached Appendix shall only become effective if the Council adopts the proposed Wireless Ordinance.

SECTION 3. NEW DESIGN GUIDELINES.

The City Council hereby adopts the New Design Guidelines set forth the **Appendix**, which New Design Guidelines are incorporated with this Resolution

SECTION 4. DEFINITIONS

The definitions set forth in Section 11.12.020 of the Municipal Code are incorporated by reference into this Resolution. In addition, the **Appendix** provides definitions for “Small Cell Facility” and Underground Areas.”

SECTION 5. SEVERABILITY.

If any provision of this Resolution or its application to any person or circumstances is held invalid, such invalidity has no effect on the other provisions or applications of the Resolution that can be given effect without the invalid provision or application, and to this extend, the provisions of this Resolution irrespective of the invalidity of any portion thereof.

SECTION 6. EFFECTIVE DATE.

The City Clerk shall certify the adoption of this Resolution and cause it, or a summary of it to be published as required by law. This Resolution shall become effective as of the effective date of Ordinance No. 2022-___, setting forth locational standards for wireless telecommunications facilities.

APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Los Altos this ___ day of _____, 2022.

Anita Enander
Mayor, City of Los Altos

Attest: Andrea Chelemengos
City Clerk

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APPENDIX TO CITY OF LOS ALTOS RESOLUTION 2022-__ DESIGN AND DEVELOPMENT STANDARDS FOR WIRELESS TELECOMMUNICATIONS FACILITIES

I. Definitions

A. Small Cell Facility: shall have the same meaning as “small wireless facility” in 47 C.F.R. 1.60020), or any successor provision (which is a personal wireless services facility that meets the following conditions that, solely for convenience, have been set forth below):

1. The facility-
 - a. is mounted on a structure 50 feet or less in height, including antennas, as defined in 47 C.F.R. Section 1.1320(d), or
 - b. is mounted on a structure no more than 10 percent taller than other adjacent structures, or
 - c. does not extend an existing structure on which it is located to a height of more than 50 feet by more than 10 percent, whichever is greater;
2. Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in 47 C.F.R. Section 1.1320(d)), is no more than three cubic feet in volume;
3. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
4. The facility does not require antenna structure registration under 47 C.F.R. Part 17;
5. The facility is not located on Tribal lands, as defined under 36 C.F. R. Section 800.16(x); and
6. The facility does not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified in 47 C.F.R. Section 1.1307(6).

B. Underground areas: Those areas where there are no electrical facilities or facilities of the incumbent local exchange carrier in the right of way; or where the wires associated with the same are or are required to be located underground; or where the same are scheduled to be converted from overhead to underground. Electrical facilities are distribution facilities owned by an electric utility and do not include transmission facilities used or intended to be used to transmit electricity at nominal voltages in excess of 35,000 volts.

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II. Design And Development Standards for all Wireless Telecommunications Facilities.

A. Purpose. The purpose of this section is to provide guidelines to applicants and the City that prescribe clear, reasonable, and predictable design criteria to reduce visual and land use impacts associated with wireless telecommunication facilities in the City. Nothing in this section shall be construed to permit a wireless telecommunication facility in any location or configuration that it is otherwise prohibited by the City’s locational and development standards found in Chapter 14.82.

The design and development standards set forth in this section apply to all wireless telecommunications facilities no matter where they are located. Wireless telecommunications facilities shall be designed and maintained so as to minimize visual, noise, and other impacts on the surrounding community and shall be planned, designed, located, and erected in accordance with the design and development standards in this section.

B. Basic Design Principles. The following describes basic principles upon which wireless telecommunications facilities design guidelines are based. They are intended to provide guidance in the application of the general and detailed design guidelines in the review and evaluation of site-specific wireless telecommunications facilities permit applications.

- 1. **Impact Minimization.** The overall impacts of a wireless telecommunications facility shall be minimized in relation to aesthetic, land use, noise, traffic, and other considerations. Although this is generally accomplished with the smallest feasible design for any given facility, a larger facility may sometimes be appropriate if it is well concealed, compatible with the surrounding neighborhood, and can reduce the overall number of wireless telecommunications facilities required to provide service within the City.
- 2. **Integration and Concealment.** Integration and concealment of a wireless telecommunications facility and its resulting visibility are a function of site context as well as the design and placement of a facility on a specific site.

- a. Overall, new wireless telecommunications facilities and modifications to existing facilities shall be visually integrated into their sites and as hidden from view as feasible.
- b. Non-integrated (unconcealed) installations are less preferred and permitted only where an integrated (concealed) facility is either infeasible or



Figure 1: This well-concealed wireless telecommunications facility has its antennas architecturally integrated into the building.

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would reduce the number and overall visual intrusiveness of wireless telecommunications facilities required to provide service within the City.

- c. Complete concealment (e.g., no visible exterior equipment) is preferred over other methods.
 - d. Covering or painting antennas and equipment does not necessarily mean they are well-concealed and must be evaluated based on their actual ability to conceal the facility. Factors to be considered include the visibility of exterior pole equipment on a pole regardless of its color and concealment methods (antenna skirts, fiberglass paneling, fiber-reinforced plastic [FRP] boxes, etc.) themselves.
 - e. RF safety barriers shall be the least visible barrier feasible. When feasible, striping and restricted access shall be used instead of posts, chains, and/or fencing. When barriers must be visible, building materials should be integrated into the design of the facility and its adjacent surroundings.
 - f. Any feature that is represented on plans and photo simulations submitted to the City as providing concealment (adjacent landscaping, paint colors, architectural elements, etc.) shall be present for the life of the project, and therefore need to be within the applicant's control.
 - g. Future modifications to a site or facility reduce concealment that was provided with the initial installation shall not be permitted unless no feasible alternative exists, or the proposed modification involves colocation and an overall reduction of the visual intrusiveness of wireless telecommunications facilities within the City.
- 3. Context.** Specific situations require specific design solutions. What integrates well into one site and conceals a wireless telecommunications facility might not be appropriate for another situation. Proposed designs shall therefore be evaluated based on the following considerations.
- a. Concealment behind a parapet might be a good design solution; however, designs that raise the parapet or only a portion of the parapet might not be.
 - b. Façade-mounted antennas or a cupola might be appropriate for certain styles of architecture, but not for others.
 - c. Placement of a wireless telecommunications facility on an existing pole or a replacement pole might or might not be visually unobtrusive, depending on the extent to which the facility adds to the height of the pole and the presence and extent of external equipment and cabling added to the pole.
 - d. Placement of a new pole within a street right-of-way might or might not be appropriate depending on the location of any nearby utility poles, streetlights, or traffic signals.

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- e. Placement of a new pole on a property outside of a right-of-way (such as on a new flagpole) might or might not be appropriate depending on its design and location in relation to buildings and other onsite features.
- f. A wireless telecommunications facility that fits into its context (e.g., a faux tree within an area having existing trees) is generally more integrated (concealed) than one that does not (e.g., a faux tree in the middle of a non-landscaped parking lot or a faux tree that is poorly designed or of a species not otherwise present in the area).
- g. New wireless telecommunications facilities are generally appropriate as a means of reducing the overall number of facilities within the community but might be visually intrusive depending on their height, design, and placement.

C. No Speculative Facilities. A wireless telecommunications facility, telecommunications collocation facility, or telecommunications tower that is built on speculation and for which there is no wireless tenant shall be prohibited within the City.

D. General Guidelines.

- 1. **Concealment.** Each facility shall be designed to be as visually inconspicuous as feasible, to prevent the facility from dominating the surrounding area, and to conceal the facility from predominant views from surrounding properties, all in a manner that achieves compatibility with the community.
 - a. Cabling and equipment should be concealed wherever feasible. Where cabling and/or equipment cannot feasibly be fully concealed from public view, they should be designed and located so as to minimize their visual intrusiveness.
- 2. **Traffic Safety.** All facilities shall be designed and located in such a manner as to avoid adverse impacts on traffic safety.
 - a. Any wireless telecommunications facility attachments placed less than 16 feet above ground level shall not be placed closer than 18 inches to a curb where one is installed or as determined by the Engineering services Department where no curb is installed, nor shall they extend over a sidewalk (Caltrans Highway Design Manual Section 309).
 - b. All wireless telecommunications facility equipment shall maintain at least 3 feet separation from any curb cut.
- 3. **Antennas.** The applicant shall use the least visible antennas possible to accomplish the coverage objectives. Antenna elements shall be flush mounted, to the extent reasonably feasible. All antenna mounts shall be designed so as not to preclude probable future collocation by the same or other operators or carriers. Antennas shall be situated to reduce visual impact without compromising their function. Whip antennas need not be screened.

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4. Landscaping.

- a. Where appropriate, facilities shall be installed so as to maintain and enhance existing landscaping on the site, including trees, foliage, and shrubs, whether or not the landscaping is used for screening.
- b. The wireless telecommunications facility’s design shall be consistent with the existing and/or proposed landscape design of the adjacent site, using a similar or complementary plant palette.
- c. Existing, mature trees shall be retained when feasible. Any existing landscaping removed or damaged by installation shall be replaced in kind.
- d. Additional landscaping shall be planted, irrigated, and maintained where such vegetation is deemed necessary by the City to provide screening or to block the line of sight between facilities and adjacent uses. Landscaping to screen wireless telecommunications facilities shall not, however, block the lines of sight and create hazards for motorists, bicyclists, and pedestrians.
- e. Any proposed underground vaults shall be designed and constructed so as to protect existing street trees, including roots within the tree’s drip line.
 - (1) A report from an experienced arborist shall be provided to the City upon request confirming the tree’s root system has been adequately protected.
- f. Landscaping proposed to screen, conceal, complement, or soften the visual intrusiveness of a wireless telecommunications facility shall remain for the life of the permit, even if not located within the applicant’s lease area. Adequate provisions shall be entered into with property owners to ensure that required landscaping is not removed, and that it is properly maintained. Landscaping outside the applicant’s control is generally not considered to provide concealment, but concealment provided by such landscaping can be considered on a case-by-case basis.

5. Signage. Wireless telecommunications facilities and wireless telecommunications collocation facilities shall not bear any signs or advertising devices other than certification, wattage, or other signage required by law or permitted by the City.

6. Lighting. A wireless telecommunications facility shall not be illuminated unless lighting is specifically required by the Federal Aviation Administration or other government agency, or the lighting is in association with the illumination of an athletic field on City or school property. Lighting arresters and beacon lights are not permitted unless required by the Federal Aviation Administration or other government agency. Legally required lightning arresters and beacons shall be included when calculating the height of facilities such as telecommunications towers, lattice towers, and monopoles.

7. Noise.

- a. Each wireless telecommunications facility and wireless telecommunications collocation facility shall be operated in such a manner so as to minimize any disruption caused by noise.
- b. At no time shall any facility be permitted to generate noise exceeding the noise levels specified in Municipal Code Chapter 6.16 except for backup generators operated during periods of power outages.
- c. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends, on holidays, or on weekdays between the hours of 5:00 p.m. and 7:00 a.m.
- d. Where feasible, passive louvers and/or other passive ventilation shall be provided as the primary means of temperature control.

8. Security. Each wireless telecommunications facility and wireless telecommunications collocation facility shall be designed to be resistant to, and minimize opportunities for, unauthorized access, climbing, vandalism, graffiti, and other conditions that would result in hazardous situations, visual blight, or attractive nuisances. The City may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when, because of its location or accessibility, a facility has the potential to become an attractive nuisance. The applicant shall cover any costs associated with the techniques described herein.

9. Modification of Existing Equipment. At the time of modification of a wireless telecommunications facility, existing equipment shall, to the extent feasible, be modified or replaced to reduce visual, noise, and other impacts. This shall include the reduction of the size of the ground cabinet and/or replacement with an underground vault. Examples include, but are not limited to, undergrounding the equipment or replacing larger, more visually intrusive facilities with smaller, less visually intrusive facilities.

III. Additional Design and Development Standards for Facilities Outside of the Public Right-of-Way and Public Utility Easements.

A. Basic Requirements. Facilities located outside the public right-of-way and public utility easements are subject to the design and development standards set forth in this section in addition to the design and development standards that apply to all facilities (Section 4).

B. Preferred Designs.

1. Façade-Concealed Antennas. Façade-concealed antennas have antennas, mounting apparatus, and any associated components fully concealed from all sides within a structure that achieves complete architectural integration with the existing building (for example, antennas behind fiber-reinforced plastic [FRP] in a parapet, and

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equipment inside an existing building), or within outbuildings that are architecturally integrated into a site and are expected components of the setting. This preferred installation type has the following additional characteristics.

a. Cables and cable trays are completely hidden from view with cables routed internally or buried underground.



Figure 2: This completely concealed wireless telecommunications facility, including antennas, is cited in the City of San Diego's Land Development Manual in its guidelines for wireless communications facilities.

(1) Exterior cable trays designed to replicate an existing vertical element may be considered on a case-by-case basis.

(2) Standard cable trays painted and textured to match the existing building are indicative of a façade-mounted facility rather than the preferred façade-concealed facility.

b. Equipment and equipment areas shall be completely hidden.

(1) Associated equipment shall be completely concealed inside an existing building, inside an underground vault, or by the same method as the antennas (RRUs, RRHs, surge suppressors, and similar).

(2) Screen walls, fences, and prefabricated facilities are generally not indicative of building-concealed facilities; however, equipment enclosures designed to replicate existing buildings and structures may be considered on a case-by-case basis. This guideline shall apply to any existing or proposed mechanical equipment that serves the wireless



Figure 3: Antennas are concealed behind the circular element.

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telecommunications facility, including, but not limited to, generators, air conditioning units, and similar equipment.

- c. FRPs shall be both textured and painted to match adjacent building faces. Paint and texture should match completely.
- d. There should be no noticeable transitions (e.g., seams or differences in paint or texture) between FRP and adjacent surfaces.
- e. If concealed within a parapet, the top, sides, and rear of antennas and associated components shall also be enclosed or otherwise screened from view. No wireless telecommunications facility components, including antenna, mounting apparatus, cabling, or equipment, should be visible.
- f. If a project extends the parapet upward, the extensions should have symmetry in all visible dimensions. Antennas and concealment elements shall not dominate the element on which they are placed.

2. Faux Architectural Elements. Faux architectural elements are existing or proposed architectural elements on a building that completely conceal antennas. They are distinguished from façade-concealed antennas in that they appear to be architectural elements of a building.

- a. This preferred installation type may take a variety of forms, such as tower elements and cupolas. Architectural integration may also include tapered columns (which may hide façade-mounted antennas individually), wing walls, dormers, statues, façade-mounted signage, and other elements.
- b. This preferred installation type shall be appropriate to the architectural context and have the following additional characteristics:



Figure 4: A cupola (above) and a clock tower (below) conceal antennas.

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- (1) Design that matches the style of the building and is designed as a feature commonly found on the type or style of building upon which the element is proposed; and
 - (2) Colors and textures that match the existing building, including finishing features such as reveals, windows, tapers, cornices, tiling, roofing materials, and trim.
- c. Antennas and related equipment shall not encroach from a building into the public right-of way or onto an adjacent property.

3. Rooftop Concealment. If accessory equipment for roof-mounted facilities cannot be installed inside the building or underground, such accessory equipment may be located on the roof of the building that the facility is mounted on, provided that both the equipment and screening materials are painted the color of the building, roof, or surroundings. Rooftop facilities that appear to be a building façade, architectural element, or parapet are considered to be façade-concealed, façade-mounted, or faux architectural facilities. Rooftop concealment is considered to be a preferred design where façade integration is not feasible.

- a. Roof-mounted facilities shall be designed and constructed to be fully concealed or screened in a manner compatible in color, texture, and type of material with the existing architecture of the building on which the facility is mounted. Screening shall not increase the bulk of the structure nor alter the character of the structure.
 - (1) All screening materials for roof-mounted facilities shall be of a quality and design that is architecturally integrated with the design of the building or structure.
 - (2) Rooftop concealment shall be appropriate to the architectural setting, matching the colors and textures of existing building (including features such as reveals, cornices, tiling, roofing materials, and trim), and shall be designed as a feature commonly found on the type or style of building upon which the facility is proposed.
 - (3) Integration into existing rooftop elements is preferred over creating new rooftop elements unless integration would be architecturally undesirable.
 - (4) The height of rooftop screening shall not exceed the maximum height permitted by the zoning district within which the facility is located.
 - (5) Roof-mounted wireless telecommunications facilities shall not be visible from any side and may need to be concealed from the top if adjacent structures are taller and have views onto the roof where wireless telecommunications facilities are proposed to be mounted.
 - (6) Equipment located on the roof of an existing structure shall be set back or located to minimize visibility, especially from the public right of-way or

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viewing locations accessible to the public. Rooftop screening elements will generally need to be set back from the roof edge at least as far as they are tall.

(7) Rooftop screening shall not dominate a façade. For example, an antenna screen that approaches the height of a building story and runs most of the length of a façade containing windows would substantially increase building height but not appear as part of the structure. In this case, it would be more desirable to extend the parapet and make the building itself appear taller.

b. Unconcealed rooftop installations such as lattice towers, monopoles, and rack mounts that are visible from the public right-of-way or viewing locations accessible to the public shall not be permitted.

4. Architecturally Designed Stand-Alone Towers. Towers that are designed to appear as buildings or signs, and that conceal antennas completely within them, may be permitted where appropriate to the site on which they are proposed. Examples include, but are not limited to, clock towers and obelisks.

a. Architecturally designed stand-alone towers shall be of high-quality design and provide variation in planes, textures, colors, or treatments to avoid the look of a simple box.

b. Clock towers shall have a functioning clock at all times.

c. A separate sign permit may be required for any onsite sign used to conceal antennas.

d. A wireless telecommunications facility permit may not be used to request signage that does not comply with Municipal Code standards for signage.

5. Athletic Field Lights. The guidelines in this section are for lights used to illuminate large areas for the purposes of recreation. For lights used to illuminate the immediate area for pedestrian or driver safety, see Section C.4, Parking Lot Light Standards, below.

a. Antennas shall be mounted as close as possible to the pole and within an antenna shroud that conceals the antennas and any associated components. No wireless telecommunications facility component except the antenna shroud shall be visibly mounted to a pole.

b. Antennas and mounting components shall be painted the same color as the pole.

c. All cables and conduit to and from the light standard shall be routed from the caisson up into the pole. Cable coverings may be permitted in limited circumstances where they would be minimally visible.

d. When a wireless telecommunications facility is proposed on a field with no existing lighting or no functional lighting, the applicant shall provide additional lighting as required to provide a functionally illuminated sports field. Partial lighting of a sports field is not acceptable.

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C. Other Permitted Designs.

1. Façade-Mounted Antennas. Façade-mounted antennas are any antennas mounted on the exterior of a building that are not faux architectural elements. Façade-mounted antennas shall:

- a. Employ a symmetrical, balanced design.
 - (1) No interruption of architectural lines or horizontal or vertical reveals should occur.
 - (2) Antennas should be no longer or wider than the façade on which they are proposed and shall not encroach into window areas or protrude above or below the surface on which they are mounted.
 - (3) Antennas should be mounted with their tops at the roofline unless there is an obstacle, or unless to do so would decrease concealment.
- b. Use the smallest mounting brackets available to provide the smallest offset from the building.
- c. Limit the distance from the front of the antenna (or antenna shroud/FRP) to the face of the building to 12 inches. Panel antennas may be mounted up to 18 inches away from a building façade when the applicant provides evidence demonstrating that the wireless communication facility cannot operate without incorporating a tilt greater than 12 inches.
- d. Fit each antenna into the design of an existing façade, with each antenna being no longer or wider than the portion of the façade upon which it is mounted. The antennas should not interrupt the architectural lines of the façade.
- e. Conceal associated mounting brackets and cable from view. Any pipes or similar apparatus used to attach panel antennas to a building façade shall not extend beyond the length or width of the panel antenna. Measurements may be verified during inspection.



Figure 5: Although façade-mounted boxes are not preferred, this example from San Diego achieves integration with the structure.

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- f. If a façade-mounted facility dominates a façade element, use façade-mounted FRP boxes that look like an extension of the façade.
 - g. If not covered by an FRP box, use skirts and chin covers to conceal mounting hardware, create a cleaner appearance, and minimize visual impact. Chin covers shall be designed to replicate the antenna profile. Transitions between antennas and screening devices should not be visible (no gaps). Antennas should appear to be the same length, width, and depth, spaced uniformly.
 - h. Match the color and texture of concealment measures to adjacent building surfaces, including includes trim, reveals, lines, and similar features. No visible transition lines or gaps should occur.
 - i. Avoid exposed cabling.
 - j. If not covered by an FRP box, provide a unified appearance. If antennas differ in shape or size, they should all be given unified dimensions using skirts and chin straps spaced uniformly across a façade.
 - k. Locate ventilation openings on the top or bottom of screening elements only.
 - l. Not encroach from a building into the public right-of way or onto an adjacent property.
- 2. Faux Trees.** Wireless telecommunications facilities may be designed to emulate trees where trees similar in size and species are present. Faux trees may also be appropriate when natural trees of similar species are planted concurrent with faux tree installation, depending on the density and size of trees being planted.

- a. Faux trees shall be of a type and size to adequately conceal antennas within them while appearing natural.
 - (1) Faux trees shall replicate the shape, structure, and color of live trees, and be designed to look like the tree species they intend to replicate (e.g., a faux pine tree shall be shaped like a pine tree). Branching shall not make the tree look top-heavy or unnatural.



Figure 6: In this example, antennas are concealed by the faux "mono-pine."

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- (2) If no trees exist within the immediate area, the applicant shall create a landscape setting that integrates the faux tree with added species of a similar height and type.
 - (3) All branches at the antenna level shall extend a minimum of 24 inches beyond the entire vertical length of the antennas for maximum concealment. Antenna socks shall not count toward this requirement.
 - (4) Faux trees shall be designed with a minimum of four branches per foot for full density coverage with limited spacing between the branches unless three dimensional (3D) models justify lower branch counts.
 - (5) There shall be no gaps in branch coverage. All branch ports shall be used for branches. Branches shall blend down the tree with no abrupt transitions.
 - (6) Poles should be five feet shorter than the overall height of the faux tree to allow branching at the top of the tree.
 - (7) Due to the physical form of palm trees and the difficulty of providing concealment for wireless telecommunications facilities, faux palms shall not be permitted.
- b. Applications proposing faux tree installations shall provide detailed specifications during plan review, including:
 - (1) 3D-modeled photo simulations illustrating branches, foliage, pole, and equipment; and
 - (2) Sufficient samples, models, or other means to demonstrate the quality, appearance, and durability of the faux tree.
 - c. Projects shall not be approved at final inspection if they do not match the approved exhibits, including photo simulations.

3. Flagpoles and Similar Vertical Elements. This section addresses the design of wireless telecommunications facilities designed as flagpoles or other stand-alone pole-like elements that are not used for illumination or above-ground utilities.

- a. Flagpoles shall replicate the design, diameter, and proportion of the vertical element they are intended to imitate and shall maintain a tapered design.
- b. Generally, flagpoles should be 30 feet or less in height and not exceed 9 inches in diameter.
 - (1) Flagpoles that are higher than 30 feet and/or exceed 9 inches in diameter may be permitted where the flagpole is located in a suitable setting and appropriately tapered to maintain the appearance of an authentic flagpole.
- b. Antennas and any pole-mounted equipment shall be enclosed within the flagpole. Flagpoles shall not have an antenna shroud.

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- c. Flagpoles shall comply with the U.S. Flag Code at all times.
- d. All cables shall be routed directly from the ground up through the pole.
- 4. Parking Lot Light Standards.** These guidelines are for lights used to illuminate the immediate area for vehicular and pedestrian safety within a parking lot.
 - a. Light standards used for wireless telecommunications facilities shall:
 - (1) Replicate the design, diameter, and proportion of the vertical element they are intending to imitate; and
 - (2) Replicate as closely as possible the design of any other lighting standard within the parking lot, including but not limited to the height of other parking lot lighting standards and the design, material, and color of nearby light poles.
 - b. All cables and conduit to and from the light standard shall be routed from the caisson through the pole to the antennas.
 - c. All antennas shall be concealed inside an antenna shroud of a shall be compatible with the diameter of the pole or concealed within the pole.
 - d. Light fixtures shall be sized and balanced with the design and height of the overall light pole.

D. Pole-Mounted Telecommunications Facilities.

- 1. Facilities mounted to a telecommunications tower, including, but not limited to, the attached antennas, shall be designed to be the minimum functional height and width required to adequately support the proposed facility and meet Federal Communications Commission (FCC) requirements. The applicant shall provide documentation satisfactory to the City Manager establishing compliance with this paragraph.
- 2. Monopole installations shall be situated so as to utilize existing natural or man-made features including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening.
- 3. All antenna components and accessory wireless equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background or existing architectural elements so as to visually blend in with the surrounding development. Subdued colors and non-reflective materials that blend with surrounding materials and colors shall be used.
- 4. Monopoles shall be no greater in diameter or other cross-sectional dimensions than is necessary for the proper functioning of the facility.

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E. Accessory Equipment.

- 1. All accessory equipment associated with the operation of any wireless telecommunications facility shall be fully screened or camouflaged and located in a manner to minimize its visibility to the greatest extent feasible.
- 2. Accessory equipment for facilities mounted to a telecommunications tower shall be visually screened by locating the equipment either within a nearby building, in an underground vault (with the exception of required electrical panels) or in another type of enclosed structure, which shall comply with the development and design standards of the zoning district in which the accessory equipment is located. Such enclosed structure shall be architecturally treated and adequately screened from view by landscape plantings, decorative walls, fencing or other appropriate means, selected so that the resulting screening will be visually integrated with the architecture and landscaping of the surroundings.

F. Signage.

- 1. All wireless facilities must include signage that accurately identifies the equipment owner/operator, the site name or identification number, and a toll-free number to the owner/operator's network operations center.
- 2. Wireless facilities may not bear any other signage or advertisements unless expressly approved by the City, required by law or recommended under existing and future FCC or other United States governmental agencies for compliance with RF emissions regulations.
- 3. RF notification signs shall be placed where appropriate, and not at pedestrian eye level, unless required by the FCC or other regulatory agencies.

IV. Additional Design and Development Standards for Facilities in the Public Right-of-Way and in Public Utility Easements.

A. Basic Requirements. Facilities located in the public right-of-way and in public utility easements are subject to the design and development standards set forth in this section in addition to the design and development standards that apply to all facilities. Only pole-mounted antennas shall be permitted in the right-of-way. All other telecommunications towers are prohibited.

B. Preferred Configurations

- 1. Light Poles Wherein all Equipment, Cabling, and Antennas are Within the Pole Itself and/or Entirely Under the Ground.**
 - a. Use of light poles for wireless telecommunications facilities may be permitted where there are existing light poles or in areas where a new light pole would be appropriate (e.g., intersections).

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- b. The maximum height of any antenna mounted to a street light pole shall not exceed seven feet above the existing height of a street light pole in a location where the closest adjacent district is a commercial zoning district and shall not exceed three feet above the existing height of a street light pole in any other zoning district. Any portion of the antenna or equipment mounted on such a pole shall be no less than 18 feet above any drivable road surface (including driveways, areas between roadway curb lines where curbs are provided, and as determined by the Engineering Services Department along roadways with shoulders).
- c. Antennas shall be fully shrouded unless full shrouding would impede signal propagation. Antenna shrouds shall be the same diameter as the pole, unless multiple antennas (no more than three) are provided, in which case the maximum total diameter of antennas and shrouds shall be no greater than 29 inches.
- d. Associated equipment at the bottom of a pole (the “base”) shall be concealed in a pole base that is:
 - (1) Up to 20 inches square and four feet tall; or
 - (2) Within a side-mounted shroud up to 16 inches wide, 12 inches deep and 5.5 feet tall.
- e. To prevent accumulation of trash, facilities shall be designed to avoid flat surfaces in the transition from the base to the upper pole.
- f. Poles shall be painted and textured to City standards to match existing streetlights in the vicinity.

C. Less Preferred Configurations.

1. Existing or Replacement Utility Poles.

- a. All installations on utility poles shall fully comply with the California Public Utilities Commission (CPUC) general orders (GOs), including, but not limited to, GO 95.1.
- b. The maximum height of any antenna mounted to an existing utility pole shall not exceed 24, unless required by General Order 95, in which case the maximum height shall not exceed 48 inches above the height of an existing utility pole, exclusive of mounting hardware. No portion of the



Figure 7: Landscaping conceals wireless telecommunications equipment mounted on the exterior of this pole located on Distel Drive.

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antenna or equipment mounted on a pole shall be less than:

- (1) 18 feet above any drivable road surface; or
- (2) 7 feet above any portion of the right-of-way outside of the drivable road surface (e.g., parkways, medians).

- c. Unless otherwise required by General Order 95:
 - (1) All antennas shall be shrouded. Antenna shrouds should have an outer diameter of 15" or less and measure no more than five cubic feet in size.
 - (2) The shroud should be no more than 4 feet tall, including antenna, radio head, mounting bracket, and all other hardware necessary for a complete installation.

2. Stand-Alone Poles along Rights-of-Way with No Existing Overhead Utility Lines.

- a. Where a stand-alone pole is proposed within a right-of-way or public utility easement with no overhead utility lines, the preferred configuration is for all equipment to be concealed within the pole itself, with an antenna/shroud mounted directly to the top of the pole and no visible transitions. No equipment shall be visible outside the pole. Equipment may, however, be placed in an underground vault.
- b. Antennas and shrouds shall be no wider than 21 inches.
- c. Associated equipment at the bottom of a pole (the "base") shall be concealed in a pole base that is:
 - (1) up to 20 inches square and four feet tall; or
 - (2) within a side-mounted shroud up to 16 inches wide, 12 inches deep and 5.5 feet tall.
- c. To prevent accumulation of trash, facilities shall be designed to avoid flat surfaces in the transition from the base to the upper pole.
- d. Stand-alone poles match the height and color of any nearby streetlight or utility pole.

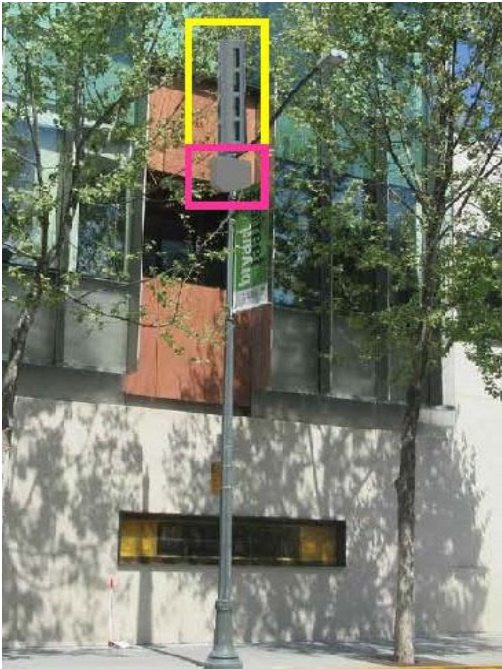


Figure 8: Stand-alone small cell poles (as shown in this example) are not preferred but may be permitted if enclosure of all equipment within the pole or in an underground vault is technically infeasible.

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3. Light Poles Wherein Equipment, Cabling, and Antennas are Not Completely within the Pole Itself and/or Entirely Under the Ground.

- a. Use of light poles for wireless telecommunications facilities may be permitted only in areas where light poles are appropriate.
- b. The maximum height of any antenna mounted to a street light pole shall not exceed seven feet above the existing height of a street light pole in a location where the closest adjacent district is a commercial zoning district and shall not exceed three feet above the existing height of a street light pole in any other zoning district. Any portion of the antenna or equipment mounted on such a pole shall be no less than 18 feet above any drivable road surface or 7 feet above any portion of the right-of-way outside of the drivable road surface (e.g., parkways, medians).
- c. Antenna shrouds shall be the same diameter as the pole unless multiple antennas are proposed, in which case, the antennas and shrouds shall be no wider than 21 inches.
- d. Associated equipment at the bottom of a pole (the “base”) shall be concealed in a pole base that is:
 - (1) up to 20 inches square and four feet tall; or
 - (2) within a side-mounted shroud up to 16 inches wide, 12 inches deep and 5.5 feet tall.
- e. To prevent accumulation of trash, facilities shall be designed to avoid flat surfaces in the transition from the base to the upper pole.
- f. Poles shall be painted and textured to City standards to match existing streetlights in the vicinity

D. Requirements for Approval of Less-Preferred Configurations.

- 1. Application Requirements.** Applications that involve less-preferred configurations may be approved only if the applicant demonstrates that:
 - a. No preferred configuration would be technically feasible; or
 - b. The proposed configuration would be aesthetically superior to a preferred configuration due to existing conditions at the proposed site.

The burden of proof for demonstrating that one of these two conditions exists shall lie with the applicant.

- 2. Accompanying Evidence.** Applications that involve a less-preferred configuration shall be accompanied by clear and convincing written evidence demonstrating the need for approval of the proposed configuration rather than a preferred configuration.

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3. Independent Consultant. In reviewing a request for a less-preferred configuration, the City may hire an independent consultant at the applicant’s expense to evaluate the applicant’s demonstration of need for the proposed less-preferred configuration.

E. Pole Requirements.

1. Pole Height and Width Limitations.

- a. All poles for wireless telecommunications facilities shall be designed to be the minimum functional height and width required to support the proposed antenna installation and meet FCC requirements. Poles, antennas, and similar structures shall be no greater in diameter or other cross-sectional dimension than is necessary for the proper functioning of the facility.
- b. Pole-mounted equipment shall not exceed nine cubic feet in dimension.

2. Requirements for Replacement Poles. If an applicant proposes to replace a pole in order to accommodate the facility, the pole shall match the appearance of the original pole to the extent feasible, unless another design better accomplishes the objectives of this section. Such replacement pole shall not exceed the height of the pole it is replacing by more than seven feet.

3. Requirements for New Poles. New poles shall be designed to resemble existing poles in the right-of-way, including size, height, color, materials, and style, unless (a) the existing poles are scheduled to be removed and not replaced, or (b) another design better accomplishes the objectives of this section.

F. Pole-Mounted Facilities Requirements.

1. Facilities Mounted to a Telecommunications Tower.

- a. Facilities mounted to a telecommunications tower, including, but not limited to, the attached antennas, shall be designed to be the minimum functional height and width required to adequately support the proposed facility and meet FCC requirements. The applicant shall provide documentation satisfactory to the City Manager establishing compliance with this paragraph. In any event, facilities mounted to a telecommunications tower shall not exceed the applicable height limit for structures in the applicable zoning district.
- b. Aside from the antenna itself, no additional equipment may be visible. All cables, including, but not limited to, electrical and utility cables, shall be run within the interior of the telecommunications tower and shall be camouflaged or hidden to the fullest extent feasible without jeopardizing the physical integrity of the tower.

2. Monopoles.

- a. Monopole installations shall be situated so as to utilize existing natural or man-made features including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening.

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- b. All antenna components and accessory wireless equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background or existing architectural elements so as to visually blend in with the surrounding development. Subdued colors and non-reflective materials that blend with surrounding materials and colors shall be used.
- c. Monopoles shall be no greater in diameter or other cross-sectional dimension than is necessary for the proper functioning of the facility.

G. Accessory Equipment.

- 1. All accessory equipment associated with the operation of any wireless telecommunications facility shall be screened or camouflaged and located in a manner to minimize the equipment’s visibility to the greatest feasible extent.
- 2. Accessory equipment for facilities within public rights-of-way shall be visually screened to the extent feasible by locating the equipment either in an underground vault (with the exception of required electrical panels), or by landscape plantings.
- 3. **Space Occupied.** Facilities shall be designed to occupy the least amount of space in the right-of-way that is technically feasible.
- 4. **Cables.** All cables, including, but not limited to, electrical and utility cables, between the pole and any accessory equipment shall be placed underground, if feasible.
- 5. **Wires.** Except for wood utility poles and other solid core poles, all new wires needed to service the wireless telecommunications facility shall be installed within the width of the existing utility pole so as to not exceed the diameter and height of the existing utility pole.
- 6. **Equipment Undergrounding.** All equipment (other than the antenna, antenna supports, ancillary wires, cables and any electric meter) shall be installed underground wherever feasible.
- 7. With the exception of the electric meter, which shall be pole-mounted to the extent feasible, all accessory equipment shall be located underground to the extent feasible. All wireless equipment installed on poles should be completely contained within an equipment shroud. Equipment shroud and lines should be painted, treated or finished to match existing utility pole and line aesthetics. Utility line installations should have a non-reflective color and finish. Required electrical meter cabinets shall be adequately screened and camouflaged.

H. Americans with Disabilities Act Compliance. All facilities shall be built in compliance with the Americans with Disabilities Act (ADA), and no facility shall be approved that would render any portion of the right-of-way noncompliant with the ADA.

I. Other Requirements.

- 1. **Facilities on Decorative Streetlights Prohibited.** Small wireless facilities shall not be located on decorative streetlights.

Attachment 3

- 2. **Pole Height Calculation.** Legally required lightning arresters and beacons shall be included when calculating the height of facilities. Pole height shall be is measured from the top of foundation, which should be flush with the ground, to the top of pole or top of antenna, whichever is greater.
- 3. **New Pole Material and Finish** New pole material and finishes should match the existing materials of the City standard streetlight poles or match aesthetics and materials of existing decorative poles.
- 4. **Disturbance of Topography and Vegetation.** Disturbance of existing topography and on-site vegetation shall be minimized unless such disturbance would substantially reduce the visual impacts of the facility.
- 5. **Separation of Service.** Separation of service shall be provided by installing all new electrical conduit(s) or using empty conduit(s) with the conduit owner’s express consent in writing.
- 6. **Facilities on Streetlight or Traffic Signal Control Poles.** For proposed facilities on streetlight or traffic signal control poles, a hand hole should be provided at the top of the pole to maintain fiber and electrical service for streetlights and future attachments.
- 7. **Pole Foundation Calculations.** Pole foundation calculations shall be prepared and stamped by a California professionally licensed structural engineer and provided to the City for review. Pole foundation calculations shall account for all new and existing pole attachments and the pole.
- 8. **Pole Structural Calculations.** Pole structural calculations, including seismic loads, showing the load impacts of the wireless facility on City streetlight and traffic signal control poles, shall be prepared and stamped by a California professionally licensed structural engineer and provided to the City for review.
- 9. **Design Wind Velocity.** Design wind velocity shall be 115 miles per hour (mph) minimum in accordance with TIA-222 rev G, IBC 2012 with ASC 710, and amendments for local conditions.
- 10. **Trench Backfill.** Asphalt concrete sections for trench backfills shall be a thickness

City of Los Altos

Wireless Telecommunications Facilities Ordinance and Design Guidelines

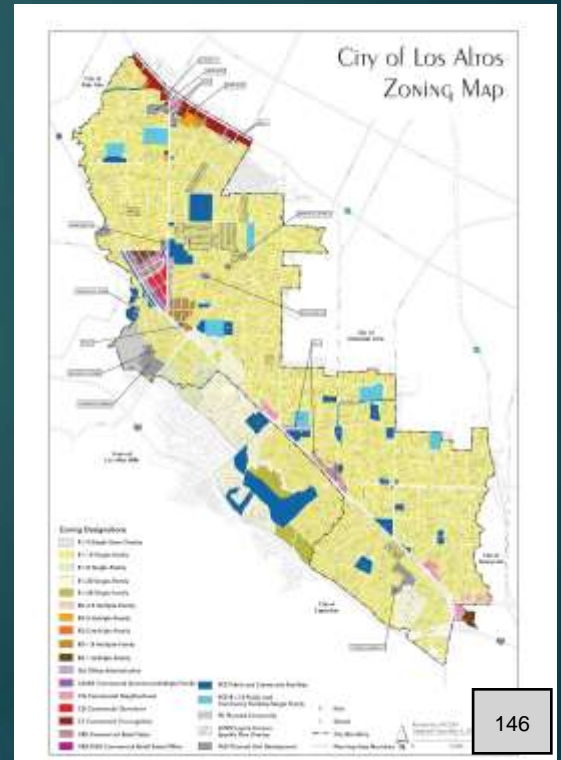
City Council Public Hearing

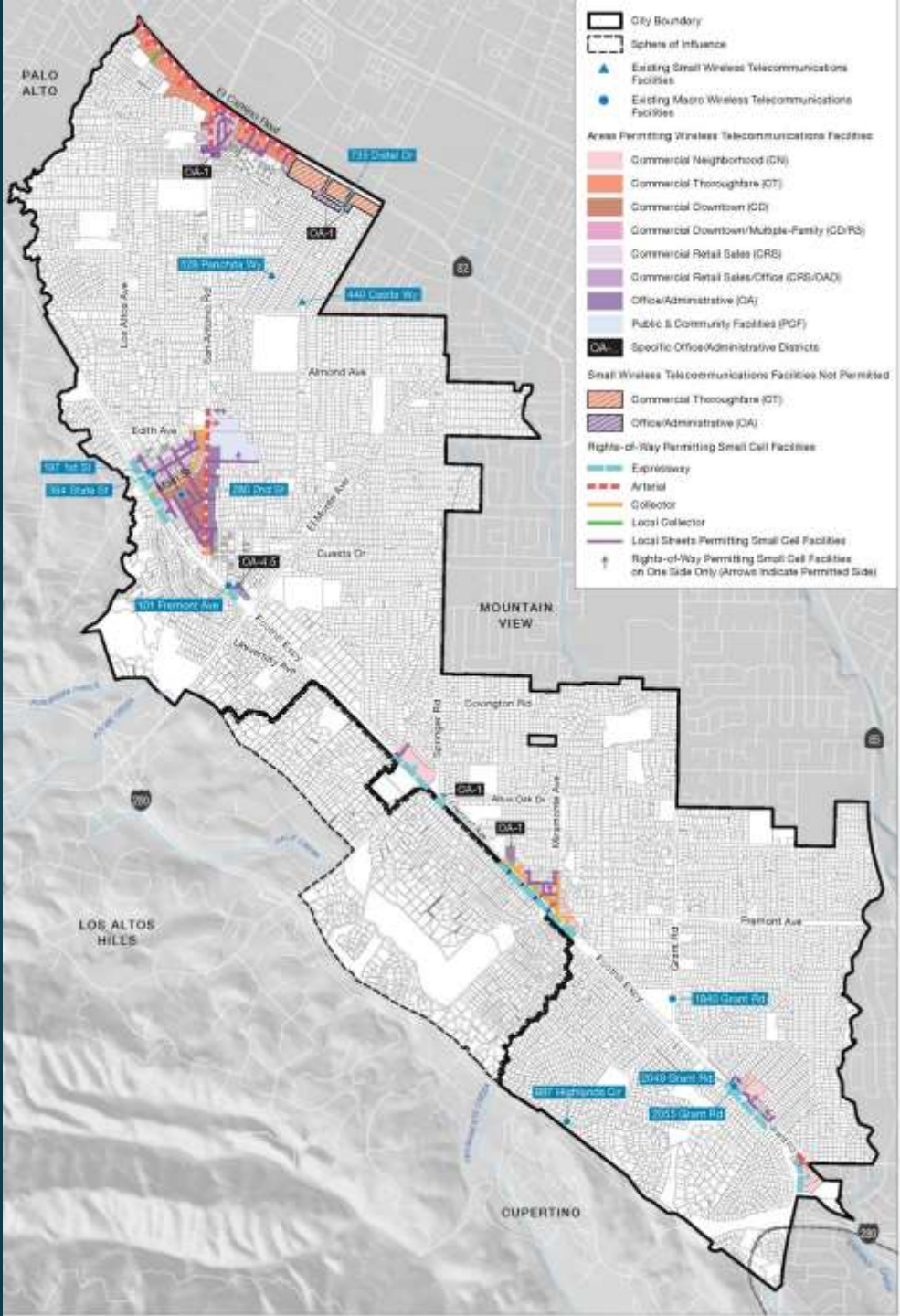
APRIL 12, 2022

Purpose of Ordinance and Design Guidelines



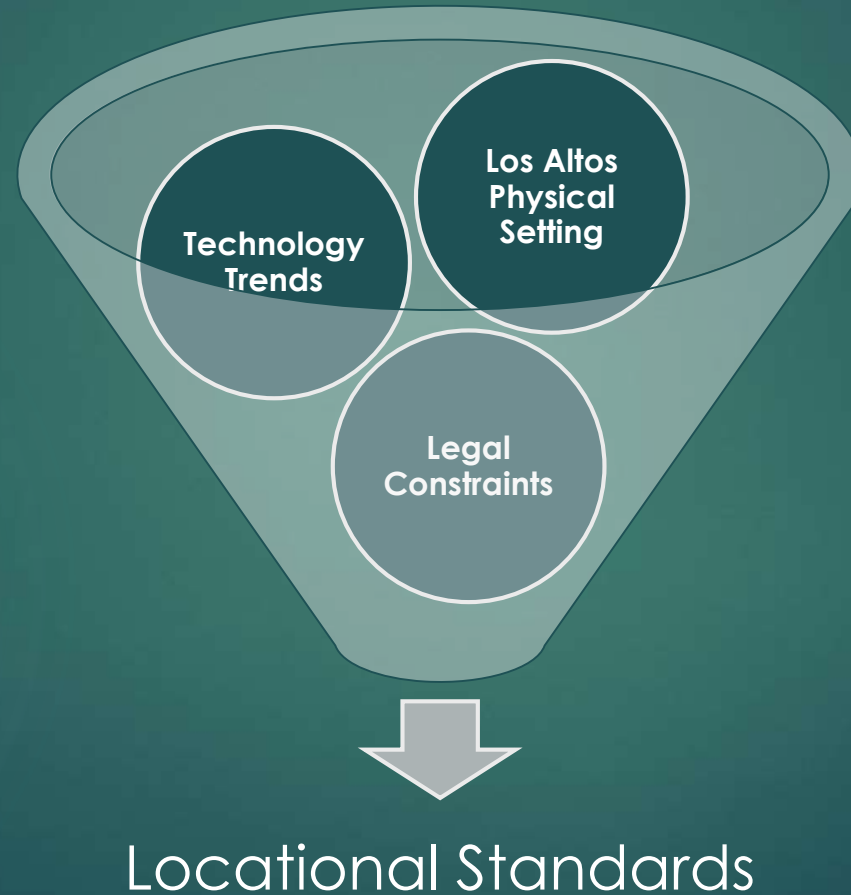
Locational Standards



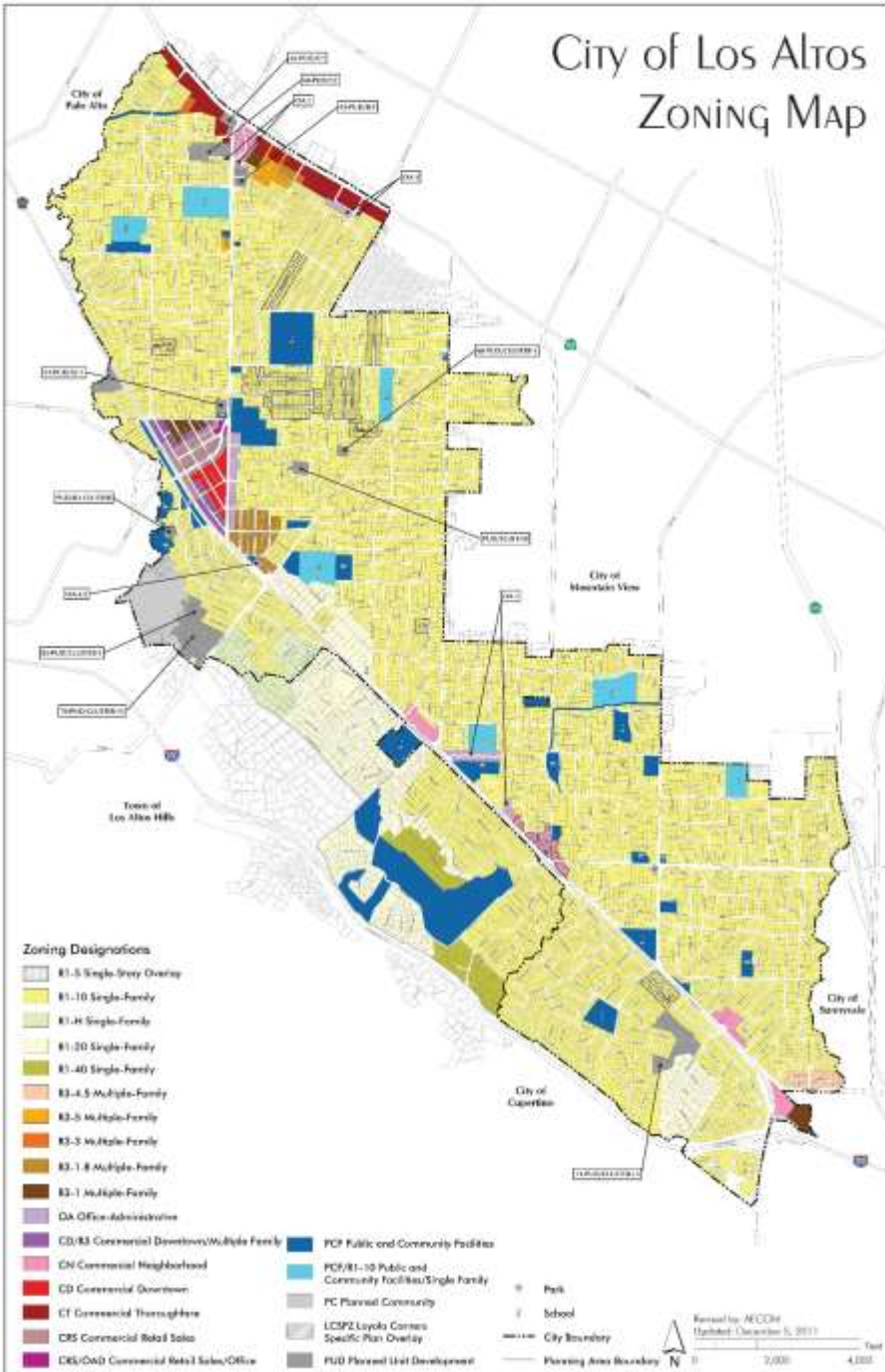


Existing Permitted Locations

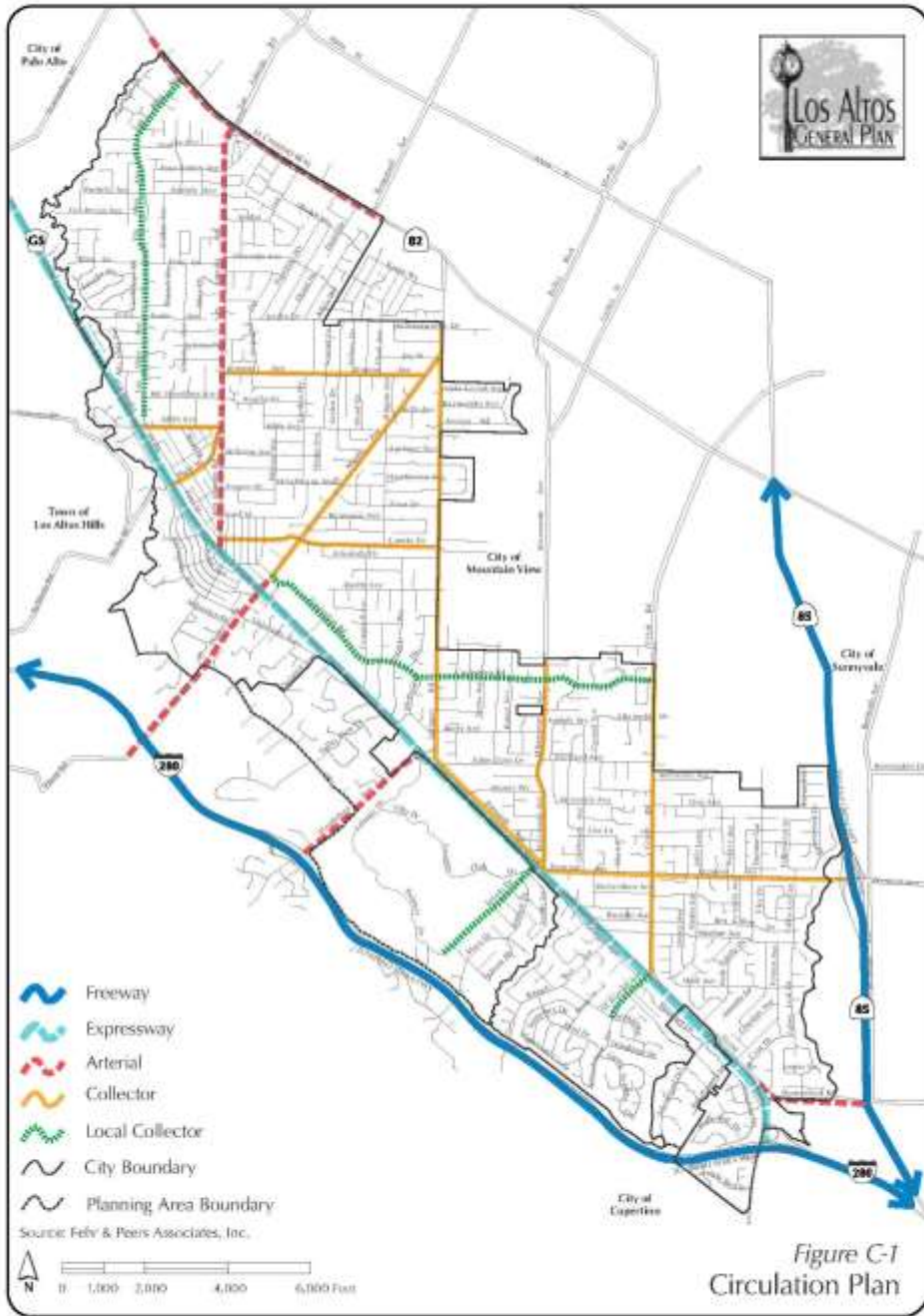
Factors Considered in Locational Standards



City of Los Altos ZONING MAP



Los Altos Land Use Pattern



Location of Expressways, Arterials, Collectors, and Local Collectors

Wireless Telecommunications Facilities Technology Trends

Small Facilities



Less visually intrusive.
Smaller, less powerful antennas.
Closer spacing.
Difficult to co-locate facilities.
Therefore, more facilities.

Large visually intrusive towers.
Greater power allows for:

- Greater spacing;
- Co-location; and
- Fewer facilities.

“Macro” Facilities



Legal Constraints



Cannot regulate based on radio frequency (RF) emissions.

Cannot require or prohibit any specific technology.

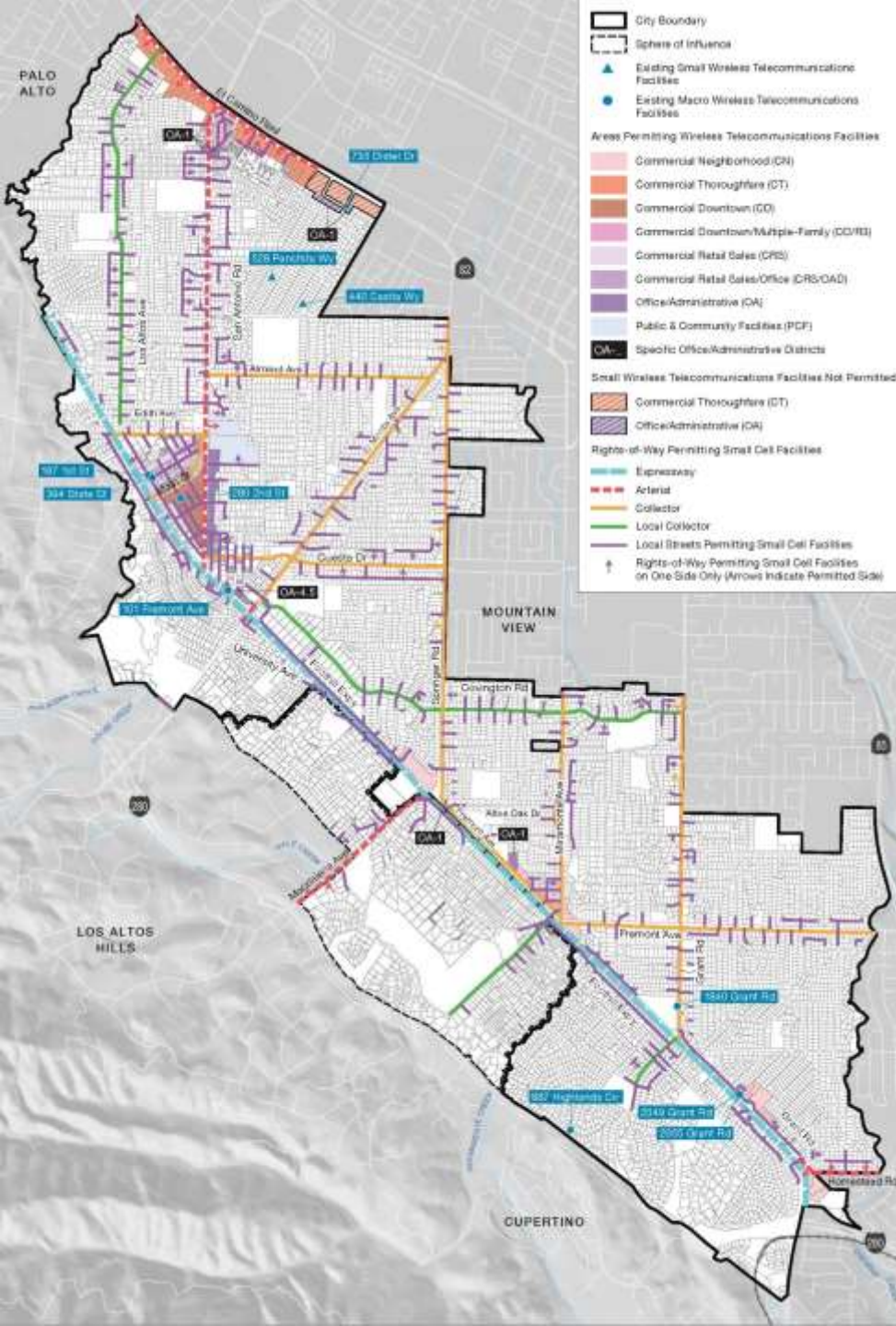
Proposed Revisions to Locational Standards

Existing Locational Standards

- ▶ Excludes Residential Zones (private properties and rights-of-way).
- ▶ 500-foot buffer from schools.
- ▶ 1,500-foot buffer between small facilities.

Proposed Locational Standards

- ▶ Excludes Residential Zones (private properties outside of rights-of-way only).
- ▶ Includes rights-of-way for:
 - ▶ Expressways, Arterials, Collectors, and Minor Collectors;
 - ▶ Local commercial streets;
 - ▶ Local residential streets within 200-500 feet of Expressways, Arterials, Collectors, and Minor Collectors; and
 - ▶ Potentially, other local residential streets based on a systemwide review of carriers' facilities.
- ▶ 1,000-foot buffer between small facilities.



Proposed Preferred and Less Preferred Locations

Three-tiered Approach to Wireless Facilities Locations

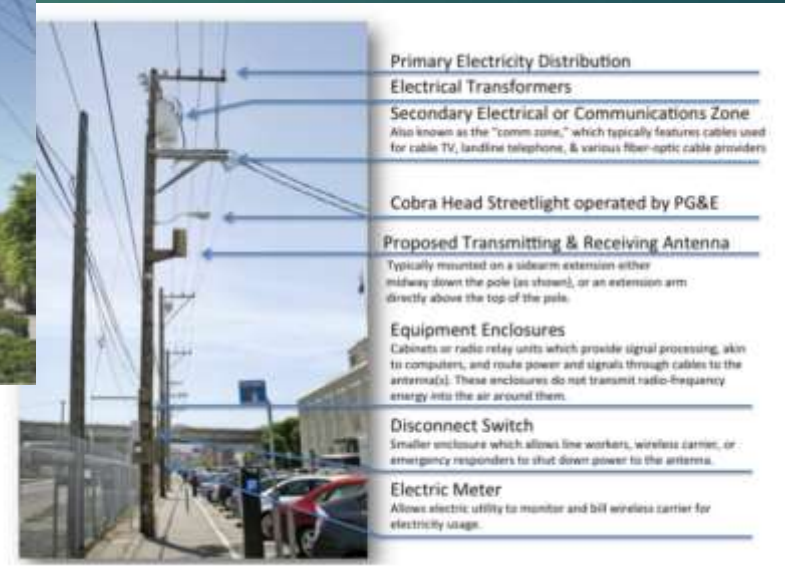


Design Guidelines

This



Not This



Proposed Revisions to Design Guidelines

Add explicit design principles for all wireless facilities.

Modify configuration preferences.

Supplement existing guidelines and add illustrations.

Proposed Design Principles for Wireless Facilities

Minimize Impacts

Visual

Noise

Other

Integration and Concealment

1. Facilities are to be visually integrated into their sites and as hidden from view as feasible.

Unconcealed design permitted only if a concealed facility is infeasible or would reduce the number and overall visual intrusiveness of facilities.

Context

What integrates well into one site and conceals a wireless telecommunications facility might not be appropriate for another situation.

Expanded Design Guidelines

• Specific design preferences for facilities within:

- Rights-of-way
- Private properties

• Landscape design.

- Retain existing, mature trees wherever feasible.
- Retain landscaping for the life of the facility.

• Design underground vaults to protect existing street trees.

• Provide passive rather than mechanical ventilation where feasible.

Recommendation

Approve:

- ▶ Resolution 2022-__, Adopting a Negative Declaration in compliance with CEQA
- ▶ Ordinance 2022-__, Wireless Telecommunications Facilities Locational Standards, as recommended by the Planning Commission with additional modifications
 - ▶ 1,000-foot separation between small wireless facilities
 - ▶ Demonstration of feasibility for approval of less preferred sites or design configurations
 - ▶ Criteria for “Least Preferred Sites” replacing proposed systemwide review
- ▶ Resolution 2022-__, Wireless Telecommunications Facilities Design Guidelines, as recommended by the Planning Commission with additional modifications



PUBLIC CORRESPONDENCE

The following is public correspondence received by the City Clerk’s Office after the posting of the original agenda. Individual contact information has been redacted for privacy. This may *not* be a comprehensive collection of the public correspondence, but staff makes its best effort to include all correspondence received to date.

To send correspondence to the City Council, on matters listed on the agenda please email PublicComment@losaltosca.gov

From: [Roberta Phillips](#)
To: [City Council](#); [Public Comment](#)
Subject: Small Cell Node Towers/ Council Meeting April 12,2022
Date: Tuesday, April 5, 2022 11:48:41 AM

Dear Council Members

I attended the Planning Commission meeting March 3,2020m and many questions were not answered regarding the small cell node towers in Los Altos

I live on San Antonio Road which is targeted for small cell node towers. I am in the R1 district which is residential and now the new proposal wants to ignore that . I am concerned about the noise. The road is already noisy and adding more noise is unacceptable. Adding more poles is visually unacceptable. Please stop industrializing my neighborhood.

At the Planning Commision meeting it was stated that changing the current ordinance will NOT result in dropping the current lawsuits. If the carriers still plan on suing the City, then so be it.

I don't see the reasoning that some residential neighborhoods are protected and others are not. How is that fair ?

Below is the email I sent to the Planning Commision.

RobertaPhillips

[Redacted]

Roberta Phillips [Redacted] >

Sun, Feb 27, 2:51 PM



to planningcommission, City



Dear Planning Commissioners

The existing ordinance 11.12 may or may not be sufficient to address the installation of 5 G small cell nodes in Los Altos. If a change is not absolutely necessary then please do not change it and stick with what we have now. What has case law proven ? What are we as a City allowed to do or not do, to allow or prohibit 5G? What are our attorneys recommending as to what will fly with a judge? What is happening with the pending lawsuits? Will changing the ordinance end the lawsuits ? How many small cell node towers are needed in Los Altos ? What is the maximum distance towers need to be spread apart to have the system work? Does AT&T and Verizon want 20 or 200 or 2000? Can the equipment be shared by carriers or will we need to have twice or three times as many as necessary to support 5G from two or three or four carriers ? Before you have this information , I suggest you change nothing as you do not know the consequences of your actions.

The staff seems to be taking the approach of identifying sites based on expressway, arterial ,collector and local collector streets. Perhaps another approach would be to eliminate R1 zoning and school sites as areas where 5G will not be allowed. I see no justifiable reason to industrialize our city by picking certain streets such as San Antonio Rd or El Monte or Cuesta to industrialize, while not touching other residential neighborhoods. If the cell node towers are safe in one area, they should be safe in all areas.

The unsitenelness of the equipment does not belong in R1 residential neighborhoods. The noise generated is not acceptable in the R1 districts.

I am looking forward to the commission finding out the answers to my questions, and ones you may have yourself.

Sincerely

Roberta Phillips

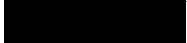
From: [Roberta Phillips](#)
To: [City Council](#); [Public Comment](#)
Subject: Council meeting April 12,2022 #6 Wireless Telecommunications Faciltites
Date: Thursday, April 7, 2022 9:57:16 AM

Dear Council Members

There are still a lot of questions that have not been answered.

1. Is the proposed small cell node facilities for 4G or 5G or any "G' that may come in the future?
2. A friend in Los Altos has a poll that is currently used by the carriers. It makes a lot of noise because of the fans. Will the new facilities have fans ?Do the fans run day and night? What noise levels are acceptable under our ordinances? There is already noise from traffic.Noise is culmination and adding more noise is unacceptable..
3. Why target San Antonio Rd? I do not want to industrialize this street as sections are R1.There are already tons of polls and it does not seem to be room for any more polls. This is visually unattractive and certainly does not fit with the village character. Are the residents who live on SanAntonio Rd second class citizens?
4. At the Planning Commission meeting it was asked if this new plan would stop the lawsuits. The answer was no. Why change the ordinance if it does not solve the problem of lawsuits ?

Sincerely
Roberta Phillips



From: [Jane Osborn](#)
To: [Public Comment](#); [City Council](#); [Gabriel Engeland](#); [Planning Services](#)
Subject: Public Comment, Agenda Item #6. April 12, 2022, Wireless Facilities Ordinance
Date: Friday, April 8, 2022 5:04:35 PM

Dear Honorable Mayor, Vice-Mayor and Council,

This is an edited version of a letter I sent to the planning commission on March 17, 2022.

I'm writing in regard to the proposed revision of the ordinance that determines placement of 5G "small" cell towers (aka, "facilities") within the city. My husband and I were very supportive of the original emergency ordinance passed in 2019. We are opposed to this revised ordinance that is being considered at the upcoming council meeting, especially in it's current form.

This is an important issue, which has a very high degree of interest among residents. This was evidenced by the high turnout at the public meetings held in 2019, at which hundreds of people attended in-person, in addition to people who attended on-line. The turnouts were the highest I have ever seen at council meetings or study sessions over a period of several years. There was standing room only at LAYC, and more chairs had to be brought in--as it was packed close to the back wall. Dozens of people gave testimony expressing concerns during the series of hearings that were held in 2019. Many, if not most of these people appeared to be speaking from a position of experience or expertise in regard to one or more of the areas of concern that they were addressing in their comments.

We are assuming that this revised (amended) ordinance is in response to lawsuits from two of the wireless carriers.

My husband and I have many concerns about the revised 5G ordinance, but I will touch on three of them.

• It is our opinion that there was not sufficient notice to the public for the 30 day period within which we would be allowed to respond to the recommendation for a negative declaration of environmental impact. I first learned of this revised ordinance when I received the notice of the planning commission meeting in my in-box on 2/25/22. Apparently the deadline for the public to respond to the recommendation for a negative declaration of environmental impact was 2/24/22. It is my impression that there was not adequate notice to the public both in regard to sufficient time and with respect to visibility of the notice. Considering the degree of interest on the part of residents, there should have been better prior notice. I did not even see a reference to this in any of the weekly city manager newsletters.

Similarly, we feel that the public and the council would have benefited from a longer period of prior notice with regard to agenda item #6 before holding a public hearing on this very complex and consequential matter. I realize that a one week notice is customary. However, this revised ordinance is a 119 page document. In my opinion, more time is needed for people to read, digest and respond to this information. This latest draft appears to have been rather extensively revised since it was first presented to the planning commission on March 3, 2022. This is a complex issue with many facets. In addition, these amendments will create significant consequences, including negative consequences, for some residents. It is expected that there could be a very high degree of public interest on this topic, as evidenced by

the extensive and widespread interest shown during a series of public hearings held in 2019. There has not been much public notice that this issue is being re-considered by the council, other than meeting notices. I suspect that most residents, including residents who have an interest in this topic, are unaware that this issue is being re-considered, and have not yet seen a draft of the amended ordinance. **Under the circumstances, we are hoping that the council will hold more than one public hearing on this matter, in order to allow the public to weigh-in with their opinions and concerns.**

• **The ordinance appears to divide the residents of the city into two classes, or sub groups.** One sub group, people who live on local roads, (or people in the first class), appear to be protected from the negative effects of 5G "small" cell towers on their streets. The second group, which is less privileged (a second class), are not protected equally or to the same degree as the first group,. This second group (the apparent second class) are people who live on local collector streets, collector streets, and arterial streets, or people who live on local roads, but near the local collector, collector, arterial streets, and the expressway.

It appears that this second subgroup of residents is not protected equally from the known and/or suspected negative effects of 5 G small wireless facilities, such as: Visual blight, which will make our residential streets look more industrial; Noise, which was measured by a council member to be 56 dB at one location; Expected loss of property value, (which was estimated by realtors who gave testimony in 2019 to be as much as 20%).

The second sub group also is not as protected from the suspected/potential negative cognitive, academic and other health effects due to Rf emissions--which have been suggested in the research findings of hundreds of scientific studies which have been reported in a growing body of peer reviewed scientific literature.

We are very aware that cities are not allowed to consider health effects due to Section 704 of the Telecommunications Act of 1996, which appears to be outdated and was passed when wireless technology was at a much earlier stage in it's development, and when there were far fewer research findings available. However, this does not mean that adverse academic, cognitive, and other neurological and health effects do not exist.

Many residents have been left with the impression that a subgroup of residents have been targeted to be the "sacrificial lambs" in order to make a lawsuit go away.

It is possible that the people drafting this ordinance did not intend to marginalize one group of residents in this fashion. However, it is my impression that this does not look good, and does not appear to represent good public policy.

• **I was very surprised to hear that the city was recommending a negative declaration of environmental effects, especially in view of the fact that the Natural Resources Defense Council (NRDC) won a lawsuit against the FCC in August 2019, as explained in this publication:**

<https://mdsafetech.org/2019/12/08/nepa-the-nrdc-and-5g-neighborhood-cell-towers/>

The ruling in this lawsuit appears to give Native American Tribes and all cities "...the right to require a National Environmental Protection Act (NEPA) analysis (provide proof of

exemption) before cell towers are placed.". According to the publication referenced above, this would apply to placement of small cell towers (AKA "wireless facilities").

It is noteworthy that the NRDC was able to present enough evidence of actual or potential harm to the environment from wireless facilities, (which includes impact on the "human environment"), that they were able to prevail in a lawsuit against the FCC in a federal court.

I would like to note that the NRDC is a highly regarded organization, which appears to be staffed by scientists and attorneys with a science background, who are attempting to safeguard the environment. It is significant to note that they were given a rating of 96.1 out of 100 by Charity Navigator.

We realize that the city is in a very challenging situation. Please do your best to protect the residents from both known and suspected/potential negative effects of wireless facilities, including loss of aesthetics, expected loss of property values, auditory pollution and noise, and to protect the health and well being of residents in the most equitable manner possible.

Thank you very much for your consideration.

Respectfully,
Jane Osborn, PhD

E. Jane Osborn, Ph.D. Nationally Certified School Psychologist, NCSP [REDACTED] Licensed Educational Psychologist, LEP [REDACTED] Cognitive and Developmental Psychology. [REDACTED]
[REDACTED]

From: [James Tringali](#)
To: [Public Comment](#)
Cc: [Theresa Tringali](#)
Subject: PUBLIC COMMENT - AGENDA ITEM #6 - April 12, 2022
Date: Saturday, April 9, 2022 6:12:41 PM

Dear City of Los Altos Planning Commission,

We are appalled seeing the suggestion in the latest draft ordinance (Feb 22, 2022) of using churches as an acceptable back door for embedding small cell towers in our neighborhoods. We don't see how placing small cell towers on church property has less impact on visual blight, noise, safety and our property values than placing them on school property.

We implore the City to stay as true to the original 2019 wireless emergency ordinance as possible and ensure we don't have cell towers placed close to schools, churches and homes. While some residents have expressed valid health concerns of placing cell towers so close to our schools, churches and homes, We understand the City is unable to take these concerns into account due to Federal laws. However, there are other issues We'd like the City to consider including visual blight, noise, safety and property values.

Visual blight: The City's utility poles are visually unappealing. We don't want to increase the unsightliness with cell towers on the tops of these poles, not to mention a refrigerator's worth of equipment hanging to the side.

Noise: Cell towers make considerable noise from their cooling fans. Having these towers placed so close to our homes would negatively impact our living environment.

Safety: Most cell towers have a refrigerator's worth of equipment, including lithium ion batteries that have been known to cause fires. It's not safe to place flammable materials on combustible wooden poles that could potentially burn down a home or neighborhood.

Property Values: Cell towers placed so close to homes will reduce the attractiveness of homes in the area. According to Realtor Magazine, a study found that 94% of home buyers would not purchase a home near a cell tower.

Please do not place cell towers close to our homes, churches and schools. Please find alternative locations.

Sincerely,

Los Altos Residents

James and Theresa Tringali

From: [Trina Weller](#)
To: [Public Comment](#)
Date: Monday, April 11, 2022 7:52:40 PM

Dear City Council Members:

Regarding the proposed modifications to the ordinance for small wireless facilities, I object to the inequitable treatment of and failure to represent residents who live on and adjacent to arterials, collectors, and local collectors. These locations are ranked as more preferred than other “residentially zoned” streets. Most of the collectors and local collectors in Los Altos, however, are residentially zoned! All residents of Los Altos will benefit equally from the 5G upgrade, so all neighborhoods should equally bear the brunt of the visual blight, noise, and estimated decrease in property values.

The authors of the revised ordinance state they are recommending the higher density of facilities on the local collectors, collectors, and arterial streets to retain the beauty and essential rural character throughout Los Altos, (p. 38 and p. 39). In other words, they think it is OK to destroy the character and safety and livability of some streets (collectors, local collectors, adjacent local roads, and arterials) in order to retain the beauty and character of the rest of the streets. There is absolutely no justification for this creation of two classes of residents.

Please remove this preference to protect the character of all residential properties equally.

Regards,
Katherine Weller
Los Altos Resident

From: [Melissa Smith](#)
To: [Public Comment](#)
Date: Tuesday, April 12, 2022 11:18:34 AM
Attachments: [Los Altos Letter Final 4 11 2022 PDF\(1\).pdf](#)

Dear Los Altos City Council,

I strongly support Dr. Cindy Russell's attached letter regarding the Los Altos Wireless Ordinance and ask that you include all of the requests that she has brought to the attention of the Council and place them in the updated ordinance.

Sincerely,
Melissa Smith

To: Los Altos City Council
council@losaltosca.gov
aenander@losaltosca.gov
smeadows@losaltosca.gov
nfligor@losaltosca.gov
lleeeng@losaltosca.gov
jweinberg@losaltosca.gov

From: Cindy Russell, MD

Re: Revisions to 2019 Los Altos Ordinance to Regulate Small Wireless Facilities

Date April 11, 2022

Dear Los Altos City Council:

I am writing today to strongly urge you to reinstate (with legally appropriate revisions) several of the major aspects of the original 2019 Small Cell Wireless Ordinance that diminish blight and protect the beauty, character and health of your lovely Silicon Valley community. In addition, after reading the new 2022 proposed Wireless Facilities Ordinance it appears that some important provisions may have been missed in crafting a new Small Cell ordinance which are critical for the safety of the residents and also reduce liability for the city. This includes several insurance provisions, minor modifications to existing facilities, permitting process, and more.

Encinitas and Malibu have passed ordinances which have elements that are protective but allow flexibility for cities and exceptions/waivers for the carriers. They remain uncontested.

- **Encinitas, CA-** Revised from 2019- Passed June 20, 2020
<https://encinitasca.gov/Portals/0/City%20Documents/Documents/Development%20Services/Planning/Land%20Development/Small%20Wireless%20Facilities/Resolution%20No.%202020-38%20With%20Policy.pdf?ver=2020-07-13-192634-373>
- **Malibu Resolution 21-17** – Attached please find an executed copy of Res. 21-17 is officially binding because Ordinance 484 adopts it by reference.

I will summarize my ask of the Los Altos City Council with these key points below, followed by backup for those points with additional pertinent legal information which does impact the issue of health/science, as per a court ruling from the second highest court in the land on August 13, 2021, a ruling that referred to the existing RF radiation regulatory limits as "arbitrary and capricious". Arbitrary and capricious means that the law and/or the facts were knowingly disregarded. That is a high bar indeed and the plaintiffs reached that bar. It behooves us to consider what is going on in the courts and pass ordinance language accordingly:

PLEASE PAUSE: There are resolutions as mentioned above that have successfully balanced the unique needs of communities with the rights of the telecommunications industry. The new resolution does not have to be passed Tuesday night. Some reflection on the best that Encinitas and Malibu have to offer may benefit all of us in the long run.

Key Points

- 1. TITLE OF ORDINANCE: Clarification if this applies to Small Cell or Macro Cells; macro towers must go through conditional use permits
- 2. LOCATION STANDARDS – PREFERRED SITES
- 3. WAIVERS FOR STANDARDS
- 4. FIRE SAFETY
- 5. APPEALS PROCESS

Thank you for passing the 2019 Wireless Facilities Telecommunications Ordinance. The original wireless facilities ordinance for Los Altos took into consideration public concerns, was well thought out and protects the city of Los Altos from poorly designed and poorly placed cell towers.

I understand, however, that there is a lawsuit against the City for Los Altos from Verizon and AT&T claiming that the 2019 ordinance as written “effectively prohibits” wireless communications. You are commended for taking on this task of revising the ordinance in response. Some of the 2022 proposed changes are good and clarify the permitting process for carriers to avoid lawsuits and provide for “personal wireless services”, however, I believe there are some gaps in protections and flexibility for the city that I would like to point out which could be remedied in addition to some clarifications.

It is important to consider adding the provisions below. As you note with the FCC lawsuit to reevaluation the 20 year-old FCC safety standards, the courts have judged that the FCC did not take into account several aspects of human health and environmental effects in setting their standards. We do not know what the future holds for the federal Telecommunications Act of 1996 or state law. The city of Los Altos needs to be prepared to alter its ordinance in case there is a change in the law in the future.

Representative Anna Eshoo Supports Local Control for Cell Towers

The 2018 FCC small cell order that fast tracks deployment of small cells in order to “cut the red tape” has prompted cities around the country, like Los Altos, to write these emergency ordinances and now revise them. The FCC Declaratory ruling has been considered an overreach of the Telecom Industry which dominates the FCC (FCC: Captured Agency, N. Alster), overriding the basic rights of cities to have local control. This was recognized by our local representative Anna Eshoo who in 2019 introduced HR530 to protect the rights of states and government by deeming that the “*Federal Communications Commission’s Declaratory Ruling in “Third Report and Order and Declaratory Ruling” (FCC 18-111) shall have no force or effect.*” This bill had 52 co-sponsors. Senator Feinstein introduced in 2019 a companion federal bill SB 2012 to block the FCC order. Neither moved.

Representative Eshoo also sent a letter to the FCC in 2020 to ask that the vote on the FCC order be delayed stating, *“we worry that if this Declaratory Ruling does not benefit from meaningful input from local governments, the result could undermine municipalities’ ability to balance their responsibilities to public safety and community design with their desire to ensure access to affordable wireless networks and the next generation services.”*

Please fight for the rights of your residents and government as our local representatives have done. You have more power than you know. Please exercise it.

Important Provisions to Add

1) Title of Ordinance

To clarify whether the ordinance title should apply only to Small Wireless Facilities or if this is for both Small Cell and Macro Towers it may be helpful to rename the ordinance to its original title and keep the descriptions separate within the ordinance. It is not clear to me in this rewrite. Small cell applications are different than for macro towers due to difference in structure of towers, power emitted and location in right of way as per FCC ruling.

(Section 14.82.050) See Encinitas Small Cell wireless Ordinance. Resolution 2019- 91- REGULATING SMALL WIRELESS FACILITIES AND OTHER INFRASTRUCTURE DEPLOYMENTS IN THE PUBLIC RIGHTS-OF-WAY
<https://encinitasca.gov/Portals/0/City%20Documents/Documents/Development%20Services/Planning/Land%20Development/Small%20Wireless%20Facilities/CC%20Policy%20C035.pdf>

2) **Location Standards- Preferred Sites-** Despite what the telecommunications industry says, you as a city can still have preferred sites and less preferred sites in your ordinance. (Encinitas and Malibu Ordinances) You can add an exception clause or waiver process to allow for placement of a cell tower if the carrier proves it is necessary (and other locations are not technically feasible) for “Personal Wireless Services” under the 1996 Telecom Act of 1996 and so that this does not constitute an “effective prohibition”.

*** Special Zones can be designated for schools, day care centers, residential dwellings, protected habitat or trees, parks, etc.**

*** Keep the 1000 foot distance between towers, not 200 feet.** Explanation below.

Here are examples of Location Standards in the Encinitas Small Cell Wireless Ordinance passed in June, 2020 and in Malibu April 2021, which to date are uncontested.

Encinitas Ordinance Passed June 10, 2020

SECTION 10. LOCATION STANDARDS

1. (a) **Restricted Site Locations.** All of the following locations will be deemed “Restricted Site Locations” that require an exception pursuant to SECTION 13 of this Policy:

1. (1) any location within a residential zone;
2. (2) any location within 500 feet from a residential dwelling unit;
3. (3) any location within 500 feet from a daycare facility or primary school;
4. (4) any location within a Very High Fire Hazard Severity Zone; and
5. (5) any location within the Ecological Resource/Open Space/Park Zone.

(b) **Location Preferences.** To better assist applicants and decision makers understand and respond to the community’s aesthetic preferences and values, this subsection sets out listed preferences for locations to be used in connection with small wireless facilities in an ordered hierarchy. Applications that involve lesser-preferred locations may be approved so long as the applicant demonstrates by clear and convincing evidence in the written record that: (1) any more preferred locations or structures within 500 feet from the proposed site would be technically infeasible; and (2) if the proposed site or the most- preferred location within 500 feet from the proposed site is within a Restricted Site Location, the applicant qualifies for an exception pursuant to SECTION 13 of this Policy. The City prefers small cells in the public rights-of-way to be installed in locations, ordered from most preferred to least preferred, as follows:

- (1) locations within industrial zones, commercial zones, business parks or office professional zones on or along prime arterials;
- (2) locations within industrial zones, commercial zones, business parks or office professional zones on or along major arterials;
- (3) locations within industrial zones, commercial zones, business parks or office professional zones on or along collector roads;
- (4) locations within industrial zones, commercial zones, business parks or office professional zones on or along local streets;
- (5) any location within 500 feet from any residential zone;
- (6) locations within residential zones on or along prime arterials;
- (7) locations within residential zones on or along major arterials;
- (8) locations within residential zones on or along collector roads;
- (9) locations within residential zones on or along local streets;

(10) any location within 1,000 feet from an existing/proposed small wireless facility;

In the event that a proposed facility would be within 500 feet from two or more restricted site locations (as defined in Subsection 10(a)), and the proposed facility qualifies for an exception pursuant to SECTION 13 of this Policy, the technically feasible location furthest from all such restricted site locations will be deemed to be the most preferred alternative.

(c) **Encroachments Over Private Property.** No small cell antennas, accessory equipment or other improvements may encroach onto or over any private or other property outside the public rights-of-way without the property owner’s express written consent.

Malibu Wireless Ordinance Resolution 21-17 Standards Passed April 2021.
<https://www.malibucity.org/DocumentCenter/View/27969/Ordinance-No-484>

Location Standards for All Facilities

The location standards for all wireless communications facilities, other than those that qualify as eligible facilities requests, are as follows:

1. No wireless telecommunication facility shall be located within five hundred (500) feet of any school, playground, or park unless a finding is made, based on technical evidence acceptable to the reviewing authority showing a clear need for the facility and that no technically feasible alternative site exists. Except for facilities installed on the same pole or tower as an existing wireless telecommunication facility, wireless telecommunication facilities located within any residential zone district shall not be located within one thousand (1,000) feet of any other wireless communications facility, except from those facilities placed on utility poles along Pacific Coast Highway, unless a waiver is granted.
2. All new freestanding wireless communications facilities and monopoles shall be set back a minimum distance of at least one hundred and twenty (120%) percent of the height of the facility or monopole from any property line abutting a residentially zoned property. This minimum setback is not subject to the waivers allowed under Section 7 of this Resolution.
3. Location preference for wireless communications facilities should be given to the following:
 1. Property designated non-residential (except for public open space and recreational vehicle park zoning districts), unless otherwise prohibited pursuant to this title.
 2. Facilities attached or sited adjacent to existing structures. Whenever possible, facilities shall be located on and/or inside existing structures. Appropriate types of existing structures may include, but are not limited to: buildings, water tanks, telephone poles and utility towers and poles, sign standards, light standards and roadway overpasses.
 3. Sites with minimum separation. Sites that are more than five hundred (500) feet from school, playgrounds, and parks.
4. Sites that are not highly visible from adjacent roadways.
5. Unless otherwise indicated in MMC Chapter 17.46 or these Standards, no wireless facility shall be installed on an exposed ridgeline unless the facility blends with the

surrounding existing natural and man-made environment and a finding is made that no other location is technically feasible.

6. The City expressly designates residential, public open space and recreational vehicle park zoning districts, parks and schools as the least appropriate possible locations, and the absolute last choices for siting.

3) Waivers for Standards

Malibu Wireless Facilities Ordinance 2021 has added a section on Waivers for Standards that clarifies the process and protects the city from liability.

Resolution No. 21-17 Page 9

1. A waiver of one or more of these Standards may be granted in the following circumstances:
 1. Pursuant to MMC Section 17.46.060(D), if an applicant demonstrates to the Planning Commission through clear and convincing evidence that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations;
 2. If an applicant demonstrates to the Planning Commission through clear and convincing evidence set forth in a feasibility study that compliance with a requirement of these Standards would be technically infeasible and the proposed wireless facility complies with the requirements of these Standards to the greatest extent technically feasible. For example, an exception to a requirement to conceal antennas in a shroud may be granted if shrouding is shown to be technically infeasible and an alternative concealment such as a colored film wrap is proposed; or
 3. If an applicant demonstrates to the Planning Commission with clear and convincing evidence that the particular engineering, design or location proposed involves an alternative that better meets the purposes of Chapter 17.46 and only minor non-compliance with a requirement of these design Standards and results in no increase in public visual impact to the community or provides other benefits. For example, an exception to the wireless facility location limitations may be granted when the applicant can demonstrate that the placement is less visible from viewsheds of residences or shielded by vegetation or existing infrastructure (such as barriers), or is less physically intrusive (for example, less impactful to tree roots or reduces noise). Among other factors, in deciding whether or not to grant an exception, the Planning Commission may consider the impact of expansions to the facility that the applicant would be entitled to make as of right if granted.
2. Waivers may only be requested at the time an application is initially submitted for a discretionary permit. The request must include both the specific provision(s) from which waiver is sought and the basis of the request, including all supporting evidence on which the applicant relies. Any request for waiver after the City has deemed an application

complete constitutes a material change to the proposed wireless facility and shall be considered a new application. A request for waiver from one or more

4) Fire Safety

All electrical equipment including small cell towers are a fire risk. The fire cannot be put out in a conventional manner with firefighters blasting water on the fire. They have to wait until the power is shut off or electrocution will result.

Examples are

- **San Diego tower that caught fire in a high school stadium-**
<https://fox5sandiego.com/news/local-news/stadium-light-catches-fire-at-south-bay-high-school/>
- **The Malibu fire in 2007 due to pole overload.** CPUC finds Edison and 4 telecom carriers \$51.5 million - <https://www.latimes.com/local/lanow/la-me-ln-malibu-fire-settlements-approved-state-puc-20130919-story.html>

Considering the increase in wildfires and the risk of earthquakes. Fire safety is a priority for citizens. **The Malibu Wireless Facilities Ordinance 2021 has language in the Fire Safety Standards that can be incorporated.** In the attached Executed Copy of Malibu Res. 21-17, please note fire language on pages 2, 3, 5, 8, 11, 12, and particularly beginning on page 23 with "Electrical and Structural Safety Information."

5) Appeals Process

Language for appeal is not in the ordinance Applications.

- A) Any person adversely affected by a decision of the Director pursuant to this Chapter may request an administrative hearing to appeal the Director’s decision. In order to request a hearing, the person shall submit to the City Clerk in the manner directed in the Director’s decision notice a fully completed request for administrative hearing form along with a full amount of the appeal fee set by the City Council (by way of check or money order). The request for administrative hearing shall be incomplete if it does not include the appeal fee in the full amount. ... etc.

Precaution is Warranted

We understand that, as per Section 704 of the 1996 Telecommunications Act, environmental concerns, and as courts have interpreted these it includes health impacts, cannot be a factor in denial of cell towers but we are early in the game.

Public health and ecosystem health are still important issues with new 5G systems untested for long term or short term safety for either human health or environmental health. 5G systems with a complex mix of low, medium and high frequencies (thus the need for macro and microcells) are very onerous to measure, requiring very expensive complex equipment that is very difficult

for engineers to accomplish let alone city facility engineers. Precaution in placement is paramount in this discussion. Once cell towers are placed there is no going back and you just wait for people to experience symptoms or develop cancer or a neurologic condition that you will not be able to sort out from the common toxic exposures we all encounter on a daily basis.

Elon Musk tells us that 5G millimeter wave systems are not needed for autonomous cars. 5G millimeter wavelengths are also not required for “personal wireless services”. For the later this technology can be effectively replaced with safer and more secure fiberoptic networks and current wireless technologies. I will explain why health matters.

Health Matters

I am a practicing physician who has studied the health impacts of environmental toxins through our local County Medical Association and the California Medical Association for over 25 years. I began studying the health impacts of wireless radiation when I learned of a proposal to place a cell tower on my daughter’s school.

After 10 years of research into the literature and talking to a variety of people affected by cell towers and wireless radiation I, like many others in the medical and scientific community, have come to the conclusion that wireless radiation is a pollutant just like lead or pesticides or mercury or toxic industrial waste. The mechanisms are similar - oxidation, the effects are broad on all living organisms and people are often unaware they are exposed to the toxin - unless they are “sensitive”. Wireless radiation causes oxidative stress on organisms and stem cells, and at low levels of radiation. These low levels cause a slow decline in physiologic processes, and for those who have become sensitive- an immediate reaction.

Antioxidants and Health

As we now know small amounts of toxins can cause harm in certain windows of development thus children are more vulnerable. We also know effects are cumulative. People vary in their vulnerability due to age, genetics and other toxic exposures. Not all people react the same. Our health, wellness and aging are determined by oxidation levels in our tissues that injure our DNA, proteins and lipids, thus antioxidants in foods have been shown to block oxidation, neutralize cellular injury and promote health. This is well established in the nutrition literature. The literature also demonstrates that taking antioxidants (Vitamin E, zinc and melatonin) protects the cell from oxidation injury from wireless radiation. Oxidative stress plays a major part in the development of chronic, degenerative and inflammatory illnesses such as cancer, autoimmune disorders, aging, cataracts, rheumatoid arthritis, cardiovascular and neurodegenerative diseases, as well as some acute pathologies (trauma, stroke). **It is well established that wireless radiation at non-thermal levels causes oxidative stress.** Effects of this are cumulative on our DNA, lipids and cellular membranes.

We Evolved in a Low Electromagnetic Environment

The natural environment of the Earth is electromagnetic. We have terrestrial electric and magnetic fields, radiation from the sun and cosmic microwaves. All living things evolved in

harmony with the Earth's natural but very very low-level electromagnetic rhythms. Birds, bees and mammals have magnetite in their bodies and brains that use the Earth's magnetic field for the delicate tasks of navigation and foraging. Our human nervous system, heart, reproductive and endocrine systems rely on minute electromagnetic signals for complex functions. Manmade electromagnetic fields (EMF) emitted by our modern technology can distort our bodies electric currents, delicate cell membranes and cause broad dysfunction. This can be with long term or sometimes short exposures with higher power and different pulsations. Science has shown us that organisms adapt to constant electromagnetic fields found in nature much easier than artificial pulsed radiation that is emitted from cell towers and wireless devices. It makes perfect sense that wireless radiation can be harmful to living organisms even it does not knock an electron out of its orbit.

Wildlife

You need to consider the unique ecosystem which surrounds this lovely town. Science has shown us that levels of artificial electromagnetic radiation we are increasingly exposed to is harming not only humans but the sensitive environment that we tend to ignore but depend upon for our sustenance and mental health. <https://midsafetech.org/environmental-and-wildlife-effects/>

New Review on Wildlife and wireless Radiofrequency Radiation

The most comprehensive 3 part peer reviewed article by Levitt, Lai and Manville (2021) provides an updated, thorough and well referenced overview of RFR and effects on all wildlife, revealing a disturbing picture of the future if we continue to expand wireless in our homes, communities and for the commercialization of space.

The authors state, *“But is there a larger environmental downside to rising ambient EMF exposures — particularly RFR — from popular mobile communication devices, WiFi antennas, and all accompanying infrastructure that is being overlooked by environmentalists, researchers, and government regulators alike. We may be missing critical physiological effects across species based on obsolete assumptions about low-level far-field exposures being too weak to adversely affect living tissue. We have yet to take into consideration the unique physiologies of other species, or how they use the environment in ways that humans do not, when we assume that the unfettered use of EMF/RFR can continue unabated and be allowed to grow indefinitely.”* **Effects of non-ionizing electromagnetic fields on flora and fauna, part 1.** Rising ambient EMF levels in the environment. (2021) Levitt BB et al. Rev Environ Health. 2021 May 27. <https://pubmed.ncbi.nlm.nih.gov/34047144/>

MOEF Report on Wildlife

The Inter-Ministerial Committee (IMC) of expert scientists reviewed the literature of the effects of RF-EMF radiations on wildlife, humans and the biosphere. In their 2010 MOEF Report they found that out of the 919 research papers collected on birds, bees, plants, other animals, and humans, 593 showed impacts, 180 showed no impacts, and 196 were inconclusive studies. All organisms had effects.

Human Effects– 62% showed effects, 13% no effect and 25% inconclusive **Plant Effects**– 87% showed effects and 13% were inconclusive

Wildlife Effects- 62% showed effects, 4% no effect and 36% inconclusive **Bee Effects**—85% showed effects and 15% no effect

Bird Effects- 77% showed effects, 10% no effect and 13% inconclusive **Current Standards are Scientifically Out of Date**

UNESCO World Heritage Wildlife Area Species Disappearing

An abundance of peer reviewed literature demonstrates adverse impacts to the environment with declines in insect, bird and wildlife populations in cities and where cell towers are placed. This spells disaster for biodiversity, fragile wildlife areas, critical pollinators and agriculture, especially with additive effects of pesticides, toxins and loss of habitat. A report on Unesco's Mt. Nardia World Heritage Park documents this slow decline in populations of species after cell towers were placed. Unesco Report on Disappearance of Species from Mt. Nardia Park World Heritage Area 2000-2015 with Increased Expansion of Telecommunications Antenna. Ethno-Botonist Mark Broomhall. [UNESCO Report on Disappearance of Species from Mt. Nardia with Increased EMR 2000-2015](#)

Cell Tower Health Effects

Current standards are based on short term thermal exposures and discount the abundant peer reviewed literature on harm from low level, non -thermal effects. It is clear that the limits for radiofrequency radiation are set too high in the U.S. and Canada. These limits are 100 times higher than that of Italy and Russia, who set their standards based on methodical research on immunologic, neurologic and biologic effects of low-level radiation fields. Current U.S. limits are up to 1,000 microwatts/cm² with symptoms seen at levels of 0.005 microwatts /cm².

Physicians in Germany ask for Health Investigation of Cell Towers in 2005

An open letter from Dr. Cornelia Waldmann-Selsam was sent to the German State Chancellor, Edmund Stoiber, on behalf of 114 physicians (Bamberger Appeal) asking for an investigation into the newly reported adverse health symptoms of 356 residents who lived near cell towers in Oberfranken, Germany. Dr. Waldmann-Selsam noted, *“Many humans get sick from emissions far below the recommended limit values, which consider only thermal effects, and we have a sickness picture with characteristic symptom combinations, which are new to us physicians, ”* *The list of symptoms were, ” Sleep disturbances, tiredness, concentration impairment, forgetfulness, problem with finding words, depressive tendencies, tinnitus, sudden loss of hearing, hearing loss, giddiness, nose bleeds, visual disturbances, frequent infections, sinusitis, joint and limb pains, nerve and soft tissue pains, feeling of numbness, heart rhythm disturbances,*

increased blood pressure , hormonal disturbances, night-time sweat, nausea.” Resident noted almost immediate improvement when moving away.”

Dr. Waldmann-Selsam goes on to say, *“physicians were able to prove, by re-testing the patients, the normalization of blood pressure, heart rhythm, hormone disturbances, visual disturbances, neurological symptoms, blood picture,”*. She called this an emergency medical situation and requested an official health investigation. http://www.next-up.org/pdf/Letter_to_Edmund_Stoiber.pdf

Cell Tower Effects on Cognition and Learning

The majority of studies, which have been done internationally, have shown an increase in neurologic symptoms in a percentage of residents living near cell towers. Symptoms vary with the distance from the cell tower. Symptoms include insomnia, headache, heart palpitations, dizziness, poor concentration, and fatigue. A study in Japan (Shinjo 2014) showed a decrease in symptoms when the cell tower was removed. There is also a well done study showing blood abnormalities in those living nearest to cell towers (Zothansiana 2017). DNA and lipid abnormalities were seen along with reduction in internal antioxidants which provide protection from pollutants.

Moreover, a recent study conducted over a 2 year period looked at effects of cell towers near two schools by Meo et al (2018) and clearly demonstrated cognitive dysfunction in students closest to the higher power cell tower.

Firefighters Fighting Fires and Now Cell Towers

After noticing that many of the firefighters were developing neurologic symptoms when first responder cell towers were placed on the fire stations the International Association of Firefighters studied the matter and passed a resolution in 2004 asking that cell towers not be placed in proximity to fire stations. In AB 537 (Quirk), signed into law by Gov. Newsom on October 4, 2021, the firefighters achieved the first ever health/readiness exemption in the world.

Every fire station in California is now exempt from having a 5G tower on their station. This movement began when cell towers were initially targeted for fire stations because of their location and the revenue received by the cities. Many firefighters developed symptoms including headaches, fatigue, memory impairment and insomnia within a week of the installation of the towers. An exemption was inserted in California bills on cell towers. [AB 57](#) (Quirk 2015) has an exemption on the grounds of health effects. AB 537 (Quirk 2021) also has this exemption and reads, *“Due to the unique duties and infrastructure requirements for the swift and effective deployment of firefighters, this section does not apply to a collocation or siting application for a wireless telecommunications facility where the project is proposed for placement on fire department facilities.”* [SB 649](#) (Hueso, Quirk and Dodd 2018) also had a health exemption for firefighters and was vetoed by Governor Brown.

500 Meter (1640 ft) Buffer from Cell Tower Recommended

Cell tower health studies that show impacts from cell towers with symptoms within about 1500 feet of the cell towers. That is why Pearce et al (2019) **recommended a “500 Meter buffer around schools, hospitals and homes “Limiting liability with positioning to minimize negative health effects of cellular phone towers.”**

Cancer and Cell Towers

3 Studies investigated the rates of cancer and cell towers looking at the distance from cell towers and the incidence of cancer. They found the rate of cancer incidence increased significantly in those living within about 350 -400 meters (around 1000 feet) to the cell tower.

[Dode 2011](#) performed a 10 year study (1996-2006) examining the distance from cell towers and cancer clusters. He and his colleagues found a highly significant increase in cancers in those living within 500 meters of the cell tower. They noted “The largest density power was 40.78 $\mu\text{W}/\text{cm}^2$, and the smallest was 0.04 $\mu\text{W}/\text{cm}^2$.” The current guidelines are about 1000 $\mu\text{W}/\text{cm}^2$. The authors conclude “Measured values stay below Brazilian Federal Law limits that are the same of ICNIRP. The human exposure pattern guidelines are inadequate. More restrictive limits must be adopted urgently.”

[Wolf and Wolf 2004](#) investigated the rates of cancer versus distance from cell towers in small towns in Israel. He found the rate of cancer incidence was 129 cases per 10,000 persons per year in those living within 350 meters of a cell tower versus a rate of 16-31/10,000 in those living greater than 350 meters from the cell tower.

Eger (2004) showed an increase in the development of new cancer cases within a 10 year period if residents lived within 400 meters of a cell tower. Their results revealed that within 5 years of operation of a transmitting station the relative risk of cancer development tripled in residents near the cell towers compared to residents outside the area.

Insurance Has an Exclusion for Radiofrequency Radiation as an Emerging Risk Insurance companies consider wireless radiation to be similar to asbestos in long term health impacts and do not provide coverage from harm for RF health effects. The cities are left with that liability unless they can provide insurance.

In a 2019 report, **New Emerging Risk Insights**, by Swiss RE Insurance Company, the second largest reinsurance company in the world, **5G is listed as an emerging concern** in the high risk category within 3 years. Included in the high-risk trends are artificial intelligence and the existential threats of climate change. “*The top five emerging risks in our SONAR 2019 report are digital technology’s clash with legacy hardware, potential threats from the spread of 5G mobile networks, increasingly limited fiscal and monetary flexibility by central banks, genetic testing’s implications on life insurers, and the impact of climate change on the life and health sector.*” <https://www.swissre.com/institute/research/sonar/sonar2019.html>

National Academy of Sciences Report on the Havana Syndrome and Harm from RFR

A recent report by the National Academy of Sciences concluded that the “sonic attacks” on diplomats in Cuba and China were most likely due to pulsed radiofrequency from directed energy weapons. They had symptoms similar to those who live near cell towers (headache, nausea, insomnia, dizziness, memory loss, heart palpitations, depression). Dr. Beatrice Golomb wrote the most extensive report to date on this subject linking these mystery “directed energy attacks” to pulsed microwaves similar to the wireless devices we use daily. In the case of these high powered beams there was documented injury to brain networks found by the University of Pittsburg physicians who studied the diplomats. Dr Golomb highlights that **the strength of the health effects are related to the peak power not the average power. The pulse makes the poison.**

The EUROPAEM EMF Guideline 2016 for the prevention, diagnosis and treatment of EMF-related health problems and illnesses is a comprehensive guide written by many scientists and physicians in Europe who are part of the European Academy for Environmental Medicine (EUROPAEM) – EMF working group who have recognized and treated those with electrosensitivity for many years. This is a thorough, well researched and well-referenced scientific paper that is based on the 2012 Austrian Medical Association **Guidelines for the Diagnosis and Treatment of EMF Illness**. A questionnaire from their group is included in the attachments.

New Hampshire 5G Commission Finds Radiofrequency Radiation Problematic

The first Commission formed in the United States to study the environmental and health effects of 5G technology released their comprehensive final report November 1, 2020. The Commission to Study the Environmental and Health Effects of Evolving 5G Technology was mandated by HB 522 passed by the state legislature in New Hampshire. Their final report included 15 recommendations addressing the need for public education about wireless hazards, RF health studies, RF measurements, cell antenna setbacks, fiberoptic rather than wireless deployment, commercial warning signs and wildlife protection. After hearing extensive testimony in a series of 13 meetings over the course of a year and reviewing an abundance of research, the Commission highlighted the lack of a single definition for 5G, **insufficient evidence of safety for 5th generation technology**, a concern that safety standards for wireless technologies have not been updated with the latest science and that 5G is largely a marketing concept. They also expressed concern that the FCC has a long history of being accountable to industry over the desires of communities and individuals.

FCC Told by DC Court to Reevaluate Safety Standards

On August 13, 2021 a joint lawsuit was won by petitioners against the Federal Communications Commission (FCC) for failure to protect human health and the environment by dismissing scientific evidence of harm from wireless radiation. The Petitioners challenged the FCC’s refusal

to reevaluate and update their 24-year-old radiofrequency (RF) safety guidelines for existing and new telecommunications technologies. The DC Circuit Court of Appeals ruled that the majority of the RF radiation standards established by the FCC did not use "reasoned decision-making" (they did not go by the science) and thus the standards were considered by the court to have been set in an "arbitrary and capricious" manner. This was an extremely high bar for the Plaintiffs to reach. The Circuit Court of Appeals rarely admonishes a federal agency or commission in this way. The DC Circuit Court of Appeals returned this decision back to the FCC and ordered the FCC to re-examine its standards for wireless radiation exposure and provide a review of wireless harms that is compliant with the law for non-cancer harms.

The Court Decision stated, "The National Environmental Policy Act ("NEPA") and its implementing regulations require federal agencies to "establish procedures to account for the environmental effects of [their] proposed actions." And "To fulfill its obligations under NEPA, the Commission has promulgated guidelines for human exposure to RF radiation... The Commission last updated its limits for RF exposure in 1996... The ANSI and IEEE developed limits are designed to protect against "thermal effects" of exposure to RF radiation, but not "non-thermal" effects. In March 2013, the Commission issued a notice of inquiry regarding the adequacy of its 1996 guidelines in response to changes in the ubiquity of wireless devices and in scientific standards and research since 1996. In December 2019, the Commission issued a final order resolving its 2013 notice of inquiry by declining to undertake any of the changes contemplated in the notice of inquiry. Petitioners challenge the 2019 final order under NEPA and the Administrative Procedure Act ("APA").

5G: A Manufactured Need by Industry

Reports indicate that the telecommunications industry has largely manufactured a "need" for expanding wireless technology in cities, while halting projects for safer fiberoptic broadband. Note a 2020 European Parliament report, **5G: State of Play in Europe, USA and Asia. In Depth Analysis**, suggests 5G is a manufactured need. *"As 5G is driven by the telecoms supply industry, and its long tail of component manufacturers, a major campaign is under way to convince governments that the economy and jobs will be strongly stimulated by 5G deployment."*

In my opinion, from all the research I have done, it appears the telecommunications industry has influenced laws to prevent health or environmental effects from being considered in the placement of cell towers (See FCC Captured Agency). They knew of the harm in early studies done by Dr. George Carlo in the 1990's but suppressed the data so they could move forward. That is well documented in Dr. Carlo's book, "Cell phones: Invisible Hazards in The Wireless Age".

A blizzard of robust science has appeared now to show biological and health impacts of wireless technology, but it is still denied, and the basis for genuinely safe RF radiation guidelines is flawed. An exponential growth in cell towers is now being played out with cities being left on their own to figure out how to regulate these towers locally. Industry places a heavy hand and complex laws on local policy makers who must navigate these complex FCC policies to prevent legal action.

Board of Health in Pittsfield Massachusetts Orders Verizon to Cease and Desist

For the first time in the U.S. a Board of Health has issued a cease and desist order to Verizon to remove or shut off a cell tower after 17 people in a neighborhood reported they became ill after the Verizon cell tower was turned on. Courtney Gilardi and her 2 children as well as residents living near the cell tower, reported experiencing a constellation of symptoms including stabbing headaches, nausea, vomiting, dizziness, “buzzing in the head”, and insomnia so severe her family had to move to the next town and into a house with no heat and no hot water to escape the sickness. Other neighbors drove an hour away to sleep at a relative’s house or slept in their cars away from the tower. These are classic symptoms of electromagnetic illness experienced in firefighters and military personnel working on radar and well documented by NASA, the Air Force and other military agencies as well as the “Havana Syndrome”. These symptoms were also seen in Japan after 2 cell towers were turned on and when the tower was removed the resident’s symptoms largely resolved.

Apple stops 5G Phone MMW: Is This the Death of 5G Millimeter Wavelengths?

You are probably aware that Verizon and AT&T built special hotspots in many cities in the U.S. to house 5G high band millimeter wavelengths that were to revolutionize wireless with ultrafast speeds. These small wavelengths the size of bees have been put into some community small cells which need to be about 1000 feet apart without obstruction to function properly. Apple, who already has some 5G MMW phones, just announced that it is not building any millimeter wave spectrum antennas in its next generation SE iphones. With 4G LTE low and mid band wavelengths they apparently do not need the millimeter 5G bandwidth. The article notes, “It’s not a surprise that Apple is dropping the spectrum from its phones. It costs chip space and power for every additional spectrum that is supported by a cellphone. Cell manufacturers care more about long battery life than they do about a technology that never made it out of the downtowns of a few major cities.”

FCC Limits: A False Sense of Security

We are told by the FCC that wireless radiation and cell towers are safe within current safety guidelines, or that we do not really know if there is harm or that the research is inconclusive or that it is not ionizing (like x-rays) so it cannot hurt us. This is the same dismissive and doubt creating language used by the tobacco industry and a host of other chemical companies to protect their toxic products, thus profits. The research shows that we do know, beyond a doubt, that wireless radiation is harmful to all living systems below the current safety standards. The most obvious evidence is that more and more children and adults are reporting symptoms of electrosensitivity (EHS) in the presence of wireless radiation when they live in a home near a cell tower, or use a cell phone, or in schools where wireless devices and cell towers are increasing.

Please use your authority and wisdom to keep this ordinance strong. Take more time if you need to in order for you to sort this out and be sure of your decision. Remember that you all live in Los Altos as well so you are protecting you and your families and the next generation as well.

Sincerely,

Cindy Russell, MD

Attached- Malibu Ordinances

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- **SwissRe Insurance-** Sonar 2019: New emerging risk insights. <https://www.swissre.com/institute/research/sonar/sonar2019.html>
- **Landmark Lawsuit Filed Against FCC for Failing to Reevaluate 5G and Wireless Safety.** Sept 23, 2020. PST. <https://mdsafetech.org/2020/09/23/landmark-lawsuit-filed-against-fcc-for-failing-to-reevaluate-5g-and-wireless-safety/>
- **Final Report on Commission to Study the Environmental and Health Effects of Evolving 5G Technology.** State of New Hampshire, General Court. Nov 1, 2020. <http://www.gencourt.state.nh.us/statstudcomm/committees/1474/reports/5G%20final%20report.pdf>
- **We Have No Reason to Believe 5G Is Safe.**The technology is coming, but contrary to [what some people say](#), there could be health risks. (2019) Scientific American. Joel M. Moskowitz. Oct 17, 2019. <https://blogs.scientificamerican.com/observations/we-have-no-reason-to-believe-5g-is-safe/>
- **5G wireless telecommunications expansion: Public health and environmental implications. (2018) Russell CL.** Environ Res. 2018 Apr 11. <https://www.ncbi.nlm.nih.gov/pubmed/29655646>. or at <https://ecfsapi.fcc.gov/file/10913927726988/5%20G%20wireless%20telecommunications%20expansion%3A%20Public%20health%20and%20environmental%20implications.pdf>
- **Firefighters Fighting Fires and Now Cell Towers-** <https://mdsafetech.org/2019/09/28/firefighters-fighting-fires-and-now-cell-towers/>
- **5G: State of Play in Europe, USA and Asia. In Depth Analysis, European Parliament.** [https://www.europarl.europa.eu/RegData/etudes/IDAN/2019/631060/IPOL_IDA\(2019\)631060_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2019/631060/IPOL_IDA(2019)631060_EN.pdf)
- **Apple ditches mmWave 5G with newest iPhone.** <https://www.lightreading.com/5g/apple-ditches-mmwave-5g-with-newest-iphone/d/d-id/775901>

From: [Arisha S](#)
To: [Public Comment; City Council](#)
Date: Tuesday, April 12, 2022 11:33:02 AM
Attachments: [Los Altos Letter Final 4 11 2022 PDF\(1\).pdf](#)

Dear Los Altos City Council,

I strongly support Dr. Cindy Russell's attached letter regarding the Los Altos Wireless Ordinance and ask that you include all of the requests that she has brought to the attention of the Council and place them in the updated ordinance.

Sincerely,
Ariadna Solovyova
Mountain View resident, frequent Los Altos visitor

To: Los Altos City Council
council@losaltosca.gov
aenander@losaltosca.gov
smeadows@losaltosca.gov
nfligor@losaltosca.gov
lleeeng@losaltosca.gov
jweinberg@losaltosca.gov

From: Cindy Russell, MD

Re: Revisions to 2019 Los Altos Ordinance to Regulate Small Wireless Facilities

Date April 11, 2022

Dear Los Altos City Council:

I am writing today to strongly urge you to reinstate (with legally appropriate revisions) several of the major aspects of the original 2019 Small Cell Wireless Ordinance that diminish blight and protect the beauty, character and health of your lovely Silicon Valley community. In addition, after reading the new 2022 proposed Wireless Facilities Ordinance it appears that some important provisions may have been missed in crafting a new Small Cell ordinance which are critical for the safety of the residents and also reduce liability for the city. This includes several insurance provisions, minor modifications to existing facilities, permitting process, and more.

Encinitas and Malibu have passed ordinances which have elements that are protective but allow flexibility for cities and exceptions/waivers for the carriers. They remain uncontested.

- **Encinitas, CA-** Revised from 2019- Passed June 20, 2020
<https://encinitasca.gov/Portals/0/City%20Documents/Documents/Development%20Services/Planning/Land%20Development/Small%20Wireless%20Facilities/Resolution%20No.%202020-38%20With%20Policy.pdf?ver=2020-07-13-192634-373>
- **Malibu Resolution 21-17** – Attached please find an executed copy of Res. 21-17 is officially binding because Ordinance 484 adopts it by reference.

I will summarize my ask of the Los Altos City Council with these key points below, followed by backup for those points with additional pertinent legal information which does impact the issue of health/science, as per a court ruling from the second highest court in the land on August 13, 2021, a ruling that referred to the existing RF radiation regulatory limits as "arbitrary and capricious". Arbitrary and capricious means that the law and/or the facts were knowingly disregarded. That is a high bar indeed and the plaintiffs reached that bar. It behooves us to consider what is going on in the courts and pass ordinance language accordingly:

PLEASE PAUSE: There are resolutions as mentioned above that have successfully balanced the unique needs of communities with the rights of the telecommunications industry. The new resolution does not have to be passed Tuesday night. Some reflection on the best that Encinitas and Malibu have to offer may benefit all of us in the long run.

Key Points

- 1. TITLE OF ORDINANCE: Clarification if this applies to Small Cell or Macro Cells; macro towers must go through conditional use permits
- 2. LOCATION STANDARDS – PREFERRED SITES
- 3. WAIVERS FOR STANDARDS
- 4. FIRE SAFETY
- 5. APPEALS PROCESS

Thank you for passing the 2019 Wireless Facilities Telecommunications Ordinance. The original wireless facilities ordinance for Los Altos took into consideration public concerns, was well thought out and protects the city of Los Altos from poorly designed and poorly placed cell towers.

I understand, however, that there is a lawsuit against the City for Los Altos from Verizon and AT&T claiming that the 2019 ordinance as written “effectively prohibits” wireless communications. You are commended for taking on this task of revising the ordinance in response. Some of the 2022 proposed changes are good and clarify the permitting process for carriers to avoid lawsuits and provide for “personal wireless services”, however, I believe there are some gaps in protections and flexibility for the city that I would like to point out which could be remedied in addition to some clarifications.

It is important to consider adding the provisions below. As you note with the FCC lawsuit to reevaluation the 20 year-old FCC safety standards, the courts have judged that the FCC did not take into account several aspects of human health and environmental effects in setting their standards. We do not know what the future holds for the federal Telecommunications Act of 1996 or state law. The city of Los Altos needs to be prepared to alter its ordinance in case there is a change in the law in the future.

Representative Anna Eshoo Supports Local Control for Cell Towers

The 2018 FCC small cell order that fast tracks deployment of small cells in order to “cut the red tape” has prompted cities around the country, like Los Altos, to write these emergency ordinances and now revise them. The FCC Declaratory ruling has been considered an overreach of the Telecom Industry which dominates the FCC (FCC: Captured Agency, N. Alster), overriding the basic rights of cities to have local control. This was recognized by our local representative Anna Eshoo who in 2019 introduced HR530 to protect the rights of states and government by deeming that the “*Federal Communications Commission’s Declaratory Ruling in “Third Report and Order and Declaratory Ruling” (FCC 18-111) shall have no force or effect.*” This bill had 52 co-sponsors. Senator Feinstein introduced in 2019 a companion federal bill SB 2012 to block the FCC order. Neither moved.

Representative Eshoo also sent a letter to the FCC in 2020 to ask that the vote on the FCC order be delayed stating, *“we worry that if this Declaratory Ruling does not benefit from meaningful input from local governments, the result could undermine municipalities’ ability to balance their responsibilities to public safety and community design with their desire to ensure access to affordable wireless networks and the next generation services.”*

Please fight for the rights of your residents and government as our local representatives have done. You have more power than you know. Please exercise it.

Important Provisions to Add

1) Title of Ordinance

To clarify whether the ordinance title should apply only to Small Wireless Facilities or if this is for both Small Cell and Macro Towers it may be helpful to rename the ordinance to its original title and keep the descriptions separate within the ordinance. It is not clear to me in this rewrite. Small cell applications are different than for macro towers due to difference in structure of towers, power emitted and location in right of way as per FCC ruling.

(Section 14.82.050) See Encinitas Small Cell wireless Ordinance. Resolution 2019- 91- REGULATING SMALL WIRELESS FACILITIES AND OTHER INFRASTRUCTURE DEPLOYMENTS IN THE PUBLIC RIGHTS-OF-WAY
<https://encinitasca.gov/Portals/0/City%20Documents/Documents/Development%20Services/Planning/Land%20Development/Small%20Wireless%20Facilities/CC%20Policy%20C035.pdf>

2) **Location Standards- Preferred Sites-** Despite what the telecommunications industry says, you as a city can still have preferred sites and less preferred sites in your ordinance. (Encinitas and Malibu Ordinances) You can add an exception clause or waiver process to allow for placement of a cell tower if the carrier proves it is necessary (and other locations are not technically feasible) for “Personal Wireless Services” under the 1996 Telecom Act of 1996 and so that this does not constitute an “effective prohibition”.

*** Special Zones can be designated for schools, day care centers, residential dwellings, protected habitat or trees, parks, etc.**

*** Keep the 1000 foot distance between towers, not 200 feet.** Explanation below.

Here are examples of Location Standards in the Encinitas Small Cell Wireless Ordinance passed in June, 2020 and in Malibu April 2021, which to date are uncontested.

Encinitas Ordinance Passed June 10, 2020

SECTION 10. LOCATION STANDARDS

1. (a) **Restricted Site Locations.** All of the following locations will be deemed “Restricted Site Locations” that require an exception pursuant to SECTION 13 of this Policy:

1. (1) any location within a residential zone;
2. (2) any location within 500 feet from a residential dwelling unit;
3. (3) any location within 500 feet from a daycare facility or primary school;
4. (4) any location within a Very High Fire Hazard Severity Zone; and
5. (5) any location within the Ecological Resource/Open Space/Park Zone.

(b) **Location Preferences.** To better assist applicants and decision makers understand and respond to the community’s aesthetic preferences and values, this subsection sets out listed preferences for locations to be used in connection with small wireless facilities in an ordered hierarchy. Applications that involve lesser-preferred locations may be approved so long as the applicant demonstrates by clear and convincing evidence in the written record that: (1) any more preferred locations or structures within 500 feet from the proposed site would be technically infeasible; and (2) if the proposed site or the most-preferred location within 500 feet from the proposed site is within a Restricted Site Location, the applicant qualifies for an exception pursuant to SECTION 13 of this Policy. The City prefers small cells in the public rights-of-way to be installed in locations, ordered from most preferred to least preferred, as follows:

- (1) locations within industrial zones, commercial zones, business parks or office professional zones on or along prime arterials;
- (2) locations within industrial zones, commercial zones, business parks or office professional zones on or along major arterials;
- (3) locations within industrial zones, commercial zones, business parks or office professional zones on or along collector roads;
- (4) locations within industrial zones, commercial zones, business parks or office professional zones on or along local streets;
- (5) any location within 500 feet from any residential zone;
- (6) locations within residential zones on or along prime arterials;
- (7) locations within residential zones on or along major arterials;
- (8) locations within residential zones on or along collector roads;
- (9) locations within residential zones on or along local streets;

(10) any location within 1,000 feet from an existing/proposed small wireless facility;

In the event that a proposed facility would be within 500 feet from two or more restricted site locations (as defined in Subsection 10(a)), and the proposed facility qualifies for an exception pursuant to SECTION 13 of this Policy, the technically feasible location furthest from all such restricted site locations will be deemed to be the most preferred alternative.

(c) **Encroachments Over Private Property.** No small cell antennas, accessory equipment or other improvements may encroach onto or over any private or other property outside the public rights-of-way without the property owner’s express written consent.

Malibu Wireless Ordinance Resolution 21-17 Standards Passed April 2021.
<https://www.malibucity.org/DocumentCenter/View/27969/Ordinance-No-484>

Location Standards for All Facilities

The location standards for all wireless communications facilities, other than those that qualify as eligible facilities requests, are as follows:

1. No wireless telecommunication facility shall be located within five hundred (500) feet of any school, playground, or park unless a finding is made, based on technical evidence acceptable to the reviewing authority showing a clear need for the facility and that no technically feasible alternative site exists. Except for facilities installed on the same pole or tower as an existing wireless telecommunication facility, wireless telecommunication facilities located within any residential zone district shall not be located within one thousand (1,000) feet of any other wireless communications facility, except from those facilities placed on utility poles along Pacific Coast Highway, unless a waiver is granted.
2. All new freestanding wireless communications facilities and monopoles shall be set back a minimum distance of at least one hundred and twenty (120%) percent of the height of the facility or monopole from any property line abutting a residentially zoned property. This minimum setback is not subject to the waivers allowed under Section 7 of this Resolution.
3. Location preference for wireless communications facilities should be given to the following:
 1. Property designated non-residential (except for public open space and recreational vehicle park zoning districts), unless otherwise prohibited pursuant to this title.
 2. Facilities attached or sited adjacent to existing structures. Whenever possible, facilities shall be located on and/or inside existing structures. Appropriate types of existing structures may include, but are not limited to: buildings, water tanks, telephone poles and utility towers and poles, sign standards, light standards and roadway overpasses.
 3. Sites with minimum separation. Sites that are more than five hundred (500) feet from school, playgrounds, and parks.
4. Sites that are not highly visible from adjacent roadways.
5. Unless otherwise indicated in MMC Chapter 17.46 or these Standards, no wireless facility shall be installed on an exposed ridgeline unless the facility blends with the

surrounding existing natural and man-made environment and a finding is made that no other location is technically feasible.

6. The City expressly designates residential, public open space and recreational vehicle park zoning districts, parks and schools as the least appropriate possible locations, and the absolute last choices for siting.

3) Waivers for Standards

Malibu Wireless Facilities Ordinance 2021 has added a section on Waivers for Standards that clarifies the process and protects the city from liability.

Resolution No. 21-17 Page 9

1. A waiver of one or more of these Standards may be granted in the following circumstances:
 1. Pursuant to MMC Section 17.46.060(D), if an applicant demonstrates to the Planning Commission through clear and convincing evidence that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations;
 2. If an applicant demonstrates to the Planning Commission through clear and convincing evidence set forth in a feasibility study that compliance with a requirement of these Standards would be technically infeasible and the proposed wireless facility complies with the requirements of these Standards to the greatest extent technically feasible. For example, an exception to a requirement to conceal antennas in a shroud may be granted if shrouding is shown to be technically infeasible and an alternative concealment such as a colored film wrap is proposed; or
 3. If an applicant demonstrates to the Planning Commission with clear and convincing evidence that the particular engineering, design or location proposed involves an alternative that better meets the purposes of Chapter 17.46 and only minor non-compliance with a requirement of these design Standards and results in no increase in public visual impact to the community or provides other benefits. For example, an exception to the wireless facility location limitations may be granted when the applicant can demonstrate that the placement is less visible from viewsheds of residences or shielded by vegetation or existing infrastructure (such as barriers), or is less physically intrusive (for example, less impactful to tree roots or reduces noise). Among other factors, in deciding whether or not to grant an exception, the Planning Commission may consider the impact of expansions to the facility that the applicant would be entitled to make as of right if granted.
2. Waivers may only be requested at the time an application is initially submitted for a discretionary permit. The request must include both the specific provision(s) from which waiver is sought and the basis of the request, including all supporting evidence on which the applicant relies. Any request for waiver after the City has deemed an application

complete constitutes a material change to the proposed wireless facility and shall be considered a new application. A request for waiver from one or more

4) Fire Safety

All electrical equipment including small cell towers are a fire risk. The fire cannot be put out in a conventional manner with firefighters blasting water on the fire. They have to wait until the power is shut off or electrocution will result.

Examples are

- **San Diego tower that caught fire in a high school stadium-**
<https://fox5sandiego.com/news/local-news/stadium-light-catches-fire-at-south-bay-high-school/>
- **The Malibu fire in 2007 due to pole overload.** CPUC finds Edison and 4 telecom carriers \$51.5 million - <https://www.latimes.com/local/lanow/la-me-ln-malibu-fire-settlements-approved-state-puc-20130919-story.html>

Considering the increase in wildfires and the risk of earthquakes. Fire safety is a priority for citizens. **The Malibu Wireless Facilities Ordinance 2021 has language in the Fire Safety Standards that can be incorporated.** In the attached Executed Copy of Malibu Res. 21-17, please note fire language on pages 2, 3, 5, 8, 11, 12, and particularly beginning on page 23 with "Electrical and Structural Safety Information."

5) Appeals Process

Language for appeal is not in the ordinance Applications.

- A) Any person adversely affected by a decision of the Director pursuant to this Chapter may request an administrative hearing to appeal the Director’s decision. In order to request a hearing, the person shall submit to the City Clerk in the manner directed in the Director’s decision notice a fully completed request for administrative hearing form along with a full amount of the appeal fee set by the City Council (by way of check or money order). The request for administrative hearing shall be incomplete if it does not include the appeal fee in the full amount. ... etc.

Precaution is Warranted

We understand that, as per Section 704 of the 1996 Telecommunications Act, environmental concerns, and as courts have interpreted these it includes health impacts, cannot be a factor in denial of cell towers but we are early in the game.

Public health and ecosystem health are still important issues with new 5G systems untested for long term or short term safety for either human health or environmental health. 5G systems with a complex mix of low, medium and high frequencies (thus the need for macro and microcells) are very onerous to measure, requiring very expensive complex equipment that is very difficult

for engineers to accomplish let alone city facility engineers. Precaution in placement is paramount in this discussion. Once cell towers are placed there is no going back and you just wait for people to experience symptoms or develop cancer or a neurologic condition that you will not be able to sort out from the common toxic exposures we all encounter on a daily basis.

Elon Musk tells us that 5G millimeter wave systems are not needed for autonomous cars. 5G millimeter wavelengths are also not required for “personal wireless services”. For the later this technology can be effectively replaced with safer and more secure fiberoptic networks and current wireless technologies. I will explain why health matters.

Health Matters

I am a practicing physician who has studied the health impacts of environmental toxins through our local County Medical Association and the California Medical Association for over 25 years. I began studying the health impacts of wireless radiation when I learned of a proposal to place a cell tower on my daughter’s school.

After 10 years of research into the literature and talking to a variety of people affected by cell towers and wireless radiation I, like many others in the medical and scientific community, have come to the conclusion that wireless radiation is a pollutant just like lead or pesticides or mercury or toxic industrial waste. The mechanisms are similar - oxidation, the effects are broad on all living organisms and people are often unaware they are exposed to the toxin - unless they are “sensitive”. Wireless radiation causes oxidative stress on organisms and stem cells, and at low levels of radiation. These low levels cause a slow decline in physiologic processes, and for those who have become sensitive- an immediate reaction.

Antioxidants and Health

As we now know small amounts of toxins can cause harm in certain windows of development thus children are more vulnerable. We also know effects are cumulative. People vary in their vulnerability due to age, genetics and other toxic exposures. Not all people react the same. Our health, wellness and aging are determined by oxidation levels in our tissues that injure our DNA, proteins and lipids, thus antioxidants in foods have been shown to block oxidation, neutralize cellular injury and promote health. This is well established in the nutrition literature. The literature also demonstrates that taking antioxidants (Vitamin E, zinc and melatonin) protects the cell from oxidation injury from wireless radiation. Oxidative stress plays a major part in the development of chronic, degenerative and inflammatory illnesses such as cancer, autoimmune disorders, aging, cataracts, rheumatoid arthritis, cardiovascular and neurodegenerative diseases, as well as some acute pathologies (trauma, stroke). **It is well established that wireless radiation at non-thermal levels causes oxidative stress.** Effects of this are cumulative on our DNA, lipids and cellular membranes.

We Evolved in a Low Electromagnetic Environment

The natural environment of the Earth is electromagnetic. We have terrestrial electric and magnetic fields, radiation from the sun and cosmic microwaves. All living things evolved in

harmony with the Earth's natural but very very low-level electromagnetic rhythms. Birds, bees and mammals have magnetite in their bodies and brains that use the Earth's magnetic field for the delicate tasks of navigation and foraging. Our human nervous system, heart, reproductive and endocrine systems rely on minute electromagnetic signals for complex functions. Manmade electromagnetic fields (EMF) emitted by our modern technology can distort our bodies electric currents, delicate cell membranes and cause broad dysfunction. This can be with long term or sometimes short exposures with higher power and different pulsations. Science has shown us that organisms adapt to constant electromagnetic fields found in nature much easier than artificial pulsed radiation that is emitted from cell towers and wireless devices. It makes perfect sense that wireless radiation can be harmful to living organisms even it does not knock an electron out of its orbit.

Wildlife

You need to consider the unique ecosystem which surrounds this lovely town. Science has shown us that levels of artificial electromagnetic radiation we are increasingly exposed to is harming not only humans but the sensitive environment that we tend to ignore but depend upon for our sustenance and mental health. <https://mdsafetech.org/environmental-and-wildlife-effects/>

New Review on Wildlife and wireless Radiofrequency Radiation

The most comprehensive 3 part peer reviewed article by Levitt, Lai and Manville (2021) provides an updated, thorough and well referenced overview of RFR and effects on all wildlife, revealing a disturbing picture of the future if we continue to expand wireless in our homes, communities and for the commercialization of space.

The authors state, *“But is there a larger environmental downside to rising ambient EMF exposures — particularly RFR — from popular mobile communication devices, WiFi antennas, and all accompanying infrastructure that is being overlooked by environmentalists, researchers, and government regulators alike. We may be missing critical physiological effects across species based on obsolete assumptions about low-level far-field exposures being too weak to adversely affect living tissue. We have yet to take into consideration the unique physiologies of other species, or how they use the environment in ways that humans do not, when we assume that the unfettered use of EMF/RFR can continue unabated and be allowed to grow indefinitely.”* **Effects of non-ionizing electromagnetic fields on flora and fauna, part 1.** Rising ambient EMF levels in the environment. (2021) Levitt BB et al. Rev Environ Health. 2021 May 27. <https://pubmed.ncbi.nlm.nih.gov/34047144/>

MOEF Report on Wildlife

The Inter-Ministerial Committee (IMC) of expert scientists reviewed the literature of the effects of RF-EMF radiations on wildlife, humans and the biosphere. In their 2010 MOEF Report they found that out of the 919 research papers collected on birds, bees, plants, other animals, and humans, 593 showed impacts, 180 showed no impacts, and 196 were inconclusive studies. All organisms had effects.

Human Effects– 62% showed effects, 13% no effect and 25% inconclusive **Plant Effects**– 87% showed effects and 13% were inconclusive

Wildlife Effects- 62% showed effects, 4% no effect and 36% inconclusive **Bee Effects**—85% showed effects and 15% no effect

Bird Effects- 77% showed effects, 10% no effect and 13% inconclusive **Current Standards are Scientifically Out of Date**

UNESCO World Heritage Wildlife Area Species Disappearing

An abundance of peer reviewed literature demonstrates adverse impacts to the environment with declines in insect, bird and wildlife populations in cities and where cell towers are placed. This spells disaster for biodiversity, fragile wildlife areas, critical pollinators and agriculture, especially with additive effects of pesticides, toxins and loss of habitat. A report on Unesco's Mt. Nardia World Heritage Park documents this slow decline in populations of species after cell towers were placed. Unesco Report on Disappearance of Species from Mt. Nardia Park World Heritage Area 2000-2015 with Increased Expansion of Telecommunications Antenna. Ethno-Botonist Mark Broomhall. [UNESCO Report on Disappearance of Species from Mt. Nardia with Increased EMR 2000-2015](#)

Cell Tower Health Effects

Current standards are based on short term thermal exposures and discount the abundant peer reviewed literature on harm from low level, non -thermal effects. It is clear that the limits for radiofrequency radiation are set too high in the U.S. and Canada. These limits are 100 times higher than that of Italy and Russia, who set their standards based on methodical research on immunologic, neurologic and biologic effects of low-level radiation fields. Current U.S. limits are up to 1,000 microwatts/cm² with symptoms seen at levels of 0.005 microwatts /cm².

Physicians in Germany ask for Health Investigation of Cell Towers in 2005

An open letter from Dr. Cornelia Waldmann-Selsam was sent to the German State Chancellor, Edmund Stoiber, on behalf of 114 physicians (Bamberger Appeal) asking for an investigation into the newly reported adverse health symptoms of 356 residents who lived near cell towers in Oberfranken, Germany. Dr. Waldmann-Selsam noted, *“Many humans get sick from emissions far below the recommended limit values, which consider only thermal effects, and we have a sickness picture with characteristic symptom combinations, which are new to us physicians, ”* *The list of symptoms were, ” Sleep disturbances, tiredness, concentration impairment, forgetfulness, problem with finding words, depressive tendencies, tinnitus, sudden loss of hearing, hearing loss, giddiness, nose bleeds, visual disturbances, frequent infections, sinusitis, joint and limb pains, nerve and soft tissue pains, feeling of numbness, heart rhythm disturbances,*

increased blood pressure , hormonal disturbances, night-time sweat, nausea.” Resident noted almost immediate improvement when moving away.”

Dr. Waldmann-Selsam goes on to say, *“physicians were able to prove, by re-testing the patients, the normalization of blood pressure, heart rhythm, hormone disturbances, visual disturbances, neurological symptoms, blood picture,”*. She called this an emergency medical situation and requested an official health investigation. http://www.next-up.org/pdf/Letter_to_Edmund_Stoiber.pdf

Cell Tower Effects on Cognition and Learning

The majority of studies, which have been done internationally, have shown an increase in neurologic symptoms in a percentage of residents living near cell towers. Symptoms vary with the distance from the cell tower. Symptoms include insomnia, headache, heart palpitations, dizziness, poor concentration, and fatigue. A study in Japan (Shinjo 2014) showed a decrease in symptoms when the cell tower was removed. There is also a well done study showing blood abnormalities in those living nearest to cell towers (Zothansiana 2017). DNA and lipid abnormalities were seen along with reduction in internal antioxidants which provide protection from pollutants.

Moreover, a recent study conducted over a 2 year period looked at effects of cell towers near two schools by Meo et al (2018) and clearly demonstrated cognitive dysfunction in students closest to the higher power cell tower.

Firefighters Fighting Fires and Now Cell Towers

After noticing that many of the firefighters were developing neurologic symptoms when first responder cell towers were placed on the fire stations the International Association of Firefighters studied the matter and passed a resolution in 2004 asking that cell towers not be placed in proximity to fire stations. In AB 537 (Quirk), signed into law by Gov. Newsom on October 4, 2021, the firefighters achieved the first ever health/readiness exemption in the world.

Every fire station in California is now exempt from having a 5G tower on their station. This movement began when cell towers were initially targeted for fire stations because of their location and the revenue received by the cities. Many firefighters developed symptoms including headaches, fatigue, memory impairment and insomnia within a week of the installation of the towers. An exemption was inserted in California bills on cell towers. [AB 57](#) (Quirk 2015) has an exemption on the grounds of health effects. AB 537 (Quirk 2021) also has this exemption and reads, *“Due to the unique duties and infrastructure requirements for the swift and effective deployment of firefighters, this section does not apply to a collocation or siting application for a wireless telecommunications facility where the project is proposed for placement on fire department facilities.”* [SB 649](#) (Hueso, Quirk and Dodd 2018) also had a health exemption for firefighters and was vetoed by Governor Brown.

500 Meter (1640 ft) Buffer from Cell Tower Recommended

Cell tower health studies that show impacts from cell towers with symptoms within about 1500 feet of the cell towers. That is why Pearce et al (2019) **recommended a “500 Meter buffer around schools, hospitals and homes “Limiting liability with positioning to minimize negative health effects of cellular phone towers.”**

Cancer and Cell Towers

3 Studies investigated the rates of cancer and cell towers looking at the distance from cell towers and the incidence of cancer. They found the rate of cancer incidence increased significantly in those living within about 350 -400 meters (around 1000 feet) to the cell tower.

[Dode 2011](#) performed a 10 year study (1996-2006) examining the distance from cell towers and cancer clusters. He and his colleagues found a highly significant increase in cancers in those living within 500 meters of the cell tower. They noted “The largest density power was 40.78 $\mu\text{W}/\text{cm}^2$, and the smallest was 0.04 $\mu\text{W}/\text{cm}^2$.” The current guidelines are about 1000 $\mu\text{W}/\text{cm}^2$. The authors conclude “Measured values stay below Brazilian Federal Law limits that are the same of ICNIRP. The human exposure pattern guidelines are inadequate. More restrictive limits must be adopted urgently.”

[Wolf and Wolf 2004](#) investigated the rates of cancer versus distance from cell towers in small towns in Israel. He found the rate of cancer incidence was 129 cases per 10,000 persons per year in those living within 350 meters of a cell tower versus a rate of 16-31/10,000 in those living greater than 350 meters from the cell tower.

Eger (2004) showed an increase in the development of new cancer cases within a 10 year period if residents lived within 400 meters of a cell tower. Their results revealed that within 5 years of operation of a transmitting station the relative risk of cancer development tripled in residents near the cell towers compared to residents outside the area.

Insurance Has an Exclusion for Radiofrequency Radiation as an Emerging Risk Insurance companies consider wireless radiation to be similar to asbestos in long term health impacts and do not provide coverage from harm for RF health effects. The cities are left with that liability unless they can provide insurance.

In a 2019 report, **New Emerging Risk Insights**, by Swiss RE Insurance Company, the second largest reinsurance company in the world, **5G is listed as an emerging concern** in the high risk category within 3 years. Included in the high-risk trends are artificial intelligence and the existential threats of climate change. “*The top five emerging risks in our SONAR 2019 report are digital technology’s clash with legacy hardware, potential threats from the spread of 5G mobile networks, increasingly limited fiscal and monetary flexibility by central banks, genetic testing’s implications on life insurers, and the impact of climate change on the life and health sector.*” <https://www.swissre.com/institute/research/sonar/sonar2019.html>

National Academy of Sciences Report on the Havana Syndrome and Harm from RFR

A recent report by the National Academy of Sciences concluded that the “sonic attacks” on diplomats in Cuba and China were most likely due to pulsed radiofrequency from directed energy weapons. They had symptoms similar to those who live near cell towers (headache, nausea, insomnia, dizziness, memory loss, heart palpitations, depression). Dr. Beatrice Golomb wrote the most extensive report to date on this subject linking these mystery “directed energy attacks” to pulsed microwaves similar to the wireless devices we use daily. In the case of these high powered beams there was documented injury to brain networks found by the University of Pittsburg physicians who studied the diplomats. Dr Golomb highlights that **the strength of the health effects are related to the peak power not the average power. The pulse makes the poison.**

The EUROPAEM EMF Guideline 2016 for the prevention, diagnosis and treatment of EMF-related health problems and illnesses is a comprehensive guide written by many scientists and physicians in Europe who are part of the European Academy for Environmental Medicine (EUROPAEM) – EMF working group who have recognized and treated those with electrosensitivity for many years. This is a thorough, well researched and well-referenced scientific paper that is based on the 2012 Austrian Medical Association **Guidelines for the Diagnosis and Treatment of EMF Illness**. A questionnaire from their group is included in the attachments.

New Hampshire 5G Commission Finds Radiofrequency Radiation Problematic

The first Commission formed in the United States to study the environmental and health effects of 5G technology released their comprehensive final report November 1, 2020. The Commission to Study the Environmental and Health Effects of Evolving 5G Technology was mandated by HB 522 passed by the state legislature in New Hampshire. Their final report included 15 recommendations addressing the need for public education about wireless hazards, RF health studies, RF measurements, cell antenna setbacks, fiberoptic rather than wireless deployment, commercial warning signs and wildlife protection. After hearing extensive testimony in a series of 13 meetings over the course of a year and reviewing an abundance of research, the Commission highlighted the lack of a single definition for 5G, **insufficient evidence of safety for 5th generation technology**, a concern that safety standards for wireless technologies have not been updated with the latest science and that 5G is largely a marketing concept. They also expressed concern that the FCC has a long history of being accountable to industry over the desires of communities and individuals.

FCC Told by DC Court to Reevaluate Safety Standards

On August 13, 2021 a joint lawsuit was won by petitioners against the Federal Communications Commission (FCC) for failure to protect human health and the environment by dismissing scientific evidence of harm from wireless radiation. The Petitioners challenged the FCC’s refusal

to reevaluate and update their 24-year-old radiofrequency (RF) safety guidelines for existing and new telecommunications technologies. The DC Circuit Court of Appeals ruled that the majority of the RF radiation standards established by the FCC did not use "reasoned decision-making" (they did not go by the science) and thus the standards were considered by the court to have been set in an "arbitrary and capricious" manner. This was an extremely high bar for the Plaintiffs to reach. The Circuit Court of Appeals rarely admonishes a federal agency or commission in this way. The DC Circuit Court of Appeals returned this decision back to the FCC and ordered the FCC to re-examine its standards for wireless radiation exposure and provide a review of wireless harms that is compliant with the law for non-cancer harms.

The Court Decision stated, "The National Environmental Policy Act ("NEPA") and its implementing regulations require federal agencies to "establish procedures to account for the environmental effects of [their] proposed actions." And "To fulfill its obligations under NEPA, the Commission has promulgated guidelines for human exposure to RF radiation... The Commission last updated its limits for RF exposure in 1996... The ANSI and IEEE developed limits are designed to protect against "thermal effects" of exposure to RF radiation, but not "non-thermal" effects. In March 2013, the Commission issued a notice of inquiry regarding the adequacy of its 1996 guidelines in response to changes in the ubiquity of wireless devices and in scientific standards and research since 1996. In December 2019, the Commission issued a final order resolving its 2013 notice of inquiry by declining to undertake any of the changes contemplated in the notice of inquiry. Petitioners challenge the 2019 final order under NEPA and the Administrative Procedure Act ("APA").

5G: A Manufactured Need by Industry

Reports indicate that the telecommunications industry has largely manufactured a "need" for expanding wireless technology in cities, while halting projects for safer fiberoptic broadband. Note a 2020 European Parliament report, **5G: State of Play in Europe, USA and Asia. In Depth Analysis**, suggests 5G is a manufactured need. *"As 5G is driven by the telecoms supply industry, and its long tail of component manufacturers, a major campaign is under way to convince governments that the economy and jobs will be strongly stimulated by 5G deployment."*

In my opinion, from all the research I have done, it appears the telecommunications industry has influenced laws to prevent health or environmental effects from being considered in the placement of cell towers (See FCC Captured Agency). They knew of the harm in early studies done by Dr. George Carlo in the 1990's but suppressed the data so they could move forward. That is well documented in Dr. Carlo's book, "Cell phones: Invisible Hazards in The Wireless Age".

A blizzard of robust science has appeared now to show biological and health impacts of wireless technology, but it is still denied, and the basis for genuinely safe RF radiation guidelines is flawed. An exponential growth in cell towers is now being played out with cities being left on their own to figure out how to regulate these towers locally. Industry places a heavy hand and complex laws on local policy makers who must navigate these complex FCC policies to prevent legal action.

Board of Health in Pittsfield Massachusetts Orders Verizon to Cease and Desist

For the first time in the U.S. a Board of Health has issued a cease and desist order to Verizon to remove or shut off a cell tower after 17 people in a neighborhood reported they became ill after the Verizon cell tower was turned on. Courtney Gilardi and her 2 children as well as residents living near the cell tower, reported experiencing a constellation of symptoms including stabbing headaches, nausea, vomiting, dizziness, “buzzing in the head”, and insomnia so severe her family had to move to the next town and into a house with no heat and no hot water to escape the sickness. Other neighbors drove an hour away to sleep at a relative’s house or slept in their cars away from the tower. These are classic symptoms of electromagnetic illness experienced in firefighters and military personnel working on radar and well documented by NASA, the Air Force and other military agencies as well as the “Havana Syndrome”. These symptoms were also seen in Japan after 2 cell towers were turned on and when the tower was removed the resident’s symptoms largely resolved.

Apple stops 5G Phone MMW: Is This the Death of 5G Millimeter Wavelengths?

You are probably aware that Verizon and AT&T built special hotspots in many cities in the U.S. to house 5G high band millimeter wavelengths that were to revolutionize wireless with ultrafast speeds. These small wavelengths the size of bees have been put into some community small cells which need to be about 1000 feet apart without obstruction to function properly. Apple, who already has some 5G MMW phones, just announced that it is not building any millimeter wave spectrum antennas in its next generation SE iphones. With 4G LTE low and mid band wavelengths they apparently do not need the millimeter 5G bandwidth. The article notes, “It’s not a surprise that Apple is dropping the spectrum from its phones. It costs chip space and power for every additional spectrum that is supported by a cellphone. Cell manufacturers care more about long battery life than they do about a technology that never made it out of the downtowns of a few major cities.”

FCC Limits: A False Sense of Security

We are told by the FCC that wireless radiation and cell towers are safe within current safety guidelines, or that we do not really know if there is harm or that the research is inconclusive or that it is not ionizing (like x-rays) so it cannot hurt us. This is the same dismissive and doubt creating language used by the tobacco industry and a host of other chemical companies to protect their toxic products, thus profits. The research shows that we do know, beyond a doubt, that wireless radiation is harmful to all living systems below the current safety standards. The most obvious evidence is that more and more children and adults are reporting symptoms of electrosensitivity (EHS) in the presence of wireless radiation when they live in a home near a cell tower, or use a cell phone, or in schools where wireless devices and cell towers are increasing.

Please use your authority and wisdom to keep this ordinance strong. Take more time if you need to in order for you to sort this out and be sure of your decision. Remember that you all live in Los Altos as well so you are protecting you and your families and the next generation as well.

Sincerely,

Cindy Russell, MD

Attached- Malibu Ordinances

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From: [Brent Smith](#)
To: [Public Comment](#); [City Council](#)
Date: Tuesday, April 12, 2022 11:49:11 AM
Attachments: [Los Altos Letter Final 4 11 2022 PDF\(1\).pdf](#)

Dear Los Altos City Council,

I strongly support Dr. Cindy Russell's attached letter regarding the Los Altos Wireless Ordinance and ask that you include all of the requests that she has brought to the attention of the Council and place them in the updated ordinance.

Sincerely,
Brent Smith
Los Altos resident

To: Los Altos City Council
council@losaltosca.gov
aenander@losaltosca.gov
smeadows@losaltosca.gov
nfligor@losaltosca.gov
lleeeng@losaltosca.gov
jweinberg@losaltosca.gov

From: Cindy Russell, MD

Re: Revisions to 2019 Los Altos Ordinance to Regulate Small Wireless Facilities

Date April 11, 2022

Dear Los Altos City Council:

I am writing today to strongly urge you to reinstate (with legally appropriate revisions) several of the major aspects of the original 2019 Small Cell Wireless Ordinance that diminish blight and protect the beauty, character and health of your lovely Silicon Valley community. In addition, after reading the new 2022 proposed Wireless Facilities Ordinance it appears that some important provisions may have been missed in crafting a new Small Cell ordinance which are critical for the safety of the residents and also reduce liability for the city. This includes several insurance provisions, minor modifications to existing facilities, permitting process, and more.

Encinitas and Malibu have passed ordinances which have elements that are protective but allow flexibility for cities and exceptions/waivers for the carriers. They remain uncontested.

- **Encinitas, CA-** Revised from 2019- Passed June 20, 2020
<https://encinitasca.gov/Portals/0/City%20Documents/Documents/Development%20Services/Planning/Land%20Development/Small%20Wireless%20Facilities/Resolution%20No.%202020-38%20With%20Policy.pdf?ver=2020-07-13-192634-373>
- **Malibu Resolution 21-17** – Attached please find an executed copy of Res. 21-17 is officially binding because Ordinance 484 adopts it by reference.

I will summarize my ask of the Los Altos City Council with these key points below, followed by backup for those points with additional pertinent legal information which does impact the issue of health/science, as per a court ruling from the second highest court in the land on August 13, 2021, a ruling that referred to the existing RF radiation regulatory limits as "arbitrary and capricious". Arbitrary and capricious means that the law and/or the facts were knowingly disregarded. That is a high bar indeed and the plaintiffs reached that bar. It behooves us to consider what is going on in the courts and pass ordinance language accordingly:

PLEASE PAUSE: There are resolutions as mentioned above that have successfully balanced the unique needs of communities with the rights of the telecommunications industry. The new resolution does not have to be passed Tuesday night. Some reflection on the best that Encinitas and Malibu have to offer may benefit all of us in the long run.

Key Points

- 1. TITLE OF ORDINANCE: Clarification if this applies to Small Cell or Macro Cells; macro towers must go through conditional use permits
- 2. LOCATION STANDARDS – PREFERRED SITES
- 3. WAIVERS FOR STANDARDS
- 4. FIRE SAFETY
- 5. APPEALS PROCESS

Thank you for passing the 2019 Wireless Facilities Telecommunications Ordinance. The original wireless facilities ordinance for Los Altos took into consideration public concerns, was well thought out and protects the city of Los Altos from poorly designed and poorly placed cell towers.

I understand, however, that there is a lawsuit against the City for Los Altos from Verizon and AT&T claiming that the 2019 ordinance as written “effectively prohibits” wireless communications. You are commended for taking on this task of revising the ordinance in response. Some of the 2022 proposed changes are good and clarify the permitting process for carriers to avoid lawsuits and provide for “personal wireless services”, however, I believe there are some gaps in protections and flexibility for the city that I would like to point out which could be remedied in addition to some clarifications.

It is important to consider adding the provisions below. As you note with the FCC lawsuit to reevaluation the 20 year-old FCC safety standards, the courts have judged that the FCC did not take into account several aspects of human health and environmental effects in setting their standards. We do not know what the future holds for the federal Telecommunications Act of 1996 or state law. The city of Los Altos needs to be prepared to alter its ordinance in case there is a change in the law in the future.

Representative Anna Eshoo Supports Local Control for Cell Towers

The 2018 FCC small cell order that fast tracks deployment of small cells in order to “cut the red tape” has prompted cities around the country, like Los Altos, to write these emergency ordinances and now revise them. The FCC Declaratory ruling has been considered an overreach of the Telecom Industry which dominates the FCC (FCC: Captured Agency, N. Alster), overriding the basic rights of cities to have local control. This was recognized by our local representative Anna Eshoo who in 2019 introduced HR530 to protect the rights of states and government by deeming that the “*Federal Communications Commission’s Declaratory Ruling in “Third Report and Order and Declaratory Ruling” (FCC 18-111) shall have no force or effect.*” This bill had 52 co-sponsors. Senator Feinstein introduced in 2019 a companion federal bill SB 2012 to block the FCC order. Neither moved.

Representative Eshoo also sent a letter to the FCC in 2020 to ask that the vote on the FCC order be delayed stating, *“we worry that if this Declaratory Ruling does not benefit from meaningful input from local governments, the result could undermine municipalities’ ability to balance their responsibilities to public safety and community design with their desire to ensure access to affordable wireless networks and the next generation services.”*

Please fight for the rights of your residents and government as our local representatives have done. You have more power than you know. Please exercise it.

Important Provisions to Add

1) Title of Ordinance

To clarify whether the ordinance title should apply only to Small Wireless Facilities or if this is for both Small Cell and Macro Towers it may be helpful to rename the ordinance to its original title and keep the descriptions separate within the ordinance. It is not clear to me in this rewrite. Small cell applications are different than for macro towers due to difference in structure of towers, power emitted and location in right of way as per FCC ruling.

(Section 14.82.050) See Encinitas Small Cell wireless Ordinance. Resolution 2019- 91- REGULATING SMALL WIRELESS FACILITIES AND OTHER INFRASTRUCTURE DEPLOYMENTS IN THE PUBLIC RIGHTS-OF-WAY
<https://encinitasca.gov/Portals/0/City%20Documents/Documents/Development%20Services/Planning/Land%20Development/Small%20Wireless%20Facilities/CC%20Policy%20C035.pdf>

2) **Location Standards- Preferred Sites-** Despite what the telecommunications industry says, you as a city can still have preferred sites and less preferred sites in your ordinance. (Encinitas and Malibu Ordinances) You can add an exception clause or waiver process to allow for placement of a cell tower if the carrier proves it is necessary (and other locations are not technically feasible) for “Personal Wireless Services” under the 1996 Telecom Act of 1996 and so that this does not constitute an “effective prohibition”.

*** Special Zones can be designated for schools, day care centers, residential dwellings, protected habitat or trees, parks, etc.**

*** Keep the 1000 foot distance between towers, not 200 feet.** Explanation below.

Here are examples of Location Standards in the Encinitas Small Cell Wireless Ordinance passed in June, 2020 and in Malibu April 2021, which to date are uncontested.

Encinitas Ordinance Passed June 10, 2020

SECTION 10. LOCATION STANDARDS

1. (a) **Restricted Site Locations.** All of the following locations will be deemed “Restricted Site Locations” that require an exception pursuant to SECTION 13 of this Policy:

1. (1) any location within a residential zone;
2. (2) any location within 500 feet from a residential dwelling unit;
3. (3) any location within 500 feet from a daycare facility or primary school;
4. (4) any location within a Very High Fire Hazard Severity Zone; and
5. (5) any location within the Ecological Resource/Open Space/Park Zone.

(b) **Location Preferences.** To better assist applicants and decision makers understand and respond to the community’s aesthetic preferences and values, this subsection sets out listed preferences for locations to be used in connection with small wireless facilities in an ordered hierarchy. Applications that involve lesser-preferred locations may be approved so long as the applicant demonstrates by clear and convincing evidence in the written record that: (1) any more preferred locations or structures within 500 feet from the proposed site would be technically infeasible; and (2) if the proposed site or the most- preferred location within 500 feet from the proposed site is within a Restricted Site Location, the applicant qualifies for an exception pursuant to SECTION 13 of this Policy. The City prefers small cells in the public rights-of-way to be installed in locations, ordered from most preferred to least preferred, as follows:

- (1) locations within industrial zones, commercial zones, business parks or office professional zones on or along prime arterials;
- (2) locations within industrial zones, commercial zones, business parks or office professional zones on or along major arterials;
- (3) locations within industrial zones, commercial zones, business parks or office professional zones on or along collector roads;
- (4) locations within industrial zones, commercial zones, business parks or office professional zones on or along local streets;
- (5) any location within 500 feet from any residential zone;
- (6) locations within residential zones on or along prime arterials;
- (7) locations within residential zones on or along major arterials;
- (8) locations within residential zones on or along collector roads;
- (9) locations within residential zones on or along local streets;

(10) any location within 1,000 feet from an existing/proposed small wireless facility;

In the event that a proposed facility would be within 500 feet from two or more restricted site locations (as defined in Subsection 10(a)), and the proposed facility qualifies for an exception pursuant to SECTION 13 of this Policy, the technically feasible location furthest from all such restricted site locations will be deemed to be the most preferred alternative.

(c) **Encroachments Over Private Property.** No small cell antennas, accessory equipment or other improvements may encroach onto or over any private or other property outside the public rights-of-way without the property owner’s express written consent.

Malibu Wireless Ordinance Resolution 21-17 Standards Passed April 2021.
<https://www.malibucity.org/DocumentCenter/View/27969/Ordinance-No-484>

Location Standards for All Facilities

The location standards for all wireless communications facilities, other than those that qualify as eligible facilities requests, are as follows:

1. No wireless telecommunication facility shall be located within five hundred (500) feet of any school, playground, or park unless a finding is made, based on technical evidence acceptable to the reviewing authority showing a clear need for the facility and that no technically feasible alternative site exists. Except for facilities installed on the same pole or tower as an existing wireless telecommunication facility, wireless telecommunication facilities located within any residential zone district shall not be located within one thousand (1,000) feet of any other wireless communications facility, except from those facilities placed on utility poles along Pacific Coast Highway, unless a waiver is granted.
2. All new freestanding wireless communications facilities and monopoles shall be set back a minimum distance of at least one hundred and twenty (120%) percent of the height of the facility or monopole from any property line abutting a residentially zoned property. This minimum setback is not subject to the waivers allowed under Section 7 of this Resolution.
3. Location preference for wireless communications facilities should be given to the following:
 1. Property designated non-residential (except for public open space and recreational vehicle park zoning districts), unless otherwise prohibited pursuant to this title.
 2. Facilities attached or sited adjacent to existing structures. Whenever possible, facilities shall be located on and/or inside existing structures. Appropriate types of existing structures may include, but are not limited to: buildings, water tanks, telephone poles and utility towers and poles, sign standards, light standards and roadway overpasses.
 3. Sites with minimum separation. Sites that are more than five hundred (500) feet from school, playgrounds, and parks.
4. Sites that are not highly visible from adjacent roadways.
5. Unless otherwise indicated in MMC Chapter 17.46 or these Standards, no wireless facility shall be installed on an exposed ridgeline unless the facility blends with the

surrounding existing natural and man-made environment and a finding is made that no other location is technically feasible.

6. The City expressly designates residential, public open space and recreational vehicle park zoning districts, parks and schools as the least appropriate possible locations, and the absolute last choices for siting.

3) Waivers for Standards

Malibu Wireless Facilities Ordinance 2021 has added a section on Waivers for Standards that clarifies the process and protects the city from liability.

Resolution No. 21-17 Page 9

1. A waiver of one or more of these Standards may be granted in the following circumstances:
 1. Pursuant to MMC Section 17.46.060(D), if an applicant demonstrates to the Planning Commission through clear and convincing evidence that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations;
 2. If an applicant demonstrates to the Planning Commission through clear and convincing evidence set forth in a feasibility study that compliance with a requirement of these Standards would be technically infeasible and the proposed wireless facility complies with the requirements of these Standards to the greatest extent technically feasible. For example, an exception to a requirement to conceal antennas in a shroud may be granted if shrouding is shown to be technically infeasible and an alternative concealment such as a colored film wrap is proposed; or
 3. If an applicant demonstrates to the Planning Commission with clear and convincing evidence that the particular engineering, design or location proposed involves an alternative that better meets the purposes of Chapter 17.46 and only minor non-compliance with a requirement of these design Standards and results in no increase in public visual impact to the community or provides other benefits. For example, an exception to the wireless facility location limitations may be granted when the applicant can demonstrate that the placement is less visible from viewsheds of residences or shielded by vegetation or existing infrastructure (such as barriers), or is less physically intrusive (for example, less impactful to tree roots or reduces noise). Among other factors, in deciding whether or not to grant an exception, the Planning Commission may consider the impact of expansions to the facility that the applicant would be entitled to make as of right if granted.
2. Waivers may only be requested at the time an application is initially submitted for a discretionary permit. The request must include both the specific provision(s) from which waiver is sought and the basis of the request, including all supporting evidence on which the applicant relies. Any request for waiver after the City has deemed an application

complete constitutes a material change to the proposed wireless facility and shall be considered a new application. A request for waiver from one or more

4) Fire Safety

All electrical equipment including small cell towers are a fire risk. The fire cannot be put out in a conventional manner with firefighters blasting water on the fire. They have to wait until the power is shut off or electrocution will result.

Examples are

- **San Diego tower that caught fire in a high school stadium-**
<https://fox5sandiego.com/news/local-news/stadium-light-catches-fire-at-south-bay-high-school/>
- **The Malibu fire in 2007 due to pole overload.** CPUC finds Edison and 4 telecom carriers \$51.5 million - <https://www.latimes.com/local/lanow/la-me-ln-malibu-fire-settlements-approved-state-puc-20130919-story.html>

Considering the increase in wildfires and the risk of earthquakes. Fire safety is a priority for citizens. **The Malibu Wireless Facilities Ordinance 2021 has language in the Fire Safety Standards that can be incorporated.** In the attached Executed Copy of Malibu Res. 21-17, please note fire language on pages 2, 3, 5, 8, 11, 12, and particularly beginning on page 23 with "Electrical and Structural Safety Information."

5) Appeals Process

Language for appeal is not in the ordinance Applications.

- A) Any person adversely affected by a decision of the Director pursuant to this Chapter may request an administrative hearing to appeal the Director’s decision. In order to request a hearing, the person shall submit to the City Clerk in the manner directed in the Director’s decision notice a fully completed request for administrative hearing form along with a full amount of the appeal fee set by the City Council (by way of check or money order). The request for administrative hearing shall be incomplete if it does not include the appeal fee in the full amount. ... etc.

Precaution is Warranted

We understand that, as per Section 704 of the 1996 Telecommunications Act, environmental concerns, and as courts have interpreted these it includes health impacts, cannot be a factor in denial of cell towers but we are early in the game.

Public health and ecosystem health are still important issues with new 5G systems untested for long term or short term safety for either human health or environmental health. 5G systems with a complex mix of low, medium and high frequencies (thus the need for macro and microcells) are very onerous to measure, requiring very expensive complex equipment that is very difficult

for engineers to accomplish let alone city facility engineers. Precaution in placement is paramount in this discussion. Once cell towers are placed there is no going back and you just wait for people to experience symptoms or develop cancer or a neurologic condition that you will not be able to sort out from the common toxic exposures we all encounter on a daily basis.

Elon Musk tells us that 5G millimeter wave systems are not needed for autonomous cars. 5G millimeter wavelengths are also not required for “personal wireless services”. For the later this technology can be effectively replaced with safer and more secure fiberoptic networks and current wireless technologies. I will explain why health matters.

Health Matters

I am a practicing physician who has studied the health impacts of environmental toxins through our local County Medical Association and the California Medical Association for over 25 years. I began studying the health impacts of wireless radiation when I learned of a proposal to place a cell tower on my daughter’s school.

After 10 years of research into the literature and talking to a variety of people affected by cell towers and wireless radiation I, like many others in the medical and scientific community, have come to the conclusion that wireless radiation is a pollutant just like lead or pesticides or mercury or toxic industrial waste. The mechanisms are similar - oxidation, the effects are broad on all living organisms and people are often unaware they are exposed to the toxin - unless they are “sensitive”. Wireless radiation causes oxidative stress on organisms and stem cells, and at low levels of radiation. These low levels cause a slow decline in physiologic processes, and for those who have become sensitive- an immediate reaction.

Antioxidants and Health

As we now know small amounts of toxins can cause harm in certain windows of development thus children are more vulnerable. We also know effects are cumulative. People vary in their vulnerability due to age, genetics and other toxic exposures. Not all people react the same. Our health, wellness and aging are determined by oxidation levels in our tissues that injure our DNA, proteins and lipids, thus antioxidants in foods have been shown to block oxidation, neutralize cellular injury and promote health. This is well established in the nutrition literature. The literature also demonstrates that taking antioxidants (Vitamin E, zinc and melatonin) protects the cell from oxidation injury from wireless radiation. Oxidative stress plays a major part in the development of chronic, degenerative and inflammatory illnesses such as cancer, autoimmune disorders, aging, cataracts, rheumatoid arthritis, cardiovascular and neurodegenerative diseases, as well as some acute pathologies (trauma, stroke). **It is well established that wireless radiation at non-thermal levels causes oxidative stress.** Effects of this are cumulative on our DNA, lipids and cellular membranes.

We Evolved in a Low Electromagnetic Environment

The natural environment of the Earth is electromagnetic. We have terrestrial electric and magnetic fields, radiation from the sun and cosmic microwaves. All living things evolved in

harmony with the Earth's natural but very very low-level electromagnetic rhythms. Birds, bees and mammals have magnetite in their bodies and brains that use the Earth's magnetic field for the delicate tasks of navigation and foraging. Our human nervous system, heart, reproductive and endocrine systems rely on minute electromagnetic signals for complex functions. Manmade electromagnetic fields (EMF) emitted by our modern technology can distort our bodies electric currents, delicate cell membranes and cause broad dysfunction. This can be with long term or sometimes short exposures with higher power and different pulsations. Science has shown us that organisms adapt to constant electromagnetic fields found in nature much easier than artificial pulsed radiation that is emitted from cell towers and wireless devices. It makes perfect sense that wireless radiation can be harmful to living organisms even it does not knock an electron out of its orbit.

Wildlife

You need to consider the unique ecosystem which surrounds this lovely town. Science has shown us that levels of artificial electromagnetic radiation we are increasingly exposed to is harming not only humans but the sensitive environment that we tend to ignore but depend upon for our sustenance and mental health. <https://mdsafetech.org/environmental-and-wildlife-effects/>

New Review on Wildlife and wireless Radiofrequency Radiation

The most comprehensive 3 part peer reviewed article by Levitt, Lai and Manville (2021) provides an updated, thorough and well referenced overview of RFR and effects on all wildlife, revealing a disturbing picture of the future if we continue to expand wireless in our homes, communities and for the commercialization of space.

The authors state, *“But is there a larger environmental downside to rising ambient EMF exposures — particularly RFR — from popular mobile communication devices, WiFi antennas, and all accompanying infrastructure that is being overlooked by environmentalists, researchers, and government regulators alike. We may be missing critical physiological effects across species based on obsolete assumptions about low-level far-field exposures being too weak to adversely affect living tissue. We have yet to take into consideration the unique physiologies of other species, or how they use the environment in ways that humans do not, when we assume that the unfettered use of EMF/RFR can continue unabated and be allowed to grow indefinitely.”* **Effects of non-ionizing electromagnetic fields on flora and fauna, part 1.** Rising ambient EMF levels in the environment. (2021) Levitt BB et al. Rev Environ Health. 2021 May 27. <https://pubmed.ncbi.nlm.nih.gov/34047144/>

MOEF Report on Wildlife

The Inter-Ministerial Committee (IMC) of expert scientists reviewed the literature of the effects of RF-EMF radiations on wildlife, humans and the biosphere. In their 2010 MOEF Report they found that out of the 919 research papers collected on birds, bees, plants, other animals, and humans, 593 showed impacts, 180 showed no impacts, and 196 were inconclusive studies. All organisms had effects.

Human Effects– 62% showed effects, 13% no effect and 25% inconclusive **Plant Effects**– 87% showed effects and 13% were inconclusive

Wildlife Effects- 62% showed effects, 4% no effect and 36% inconclusive **Bee Effects**—85% showed effects and 15% no effect

Bird Effects- 77% showed effects, 10% no effect and 13% inconclusive **Current Standards are Scientifically Out of Date**

UNESCO World Heritage Wildlife Area Species Disappearing

An abundance of peer reviewed literature demonstrates adverse impacts to the environment with declines in insect, bird and wildlife populations in cities and where cell towers are placed. This spells disaster for biodiversity, fragile wildlife areas, critical pollinators and agriculture, especially with additive effects of pesticides, toxins and loss of habitat. A report on Unesco's Mt. Nardia World Heritage Park documents this slow decline in populations of species after cell towers were placed. Unesco Report on Disappearance of Species from Mt. Nardia Park World Heritage Area 2000-2015 with Increased Expansion of Telecommunications Antenna. Ethno-Botonomist Mark Broomhall. [UNESCO Report on Disappearance of Species from Mt. Nardia with Increased EMR 2000-2015](#)

Cell Tower Health Effects

Current standards are based on short term thermal exposures and discount the abundant peer reviewed literature on harm from low level, non -thermal effects. It is clear that the limits for radiofrequency radiation are set too high in the U.S. and Canada. These limits are 100 times higher than that of Italy and Russia, who set their standards based on methodical research on immunologic, neurologic and biologic effects of low-level radiation fields. Current U.S. limits are up to 1,000 microwatts/cm² with symptoms seen at levels of 0.005 microwatts /cm².

Physicians in Germany ask for Health Investigation of Cell Towers in 2005

An open letter from Dr. Cornelia Waldmann-Selsam was sent to the German State Chancellor, Edmund Stoiber, on behalf of 114 physicians (Bamberger Appeal) asking for an investigation into the newly reported adverse health symptoms of 356 residents who lived near cell towers in Oberfranken, Germany. Dr. Waldmann-Selsam noted, *“Many humans get sick from emissions far below the recommended limit values, which consider only thermal effects, and we have a sickness picture with characteristic symptom combinations, which are new to us physicians, ”* *The list of symptoms were, ” Sleep disturbances, tiredness, concentration impairment, forgetfulness, problem with finding words, depressive tendencies, tinnitus, sudden loss of hearing, hearing loss, giddiness, nose bleeds, visual disturbances, frequent infections, sinusitis, joint and limb pains, nerve and soft tissue pains, feeling of numbness, heart rhythm disturbances,*

increased blood pressure , hormonal disturbances, night-time sweat, nausea.” Resident noted almost immediate improvement when moving away.”

Dr. Waldmann-Selsam goes on to say, “*physicians were able to prove, by re-testing the patients, the normalization of blood pressure, heart rhythm, hormone disturbances, visual disturbances, neurological symptoms, blood picture,”*. She called this an emergency medical situation and requested an official health investigation. http://www.next-up.org/pdf/Letter_to_Edmund_Stoiber.pdf

Cell Tower Effects on Cognition and Learning

The majority of studies, which have been done internationally, have shown an increase in neurologic symptoms in a percentage of residents living near cell towers. Symptoms vary with the distance from the cell tower. Symptoms include insomnia, headache, heart palpitations, dizziness, poor concentration, and fatigue. A study in Japan (Shinjo 2014) showed a decrease in symptoms when the cell tower was removed. There is also a well done study showing blood abnormalities in those living nearest to cell towers (Zothansiana 2017). DNA and lipid abnormalities were seen along with reduction in internal antioxidants which provide protection from pollutants.

Moreover, a recent study conducted over a 2 year period looked at effects of cell towers near two schools by Meo et al (2018) and clearly demonstrated cognitive dysfunction in students closest to the higher power cell tower.

Firefighters Fighting Fires and Now Cell Towers

After noticing that many of the firefighters were developing neurologic symptoms when first responder cell towers were placed on the fire stations the International Association of Firefighters studied the matter and passed a resolution in 2004 asking that cell towers not be placed in proximity to fire stations. In AB 537 (Quirk), signed into law by Gov. Newsom on October 4, 2021, the firefighters achieved the first ever health/readiness exemption in the world.

Every fire station in California is now exempt from having a 5G tower on their station. This movement began when cell towers were initially targeted for fire stations because of their location and the revenue received by the cities. Many firefighters developed symptoms including headaches, fatigue, memory impairment and insomnia within a week of the installation of the towers. An exemption was inserted in California bills on cell towers. [AB 57](#) (Quirk 2015) has an exemption on the grounds of health effects. AB 537 (Quirk 2021) also has this exemption and reads, “*Due to the unique duties and infrastructure requirements for the swift and effective deployment of firefighters, this section does not apply to a collocation or siting application for a wireless telecommunications facility where the project is proposed for placement on fire department facilities.*” [SB 649](#) (Hueso, Quirk and Dodd 2018) also had a health exemption for firefighters and was vetoed by Governor Brown.

500 Meter (1640 ft) Buffer from Cell Tower Recommended

Cell tower health studies that show impacts from cell towers with symptoms within about 1500 feet of the cell towers. That is why Pearce et al (2019) **recommended a “500 Meter buffer around schools, hospitals and homes “Limiting liability with positioning to minimize negative health effects of cellular phone towers.”**

Cancer and Cell Towers

3 Studies investigated the rates of cancer and cell towers looking at the distance from cell towers and the incidence of cancer. They found the rate of cancer incidence increased significantly in those living within about 350 -400 meters (around 1000 feet) to the cell tower.

[Dode 2011](#) performed a 10 year study (1996-2006) examining the distance from cell towers and cancer clusters. He and his colleagues found a highly significant increase in cancers in those living within 500 meters of the cell tower. They noted “The largest density power was 40.78 $\mu\text{W}/\text{cm}^2$, and the smallest was 0.04 $\mu\text{W}/\text{cm}^2$.” The current guidelines are about 1000 $\mu\text{W}/\text{cm}^2$. The authors conclude “Measured values stay below Brazilian Federal Law limits that are the same of ICNIRP. The human exposure pattern guidelines are inadequate. More restrictive limits must be adopted urgently.”

[Wolf and Wolf 2004](#) investigated the rates of cancer versus distance from cell towers in small towns in Israel. He found the rate of cancer incidence was 129 cases per 10,000 persons per year in those living within 350 meters of a cell tower versus a rate of 16-31/10,000 in those living greater than 350 meters from the cell tower.

Eger (2004) showed an increase in the development of new cancer cases within a 10 year period if residents lived within 400 meters of a cell tower. Their results revealed that within 5 years of operation of a transmitting station the relative risk of cancer development tripled in residents near the cell towers compared to residents outside the area.

Insurance Has an Exclusion for Radiofrequency Radiation as an Emerging Risk Insurance companies consider wireless radiation to be similar to asbestos in long term health impacts and do not provide coverage from harm for RF health effects. The cities are left with that liability unless they can provide insurance.

In a 2019 report, **New Emerging Risk Insights**, by Swiss RE Insurance Company, the second largest reinsurance company in the world, **5G is listed as an emerging concern** in the high risk category within 3 years. Included in the high-risk trends are artificial intelligence and the existential threats of climate change. *“The top five emerging risks in our SONAR 2019 report are digital technology’s clash with legacy hardware, potential threats from the spread of 5G mobile networks, increasingly limited fiscal and monetary flexibility by central banks, genetic testing’s implications on life insurers, and the impact of climate change on the life and health sector.”* <https://www.swissre.com/institute/research/sonar/sonar2019.html>

National Academy of Sciences Report on the Havana Syndrome and Harm from RFR

A recent report by the National Academy of Sciences concluded that the “sonic attacks” on diplomats in Cuba and China were most likely due to pulsed radiofrequency from directed energy weapons. They had symptoms similar to those who live near cell towers (headache, nausea, insomnia, dizziness, memory loss, heart palpitations, depression). Dr. Beatrice Golomb wrote the most extensive report to date on this subject linking these mystery “directed energy attacks” to pulsed microwaves similar to the wireless devices we use daily. In the case of these high powered beams there was documented injury to brain networks found by the University of Pittsburg physicians who studied the diplomats. Dr Golomb highlights that **the strength of the health effects are related to the peak power not the average power. The pulse makes the poison.**

The EUROPAEM EMF Guideline 2016 for the prevention, diagnosis and treatment of EMF-related health problems and illnesses is a comprehensive guide written by many scientists and physicians in Europe who are part of the European Academy for Environmental Medicine (EUROPAEM) – EMF working group who have recognized and treated those with electrosensitivity for many years. This is a thorough, well researched and well-referenced scientific paper that is based on the 2012 Austrian Medical Association **Guidelines for the Diagnosis and Treatment of EMF Illness**. A questionnaire from their group is included in the attachments.

New Hampshire 5G Commission Finds Radiofrequency Radiation Problematic

The first Commission formed in the United States to study the environmental and health effects of 5G technology released their comprehensive final report November 1, 2020. The Commission to Study the Environmental and Health Effects of Evolving 5G Technology was mandated by HB 522 passed by the state legislature in New Hampshire. Their final report included 15 recommendations addressing the need for public education about wireless hazards, RF health studies, RF measurements, cell antenna setbacks, fiberoptic rather than wireless deployment, commercial warning signs and wildlife protection. After hearing extensive testimony in a series of 13 meetings over the course of a year and reviewing an abundance of research, the Commission highlighted the lack of a single definition for 5G, **insufficient evidence of safety for 5th generation technology**, a concern that safety standards for wireless technologies have not been updated with the latest science and that 5G is largely a marketing concept. They also expressed concern that the FCC has a long history of being accountable to industry over the desires of communities and individuals.

FCC Told by DC Court to Reevaluate Safety Standards

On August 13, 2021 a joint lawsuit was won by petitioners against the Federal Communications Commission (FCC) for failure to protect human health and the environment by dismissing scientific evidence of harm from wireless radiation. The Petitioners challenged the FCC’s refusal

to reevaluate and update their 24-year-old radiofrequency (RF) safety guidelines for existing and new telecommunications technologies. The DC Circuit Court of Appeals ruled that the majority of the RF radiation standards established by the FCC did not use "reasoned decision-making" (they did not go by the science) and thus the standards were considered by the court to have been set in an "arbitrary and capricious" manner. This was an extremely high bar for the Plaintiffs to reach. The Circuit Court of Appeals rarely admonishes a federal agency or commission in this way. The DC Circuit Court of Appeals returned this decision back to the FCC and ordered the FCC to re-examine its standards for wireless radiation exposure and provide a review of wireless harms that is compliant with the law for non-cancer harms.

The Court Decision stated, "The National Environmental Policy Act ("NEPA") and its implementing regulations require federal agencies to "establish procedures to account for the environmental effects of [their] proposed actions." And "To fulfill its obligations under NEPA, the Commission has promulgated guidelines for human exposure to RF radiation... The Commission last updated its limits for RF exposure in 1996... The ANSI and IEEE developed limits are designed to protect against "thermal effects" of exposure to RF radiation, but not "non-thermal" effects. In March 2013, the Commission issued a notice of inquiry regarding the adequacy of its 1996 guidelines in response to changes in the ubiquity of wireless devices and in scientific standards and research since 1996. In December 2019, the Commission issued a final order resolving its 2013 notice of inquiry by declining to undertake any of the changes contemplated in the notice of inquiry. Petitioners challenge the 2019 final order under NEPA and the Administrative Procedure Act ("APA").

5G: A Manufactured Need by Industry

Reports indicate that the telecommunications industry has largely manufactured a "need" for expanding wireless technology in cities, while halting projects for safer fiberoptic broadband. Note a 2020 European Parliament report, **5G: State of Play in Europe, USA and Asia. In Depth Analysis**, suggests 5G is a manufactured need. *"As 5G is driven by the telecoms supply industry, and its long tail of component manufacturers, a major campaign is under way to convince governments that the economy and jobs will be strongly stimulated by 5G deployment."*

In my opinion, from all the research I have done, it appears the telecommunications industry has influenced laws to prevent health or environmental effects from being considered in the placement of cell towers (See FCC Captured Agency). They knew of the harm in early studies done by Dr. George Carlo in the 1990's but suppressed the data so they could move forward. That is well documented in Dr. Carlo's book, "Cell phones: Invisible Hazards in The Wireless Age".

A blizzard of robust science has appeared now to show biological and health impacts of wireless technology, but it is still denied, and the basis for genuinely safe RF radiation guidelines is flawed. An exponential growth in cell towers is now being played out with cities being left on their own to figure out how to regulate these towers locally. Industry places a heavy hand and complex laws on local policy makers who must navigate these complex FCC policies to prevent legal action.

Board of Health in Pittsfield Massachusetts Orders Verizon to Cease and Desist

For the first time in the U.S. a Board of Health has issued a cease and desist order to Verizon to remove or shut off a cell tower after 17 people in a neighborhood reported they became ill after the Verizon cell tower was turned on. Courtney Gilardi and her 2 children as well as residents living near the cell tower, reported experiencing a constellation of symptoms including stabbing headaches, nausea, vomiting, dizziness, “buzzing in the head”, and insomnia so severe her family had to move to the next town and into a house with no heat and no hot water to escape the sickness. Other neighbors drove an hour away to sleep at a relative’s house or slept in their cars away from the tower. These are classic symptoms of electromagnetic illness experienced in firefighters and military personnel working on radar and well documented by NASA, the Air Force and other military agencies as well as the “Havana Syndrome”. These symptoms were also seen in Japan after 2 cell towers were turned on and when the tower was removed the resident’s symptoms largely resolved.

Apple stops 5G Phone MMW: Is This the Death of 5G Millimeter Wavelengths?

You are probably aware that Verizon and AT&T built special hotspots in many cities in the U.S. to house 5G high band millimeter wavelengths that were to revolutionize wireless with ultrafast speeds. These small wavelengths the size of bees have been put into some community small cells which need to be about 1000 feet apart without obstruction to function properly. Apple, who already has some 5G MMW phones, just announced that it is not building any millimeter wave spectrum antennas in its next generation SE iphones. With 4G LTE low and mid band wavelengths they apparently do not need the millimeter 5G bandwidth. The article notes, “It’s not a surprise that Apple is dropping the spectrum from its phones. It costs chip space and power for every additional spectrum that is supported by a cellphone. Cell manufacturers care more about long battery life than they do about a technology that never made it out of the downtowns of a few major cities.”

FCC Limits: A False Sense of Security

We are told by the FCC that wireless radiation and cell towers are safe within current safety guidelines, or that we do not really know if there is harm or that the research is inconclusive or that it is not ionizing (like x-rays) so it cannot hurt us. This is the same dismissive and doubt creating language used by the tobacco industry and a host of other chemical companies to protect their toxic products, thus profits. The research shows that we do know, beyond a doubt, that wireless radiation is harmful to all living systems below the current safety standards. The most obvious evidence is that more and more children and adults are reporting symptoms of electrosensitivity (EHS) in the presence of wireless radiation when they live in a home near a cell tower, or use a cell phone, or in schools where wireless devices and cell towers are increasing.

Please use your authority and wisdom to keep this ordinance strong. Take more time if you need to in order for you to sort this out and be sure of your decision. Remember that you all live in Los Altos as well so you are protecting you and your families and the next generation as well.

Sincerely,

Cindy Russell, MD

Attached- Malibu Ordinances

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- **5G: State of Play in Europe, USA and Asia. In Depth Analysis, European Parliament.** [https://www.europarl.europa.eu/RegData/etudes/IDAN/2019/631060/IPOL_IDA\(2019\)631060_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2019/631060/IPOL_IDA(2019)631060_EN.pdf)
- **Apple ditches mmWave 5G with newest iPhone.** <https://www.lightreading.com/5g/apple-ditches-mmwave-5g-with-newest-iphone/d/d-id/775901>

From: [Valentina Landa](#)
To: [Public Comment](#); [City Council](#)
Date: Tuesday, April 12, 2022 12:40:42 PM
Attachments: [Los Altos Letter Final 4 11 2022 PDF\(1\).pdf](#)

Dear Los Altos City Council,

I strongly support Dr. Cindy Russell's attached letter regarding the Los Altos Wireless Ordinance and ask that you include all of the requests that she has brought to the attention of the Council and place them in the updated ordinance.

Thank you,
Valentina

To: Los Altos City Council
council@losaltosca.gov
aenander@losaltosca.gov
smeadows@losaltosca.gov
nfligor@losaltosca.gov
lleeeng@losaltosca.gov
jweinberg@losaltosca.gov

From: Cindy Russell, MD

Re: Revisions to 2019 Los Altos Ordinance to Regulate Small Wireless Facilities

Date April 11, 2022

Dear Los Altos City Council:

I am writing today to strongly urge you to reinstate (with legally appropriate revisions) several of the major aspects of the original 2019 Small Cell Wireless Ordinance that diminish blight and protect the beauty, character and health of your lovely Silicon Valley community. In addition, after reading the new 2022 proposed Wireless Facilities Ordinance it appears that some important provisions may have been missed in crafting a new Small Cell ordinance which are critical for the safety of the residents and also reduce liability for the city. This includes several insurance provisions, minor modifications to existing facilities, permitting process, and more.

Encinitas and Malibu have passed ordinances which have elements that are protective but allow flexibility for cities and exceptions/waivers for the carriers. They remain uncontested.

- **Encinitas, CA-** Revised from 2019- Passed June 20, 2020
<https://encinitasca.gov/Portals/0/City%20Documents/Documents/Development%20Services/Planning/Land%20Development/Small%20Wireless%20Facilities/Resolution%20No.%202020-38%20With%20Policy.pdf?ver=2020-07-13-192634-373>
- **Malibu Resolution 21-17** – Attached please find an executed copy of Res. 21-17 is officially binding because Ordinance 484 adopts it by reference.

I will summarize my ask of the Los Altos City Council with these key points below, followed by backup for those points with additional pertinent legal information which does impact the issue of health/science, as per a court ruling from the second highest court in the land on August 13, 2021, a ruling that referred to the existing RF radiation regulatory limits as "arbitrary and capricious". Arbitrary and capricious means that the law and/or the facts were knowingly disregarded. That is a high bar indeed and the plaintiffs reached that bar. It behooves us to consider what is going on in the courts and pass ordinance language accordingly:

PLEASE PAUSE: There are resolutions as mentioned above that have successfully balanced the unique needs of communities with the rights of the telecommunications industry. The new resolution does not have to be passed Tuesday night. Some reflection on the best that Encinitas and Malibu have to offer may benefit all of us in the long run.

Key Points

- 1. TITLE OF ORDINANCE: Clarification if this applies to Small Cell or Macro Cells; macro towers must go through conditional use permits
- 2. LOCATION STANDARDS – PREFERRED SITES
- 3. WAIVERS FOR STANDARDS
- 4. FIRE SAFETY
- 5. APPEALS PROCESS

Thank you for passing the 2019 Wireless Facilities Telecommunications Ordinance. The original wireless facilities ordinance for Los Altos took into consideration public concerns, was well thought out and protects the city of Los Altos from poorly designed and poorly placed cell towers.

I understand, however, that there is a lawsuit against the City for Los Altos from Verizon and AT&T claiming that the 2019 ordinance as written “effectively prohibits” wireless communications. You are commended for taking on this task of revising the ordinance in response. Some of the 2022 proposed changes are good and clarify the permitting process for carriers to avoid lawsuits and provide for “personal wireless services”, however, I believe there are some gaps in protections and flexibility for the city that I would like to point out which could be remedied in addition to some clarifications.

It is important to consider adding the provisions below. As you note with the FCC lawsuit to reevaluation the 20 year-old FCC safety standards, the courts have judged that the FCC did not take into account several aspects of human health and environmental effects in setting their standards. We do not know what the future holds for the federal Telecommunications Act of 1996 or state law. The city of Los Altos needs to be prepared to alter its ordinance in case there is a change in the law in the future.

Representative Anna Eshoo Supports Local Control for Cell Towers

The 2018 FCC small cell order that fast tracks deployment of small cells in order to “cut the red tape” has prompted cities around the country, like Los Altos, to write these emergency ordinances and now revise them. The FCC Declaratory ruling has been considered an overreach of the Telecom Industry which dominates the FCC (FCC: Captured Agency, N. Alster), overriding the basic rights of cities to have local control. This was recognized by our local representative Anna Eshoo who in 2019 introduced HR530 to protect the rights of states and government by deeming that the “*Federal Communications Commission’s Declaratory Ruling in “Third Report and Order and Declaratory Ruling” (FCC 18-111) shall have no force or effect.*” This bill had 52 co-sponsors. Senator Feinstein introduced in 2019 a companion federal bill SB 2012 to block the FCC order. Neither moved.

Representative Eshoo also sent a letter to the FCC in 2020 to ask that the vote on the FCC order be delayed stating, *“we worry that if this Declaratory Ruling does not benefit from meaningful input from local governments, the result could undermine municipalities’ ability to balance their responsibilities to public safety and community design with their desire to ensure access to affordable wireless networks and the next generation services.”*

Please fight for the rights of your residents and government as our local representatives have done. You have more power than you know. Please exercise it.

Important Provisions to Add

1) Title of Ordinance

To clarify whether the ordinance title should apply only to Small Wireless Facilities or if this is for both Small Cell and Macro Towers it may be helpful to rename the ordinance to its original title and keep the descriptions separate within the ordinance. It is not clear to me in this rewrite. Small cell applications are different than for macro towers due to difference in structure of towers, power emitted and location in right of way as per FCC ruling.

(Section 14.82.050) See Encinitas Small Cell wireless Ordinance. Resolution 2019- 91- REGULATING SMALL WIRELESS FACILITIES AND OTHER INFRASTRUCTURE DEPLOYMENTS IN THE PUBLIC RIGHTS-OF-WAY
<https://encinitasca.gov/Portals/0/City%20Documents/Documents/Development%20Services/Planning/Land%20Development/Small%20Wireless%20Facilities/CC%20Policy%20C035.pdf>

2) **Location Standards- Preferred Sites-** Despite what the telecommunications industry says, you as a city can still have preferred sites and less preferred sites in your ordinance. (Encinitas and Malibu Ordinances) You can add an exception clause or waiver process to allow for placement of a cell tower if the carrier proves it is necessary (and other locations are not technically feasible) for “Personal Wireless Services” under the 1996 Telecom Act of 1996 and so that this does not constitute an “effective prohibition”.

*** Special Zones can be designated for schools, day care centers, residential dwellings, protected habitat or trees, parks, etc.**

*** Keep the 1000 foot distance between towers, not 200 feet.** Explanation below.

Here are examples of Location Standards in the Encinitas Small Cell Wireless Ordinance passed in June, 2020 and in Malibu April 2021, which to date are uncontested.

Encinitas Ordinance Passed June 10, 2020

SECTION 10. LOCATION STANDARDS

1. (a) **Restricted Site Locations.** All of the following locations will be deemed “Restricted Site Locations” that require an exception pursuant to SECTION 13 of this Policy:

1. (1) any location within a residential zone;
2. (2) any location within 500 feet from a residential dwelling unit;
3. (3) any location within 500 feet from a daycare facility or primary school;
4. (4) any location within a Very High Fire Hazard Severity Zone; and
5. (5) any location within the Ecological Resource/Open Space/Park Zone.

(b) **Location Preferences.** To better assist applicants and decision makers understand and respond to the community’s aesthetic preferences and values, this subsection sets out listed preferences for locations to be used in connection with small wireless facilities in an ordered hierarchy. Applications that involve lesser-preferred locations may be approved so long as the applicant demonstrates by clear and convincing evidence in the written record that: (1) any more preferred locations or structures within 500 feet from the proposed site would be technically infeasible; and (2) if the proposed site or the most- preferred location within 500 feet from the proposed site is within a Restricted Site Location, the applicant qualifies for an exception pursuant to SECTION 13 of this Policy. The City prefers small cells in the public rights-of-way to be installed in locations, ordered from most preferred to least preferred, as follows:

- (1) locations within industrial zones, commercial zones, business parks or office professional zones on or along prime arterials;
- (2) locations within industrial zones, commercial zones, business parks or office professional zones on or along major arterials;
- (3) locations within industrial zones, commercial zones, business parks or office professional zones on or along collector roads;
- (4) locations within industrial zones, commercial zones, business parks or office professional zones on or along local streets;
- (5) any location within 500 feet from any residential zone;
- (6) locations within residential zones on or along prime arterials;
- (7) locations within residential zones on or along major arterials;
- (8) locations within residential zones on or along collector roads;
- (9) locations within residential zones on or along local streets;

(10) any location within 1,000 feet from an existing/proposed small wireless facility;

In the event that a proposed facility would be within 500 feet from two or more restricted site locations (as defined in Subsection 10(a)), and the proposed facility qualifies for an exception pursuant to SECTION 13 of this Policy, the technically feasible location furthest from all such restricted site locations will be deemed to be the most preferred alternative.

(c) **Encroachments Over Private Property.** No small cell antennas, accessory equipment or other improvements may encroach onto or over any private or other property outside the public rights-of-way without the property owner’s express written consent.

Malibu Wireless Ordinance Resolution 21-17 Standards Passed April 2021.
<https://www.malibucity.org/DocumentCenter/View/27969/Ordinance-No-484>

Location Standards for All Facilities

The location standards for all wireless communications facilities, other than those that qualify as eligible facilities requests, are as follows:

1. No wireless telecommunication facility shall be located within five hundred (500) feet of any school, playground, or park unless a finding is made, based on technical evidence acceptable to the reviewing authority showing a clear need for the facility and that no technically feasible alternative site exists. Except for facilities installed on the same pole or tower as an existing wireless telecommunication facility, wireless telecommunication facilities located within any residential zone district shall not be located within one thousand (1,000) feet of any other wireless communications facility, except from those facilities placed on utility poles along Pacific Coast Highway, unless a waiver is granted.
2. All new freestanding wireless communications facilities and monopoles shall be set back a minimum distance of at least one hundred and twenty (120%) percent of the height of the facility or monopole from any property line abutting a residentially zoned property. This minimum setback is not subject to the waivers allowed under Section 7 of this Resolution.
3. Location preference for wireless communications facilities should be given to the following:
 1. Property designated non-residential (except for public open space and recreational vehicle park zoning districts), unless otherwise prohibited pursuant to this title.
 2. Facilities attached or sited adjacent to existing structures. Whenever possible, facilities shall be located on and/or inside existing structures. Appropriate types of existing structures may include, but are not limited to: buildings, water tanks, telephone poles and utility towers and poles, sign standards, light standards and roadway overpasses.
 3. Sites with minimum separation. Sites that are more than five hundred (500) feet from school, playgrounds, and parks.
4. Sites that are not highly visible from adjacent roadways.
5. Unless otherwise indicated in MMC Chapter 17.46 or these Standards, no wireless facility shall be installed on an exposed ridgeline unless the facility blends with the

surrounding existing natural and man-made environment and a finding is made that no other location is technically feasible.

6. The City expressly designates residential, public open space and recreational vehicle park zoning districts, parks and schools as the least appropriate possible locations, and the absolute last choices for siting.

3) Waivers for Standards

Malibu Wireless Facilities Ordinance 2021 has added a section on Waivers for Standards that clarifies the process and protects the city from liability.

Resolution No. 21-17 Page 9

1. A waiver of one or more of these Standards may be granted in the following circumstances:
 1. Pursuant to MMC Section 17.46.060(D), if an applicant demonstrates to the Planning Commission through clear and convincing evidence that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations;
 2. If an applicant demonstrates to the Planning Commission through clear and convincing evidence set forth in a feasibility study that compliance with a requirement of these Standards would be technically infeasible and the proposed wireless facility complies with the requirements of these Standards to the greatest extent technically feasible. For example, an exception to a requirement to conceal antennas in a shroud may be granted if shrouding is shown to be technically infeasible and an alternative concealment such as a colored film wrap is proposed; or
 3. If an applicant demonstrates to the Planning Commission with clear and convincing evidence that the particular engineering, design or location proposed involves an alternative that better meets the purposes of Chapter 17.46 and only minor non-compliance with a requirement of these design Standards and results in no increase in public visual impact to the community or provides other benefits. For example, an exception to the wireless facility location limitations may be granted when the applicant can demonstrate that the placement is less visible from viewsheds of residences or shielded by vegetation or existing infrastructure (such as barriers), or is less physically intrusive (for example, less impactful to tree roots or reduces noise). Among other factors, in deciding whether or not to grant an exception, the Planning Commission may consider the impact of expansions to the facility that the applicant would be entitled to make as of right if granted.
2. Waivers may only be requested at the time an application is initially submitted for a discretionary permit. The request must include both the specific provision(s) from which waiver is sought and the basis of the request, including all supporting evidence on which the applicant relies. Any request for waiver after the City has deemed an application

complete constitutes a material change to the proposed wireless facility and shall be considered a new application. A request for waiver from one or more

4) Fire Safety

All electrical equipment including small cell towers are a fire risk. The fire cannot be put out in a conventional manner with firefighters blasting water on the fire. They have to wait until the power is shut off or electrocution will result.

Examples are

- **San Diego tower that caught fire in a high school stadium-**
<https://fox5sandiego.com/news/local-news/stadium-light-catches-fire-at-south-bay-high-school/>
- **The Malibu fire in 2007 due to pole overload.** CPUC finds Edison and 4 telecom carriers \$51.5 million - <https://www.latimes.com/local/lanow/la-me-ln-malibu-fire-settlements-approved-state-puc-20130919-story.html>

Considering the increase in wildfires and the risk of earthquakes. Fire safety is a priority for citizens. **The Malibu Wireless Facilities Ordinance 2021 has language in the Fire Safety Standards that can be incorporated.** In the attached Executed Copy of Malibu Res. 21-17, please note fire language on pages 2, 3, 5, 8, 11, 12, and particularly beginning on page 23 with "Electrical and Structural Safety Information."

5) Appeals Process

Language for appeal is not in the ordinance Applications.

- A) Any person adversely affected by a decision of the Director pursuant to this Chapter may request an administrative hearing to appeal the Director’s decision. In order to request a hearing, the person shall submit to the City Clerk in the manner directed in the Director’s decision notice a fully completed request for administrative hearing form along with a full amount of the appeal fee set by the City Council (by way of check or money order). The request for administrative hearing shall be incomplete if it does not include the appeal fee in the full amount. ... etc.

Precaution is Warranted

We understand that, as per Section 704 of the 1996 Telecommunications Act, environmental concerns, and as courts have interpreted these it includes health impacts, cannot be a factor in denial of cell towers but we are early in the game.

Public health and ecosystem health are still important issues with new 5G systems untested for long term or short term safety for either human health or environmental health. 5G systems with a complex mix of low, medium and high frequencies (thus the need for macro and microcells) are very onerous to measure, requiring very expensive complex equipment that is very difficult

for engineers to accomplish let alone city facility engineers. Precaution in placement is paramount in this discussion. Once cell towers are placed there is no going back and you just wait for people to experience symptoms or develop cancer or a neurologic condition that you will not be able to sort out from the common toxic exposures we all encounter on a daily basis.

Elon Musk tells us that 5G millimeter wave systems are not needed for autonomous cars. 5G millimeter wavelengths are also not required for “personal wireless services”. For the later this technology can be effectively replaced with safer and more secure fiberoptic networks and current wireless technologies. I will explain why health matters.

Health Matters

I am a practicing physician who has studied the health impacts of environmental toxins through our local County Medical Association and the California Medical Association for over 25 years. I began studying the health impacts of wireless radiation when I learned of a proposal to place a cell tower on my daughter’s school.

After 10 years of research into the literature and talking to a variety of people affected by cell towers and wireless radiation I, like many others in the medical and scientific community, have come to the conclusion that wireless radiation is a pollutant just like lead or pesticides or mercury or toxic industrial waste. The mechanisms are similar - oxidation, the effects are broad on all living organisms and people are often unaware they are exposed to the toxin - unless they are “sensitive”. Wireless radiation causes oxidative stress on organisms and stem cells, and at low levels of radiation. These low levels cause a slow decline in physiologic processes, and for those who have become sensitive- an immediate reaction.

Antioxidants and Health

As we now know small amounts of toxins can cause harm in certain windows of development thus children are more vulnerable. We also know effects are cumulative. People vary in their vulnerability due to age, genetics and other toxic exposures. Not all people react the same. Our health, wellness and aging are determined by oxidation levels in our tissues that injure our DNA, proteins and lipids, thus antioxidants in foods have been shown to block oxidation, neutralize cellular injury and promote health. This is well established in the nutrition literature. The literature also demonstrates that taking antioxidants (Vitamin E, zinc and melatonin) protects the cell from oxidation injury from wireless radiation. Oxidative stress plays a major part in the development of chronic, degenerative and inflammatory illnesses such as cancer, autoimmune disorders, aging, cataracts, rheumatoid arthritis, cardiovascular and neurodegenerative diseases, as well as some acute pathologies (trauma, stroke). **It is well established that wireless radiation at non-thermal levels causes oxidative stress.** Effects of this are cumulative on our DNA, lipids and cellular membranes.

We Evolved in a Low Electromagnetic Environment

The natural environment of the Earth is electromagnetic. We have terrestrial electric and magnetic fields, radiation from the sun and cosmic microwaves. All living things evolved in

harmony with the Earth's natural but very very low-level electromagnetic rhythms. Birds, bees and mammals have magnetite in their bodies and brains that use the Earth's magnetic field for the delicate tasks of navigation and foraging. Our human nervous system, heart, reproductive and endocrine systems rely on minute electromagnetic signals for complex functions. Manmade electromagnetic fields (EMF) emitted by our modern technology can distort our bodies electric currents, delicate cell membranes and cause broad dysfunction. This can be with long term or sometimes short exposures with higher power and different pulsations. Science has shown us that organisms adapt to constant electromagnetic fields found in nature much easier than artificial pulsed radiation that is emitted from cell towers and wireless devices. It makes perfect sense that wireless radiation can be harmful to living organisms even it does not knock an electron out of its orbit.

Wildlife

You need to consider the unique ecosystem which surrounds this lovely town. Science has shown us that levels of artificial electromagnetic radiation we are increasingly exposed to is harming not only humans but the sensitive environment that we tend to ignore but depend upon for our sustenance and mental health. <https://mdsafetech.org/environmental-and-wildlife-effects/>

New Review on Wildlife and wireless Radiofrequency Radiation

The most comprehensive 3 part peer reviewed article by Levitt, Lai and Manville (2021) provides an updated, thorough and well referenced overview of RFR and effects on all wildlife, revealing a disturbing picture of the future if we continue to expand wireless in our homes, communities and for the commercialization of space.

The authors state, *“But is there a larger environmental downside to rising ambient EMF exposures — particularly RFR — from popular mobile communication devices, WiFi antennas, and all accompanying infrastructure that is being overlooked by environmentalists, researchers, and government regulators alike. We may be missing critical physiological effects across species based on obsolete assumptions about low-level far-field exposures being too weak to adversely affect living tissue. We have yet to take into consideration the unique physiologies of other species, or how they use the environment in ways that humans do not, when we assume that the unfettered use of EMF/RFR can continue unabated and be allowed to grow indefinitely.”* **Effects of non-ionizing electromagnetic fields on flora and fauna, part 1.** Rising ambient EMF levels in the environment. (2021) Levitt BB et al. Rev Environ Health. 2021 May 27. <https://pubmed.ncbi.nlm.nih.gov/34047144/>

MOEF Report on Wildlife

The Inter-Ministerial Committee (IMC) of expert scientists reviewed the literature of the effects of RF-EMF radiations on wildlife, humans and the biosphere. In their 2010 MOEF Report they found that out of the 919 research papers collected on birds, bees, plants, other animals, and humans, 593 showed impacts, 180 showed no impacts, and 196 were inconclusive studies. All organisms had effects.

Human Effects– 62% showed effects, 13% no effect and 25% inconclusive **Plant Effects**– 87% showed effects and 13% were inconclusive

Wildlife Effects- 62% showed effects, 4% no effect and 36% inconclusive **Bee Effects**—85% showed effects and 15% no effect

Bird Effects- 77% showed effects, 10% no effect and 13% inconclusive **Current Standards are Scientifically Out of Date**

UNESCO World Heritage Wildlife Area Species Disappearing

An abundance of peer reviewed literature demonstrates adverse impacts to the environment with declines in insect, bird and wildlife populations in cities and where cell towers are placed. This spells disaster for biodiversity, fragile wildlife areas, critical pollinators and agriculture, especially with additive effects of pesticides, toxins and loss of habitat. A report on Unesco's Mt. Nardia World Heritage Park documents this slow decline in populations of species after cell towers were placed. Unesco Report on Disappearance of Species from Mt. Nardia Park World Heritage Area 2000-2015 with Increased Expansion of Telecommunications Antenna. Ethno-Botonist Mark Broomhall. [UNESCO Report on Disappearance of Species from Mt. Nardia with Increased EMR 2000-2015](#)

Cell Tower Health Effects

Current standards are based on short term thermal exposures and discount the abundant peer reviewed literature on harm from low level, non -thermal effects. It is clear that the limits for radiofrequency radiation are set too high in the U.S. and Canada. These limits are 100 times higher than that of Italy and Russia, who set their standards based on methodical research on immunologic, neurologic and biologic effects of low-level radiation fields. Current U.S. limits are up to 1,000 microwatts/cm² with symptoms seen at levels of 0.005 microwatts /cm².

Physicians in Germany ask for Health Investigation of Cell Towers in 2005

An open letter from Dr. Cornelia Waldmann-Selsam was sent to the German State Chancellor, Edmund Stoiber, on behalf of 114 physicians (Bamberger Appeal) asking for an investigation into the newly reported adverse health symptoms of 356 residents who lived near cell towers in Oberfranken, Germany. Dr. Waldmann-Selsam noted, *“Many humans get sick from emissions far below the recommended limit values, which consider only thermal effects, and we have a sickness picture with characteristic symptom combinations, which are new to us physicians, ”* *The list of symptoms were, ” Sleep disturbances, tiredness, concentration impairment, forgetfulness, problem with finding words, depressive tendencies, tinnitus, sudden loss of hearing, hearing loss, giddiness, nose bleeds, visual disturbances, frequent infections, sinusitis, joint and limb pains, nerve and soft tissue pains, feeling of numbness, heart rhythm disturbances,*

increased blood pressure , hormonal disturbances, night-time sweat, nausea.” Resident noted almost immediate improvement when moving away.”

Dr. Waldmann-Selsam goes on to say, “*physicians were able to prove, by re-testing the patients, the normalization of blood pressure, heart rhythm, hormone disturbances, visual disturbances, neurological symptoms, blood picture,”*. She called this an emergency medical situation and requested an official health investigation. http://www.next-up.org/pdf/Letter_to_Edmund_Stoiber.pdf

Cell Tower Effects on Cognition and Learning

The majority of studies, which have been done internationally, have shown an increase in neurologic symptoms in a percentage of residents living near cell towers. Symptoms vary with the distance from the cell tower. Symptoms include insomnia, headache, heart palpitations, dizziness, poor concentration, and fatigue. A study in Japan (Shinjo 2014) showed a decrease in symptoms when the cell tower was removed. There is also a well done study showing blood abnormalities in those living nearest to cell towers (Zothansiana 2017). DNA and lipid abnormalities were seen along with reduction in internal antioxidants which provide protection from pollutants.

Moreover, a recent study conducted over a 2 year period looked at effects of cell towers near two schools by Meo et al (2018) and clearly demonstrated cognitive dysfunction in students closest to the higher power cell tower.

Firefighters Fighting Fires and Now Cell Towers

After noticing that many of the firefighters were developing neurologic symptoms when first responder cell towers were placed on the fire stations the International Association of Firefighters studied the matter and passed a resolution in 2004 asking that cell towers not be placed in proximity to fire stations. In AB 537 (Quirk), signed into law by Gov. Newsom on October 4, 2021, the firefighters achieved the first ever health/readiness exemption in the world.

Every fire station in California is now exempt from having a 5G tower on their station. This movement began when cell towers were initially targeted for fire stations because of their location and the revenue received by the cities. Many firefighters developed symptoms including headaches, fatigue, memory impairment and insomnia within a week of the installation of the towers. An exemption was inserted in California bills on cell towers. [AB 57](#) (Quirk 2015) has an exemption on the grounds of health effects. AB 537 (Quirk 2021) also has this exemption and reads, “*Due to the unique duties and infrastructure requirements for the swift and effective deployment of firefighters, this section does not apply to a collocation or siting application for a wireless telecommunications facility where the project is proposed for placement on fire department facilities.*” [SB 649](#) (Hueso, Quirk and Dodd 2018) also had a health exemption for firefighters and was vetoed by Governor Brown.

500 Meter (1640 ft) Buffer from Cell Tower Recommended

Cell tower health studies that show impacts from cell towers with symptoms within about 1500 feet of the cell towers. That is why Pearce et al (2019) **recommended a “500 Meter buffer around schools, hospitals and homes “Limiting liability with positioning to minimize negative health effects of cellular phone towers.”**

Cancer and Cell Towers

3 Studies investigated the rates of cancer and cell towers looking at the distance from cell towers and the incidence of cancer. They found the rate of cancer incidence increased significantly in those living within about 350 -400 meters (around 1000 feet) to the cell tower.

[Dode 2011](#) performed a 10 year study (1996-2006) examining the distance from cell towers and cancer clusters. He and his colleagues found a highly significant increase in cancers in those living within 500 meters of the cell tower. They noted “The largest density power was 40.78 $\mu\text{W}/\text{cm}^2$, and the smallest was 0.04 $\mu\text{W}/\text{cm}^2$.” The current guidelines are about 1000 $\mu\text{W}/\text{cm}^2$. The authors conclude “Measured values stay below Brazilian Federal Law limits that are the same of ICNIRP. The human exposure pattern guidelines are inadequate. More restrictive limits must be adopted urgently.”

[Wolf and Wolf 2004](#) investigated the rates of cancer versus distance from cell towers in small towns in Israel. He found the rate of cancer incidence was 129 cases per 10,000 persons per year in those living within 350 meters of a cell tower versus a rate of 16-31/10,000 in those living greater than 350 meters from the cell tower.

Eger (2004) showed an increase in the development of new cancer cases within a 10 year period if residents lived within 400 meters of a cell tower. Their results revealed that within 5 years of operation of a transmitting station the relative risk of cancer development tripled in residents near the cell towers compared to residents outside the area.

Insurance Has an Exclusion for Radiofrequency Radiation as an Emerging Risk Insurance companies consider wireless radiation to be similar to asbestos in long term health impacts and do not provide coverage from harm for RF health effects. The cities are left with that liability unless they can provide insurance.

In a 2019 report, **New Emerging Risk Insights**, by Swiss RE Insurance Company, the second largest reinsurance company in the world, **5G is listed as an emerging concern** in the high risk category within 3 years. Included in the high-risk trends are artificial intelligence and the existential threats of climate change. “*The top five emerging risks in our SONAR 2019 report are digital technology’s clash with legacy hardware, potential threats from the spread of 5G mobile networks, increasingly limited fiscal and monetary flexibility by central banks, genetic testing’s implications on life insurers, and the impact of climate change on the life and health sector.*” <https://www.swissre.com/institute/research/sonar/sonar2019.html>

National Academy of Sciences Report on the Havana Syndrome and Harm from RFR

A recent report by the National Academy of Sciences concluded that the “sonic attacks” on diplomats in Cuba and China were most likely due to pulsed radiofrequency from directed energy weapons. They had symptoms similar to those who live near cell towers (headache, nausea, insomnia, dizziness, memory loss, heart palpitations, depression). Dr. Beatrice Golomb wrote the most extensive report to date on this subject linking these mystery “directed energy attacks” to pulsed microwaves similar to the wireless devices we use daily. In the case of these high powered beams there was documented injury to brain networks found by the University of Pittsburg physicians who studied the diplomats. Dr Golomb highlights that **the strength of the health effects are related to the peak power not the average power. The pulse makes the poison.**

The EUROPAEM EMF Guideline 2016 for the prevention, diagnosis and treatment of EMF-related health problems and illnesses is a comprehensive guide written by many scientists and physicians in Europe who are part of the European Academy for Environmental Medicine (EUROPAEM) – EMF working group who have recognized and treated those with electrosensitivity for many years. This is a thorough, well researched and well-referenced scientific paper that is based on the 2012 Austrian Medical Association **Guidelines for the Diagnosis and Treatment of EMF Illness**. A questionnaire from their group is included in the attachments.

New Hampshire 5G Commission Finds Radiofrequency Radiation Problematic

The first Commission formed in the United States to study the environmental and health effects of 5G technology released their comprehensive final report November 1, 2020. The Commission to Study the Environmental and Health Effects of Evolving 5G Technology was mandated by HB 522 passed by the state legislature in New Hampshire. Their final report included 15 recommendations addressing the need for public education about wireless hazards, RF health studies, RF measurements, cell antenna setbacks, fiberoptic rather than wireless deployment, commercial warning signs and wildlife protection. After hearing extensive testimony in a series of 13 meetings over the course of a year and reviewing an abundance of research, the Commission highlighted the lack of a single definition for 5G, **insufficient evidence of safety for 5th generation technology**, a concern that safety standards for wireless technologies have not been updated with the latest science and that 5G is largely a marketing concept. They also expressed concern that the FCC has a long history of being accountable to industry over the desires of communities and individuals.

FCC Told by DC Court to Reevaluate Safety Standards

On August 13, 2021 a joint lawsuit was won by petitioners against the Federal Communications Commission (FCC) for failure to protect human health and the environment by dismissing scientific evidence of harm from wireless radiation. The Petitioners challenged the FCC’s refusal

to reevaluate and update their 24-year-old radiofrequency (RF) safety guidelines for existing and new telecommunications technologies. The DC Circuit Court of Appeals ruled that the majority of the RF radiation standards established by the FCC did not use "reasoned decision-making" (they did not go by the science) and thus the standards were considered by the court to have been set in an "arbitrary and capricious" manner. This was an extremely high bar for the Plaintiffs to reach. The Circuit Court of Appeals rarely admonishes a federal agency or commission in this way. The DC Circuit Court of Appeals returned this decision back to the FCC and ordered the FCC to re-examine its standards for wireless radiation exposure and provide a review of wireless harms that is compliant with the law for non-cancer harms.

The Court Decision stated, "The National Environmental Policy Act ("NEPA") and its implementing regulations require federal agencies to "establish procedures to account for the environmental effects of [their] proposed actions." And "To fulfill its obligations under NEPA, the Commission has promulgated guidelines for human exposure to RF radiation... The Commission last updated its limits for RF exposure in 1996... The ANSI and IEEE developed limits are designed to protect against "thermal effects" of exposure to RF radiation, but not "non-thermal" effects. In March 2013, the Commission issued a notice of inquiry regarding the adequacy of its 1996 guidelines in response to changes in the ubiquity of wireless devices and in scientific standards and research since 1996. In December 2019, the Commission issued a final order resolving its 2013 notice of inquiry by declining to undertake any of the changes contemplated in the notice of inquiry. Petitioners challenge the 2019 final order under NEPA and the Administrative Procedure Act ("APA").

5G: A Manufactured Need by Industry

Reports indicate that the telecommunications industry has largely manufactured a "need" for expanding wireless technology in cities, while halting projects for safer fiberoptic broadband. Note a 2020 European Parliament report, **5G: State of Play in Europe, USA and Asia. In Depth Analysis**, suggests 5G is a manufactured need. *"As 5G is driven by the telecoms supply industry, and its long tail of component manufacturers, a major campaign is under way to convince governments that the economy and jobs will be strongly stimulated by 5G deployment."*

In my opinion, from all the research I have done, it appears the telecommunications industry has influenced laws to prevent health or environmental effects from being considered in the placement of cell towers (See FCC Captured Agency). They knew of the harm in early studies done by Dr. George Carlo in the 1990's but suppressed the data so they could move forward. That is well documented in Dr. Carlo's book, "Cell phones: Invisible Hazards in The Wireless Age".

A blizzard of robust science has appeared now to show biological and health impacts of wireless technology, but it is still denied, and the basis for genuinely safe RF radiation guidelines is flawed. An exponential growth in cell towers is now being played out with cities being left on their own to figure out how to regulate these towers locally. Industry places a heavy hand and complex laws on local policy makers who must navigate these complex FCC policies to prevent legal action.

Board of Health in Pittsfield Massachusetts Orders Verizon to Cease and Desist

For the first time in the U.S. a Board of Health has issued a cease and desist order to Verizon to remove or shut off a cell tower after 17 people in a neighborhood reported they became ill after the Verizon cell tower was turned on. Courtney Gilardi and her 2 children as well as residents living near the cell tower, reported experiencing a constellation of symptoms including stabbing headaches, nausea, vomiting, dizziness, “buzzing in the head”, and insomnia so severe her family had to move to the next town and into a house with no heat and no hot water to escape the sickness. Other neighbors drove an hour away to sleep at a relative’s house or slept in their cars away from the tower. These are classic symptoms of electromagnetic illness experienced in firefighters and military personnel working on radar and well documented by NASA, the Air Force and other military agencies as well as the “Havana Syndrome”. These symptoms were also seen in Japan after 2 cell towers were turned on and when the tower was removed the resident’s symptoms largely resolved.

Apple stops 5G Phone MMW: Is This the Death of 5G Millimeter Wavelengths?

You are probably aware that Verizon and AT&T built special hotspots in many cities in the U.S. to house 5G high band millimeter wavelengths that were to revolutionize wireless with ultrafast speeds. These small wavelengths the size of bees have been put into some community small cells which need to be about 1000 feet apart without obstruction to function properly. Apple, who already has some 5G MMW phones, just announced that it is not building any millimeter wave spectrum antennas in its next generation SE iphones. With 4G LTE low and mid band wavelengths they apparently do not need the millimeter 5G bandwidth. The article notes, “It’s not a surprise that Apple is dropping the spectrum from its phones. It costs chip space and power for every additional spectrum that is supported by a cellphone. Cell manufacturers care more about long battery life than they do about a technology that never made it out of the downtowns of a few major cities.”

FCC Limits: A False Sense of Security

We are told by the FCC that wireless radiation and cell towers are safe within current safety guidelines, or that we do not really know if there is harm or that the research is inconclusive or that it is not ionizing (like x-rays) so it cannot hurt us. This is the same dismissive and doubt creating language used by the tobacco industry and a host of other chemical companies to protect their toxic products, thus profits. The research shows that we do know, beyond a doubt, that wireless radiation is harmful to all living systems below the current safety standards. The most obvious evidence is that more and more children and adults are reporting symptoms of electrosensitivity (EHS) in the presence of wireless radiation when they live in a home near a cell tower, or use a cell phone, or in schools where wireless devices and cell towers are increasing.

Please use your authority and wisdom to keep this ordinance strong. Take more time if you need to in order for you to sort this out and be sure of your decision. Remember that you all live in Los Altos as well so you are protecting you and your families and the next generation as well.

Sincerely,

Cindy Russell, MD

Attached- Malibu Ordinances

References

- Pearce (2019) **500 Meter buffer recommended around schools, hospitals and homes. “Limiting liability with positioning to minimize negative health effects of cellular phone towers.”** (2019) Pearce M. Environmental Research, Nov 2019; <https://www.sciencedirect.com/science/article/abs/pii/S0013935119306425>
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- **The EUROPAEM EMF Guideline 2016 for the prevention, diagnosis and treatment of EMF-related health problems and illnesses** <https://www.degruyter.com/document/doi/10.1515/reveh-2016-0011/html>
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From: [Rachel Cooley](#)
To: [Public Comment](#); [City Council](#)
Date: Tuesday, April 12, 2022 1:33:16 PM
Attachments: [Los Altos Letter Final 4 11 2022 PDF\(1\).pdf](#)

Dear Los Altos City Council,

I strongly support Dr. Cindy Russell's attached letter regarding the Los Altos Wireless Ordinance and ask that you include all of the requests that she has brought to the attention of the Council and place them in the updated ordinance.

Sincerely,

Rachel Cooley

To: Los Altos City Council
council@losaltosca.gov
aenander@losaltosca.gov
smeadows@losaltosca.gov
nfligor@losaltosca.gov
lleeeng@losaltosca.gov
jweinberg@losaltosca.gov

From: Cindy Russell, MD

Re: Revisions to 2019 Los Altos Ordinance to Regulate Small Wireless Facilities

Date April 11, 2022

Dear Los Altos City Council:

I am writing today to strongly urge you to reinstate (with legally appropriate revisions) several of the major aspects of the original 2019 Small Cell Wireless Ordinance that diminish blight and protect the beauty, character and health of your lovely Silicon Valley community. In addition, after reading the new 2022 proposed Wireless Facilities Ordinance it appears that some important provisions may have been missed in crafting a new Small Cell ordinance which are critical for the safety of the residents and also reduce liability for the city. This includes several insurance provisions, minor modifications to existing facilities, permitting process, and more.

Encinitas and Malibu have passed ordinances which have elements that are protective but allow flexibility for cities and exceptions/waivers for the carriers. They remain uncontested.

- **Encinitas, CA-** Revised from 2019- Passed June 20, 2020
<https://encinitasca.gov/Portals/0/City%20Documents/Documents/Development%20Services/Planning/Land%20Development/Small%20Wireless%20Facilities/Resolution%20No.%202020-38%20With%20Policy.pdf?ver=2020-07-13-192634-373>
- **Malibu Resolution 21-17** – Attached please find an executed copy of Res. 21-17 is officially binding because Ordinance 484 adopts it by reference.

I will summarize my ask of the Los Altos City Council with these key points below, followed by backup for those points with additional pertinent legal information which does impact the issue of health/science, as per a court ruling from the second highest court in the land on August 13, 2021, a ruling that referred to the existing RF radiation regulatory limits as "arbitrary and capricious". Arbitrary and capricious means that the law and/or the facts were knowingly disregarded. That is a high bar indeed and the plaintiffs reached that bar. It behooves us to consider what is going on in the courts and pass ordinance language accordingly:

PLEASE PAUSE: There are resolutions as mentioned above that have successfully balanced the unique needs of communities with the rights of the telecommunications industry. The new resolution does not have to be passed Tuesday night. Some reflection on the best that Encinitas and Malibu have to offer may benefit all of us in the long run.

Key Points

- 1. TITLE OF ORDINANCE: Clarification if this applies to Small Cell or Macro Cells; macro towers must go through conditional use permits
- 2. LOCATION STANDARDS – PREFERRED SITES
- 3. WAIVERS FOR STANDARDS
- 4. FIRE SAFETY
- 5. APPEALS PROCESS

Thank you for passing the 2019 Wireless Facilities Telecommunications Ordinance. The original wireless facilities ordinance for Los Altos took into consideration public concerns, was well thought out and protects the city of Los Altos from poorly designed and poorly placed cell towers.

I understand, however, that there is a lawsuit against the City for Los Altos from Verizon and AT&T claiming that the 2019 ordinance as written “effectively prohibits” wireless communications. You are commended for taking on this task of revising the ordinance in response. Some of the 2022 proposed changes are good and clarify the permitting process for carriers to avoid lawsuits and provide for “personal wireless services”, however, I believe there are some gaps in protections and flexibility for the city that I would like to point out which could be remedied in addition to some clarifications.

It is important to consider adding the provisions below. As you note with the FCC lawsuit to reevaluation the 20 year-old FCC safety standards, the courts have judged that the FCC did not take into account several aspects of human health and environmental effects in setting their standards. We do not know what the future holds for the federal Telecommunications Act of 1996 or state law. The city of Los Altos needs to be prepared to alter its ordinance in case there is a change in the law in the future.

Representative Anna Eshoo Supports Local Control for Cell Towers

The 2018 FCC small cell order that fast tracks deployment of small cells in order to “cut the red tape” has prompted cities around the country, like Los Altos, to write these emergency ordinances and now revise them. The FCC Declaratory ruling has been considered an overreach of the Telecom Industry which dominates the FCC (FCC: Captured Agency, N. Alster), overriding the basic rights of cities to have local control. This was recognized by our local representative Anna Eshoo who in 2019 introduced HR530 to protect the rights of states and government by deeming that the “*Federal Communications Commission’s Declaratory Ruling in “Third Report and Order and Declaratory Ruling” (FCC 18-111) shall have no force or effect.*” This bill had 52 co-sponsors. Senator Feinstein introduced in 2019 a companion federal bill SB 2012 to block the FCC order. Neither moved.

Representative Eshoo also sent a letter to the FCC in 2020 to ask that the vote on the FCC order be delayed stating, *“we worry that if this Declaratory Ruling does not benefit from meaningful input from local governments, the result could undermine municipalities’ ability to balance their responsibilities to public safety and community design with their desire to ensure access to affordable wireless networks and the next generation services.”*

Please fight for the rights of your residents and government as our local representatives have done. You have more power than you know. Please exercise it.

Important Provisions to Add

1) Title of Ordinance

To clarify whether the ordinance title should apply only to Small Wireless Facilities or if this is for both Small Cell and Macro Towers it may be helpful to rename the ordinance to its original title and keep the descriptions separate within the ordinance. It is not clear to me in this rewrite. Small cell applications are different than for macro towers due to difference in structure of towers, power emitted and location in right of way as per FCC ruling.

(Section 14.82.050) See Encinitas Small Cell wireless Ordinance. Resolution 2019- 91-REGULATING SMALL WIRELESS FACILITIES AND OTHER INFRASTRUCTURE DEPLOYMENTS IN THE PUBLIC RIGHTS-OF-WAY
<https://encinitasca.gov/Portals/0/City%20Documents/Documents/Development%20Services/Planning/Land%20Development/Small%20Wireless%20Facilities/CC%20Policy%20C035.pdf>

2) **Location Standards- Preferred Sites-** Despite what the telecommunications industry says, you as a city can still have preferred sites and less preferred sites in your ordinance. (Encinitas and Malibu Ordinances) You can add an exception clause or waiver process to allow for placement of a cell tower if the carrier proves it is necessary (and other locations are not technically feasible) for “Personal Wireless Services” under the 1996 Telecom Act of 1996 and so that this does not constitute an “effective prohibition”.

*** Special Zones can be designated for schools, day care centers, residential dwellings, protected habitat or trees, parks, etc.**

*** Keep the 1000 foot distance between towers, not 200 feet.** Explanation below.

Here are examples of Location Standards in the Encinitas Small Cell Wireless Ordinance passed in June, 2020 and in Malibu April 2021, which to date are uncontested.

Encinitas Ordinance Passed June 10, 2020

SECTION 10. LOCATION STANDARDS

1. (a) **Restricted Site Locations.** All of the following locations will be deemed “Restricted Site Locations” that require an exception pursuant to SECTION 13 of this Policy:

1. (1) any location within a residential zone;
2. (2) any location within 500 feet from a residential dwelling unit;
3. (3) any location within 500 feet from a daycare facility or primary school;
4. (4) any location within a Very High Fire Hazard Severity Zone; and
5. (5) any location within the Ecological Resource/Open Space/Park Zone.

(b) **Location Preferences.** To better assist applicants and decision makers understand and respond to the community’s aesthetic preferences and values, this subsection sets out listed preferences for locations to be used in connection with small wireless facilities in an ordered hierarchy. Applications that involve lesser-preferred locations may be approved so long as the applicant demonstrates by clear and convincing evidence in the written record that: (1) any more preferred locations or structures within 500 feet from the proposed site would be technically infeasible; and (2) if the proposed site or the most-preferred location within 500 feet from the proposed site is within a Restricted Site Location, the applicant qualifies for an exception pursuant to SECTION 13 of this Policy. The City prefers small cells in the public rights-of-way to be installed in locations, ordered from most preferred to least preferred, as follows:

- (1) locations within industrial zones, commercial zones, business parks or office professional zones on or along prime arterials;
- (2) locations within industrial zones, commercial zones, business parks or office professional zones on or along major arterials;
- (3) locations within industrial zones, commercial zones, business parks or office professional zones on or along collector roads;
- (4) locations within industrial zones, commercial zones, business parks or office professional zones on or along local streets;
- (5) any location within 500 feet from any residential zone;
- (6) locations within residential zones on or along prime arterials;
- (7) locations within residential zones on or along major arterials;
- (8) locations within residential zones on or along collector roads;
- (9) locations within residential zones on or along local streets;

(10) any location within 1,000 feet from an existing/proposed small wireless facility;

In the event that a proposed facility would be within 500 feet from two or more restricted site locations (as defined in Subsection 10(a)), and the proposed facility qualifies for an exception pursuant to SECTION 13 of this Policy, the technically feasible location furthest from all such restricted site locations will be deemed to be the most preferred alternative.

(c) **Encroachments Over Private Property.** No small cell antennas, accessory equipment or other improvements may encroach onto or over any private or other property outside the public rights-of-way without the property owner’s express written consent.

Malibu Wireless Ordinance Resolution 21-17 Standards Passed April 2021.
<https://www.malibucity.org/DocumentCenter/View/27969/Ordinance-No-484>

Location Standards for All Facilities

The location standards for all wireless communications facilities, other than those that qualify as eligible facilities requests, are as follows:

1. No wireless telecommunication facility shall be located within five hundred (500) feet of any school, playground, or park unless a finding is made, based on technical evidence acceptable to the reviewing authority showing a clear need for the facility and that no technically feasible alternative site exists. Except for facilities installed on the same pole or tower as an existing wireless telecommunication facility, wireless telecommunication facilities located within any residential zone district shall not be located within one thousand (1,000) feet of any other wireless communications facility, except from those facilities placed on utility poles along Pacific Coast Highway, unless a waiver is granted.
2. All new freestanding wireless communications facilities and monopoles shall be set back a minimum distance of at least one hundred and twenty (120%) percent of the height of the facility or monopole from any property line abutting a residentially zoned property. This minimum setback is not subject to the waivers allowed under Section 7 of this Resolution.
3. Location preference for wireless communications facilities should be given to the following:
 1. Property designated non-residential (except for public open space and recreational vehicle park zoning districts), unless otherwise prohibited pursuant to this title.
 2. Facilities attached or sited adjacent to existing structures. Whenever possible, facilities shall be located on and/or inside existing structures. Appropriate types of existing structures may include, but are not limited to: buildings, water tanks, telephone poles and utility towers and poles, sign standards, light standards and roadway overpasses.
 3. Sites with minimum separation. Sites that are more than five hundred (500) feet from school, playgrounds, and parks.
4. Sites that are not highly visible from adjacent roadways.
5. Unless otherwise indicated in MMC Chapter 17.46 or these Standards, no wireless facility shall be installed on an exposed ridgeline unless the facility blends with the

surrounding existing natural and man-made environment and a finding is made that no other location is technically feasible.

6. The City expressly designates residential, public open space and recreational vehicle park zoning districts, parks and schools as the least appropriate possible locations, and the absolute last choices for siting.

3) Waivers for Standards

Malibu Wireless Facilities Ordinance 2021 has added a section on Waivers for Standards that clarifies the process and protects the city from liability.

Resolution No. 21-17 Page 9

1. A waiver of one or more of these Standards may be granted in the following circumstances:
 1. Pursuant to MMC Section 17.46.060(D), if an applicant demonstrates to the Planning Commission through clear and convincing evidence that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations;
 2. If an applicant demonstrates to the Planning Commission through clear and convincing evidence set forth in a feasibility study that compliance with a requirement of these Standards would be technically infeasible and the proposed wireless facility complies with the requirements of these Standards to the greatest extent technically feasible. For example, an exception to a requirement to conceal antennas in a shroud may be granted if shrouding is shown to be technically infeasible and an alternative concealment such as a colored film wrap is proposed; or
 3. If an applicant demonstrates to the Planning Commission with clear and convincing evidence that the particular engineering, design or location proposed involves an alternative that better meets the purposes of Chapter 17.46 and only minor non-compliance with a requirement of these design Standards and results in no increase in public visual impact to the community or provides other benefits. For example, an exception to the wireless facility location limitations may be granted when the applicant can demonstrate that the placement is less visible from viewsheds of residences or shielded by vegetation or existing infrastructure (such as barriers), or is less physically intrusive (for example, less impactful to tree roots or reduces noise). Among other factors, in deciding whether or not to grant an exception, the Planning Commission may consider the impact of expansions to the facility that the applicant would be entitled to make as of right if granted.
2. Waivers may only be requested at the time an application is initially submitted for a discretionary permit. The request must include both the specific provision(s) from which waiver is sought and the basis of the request, including all supporting evidence on which the applicant relies. Any request for waiver after the City has deemed an application

complete constitutes a material change to the proposed wireless facility and shall be considered a new application. A request for waiver from one or more

4) Fire Safety

All electrical equipment including small cell towers are a fire risk. The fire cannot be put out in a conventional manner with firefighters blasting water on the fire. They have to wait until the power is shut off or electrocution will result.

Examples are

- **San Diego tower that caught fire in a high school stadium-**
<https://fox5sandiego.com/news/local-news/stadium-light-catches-fire-at-south-bay-high-school/>
- **The Malibu fire in 2007 due to pole overload.** CPUC finds Edison and 4 telecom carriers \$51.5 million - <https://www.latimes.com/local/lanow/la-me-ln-malibu-fire-settlements-approved-state-puc-20130919-story.html>

Considering the increase in wildfires and the risk of earthquakes. Fire safety is a priority for citizens. **The Malibu Wireless Facilities Ordinance 2021 has language in the Fire Safety Standards that can be incorporated.** In the attached Executed Copy of Malibu Res. 21-17, please note fire language on pages 2, 3, 5, 8, 11, 12, and particularly beginning on page 23 with "Electrical and Structural Safety Information."

5) Appeals Process

Language for appeal is not in the ordinance Applications.

- A) Any person adversely affected by a decision of the Director pursuant to this Chapter may request an administrative hearing to appeal the Director’s decision. In order to request a hearing, the person shall submit to the City Clerk in the manner directed in the Director’s decision notice a fully completed request for administrative hearing form along with a full amount of the appeal fee set by the City Council (by way of check or money order). The request for administrative hearing shall be incomplete if it does not include the appeal fee in the full amount. ... etc.

Precaution is Warranted

We understand that, as per Section 704 of the 1996 Telecommunications Act, environmental concerns, and as courts have interpreted these it includes health impacts, cannot be a factor in denial of cell towers but we are early in the game.

Public health and ecosystem health are still important issues with new 5G systems untested for long term or short term safety for either human health or environmental health. 5G systems with a complex mix of low, medium and high frequencies (thus the need for macro and microcells) are very onerous to measure, requiring very expensive complex equipment that is very difficult

for engineers to accomplish let alone city facility engineers. Precaution in placement is paramount in this discussion. Once cell towers are placed there is no going back and you just wait for people to experience symptoms or develop cancer or a neurologic condition that you will not be able to sort out from the common toxic exposures we all encounter on a daily basis.

Elon Musk tells us that 5G millimeter wave systems are not needed for autonomous cars. 5G millimeter wavelengths are also not required for “personal wireless services”. For the later this technology can be effectively replaced with safer and more secure fiberoptic networks and current wireless technologies. I will explain why health matters.

Health Matters

I am a practicing physician who has studied the health impacts of environmental toxins through our local County Medical Association and the California Medical Association for over 25 years. I began studying the health impacts of wireless radiation when I learned of a proposal to place a cell tower on my daughter’s school.

After 10 years of research into the literature and talking to a variety of people affected by cell towers and wireless radiation I, like many others in the medical and scientific community, have come to the conclusion that wireless radiation is a pollutant just like lead or pesticides or mercury or toxic industrial waste. The mechanisms are similar - oxidation, the effects are broad on all living organisms and people are often unaware they are exposed to the toxin - unless they are “sensitive”. Wireless radiation causes oxidative stress on organisms and stem cells, and at low levels of radiation. These low levels cause a slow decline in physiologic processes, and for those who have become sensitive- an immediate reaction.

Antioxidants and Health

As we now know small amounts of toxins can cause harm in certain windows of development thus children are more vulnerable. We also know effects are cumulative. People vary in their vulnerability due to age, genetics and other toxic exposures. Not all people react the same. Our health, wellness and aging are determined by oxidation levels in our tissues that injure our DNA, proteins and lipids, thus antioxidants in foods have been shown to block oxidation, neutralize cellular injury and promote health. This is well established in the nutrition literature. The literature also demonstrates that taking antioxidants (Vitamin E, zinc and melatonin) protects the cell from oxidation injury from wireless radiation. Oxidative stress plays a major part in the development of chronic, degenerative and inflammatory illnesses such as cancer, autoimmune disorders, aging, cataracts, rheumatoid arthritis, cardiovascular and neurodegenerative diseases, as well as some acute pathologies (trauma, stroke). **It is well established that wireless radiation at non-thermal levels causes oxidative stress.** Effects of this are cumulative on our DNA, lipids and cellular membranes.

We Evolved in a Low Electromagnetic Environment

The natural environment of the Earth is electromagnetic. We have terrestrial electric and magnetic fields, radiation from the sun and cosmic microwaves. All living things evolved in

harmony with the Earth's natural but very very low-level electromagnetic rhythms. Birds, bees and mammals have magnetite in their bodies and brains that use the Earth's magnetic field for the delicate tasks of navigation and foraging. Our human nervous system, heart, reproductive and endocrine systems rely on minute electromagnetic signals for complex functions. Manmade electromagnetic fields (EMF) emitted by our modern technology can distort our bodies electric currents, delicate cell membranes and cause broad dysfunction. This can be with long term or sometimes short exposures with higher power and different pulsations. Science has shown us that organisms adapt to constant electromagnetic fields found in nature much easier than artificial pulsed radiation that is emitted from cell towers and wireless devices. It makes perfect sense that wireless radiation can be harmful to living organisms even it does not knock an electron out of its orbit.

Wildlife

You need to consider the unique ecosystem which surrounds this lovely town. Science has shown us that levels of artificial electromagnetic radiation we are increasingly exposed to is harming not only humans but the sensitive environment that we tend to ignore but depend upon for our sustenance and mental health. <https://midsafetech.org/environmental-and-wildlife-effects/>

New Review on Wildlife and wireless Radiofrequency Radiation

The most comprehensive 3 part peer reviewed article by Levitt, Lai and Manville (2021) provides an updated, thorough and well referenced overview of RFR and effects on all wildlife, revealing a disturbing picture of the future if we continue to expand wireless in our homes, communities and for the commercialization of space.

The authors state, *“But is there a larger environmental downside to rising ambient EMF exposures — particularly RFR — from popular mobile communication devices, WiFi antennas, and all accompanying infrastructure that is being overlooked by environmentalists, researchers, and government regulators alike. We may be missing critical physiological effects across species based on obsolete assumptions about low-level far-field exposures being too weak to adversely affect living tissue. We have yet to take into consideration the unique physiologies of other species, or how they use the environment in ways that humans do not, when we assume that the unfettered use of EMF/RFR can continue unabated and be allowed to grow indefinitely.”* **Effects of non-ionizing electromagnetic fields on flora and fauna, part 1.** Rising ambient EMF levels in the environment. (2021) Levitt BB et al. Rev Environ Health. 2021 May 27. <https://pubmed.ncbi.nlm.nih.gov/34047144/>

MOEF Report on Wildlife

The Inter-Ministerial Committee (IMC) of expert scientists reviewed the literature of the effects of RF-EMF radiations on wildlife, humans and the biosphere. In their 2010 MOEF Report they found that out of the 919 research papers collected on birds, bees, plants, other animals, and humans, 593 showed impacts, 180 showed no impacts, and 196 were inconclusive studies. All organisms had effects.

Human Effects– 62% showed effects, 13% no effect and 25% inconclusive **Plant Effects**– 87% showed effects and 13% were inconclusive

Wildlife Effects- 62% showed effects, 4% no effect and 36% inconclusive **Bee Effects**—85% showed effects and 15% no effect

Bird Effects- 77% showed effects, 10% no effect and 13% inconclusive **Current Standards are Scientifically Out of Date**

UNESCO World Heritage Wildlife Area Species Disappearing

An abundance of peer reviewed literature demonstrates adverse impacts to the environment with declines in insect, bird and wildlife populations in cities and where cell towers are placed. This spells disaster for biodiversity, fragile wildlife areas, critical pollinators and agriculture, especially with additive effects of pesticides, toxins and loss of habitat. A report on Unesco's Mt. Nardia World Heritage Park documents this slow decline in populations of species after cell towers were placed. Unesco Report on Disappearance of Species from Mt. Nardia Park World Heritage Area 2000-2015 with Increased Expansion of Telecommunications Antenna. Ethno-Botonist Mark Broomhall. [UNESCO Report on Disappearance of Species from Mt. Nardia with Increased EMR 2000-2015](#)

Cell Tower Health Effects

Current standards are based on short term thermal exposures and discount the abundant peer reviewed literature on harm from low level, non -thermal effects. It is clear that the limits for radiofrequency radiation are set too high in the U.S. and Canada. These limits are 100 times higher than that of Italy and Russia, who set their standards based on methodical research on immunologic, neurologic and biologic effects of low-level radiation fields. Current U.S. limits are up to 1,000 microwatts/cm² with symptoms seen at levels of 0.005 microwatts /cm².

Physicians in Germany ask for Health Investigation of Cell Towers in 2005

An open letter from Dr. Cornelia Waldmann-Selsam was sent to the German State Chancellor, Edmund Stoiber, on behalf of 114 physicians (Bamberger Appeal) asking for an investigation into the newly reported adverse health symptoms of 356 residents who lived near cell towers in Oberfranken, Germany. Dr. Waldmann-Selsam noted, *“Many humans get sick from emissions far below the recommended limit values, which consider only thermal effects, and we have a sickness picture with characteristic symptom combinations, which are new to us physicians, ”* *The list of symptoms were, ” Sleep disturbances, tiredness, concentration impairment, forgetfulness, problem with finding words, depressive tendencies, tinnitus, sudden loss of hearing, hearing loss, giddiness, nose bleeds, visual disturbances, frequent infections, sinusitis, joint and limb pains, nerve and soft tissue pains, feeling of numbness, heart rhythm disturbances,*

increased blood pressure , hormonal disturbances, night-time sweat, nausea.” Resident noted almost immediate improvement when moving away.”

Dr. Waldmann-Selsam goes on to say, *“physicians were able to prove, by re-testing the patients, the normalization of blood pressure, heart rhythm, hormone disturbances, visual disturbances, neurological symptoms, blood picture,”*. She called this an emergency medical situation and requested an official health investigation. http://www.next-up.org/pdf/Letter_to_Edmund_Stoiber.pdf

Cell Tower Effects on Cognition and Learning

The majority of studies, which have been done internationally, have shown an increase in neurologic symptoms in a percentage of residents living near cell towers. Symptoms vary with the distance from the cell tower. Symptoms include insomnia, headache, heart palpitations, dizziness, poor concentration, and fatigue. A study in Japan (Shinjo 2014) showed a decrease in symptoms when the cell tower was removed. There is also a well done study showing blood abnormalities in those living nearest to cell towers (Zothansiana 2017). DNA and lipid abnormalities were seen along with reduction in internal antioxidants which provide protection from pollutants.

Moreover, a recent study conducted over a 2 year period looked at effects of cell towers near two schools by Meo et al (2018) and clearly demonstrated cognitive dysfunction in students closest to the higher power cell tower.

Firefighters Fighting Fires and Now Cell Towers

After noticing that many of the firefighters were developing neurologic symptoms when first responder cell towers were placed on the fire stations the International Association of Firefighters studied the matter and passed a resolution in 2004 asking that cell towers not be placed in proximity to fire stations. In AB 537 (Quirk), signed into law by Gov. Newsom on October 4, 2021, the firefighters achieved the first ever health/readiness exemption in the world.

Every fire station in California is now exempt from having a 5G tower on their station. This movement began when cell towers were initially targeted for fire stations because of their location and the revenue received by the cities. Many firefighters developed symptoms including headaches, fatigue, memory impairment and insomnia within a week of the installation of the towers. An exemption was inserted in California bills on cell towers. [AB 57](#) (Quirk 2015) has an exemption on the grounds of health effects. AB 537 (Quirk 2021) also has this exemption and reads, *“Due to the unique duties and infrastructure requirements for the swift and effective deployment of firefighters, this section does not apply to a collocation or siting application for a wireless telecommunications facility where the project is proposed for placement on fire department facilities.”* [SB 649](#) (Hueso, Quirk and Dodd 2018) also had a health exemption for firefighters and was vetoed by Governor Brown.

500 Meter (1640 ft) Buffer from Cell Tower Recommended

Cell tower health studies that show impacts from cell towers with symptoms within about 1500 feet of the cell towers. That is why Pearce et al (2019) **recommended a “500 Meter buffer around schools, hospitals and homes “Limiting liability with positioning to minimize negative health effects of cellular phone towers.”**

Cancer and Cell Towers

3 Studies investigated the rates of cancer and cell towers looking at the distance from cell towers and the incidence of cancer. They found the rate of cancer incidence increased significantly in those living within about 350 -400 meters (around 1000 feet) to the cell tower.

[Dode 2011](#) performed a 10 year study (1996-2006) examining the distance from cell towers and cancer clusters. He and his colleagues found a highly significant increase in cancers in those living within 500 meters of the cell tower. They noted “The largest density power was 40.78 $\mu\text{W}/\text{cm}^2$, and the smallest was 0.04 $\mu\text{W}/\text{cm}^2$.” The current guidelines are about 1000 $\mu\text{W}/\text{cm}^2$. The authors conclude “Measured values stay below Brazilian Federal Law limits that are the same of ICNIRP. The human exposure pattern guidelines are inadequate. More restrictive limits must be adopted urgently.”

[Wolf and Wolf 2004](#) investigated the rates of cancer versus distance from cell towers in small towns in Israel. He found the rate of cancer incidence was 129 cases per 10,000 persons per year in those living within 350 meters of a cell tower versus a rate of 16-31/10,000 in those living greater than 350 meters from the cell tower.

Eger (2004) showed an increase in the development of new cancer cases within a 10 year period if residents lived within 400 meters of a cell tower. Their results revealed that within 5 years of operation of a transmitting station the relative risk of cancer development tripled in residents near the cell towers compared to residents outside the area.

Insurance Has an Exclusion for Radiofrequency Radiation as an Emerging Risk Insurance companies consider wireless radiation to be similar to asbestos in long term health impacts and do not provide coverage from harm for RF health effects. The cities are left with that liability unless they can provide insurance.

In a 2019 report, **New Emerging Risk Insights**, by Swiss RE Insurance Company, the second largest reinsurance company in the world, **5G is listed as an emerging concern** in the high risk category within 3 years. Included in the high-risk trends are artificial intelligence and the existential threats of climate change. “*The top five emerging risks in our SONAR 2019 report are digital technology’s clash with legacy hardware, potential threats from the spread of 5G mobile networks, increasingly limited fiscal and monetary flexibility by central banks, genetic testing’s implications on life insurers, and the impact of climate change on the life and health sector.*” <https://www.swissre.com/institute/research/sonar/sonar2019.html>

National Academy of Sciences Report on the Havana Syndrome and Harm from RFR

A recent report by the National Academy of Sciences concluded that the “sonic attacks” on diplomats in Cuba and China were most likely due to pulsed radiofrequency from directed energy weapons. They had symptoms similar to those who live near cell towers (headache, nausea, insomnia, dizziness, memory loss, heart palpitations, depression). Dr. Beatrice Golomb wrote the most extensive report to date on this subject linking these mystery “directed energy attacks” to pulsed microwaves similar to the wireless devices we use daily. In the case of these high powered beams there was documented injury to brain networks found by the University of Pittsburg physicians who studied the diplomats. Dr Golomb highlights that **the strength of the health effects are related to the peak power not the average power. The pulse makes the poison.**

The EUROPAEM EMF Guideline 2016 for the prevention, diagnosis and treatment of EMF-related health problems and illnesses is a comprehensive guide written by many scientists and physicians in Europe who are part of the European Academy for Environmental Medicine (EUROPAEM) – EMF working group who have recognized and treated those with electrosensitivity for many years. This is a thorough, well researched and well-referenced scientific paper that is based on the 2012 Austrian Medical Association **Guidelines for the Diagnosis and Treatment of EMF Illness**. A questionnaire from their group is included in the attachments.

New Hampshire 5G Commission Finds Radiofrequency Radiation Problematic

The first Commission formed in the United States to study the environmental and health effects of 5G technology released their comprehensive final report November 1, 2020. The Commission to Study the Environmental and Health Effects of Evolving 5G Technology was mandated by HB 522 passed by the state legislature in New Hampshire. Their final report included 15 recommendations addressing the need for public education about wireless hazards, RF health studies, RF measurements, cell antenna setbacks, fiberoptic rather than wireless deployment, commercial warning signs and wildlife protection. After hearing extensive testimony in a series of 13 meetings over the course of a year and reviewing an abundance of research, the Commission highlighted the lack of a single definition for 5G, **insufficient evidence of safety for 5th generation technology**, a concern that safety standards for wireless technologies have not been updated with the latest science and that 5G is largely a marketing concept. They also expressed concern that the FCC has a long history of being accountable to industry over the desires of communities and individuals.

FCC Told by DC Court to Reevaluate Safety Standards

On August 13, 2021 a joint lawsuit was won by petitioners against the Federal Communications Commission (FCC) for failure to protect human health and the environment by dismissing scientific evidence of harm from wireless radiation. The Petitioners challenged the FCC’s refusal

to reevaluate and update their 24-year-old radiofrequency (RF) safety guidelines for existing and new telecommunications technologies. The DC Circuit Court of Appeals ruled that the majority of the RF radiation standards established by the FCC did not use "reasoned decision-making" (they did not go by the science) and thus the standards were considered by the court to have been set in an "arbitrary and capricious" manner. This was an extremely high bar for the Plaintiffs to reach. The Circuit Court of Appeals rarely admonishes a federal agency or commission in this way. The DC Circuit Court of Appeals returned this decision back to the FCC and ordered the FCC to re-examine its standards for wireless radiation exposure and provide a review of wireless harms that is compliant with the law for non-cancer harms.

The Court Decision stated, "The National Environmental Policy Act ("NEPA") and its implementing regulations require federal agencies to "establish procedures to account for the environmental effects of [their] proposed actions." And "To fulfill its obligations under NEPA, the Commission has promulgated guidelines for human exposure to RF radiation... The Commission last updated its limits for RF exposure in 1996... The ANSI and IEEE developed limits are designed to protect against "thermal effects" of exposure to RF radiation, but not "non-thermal" effects. In March 2013, the Commission issued a notice of inquiry regarding the adequacy of its 1996 guidelines in response to changes in the ubiquity of wireless devices and in scientific standards and research since 1996. In December 2019, the Commission issued a final order resolving its 2013 notice of inquiry by declining to undertake any of the changes contemplated in the notice of inquiry. Petitioners challenge the 2019 final order under NEPA and the Administrative Procedure Act ("APA").

5G: A Manufactured Need by Industry

Reports indicate that the telecommunications industry has largely manufactured a "need" for expanding wireless technology in cities, while halting projects for safer fiberoptic broadband. Note a 2020 European Parliament report, **5G: State of Play in Europe, USA and Asia. In Depth Analysis**, suggests 5G is a manufactured need. *"As 5G is driven by the telecoms supply industry, and its long tail of component manufacturers, a major campaign is under way to convince governments that the economy and jobs will be strongly stimulated by 5G deployment."*

In my opinion, from all the research I have done, it appears the telecommunications industry has influenced laws to prevent health or environmental effects from being considered in the placement of cell towers (See FCC Captured Agency). They knew of the harm in early studies done by Dr. George Carlo in the 1990's but suppressed the data so they could move forward. That is well documented in Dr. Carlo's book, "Cell phones: Invisible Hazards in The Wireless Age".

A blizzard of robust science has appeared now to show biological and health impacts of wireless technology, but it is still denied, and the basis for genuinely safe RF radiation guidelines is flawed. An exponential growth in cell towers is now being played out with cities being left on their own to figure out how to regulate these towers locally. Industry places a heavy hand and complex laws on local policy makers who must navigate these complex FCC policies to prevent legal action.

Board of Health in Pittsfield Massachusetts Orders Verizon to Cease and Desist

For the first time in the U.S. a Board of Health has issued a cease and desist order to Verizon to remove or shut off a cell tower after 17 people in a neighborhood reported they became ill after the Verizon cell tower was turned on. Courtney Gilardi and her 2 children as well as residents living near the cell tower, reported experiencing a constellation of symptoms including stabbing headaches, nausea, vomiting, dizziness, “buzzing in the head”, and insomnia so severe her family had to move to the next town and into a house with no heat and no hot water to escape the sickness. Other neighbors drove an hour away to sleep at a relative’s house or slept in their cars away from the tower. These are classic symptoms of electromagnetic illness experienced in firefighters and military personnel working on radar and well documented by NASA, the Air Force and other military agencies as well as the “Havana Syndrome”. These symptoms were also seen in Japan after 2 cell towers were turned on and when the tower was removed the resident’s symptoms largely resolved.

Apple stops 5G Phone MMW: Is This the Death of 5G Millimeter Wavelengths?

You are probably aware that Verizon and AT&T built special hotspots in many cities in the U.S. to house 5G high band millimeter wavelengths that were to revolutionize wireless with ultrafast speeds. These small wavelengths the size of bees have been put into some community small cells which need to be about 1000 feet apart without obstruction to function properly. Apple, who already has some 5G MMW phones, just announced that it is not building any millimeter wave spectrum antennas in its next generation SE iphones. With 4G LTE low and mid band wavelengths they apparently do not need the millimeter 5G bandwidth. The article notes, “It’s not a surprise that Apple is dropping the spectrum from its phones. It costs chip space and power for every additional spectrum that is supported by a cellphone. Cell manufacturers care more about long battery life than they do about a technology that never made it out of the downtowns of a few major cities.”

FCC Limits: A False Sense of Security

We are told by the FCC that wireless radiation and cell towers are safe within current safety guidelines, or that we do not really know if there is harm or that the research is inconclusive or that it is not ionizing (like x-rays) so it cannot hurt us. This is the same dismissive and doubt creating language used by the tobacco industry and a host of other chemical companies to protect their toxic products, thus profits. The research shows that we do know, beyond a doubt, that wireless radiation is harmful to all living systems below the current safety standards. The most obvious evidence is that more and more children and adults are reporting symptoms of electrosensitivity (EHS) in the presence of wireless radiation when they live in a home near a cell tower, or use a cell phone, or in schools where wireless devices and cell towers are increasing.

Please use your authority and wisdom to keep this ordinance strong. Take more time if you need to in order for you to sort this out and be sure of your decision. Remember that you all live in Los Altos as well so you are protecting you and your families and the next generation as well.

Sincerely,

Cindy Russell, MD

Attached- Malibu Ordinances

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RESOLUTION NO. 21-17

A RESOLUTION OF THE CITY OF MALIBU ADOPTING ENGINEERING, DESIGN AND LOCATION STANDARDS, CONDITIONS OF APPROVAL AND BASIC APPLICATION REQUIREMENTS FOR WIRELESS COMMUNICATIONS FACILITIES ON LAND OTHER THAN PUBLIC RIGHT-OF-WAY; AND FINDING THE SAME EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Malibu does hereby find, resolve and order as follows:

SECTION 1. Recitals

A. Malibu Municipal Code (MMC) Chapter 17.46 governs the permitting, installation, and regulation of wireless communications facilities in the City, other than those in the public right-of-way, which are subject to MMC Chapter 12.02.

B. Section 17.46.060(D) provides that “[a]ll applicants shall engineer, design and locate the wireless communications facilities in accordance with the standards and wireless regulations set forth separately though the resolution adopted by the City Council.”

C. Being authorized to do so, the City wishes to establish engineering, design and development standards applicable to wireless installations.

D. The City also wishes to set standard conditions of approval and basic application requirements applicable to wireless permits.

E. On April 12, 2021 the City Council conducted a duly noticed public hearing and received testimony from City staff and all interested parties regarding the and the standards, conditions and requirements.

SECTION 2. Purpose. The purpose of this document is to (1) establish design and location standards (Standards) for wireless communications facilities on land other than public right-of-way; (2) set standard conditions of approval for Wireless Permits (WPs); and (3) set basic application requirements for WPs.

SECTION 3. Definitions. For the purposes of these Standards, the definitions set forth in Malibu Municipal Code (MMC) Section 17.46.040 are incorporated by reference into this Resolution and in addition the following definitions apply:

A. “Park” A parcel, parcels of land or a portion of a parcel intended for active public recreation uses. Parks may include sports fields, playgrounds community buildings and unique or specialized activity areas. Land dedicated for open space and trails are not considered parks for the purposes of this Chapter.

- B. “Playground” A portion of land used for and equipped with public facilities for recreation specially by children. A playground includes the sand or rubberized floor around the apparatus.
- C. “Pole-mounted facility” means a wireless communications facility that is, or is proposed to be, attached to or contained in a pole.
- D. “School” any building, campus or sports field which is designed, constructed or used for education, instruction or school sports, whether public or private, in any branch of knowledge.
- E. “Stealth facility” (or “stealth facilities”) means a wireless communications facility designed to look like something other than a wireless tower or base station.

SECTION 4. General Standards for all Facilities The following general requirements apply at all times to all wireless communications facilities located in all zoning districts:

- A. All wireless communications facilities shall be engineered and designed to minimize the visual impact by means of placement, screening, camouflaging, painting and texturing and to be compatible with existing architectural elements, building materials and other site characteristics. The applicant shall use the smallest and least visible antenna possible to accomplish the facility’s objectives. All antennas and support structures shall be painted and/or textured to achieve architectural compatibility with the structures for which they are attached and/or located.
- B. Each facility must comply with any and all applicable provisions of the Malibu Municipal Code, including but not limited to provisions of the California Building Code, California Electric Code, California Plumbing Code, California Mechanical Code, and California Fire Code, and any conditions of approval imposed as part of the approval process.
- C. Each facility must comply with any and all applicable regulations and standards promulgated or imposed by any state or federal agency, including, but not limited to, the Federal Communications Commission (FCC) and the Federal Aviation Administration (FAA). Further, all wireless communications facilities, associated equipment and services shall comply with Americans with Disabilities Act (ADA) requirements.
- D. Fire and Electrical Safety Standards. All wireless communications facilities shall contain:
 - 1. Surge protection for lightning discharge or other significant electrical disturbances; and

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2. Signage as required by the permit conditions, the National Electric Code or the Los Angeles County Fire Department Chief or their designee.
- E. The facility must at all times comply with all applicable health requirements and standards pertaining to radio frequency emissions.
 - F. All antennas shall meet the minimum siting distances to habitable structures required for compliance with FCC regulations and standards governing the environmental effects of radio frequency emissions.
 - G. Noise. Wireless communications facilities and equipment must comply with the City's noise ordinance in MMC Chapter 8.24, or any successor provisions, and be designed to prevent noise and sound from being plainly audible at a distance of fifty (50) feet from the facility or within ten (10) feet of any residence.
 - H. Signs. No facility may display any signage or advertisement unless it is expressly allowed by this paragraph, necessary for stealth concealment purposes, or required by law or a permit condition. Every facility shall at all times display signage that accurately identifies the facility owner and provides the owner's unique site number and a local or toll-free telephone number to contact the facility owner's operations center.
 - I. Landscaping. Where appropriate, facilities shall be installed so as to maintain and enhance existing landscaping on the site, including trees, foliage and shrubs, whether or not utilized for screening. In addition to any landscaping used for concealment or screening purposes, the applicant shall replace any existing landscaping displaced during construction or installation of the applicant's facility. The applicant's landscaping plan shall be subject to the City's review and approval but shall, at a minimum, match the existing landscaping and foliage surrounding the installation site consistent with MMC Section 17.53.090. The permittee shall ensure that any vegetation allowed to remain in place under the Fire Code, including vegetation provided for screening, is properly maintained and watered.
 - J. All electrical support equipment located within cabinets, shelters, or similar structures shall be screened from public view. Roof-mounted electrical support equipment shall be discouraged. Ground-mounted electrical support equipment shall be encouraged. In addition, under grounding of support equipment is required wherever practicable.
 - K. All antennas shall be located such that any person walking adjacent to the transmitting surface of the antenna will be walking on a grade that is a minimum of eight and one-half feet below the transmitting surface.

- L. Lighting of antenna structures and their electrical support equipment is prohibited, except as required by any order or regulation of the FCC or the FAA and except for manually operated emergency lights for use when official operating personnel are on site.
- M. A backup power supply must be required for all new wireless communications facilities to the extent allowed by law and in compliance with California Fire Code 1206.2.2.

SECTION 5. Location Standards for All Facilities The location standards for all wireless communications facilities, other than those that qualify as eligible facilities requests, are as follows:

- A. No wireless telecommunication facility shall be located within five hundred (500) feet of any school, playground, or park unless a finding is made, based on technical evidence acceptable to the reviewing authority showing a clear need for the facility and that no technically feasible alternative site exists. Except for facilities installed on the same pole or tower as an existing wireless telecommunication facility, wireless telecommunication facilities located within any residential zone district shall not be located within ~~five hundred~~ one thousand (5001,000) feet of any other wireless communications facility, except from those facilities placed on utility poles along Pacific Coast Highway, unless a waiver is granted.
- B. All new freestanding wireless communications facilities and monopoles shall be set back a minimum distance of at least one hundred ~~and ten-twenty (4001+20)~~ percent of the height of the facility or monopole from any property line abutting a residentially zoned property. This minimum setback is not subject to the waivers allowed under Section 7 of this Resolution.
- C. Location preference for wireless communications facilities should be given to the following:
 - 1. Property designated non-residential (except for public open space and recreational vehicle park zoning districts), unless otherwise prohibited pursuant to this title.
 - 2. Facilities attached or sited adjacent to existing structures. Whenever possible, facilities shall be located on and/or inside existing structures. Appropriate types of existing structures may include, but are not limited to: buildings, water tanks, telephone poles and utility towers and poles, sign standards, light standards and roadway overpasses.
 - 3. Sites with minimum separation. Sites that are more than five hundred (500) feet from school, playgrounds, and parks.

4. Sites that are not highly visible from adjacent roadways.
5. Unless otherwise indicated in MMC Chapter 17.46 or these Standards, no wireless facility shall be installed on an exposed ridgeline unless the facility blends with the surrounding existing natural and man-made environment and a finding is made that no other location is technically feasible.
6. The City expressly designates residential, public open space and recreational vehicle park zoning districts, parks and schools as the least appropriate possible locations, and the absolute last choices for siting.

SECTION 6. Engineering and Design Standards for all Facilities The general design standards for wireless communications facilities subject to MMC Chapter 17.46 are as follows:

- A. **Basic Requirements.** The proposed wireless facility and its supporting structure (if needed) shall be limited to the minimum size necessary to serve the defined service objectives of the wireless service provider or providers that will be using the facility, except where a larger facility has superior concealment elements.
- B. **Materials.** The materials used shall be non-reflective and non-flammable.
- C. Cabinet doors and other openings must be designed to stay securely closed, and openings in all facilities shall be shielded or made the smallest size feasible to protect against fire and wind-blown embers.
- D. The tower, or other support structure, and all equipment shall be designed to withstand forces from seismic events. To that end, all wireless facility sites must be built to the applicable standards of Hardening Requirements including but not limited to APCO ANSI 2.106.1–2019, or their replacements. The telecommunications tower, pole or structure when fully loaded with antennas, transmitters, and other equipment and camouflaging shall be designed as determined by the Building Official. All equipment mounting racks and equipment used shall be anchored in such a manner that such a quake will not tip them over, throw the equipment off its shelves, or otherwise act to damage it.
- E. All connections between various components of the facility, power lines, and conduit shall be designed in a manner to protect against damage by a natural disaster, a vehicular accident, an act of vandalism or similar external forces.
- F. **Stealth.** The wireless facility shall be stealth. Stealth elements and techniques should be used to blend the facility with surrounding materials

and colors of the support structure and make the facility appear to be something other than a wireless facility. Stealth elements include, but are not limited to, the following:

1. Radio frequency (RF) transparent screening or shrouds;
 2. Matching the color of the existing support structure by painting, coating, or otherwise coloring the wireless facility, equipment, mounting brackets, and cabling;
 3. Placing cables and wires inside the pole or beneath conduit of the smallest size possible;
 4. Minimizing the size of the site;
 5. Installing new infrastructure that matches existing infrastructure in the area surrounding the proposed site; and
 6. Using paint of durable quality.
 7. Built with weather-resistant materials while permitting weathered treatment for aesthetic reasons and to avoid reflective material.
- G. **Minimum Height.** All antennas shall be located such that: (1) any person walking adjacent to the transmitting surface of the antenna will be walking on a grade that is a minimum of eight and one-half feet below the transmitting surface; and (2) no person at ground level will be exposed to an exposure level that is higher than allowed by the FCC's general population exposure rules.
- H. **Facade-Mounted Equipment.** Facade-mounted antennas and equipment shall be architecturally integrated into the building, or other support structure, design and otherwise made as unobtrusive as possible so that the facility does not appear to be a wireless facility. Antennas and equipment should be located entirely within an existing or newly created architectural feature so as to be completely screened from view. Facade-mounted facilities shall generally not extend more than eighteen (18) inches out from and may not project above the building face. Façade-mounted wireless telecommunication facilities shall not exceed twenty-eight (28) feet in height above the ground. However, antenna elements, mounted flush on the facade of an existing structure that exceeds twenty-eight (28) feet, may have a height equal to the height of the building.
- I. **Ground-Mounted Equipment.** Outdoor ground-mounted equipment associated with base stations shall be avoided whenever feasible. In locations visible or accessible to the public, applicants shall conceal outdoor

ground-mounted equipment, including ancillary power generation equipment, with opaque fences or landscape features that mimic the adjacent structure(s) (including, but not limited to, dumpster corrals and other accessory structures) and by painting, texturing, or otherwise concealing the facility as much as possible. Ground-mounted wireless communications facilities shall be located near existing structures or trees at similar heights for screening purposes where feasible. Not more than one ground-mounted antenna, provided that licensed amateur radio station antennas consistent with MMC 17.46.020(B)(2), shall also be permitted on each site.

- J. **Roof-Mounted Facilities.** Roof-mounted antennas and necessary equipment shall be screened from above if visible from higher elevations. Rooftop-mounted wireless telecommunication facilities shall not exceed twenty-eight (28) feet in height or three (3) feet above the roof parapet from which they are attached, whichever is less restrictive. Associated roof-mounted equipment cabinets shall not extend more than three (3) feet above the roof from which it is attached and shall be set back a minimum of ten (10) feet from the edge of the roof. All roof-mounted equipment cabinets shall be located behind a mechanical screen wall. In the event that a roof parapet wall screens the equipment cabinets, a mechanical screen wall will not be required.
- K. **Freestanding Facilities.** Freestanding facilities requiring a new monopole or other new support structure shall be stealth facilities. Further, they shall be located as close as possible to existing above-ground utilities, such as electrical towers or utility poles (which are not scheduled for removal or under grounding for at least 18 months after the date of application), light poles, trees of comparable heights, and in areas where they will not detract from the appearance of the City.
1. Freestanding wireless telecommunication facilities, including monopoles, shall not exceed twenty-eight (28) feet in height and shall not extend higher than the top of the ridgeline nearest the antenna. The height of a freestanding facility shall be measured from the natural undisturbed ground surface below the center of the base of the tower itself to the tip of the highest antenna or piece of equipment attached thereto.
 2. Aside from the antenna itself, no additional equipment may be visible. All cables, including, but not limited to, electrical and utility cables, shall be run within the interior of the freestanding facility and shall be camouflaged or hidden to the fullest extent feasible without jeopardizing the physical integrity of the facility.

3. Monopole installations shall be situated so as to utilize existing natural or man-made features including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening.
 4. All antenna components and accessory wireless equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background or existing architectural elements so as to visually blend in with the surrounding development. Subdued colors and non-reflective materials that blend with surrounding materials and colors shall be used.
 5. Monopoles shall be no greater in diameter or other cross-sectional dimensions than is necessary for the proper functioning of the facility.
- L. All wireless telecommunication facilities shall be designed to prevent unauthorized climbing and graffiti.
- M. Fire Safety Standards. All wireless facilities designs shall include:
1. a power shut off, such as by means of rapid entry Knox or similar type systems shall be installed;
 2. surge protection devices capable of mitigating a direct or partial direct lightning discharge; and
 3. surge protection devices capable of mitigating significant electrical disturbances that may enter the facility via conductive cables.
- N. Satellite dish or parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their function.
- O. Support equipment pads, cabinets, shelters and buildings require architectural, landscape, color, fencing, or other camouflage treatment to minimize visual impacts to the extent deemed necessary by the Planning Director. Landscaping screening should also be provided if irrigation water is available.
- P. No freestanding facility or ancillary support equipment may be located between the face of a building and a public street, bikeway, park or residence.

SECTION 7. Waivers of These Standards.

- A. A waiver of one or more of these Standards may be granted in the following circumstances:
1. Pursuant to MMC Section 17.46.060(D), if an applicant demonstrates to the Planning Commission through clear and convincing evidence that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations;
 2. If an applicant demonstrates to the Planning Commission through clear and convincing evidence set forth in a feasibility study that compliance with a requirement of these Standards would be technically infeasible and the proposed wireless facility complies with the requirements of these Standards to the greatest extent technically feasible. For example, an exception to a requirement to conceal antennas in a shroud may be granted if shrouding is shown to be technically infeasible and an alternative concealment such as a colored film wrap is proposed; or
 3. If an applicant demonstrates to the Planning Commission with clear and convincing evidence that the particular engineering, design or location proposed involves an alternative that better meets the purposes of Chapter 17.46 and only minor non-compliance with a requirement of these design Standards and results in no increase in public visual impact to the community or provides other benefits. For example, an exception to the wireless facility location limitations may be granted when the applicant can demonstrate that the placement is less visible from viewsheds of residences or shielded by vegetation or existing infrastructure (such as barriers), or is less physically intrusive (for example, less impactful to tree roots or reduces noise). Among other factors, in deciding whether or not to grant an exception, the Planning Commission may consider the impact of expansions to the facility that the applicant would be entitled to make as of right if granted.
- B. Waivers may only be requested at the time an application is initially submitted for a discretionary permit. The request must include both the specific provision(s) from which waiver is sought and the basis of the request, including all supporting evidence on which the applicant relies. Any request for waiver after the City has deemed an application complete constitutes a material change to the proposed wireless facility and shall be considered a new application. A request for waiver from one or more

requirements does not relieve the applicant from compliance with all other applicable provisions of law or of MMC Section 17.46.060.

SECTION 8. Standard Conditions of Approval for Permits Under MMC Chapter 17.46.

- A. **Generally.** In addition to any supplemental conditions imposed by the Planning Director or Planning Commission, as the case may be, all development permits or conditional use permits granted for wireless communications facilities subject to this Chapter 17.46 shall be subject to the following conditions, unless modified by the approving authority:
1. The permittee shall defend, indemnify, and hold harmless the city or any of its boards, commissions, agents, officers, and employees from any claim, action or proceeding against the city, its boards, commission, agents, officers, or employees to attack, set aside, void, or annul, the approval of the project, or to hold the City liable in whole or in part as a result of the engineering, design, construction or operation of the facility. The City shall promptly notify the provider(s) of any such claim, action or proceeding if the city bears its own attorney's fees and costs, and the city defends the action in good faith.
 2. The permittee shall be strictly liable for interference caused by its facilities with city communications systems. The permittee shall be responsible for costs for determining the source of the interference, all costs associated with eliminating the interference (including but not limited to filtering, installing cavities, installing directional antennas, powering down systems, and engineering analysis), and all costs arising from third party claims against the city attributable to the interference.
 3. Subsequent submittals for this project shall be in substantial compliance with the plans date-stamped received by the Planning Department on _____. The project shall comply with all conditions of approval stipulated in the referral sheets attached to the agenda report for this project. In the event the project plans conflict with any condition of approval, the condition shall take precedence and revised plans shall be submitted and approved by the Planning Director prior to the Environmental Sustainability Department for plan check.
 4. The permit and rights conferred in this approval shall not be effective until the permittee signs, notarizes and returns the Acceptance of Conditions Affidavit accepting the conditions set forth herein. The applicant shall file this form with the Planning Department within 30 days of this decision or prior to issuance of

any development, conditional use, building, electrical or encroachment permit.

5. The applicant shall digitally submit a complete set of plans, including the items required in Condition No. 6 to the Planning Department for consistency review and approval prior to plan check and again prior to the issuance of any building or development permits.
6. The Notice of Decision (including the signed and notarized Acceptance of Conditions Affidavit) shall be copied in its entirety and placed directly onto a separate plan sheet(s) to be included in the development plans prior to submitting any development permits from the City of Malibu Environmental Sustainability Department and encroachment permit.
7. A development permit or conditional use permit, as applicable, shall be valid for a period of ten (10) years from issuance, unless pursuant to another provision of the Code or these conditions, it expires sooner or is terminated. At the end of ten (10) years from the date of issuance, such development or conditional use permit shall automatically expire, unless an extension or renewal has been granted. A person holding a development permit or conditional use permit must either (1) remove the facility within thirty (30) days following the permit's expiration (provided that removal of support structure owned by City, a utility, or another entity authorized to maintain a support structure need not be removed, but must be restored to its prior condition, except as specifically permitted by the City); or (2) prior to expiration, submit an application to renew the permit, which application must, among all other requirements, demonstrate that the impact of the wireless facility cannot be reduced. The wireless facility must remain in place until it is acted upon by the City and all appeals from the City's decision exhausted.
8. The installation and construction authorized by a permit shall be completed within three (3) years after its approval, or it will expire without further action by the City unless prior to the three (3) years the applicant submit an extension request and the City, in its sole discretion, grants a time extension for due cause. The installation and construction authorized by a permit shall conclude, including any necessary post-installation repairs and/or restoration to the property, within thirty (30) days following the day construction commenced. The permittee must provide written notice to City within ten (10) days after completing construction, and may not begin operations until all City and Fire Department (if applicable) inspections have been completed and the project is found to be

consistent with the permit. The expiration date shall be suspended until an appeal and/or litigation regarding the subject permit is resolved.

9. The Planning Director may grant up to four one-year extensions of the timeline, in Condition 7 above, for completing the installation and construction authorized by a development or condition use permit, if the Planning Director finds that the conditions, including but not limited to changes in the wireless ordinance under which the permit approval was issued, have not significantly changed.
10. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Director upon written request of such interpretation.
11. All structures shall conform to the requirements of the Environmental Sustainability Department, City Public Works Department, FCC and Los Angeles County Fire Department requirements, as applicable. Notwithstanding this review, all required permits, including but not limited to an encroachment permit from the City, shall be secured.
12. Minor changes to the approved plans or the conditions of approval may be approved by the Planning Director, provided such changes achieve substantially the same results and the project is still in compliance with the MMC. An application with all required materials and fees shall be required.

Cultural Resources

13. In the event that potentially important cultural resources are found in the course of geologic testing, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Where, as a result of this evaluation, the Planning Director determines that the project may have an adverse impact on cultural resources, a Phase II Evaluation of cultural resources shall be required pursuant to MMC Section 17.54.040(D)(4)(b).
14. If human bone is discovered, the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. These procedures require notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native

American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

Wireless Facility Conditions

15. All antennas shall meet the minimum siting distances to public/uncontrolled areas required for compliance with the FCC regulations and standards governing the environmental effects of radio frequency emissions. Permittee shall keep up-to-date on current information from the FCC in regards to maximum permissible radio frequency exposure levels. In the event that the FCC changes its guidelines for human exposure to radio frequency, permittee shall, within 30 days after any such change, submit to the Planning Director a report prepared by a qualified engineer that demonstrates actual compliance with such changed guidelines. The Director may, at permittee's sole cost, retain an independent consultant to evaluate the compliance report and any potential modifications to the permit necessary to conform to the FCC's guidelines. Failure to submit the compliance report required under this condition, or failure to maintain compliance with the FCC's guidelines for human exposure to radio frequency at all times shall constitute grounds for permit revocation.
16. All antennas shall be located so that any person walking adjacent to the transmitting surface of the antenna will be walking on a grade, which is a minimum of eight and one-half feet below the transmitting surface.
17. All antennas, equipment, and support structures shall be engineered and designed to prevent unauthorized climbing.
18. The wireless facility shall be erected, operated, and maintained in compliance with the general requirements set forth in the Standards and any specific requirements in the permit.
19. The antenna and electrical support equipment shall, at all times, be operated in a manner that conforms to the applicable health and safety standards, including those imposed by MMC Chapter 17.46 and this Resolution.
20. Wireless communications facilities and equipment must comply with the City's noise ordinance in MMC 8.24, or any successor provisions, and prevent noise and sound from being plainly audible at a distance of fifty (50) feet from the facility or within ten (10) feet of any residence.

21. The Planning Director's approval is required if a generator is to be placed onsite for temporary or permanent use.
22. All non-ground-mounted equipment associated with the application shall be located no lower than eight feet above grade or ground level on the monopole or support structure.
23. The City or its designee may enter onto the facility area to inspect the facility upon 48 hours prior notice to the permittee. The permittee shall cooperate with all inspections and may be present for any inspection of its facility by the City. The City reserves the right to enter or direct its designee to enter the facility and support, repair, disable, or remove any elements of the facility in emergencies or when the facility threatens imminent harm to persons or property. The City shall make an effort to contact the permittee prior to disabling or removing any facility elements, but in any case, shall notify permittee within 24 hours of doing so.
24. Testing of any equipment shall take place on weekdays only, and only between the hours of 8:30 a.m. and 4:30 p.m., except that testing is prohibited on holidays that fall on a weekday. In addition, testing is prohibited on weekend days.
25. Permittee shall obtain and maintain throughout the term of the permit commercial general liability insurance with a limit of five million dollars (\$5,000,000) per occurrence for bodily injury and property damage and six million dollars (\$6,000,000) general aggregate including premises operations, contractual liability, personal injury, and products completed operations. The relevant policy(ies) shall name the City, its elected/appointed officials, commission members, officers, representatives, agents, and employees as additional insureds. A true and correct copy of the policy of insurance shall constitute proof of insurance required by this Subsection. Permittee shall use its best efforts to provide thirty (30) days' prior notice to the City of to the cancellation or material modification of any applicable insurance policy. Failure to maintain insurance consistent with this Condition shall automatically void the permit, and the permittee shall immediately deenergize and remove the facility from operation. [The policy shall not have a pollution or other exclusion which excludes injuries or damages from EMF/RF exposures.](#)
26. Prior to issuance of a City permit or encroachment permit, the permittee shall file with the City, and shall maintain in good standing throughout the term of the approval, a performance bond or other surety or another form of security for the removal of the

facility in the event that the use is abandoned or the permit expires, or is revoked, or is otherwise terminated. The security shall be in the amount equal to the cost of physically removing the facility and all related facilities and equipment on the site, based on the higher of two contractor's quotes for removal that are provided by the permittee. The permittee shall reimburse the city for staff time associated with the processing and tracking of the bond, based on the hourly rate adopted by the City Council. Reimbursement shall be paid when the security is posted and during each administrative review.

27. Permittee shall not move, alter, temporarily relocate, change, or interfere with any existing structure, improvement, or property without the prior consent of the owner of that structure, improvement, or property. No structure, improvement, or property owned by the City shall be moved to accommodate a permitted activity or encroachment, unless the City determines that such movement will not adversely affect the City or any surrounding businesses or residents, and the Permittee pays all costs and expenses related to the relocation of the City's structure, improvement, or property. Prior to commencement of any work pursuant to any permit, the permittee shall provide the City with documentation establishing to the city's satisfaction that the permittee has the legal right to use or interfere with any other structure, improvement, or property to be affected by permittee's facilities.
28. No possessory interest is created by a Wireless Permit. However, to the extent that a possessory interest is deemed created by a governmental entity with taxation authority, permittee acknowledges that City has given to permittee notice pursuant to California Revenue and Taxation Code Section 107.6 that the use or occupancy of any public property pursuant to a development or conditional use permit may create a possessory interest which may be subject to the payment of property taxes levied upon such interest. Permittee shall be solely liable for, and shall pay and discharge prior to delinquency, any and all possessory interact taxes or other taxes, fees, and assessments levied against permittee's right to possession, occupancy, or use of any public property pursuant to any right of possession, occupancy, or use created by this development or conditional use permit.
29. If not already completed, permittee shall enter into the appropriate agreement with the City, as determined by the City, prior to

constructing, attaching, or operating a facility on municipal infrastructure. This permit is not a substitute for such agreement.

30. If a facility is not operated for a continuous period of three (3) months, the Wireless Permit and any other permit or approval therefor shall be deemed abandoned and terminated automatically, unless before the end of the three (3) month period (i) the Director has determined that the facility has resumed operations, or (ii) the City has received an application to transfer the permit to another service provider. No later than ninety (90) days from the date the facility is determined to have ceased operation, or the permittee has notified the Director of its intent to vacate the site, the permittee shall remove all equipment and improvements associated with the use and shall restore the site to its original condition to the satisfaction of the Director. The permittee shall provide written verification of the removal of the facilities within thirty (30) days of the date the removal is completed. If the facility is not removed within thirty (30) days after the permit has been discontinued pursuant to this subsection, the site shall be deemed to be a nuisance, and the City may cause the facility to be removed at permittee's expense or by calling any bond or other financial assurance to pay for removal. If there are two (2) or more users of a single facility or support structure, then this provision shall apply to the specific elements or parts thereof that were abandoned but will not be effective for the entirety thereof until all users cease use thereof.
31. In the event the City determines that it is necessary to take legal action to enforce any of these conditions, or to revoke a permit, and such legal action is taken, the permittee shall be required to pay any and all costs of such legal action, including reasonable attorney's fees, incurred by the City, even if the matter is not prosecuted to a final judgment or is amicably resolved, unless the City otherwise agrees, in its complete discretion, to waive said fees or any part thereof.
32. Interference with city communications systems and other governmental emergency systems is prohibited. Further, no permits issued pursuant to this chapter of the City Code establish any guarantee or warranty that Licensee's facility will be free from interference from city or third-party communication systems.

Construction

33. Installation hours shall be limited to Monday through Friday from 7:00 a.m. to 7:00 p.m. and Saturdays from 8:00 a.m. to 5:00 p.m. No installation activities shall be permitted on Sundays and City-

designated holidays. The restricted work hours described in this condition do not apply to emergency maintenance necessary to protect health or property. The City of Malibu may issue a Stop Work Order if permittee violates this condition. Construction activities shall be conducted in compliance with, and abide by, all applicable safety codes and permit conditions.

34. All sites must be designed and build to the standards of ANSI/APCO Public Safety Grade Site Hardening Requirements, also referred to as “APCO ANSI 2.106.1-2019”.

Site Specific Conditions

35. In the event that the electric service provider does not currently offer an alternative metering option, the permittee shall remove the above-grade electric meter when such option becomes available. Prior to removing the above-grade electric meter, the permittee shall apply for any encroachment and/or other ministerial permit(s) required to perform the removal. Upon removal, the permittee shall restore the affected area to its original condition that existed prior to installation of the equipment.
36. The permittee acknowledges that the City specifically includes conditions of approval related to (a) painting, coloring or finishing the equipment to match the monopole or support structure; (b) undergrounding all equipment to the extent possible; (c) installing equipment within shrouds, conduits and risers as concealment elements engineered and designed to integrate the wireless facility with the surrounding built and natural environment; and (d) specific structural, seismic, electrical, fire and operating/maintenance requirements. Any future modifications to the permittee’s wireless facility must maintain or improve all concealment elements and safety precautions.
37. Before the permittee submits any applications for construction, encroachment, excavation or other required permits in connection with this permit, the permittee must incorporate a true and correct copy of this permit, all conditions associated with this permit and any approved photo simulations into the project plans (collectively, the “Approved Plans”). The permittee must construct, install and operate the wireless facility in substantial compliance with the Approved Plans as determined by the Director or the Director’s designee. Any substantial or material alterations, modifications or other changes to the Approved Plans, whether requested by the permittee or required by other departments or public agencies with jurisdiction over the wireless facility, must be submitted in a written

request subject to the Director's prior review and approval, who may refer the request to the original approval authority if the Director finds that the requested alteration, modification or other change substantially deviates from the Approved Plans or implicates a significant or substantial land-use concern.

38. The permittee shall install and at all times maintain in good condition a "Network Operations Center Information" and "RF Caution" sign on the utility pole no less than three (3) feet below the antenna (measured from the top of the sign) and no less than nine (9) feet above the ground line (measured from the bottom of the sign). Signs required under this condition shall be installed so that a person can clearly see the sign as he or she approaches within three (3) feet of the antenna structure. If any person on or within the property is or may be exposed to emissions that exceed applicable FCC uncontrolled/general population limits at any time the sign shall expressly so state, and provide instructions on how persons can avoid any such exposure. The sign shall also include the name(s) of the facility owner(s), equipment owner(s) and operator(s)/carrier(s) of the antenna(s), property owner name, as well as emergency phone number(s) for all such parties. The sign shall not be lighted, unless applicable law, rule or regulation requires lighting. No signs or advertising devices other than required certification, warning, required seals or signage, other signage required by law, this Chapter, any City or applicable state code or the Los Angeles County Fire Department Chief or his or her designee shall be permitted. The sign shall be no larger than two (2) square feet.
39. The permittee shall ensure that all signage complies with FCC Office of Engineering and Technology Bulletin 65, CPUC General Order 95 or American National Standards Institute C95.2 for color, symbol, and content conventions. All such signage shall at all times provide a working local or toll-free telephone number to its network operations center, and such telephone number shall be able to reach a live person who can exert transmitter power-down control over this site as required by the FCC.
40. In the event that the FCC changes any of radio frequency signage requirements that are applicable to the project site approved herein or ANSI Z535.1, ANSI Z535.2, and ANSI C95.2 standards that are applicable to the project site approved herein are changed, the permittee, within 30 days of each such change, at its own cost and expense, shall replace the signage at the project site to comply with the current standards.

41. The permittee shall maintain the paint, color and finish of the facility in good condition at all times.
42. All improvements, including foundations, and appurtenant ground wires, shall be removed from the property and the site restored to its original pre-installation conditions within 90 days of cessation of operation or abandonment of the facility.
43. Build-Out Conditions.
 - a. Permittee shall not commence any excavation, construction, installation or other work on the project site until and unless it demonstrates to the City Public Works Department that the project complies with these Conditions along with all applicable laws, regulations, codes and other rules related to public health and safety, including without limitation all applicable provisions in California Public Utilities Commission General Order 95 and MMC Chapters 8.12, 8.24 and 15.08.
 - b. To the extent that a pole owner or any provision in the MMC or this resolution require greater or more restrictive standards than California Public Utilities Commission General Order 95, if applicable, those standards shall control.
44. Permittee shall at all times maintain compliance with all applicable federal, State and local laws, regulations, ordinances and other rules, including Americans with Disabilities Act (ADA) requirements.
45. The permittee shall cooperate with all inspections. The City and its designees reserve the right to support, repair, disable or remove any elements of the facility in emergencies or when the facility threatens imminent harm to persons or property.
46. Permittee shall at all times maintain accurate contact information for all parties responsible for the facility, which shall include a phone number, street mailing address and email address for at least one natural person. All such contact information for responsible parties shall be provided to the Planning Department at the time of permit issuance and within one business day of permittee's receipt of City staff's written request.
47. Permittee shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise

from the construction, operation, maintenance, modification and removal of the facility.

48. The site and the facility must be maintained in a neat and clean manner and in accordance with all approved plans and conditions of approval.
49. Permittee shall promptly remove any graffiti on the wireless facility at permittee's sole expense within 48 hours after notice.

Prior to Operation

50. The applicant shall request a final Planning Department inspection and final building inspection by the City of Malibu Environmental Sustainability Department immediately after the wireless facility has been installed and prior to the commencement of services.
51. Within thirty (30) calendar days following the installation of any wireless communications facilities, the applicant shall provide to the Planning Department with a field report prepared by a qualified engineer verifying that the unit has been inspected, tested, and is operating in compliance with FCC standards. Specifically, the on-site post-installation radiofrequency (RF) emissions testing must demonstrate actual compliance with the FCC OET Bulletin 65 RF emissions safety guidelines for general population/uncontrolled RF exposure in all sectors. For this testing, the transmitter shall be operating at maximum operating power, and the testing shall occur outwards to a distance where the RF emissions no longer exceed the uncontrolled/general population limit. Such report and documentation shall include the make and model (or other identifying information) of the unit tested, the date and time of the inspection, a certification that the unit is properly installed and working within applicable FCC limits, and a specific notation of the distance from the transmitter at which the emissions are equal to or less than the uncontrolled/general population limit.
52. The operation of the approved facility shall commence no later than one (1) month after the City completes its post-installation inspections of the facility, any issues with the facility are resolved, and the City receives the RF testing report required in the condition of approval above, or the development or conditional use permit will expire without further action by the City.

Fixed Conditions

53. Violation of any of the conditions of this approval shall be cause for revocation and termination of all rights thereunder.

Eligible Facilities Requests

All permits for an eligible facilities requests under MMC Chapter 17.46 shall be subject to the following conditions and all of the other conditions of approval placed on a Wireless Permit, unless modified by the approving authority:

54. Any permit granted in response to an application qualifying as an eligible facilities request shall be subject to the terms and conditions of the underlying permit.
55. The City's grant or grant by operation of law of an eligible facilities request permit constitutes a federally-mandated modification to the underlying permit or approval for the subject tower or base station. Notwithstanding any permit duration established in another permit condition, the City's grant or grant by operation of law of a eligible facilities request permit will not extend the permit term for the underlying permit or any other underlying regulatory approval, and its term shall be coterminous with the underlying permit or other regulatory approval for the subject tower or base station.
56. The City's grant or grant by operation of law of an eligible facilities request does not waive, and shall not be construed to waive, any standing by the City to challenge Section 6409(a) of the Spectrum Act, any FCC rules that interpret Section 6409(a) of the Spectrum Act, or any modification to Section 6409(a) of the Spectrum Act.

Small Cell Facilities

In addition to the other conditions of approval placed on a Wireless Permit, all permits for a small cell facility under MMC Chapter 17.46 shall be subject to the following additional condition, unless modified by the approving authority:

57. The City's grant of a permit for a small cell facility request does not waive, and shall not be construed to waive, any standing by the city to challenge any FCC orders or rules related to small cell facilities, or any modification to those FCC orders or rules.

SECTION 9. Basic Application Requirements for Permits Under MMC Chapter 17.46.

- A. Generally. In addition to providing all required fees, all wireless telecommunication facility carriers or providers shall provide the information required by a separate application form published, and updated

from time to time, by the City. If no such form is available, then the applicant must submit all documents, information, and any other materials necessary to allow the City to make required findings and ensure that the proposed facility will comply with applicable laws and not endanger the public health, safety, or welfare. Such information may include:

1. Contact information for:
 - a. Applicant and their representatives
 - b. Owner of proposed wireless communications facility
 - c. If different from facility owner, the identity of the person or entity responsible for operating the proposed wireless facility
 - d. The property owner or owner of the structure on which the proposed wireless facility would be installed
 - e. Names, addresses, telephone numbers, and email addresses of anyone acting on behalf of the applicant with regard to the application;
 - f. The name, address and phone number of all persons that prepared or assisted in preparing the application and any required reports;
 - g. The postal address, parcel number, or utility pole identifier of the property;
 - h. The location of the schools, playgrounds and parks within 500 feet of the project site;
 - i. Local contact person for emergencies
 - j. Assessor's Parcel Number
2. Purpose of new wireless communications facility or amendment
3. Type of Application (Select all that apply)
 - a. Eligible Facilities Request
 - b. Small Cell – Collocation
 - c. Small Cell – New Structure
 - d. Collocation (Non-Small Cell)
 - e. All Other Wireless Communications Facilities
 - f. Permit Renewal
 - g. Waiver
4. Letter of authorization signed by the property owner authorizing the applicant to submit and process the application, including executed copies of any leases, letters of agency, or proof of ownership, of private property involved in the project.
5. Authorizations, and Licenses
6. Provide previous approvals, if applicable, and Certificate of Completion. Site inspection fees may apply if a final inspection was never requested
7. Identify all other required permits and approvals for the subject facility.

8. Electrical and Structural Safety Information. The following engineering documents prepared under the responsible charge of and sealed by a California licensed Professional Engineer must be included in the application:
- a. A short circuit and coordination study (“SCCS”) calculated pursuant to the IEEE 551-2006: Recommended Practice for Calculating AC Short-Circuit Currents in Industrial and Commercial Power Systems or the latest version of that standard. The study must demonstrate the protection devices will ensure the equipment enclosure will not be breached. The SCCS must include analysis of Voltage Transient Surges due to contact of conductors of different voltages;
 - b. A one-line diagram of the electrical system;
 - c. Voltage Drop & Load Flow Study;
 - d. Load Calculation;
 - e. Panel Directories;
 - f. A plot plan showing the location of the mounting structure including address, or structure designation, or GPS location on the front sheet;
 - g. A plot plan showing the location of the service disconnecting means; and
 - h. An elevation drawing of the equipment and the service disconnecting means.
 - ~~i. A demonstration there will be signage as required by the California Electric Code or the Los Angeles County Fire Department Chief or their designee~~
 - ~~j. A demonstration the service disconnecting means shall be mounted at an elevation determined by the Los Angeles County Fire Chief or their designee in conjunction with the electric utility;~~
 - ~~k. A demonstration there will be instructions for deenergizing the equipment by First Responders.~~
9. Structural Safety Information. The structural/civil engineering documents prepared under the responsible charge of and sealed as recommended by a California licensed professional civil engineer.
- a. Photo simulations, from at least three different angles, showing the pole and streetscape before and after installation. In some cases, more than three different angles may be required;
 - b. The azimuth, size and center-line height location of all proposed and existing antenna(s) on the supporting structure;
 - c. The number, type and model of the antenna(s) that will be used with a copy of the specification sheet;

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- d. The make, model, type and manufacturer of any tower involved and a design plan stating the tower's capacity to accommodate multiple users;
- e. Site and Construction Plans. Complete and accurate plans, drawn to scale, signed, and sealed by a California-licensed engineer, land surveyor, and/or architect, which include the following items.
- (1) A site plan and elevation drawings for the facility as existing and as proposed with all height and width measurements explicitly stated.
 - (2) A site plan describing the proposed tower and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
 - (3) A depiction, with height and width measurements explicitly stated, of all existing and proposed transmission equipment.
 - (4) A depiction of all existing and proposed utility runs and points of contact.
 - (5) A depiction of the leased or licensed area of the site with all rights-of-way and easements for access and utilities labeled in plan view.
- f. Detailed map with locations of the poles or other property on which equipment is to be located, including specific pole identification number, if applicable, and the areas it will service;
- g. Description as to why the desired location is superior to other similar locations, from a community perspective, including, but not limited to:
- (1) Proximity to residential buildings and descriptions of efforts to prevent any blocking of views of impressive scenes; and
 - (2) Written documentation demonstrating a good faith effort to locate the proposed facility in the least intrusive location in accordance with the location requirements of this Resolution. ;
- h. A description in writing and a visual rendering demonstrating effective screening of all ground-mounted or roof-mounted equipment of the facility from view.
- i. Color-coded carrier-generated RF Coverage (propagation) maps, at a scale no smaller than 1 inch (1") to a quarter (1/4) mile with all appropriate legends, showing the coverage for the highest and lowest frequencies to be used by the facility. Frequencies are to be stated numerically, not qualitatively.

- Provide a represented value in dB of each colors it specifically represents.
- j. If the project involves, modifies or will use an existing facility or structure, a description of the type of structure (e.g., guyed, self-supporting lattice or monopole), and a report on the physical condition of the facility certified by a professional engineer licensed in the state of California.
 - k. If the application is for a new tower, clear and convincing technical evidence by a carrier or wireless service provider justifying the total height of the proposed facility and the need for such to the exclusion of all reasonable alternatives. Evidence in the form of propagation studies must include all modeling data and assumptions used to produce the studies at the requested height and should take into consideration the ability to collocate other carriers in the future.
 - l. A siting analysis which identifies other feasible locations within or outside the City which could serve the area intended to be served by the facility, unless the applicant provides compelling technical reasons for providing fewer than the minimum.
 - m. An affirmation, under penalty of perjury, that the proposed installation will be FCC compliant, in that it will not cause members of the general public to be exposed to RF levels that exceed the emissions levels deemed safe by the FCC. A copy of the fully completed FCC form “A Local Government Official’s Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance: Appendix A” titled “Optional Checklist for Determination of Whether a Facility is Categorically Excluded” for each frequency band of RF emissions to be transmitted from the proposed facility upon the approval of the application. All planned radio frequency emissions on all frequency bands must be shown on the Appendix A form(s) attached to the application. All planned radio frequency emissions are to be entered on each Appendix A form only in wattage units of “effective radiated power.”
 - n. A statement detailing the frequency, modulation and class of service of radio or other transmitting equipment;
 - o. A copy of the FCC license applicable for the intended use of the proposed facilities;
 - p. A HazMat Business Plan for all new generators, and any storage and/or use of hazardous materials during the project, to include:

- i. A list of toxic substances that may develop during arcing or fire that may impede fire suppression efforts;
- ii. A list of hazards that may develop during arcing or fire that may impede fire suppression efforts;
- q. A demolition plan, if applicable.
- r. A written statement of the applicant's willingness to allow other carriers to co-locate on the proposed personal wireless service facility where technically and economically feasible and aesthetically desirable, subject to the qualification that colocation should not occur when public exposures from the resulting higher cumulative sources would exceed FCC limits.
- s. Such other information as the Director shall establish.
- t. A statement signed by a person with legal authority to bind the applicant attesting under penalty of perjury to the accuracy of the information provided in the application. If attester not an authorized employee of the applicant, then the attester must demonstrate that it is an authorized agent of the applicant, with lawful Power of Attorney from the applicant.

SECTION 10. Environmental Review

This Resolution is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act (CEQA) Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The Resolution does not authorize any specific development or installation on any specific piece of property within the City's boundaries. Moreover, when and if an application for installation is submitted, the City will at that time conduct preliminary review of the application in accordance with CEQA. Alternatively, even if the Resolution is a "project" within the meaning of State CEQA Guidelines section 15378, the Resolution is exempt from CEQA on multiple grounds. First, the Resolution is exempt CEQA because the City Council's adoption of the Resolution is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. (State CEQA Guidelines, § 15061(b)(3)). That is, approval of the Resolution will not result in the actual installation of any facilities in the City. In order to install a facility in accordance with this Resolution, the wireless provider would have to submit an application for installation of the wireless facility. At that time, the City will have specific and definite information regarding the facility to review in accordance with CEQA. And, in fact, the City will conduct preliminary review under CEQA at that time. Moreover, in the event that the Resolution is interpreted so as to permit installation of wireless communications facilities on a particular site, the installation would be exempt from CEQA review in accordance with either State CEQA Guidelines section 15302 (replacement or reconstruction), State CEQA Guidelines section 15303 (new construction or conversion of small structures), and/or State CEQA Guidelines section 15304 (minor alterations to land).

SECTION 11. This Resolution will become effective immediately upon adoption.

SECTION 12. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, and ADOPTED this 12th day of April 2021.

MIKKE PIERSON, Mayor

ATTEST:

(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

JOHN COTTI, Interim City Attorney

RESOLUTION NO. 21-17

A RESOLUTION OF THE CITY OF MALIBU ADOPTING ENGINEERING, DESIGN AND LOCATION STANDARDS, CONDITIONS OF APPROVAL AND BASIC APPLICATION REQUIREMENTS FOR WIRELESS COMMUNICATIONS FACILITIES ON LAND OTHER THAN PUBLIC RIGHT-OF-WAY; AND FINDING THE SAME EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Malibu does hereby find, resolve and order as follows:

SECTION 1. Recitals

A. Malibu Municipal Code (MMC) Chapter 17.46 governs the permitting, installation, and regulation of wireless communications facilities in the City, other than those in the public right-of-way, which are subject to MMC Chapter 12.02.

B. Section 17.46.060(D) provides that “[a]ll applicants shall engineer, design and locate the wireless communications facilities in accordance with the standards and wireless regulations set forth separately through the resolution adopted by the City Council.”

C. Being authorized to do so, the City wishes to establish engineering, design and development standards applicable to wireless installations.

D. The City also wishes to set standard conditions of approval and basic application requirements applicable to wireless permits.

E. On April 12, 2021 the City Council conducted a duly noticed public hearing and received testimony from City staff and all interested parties regarding the and the standards, conditions and requirements.

SECTION 2. Purpose. The purpose of this document is to (1) establish design and location standards (Standards) for wireless communications facilities on land other than public right-of-way; (2) set standard conditions of approval for Wireless Permits (WPs); and (3) set basic application requirements for WPs.

SECTION 3. Definitions. For the purposes of these Standards, the definitions set forth in Malibu Municipal Code (MMC) Section 17.46.040 are incorporated by reference into this Resolution and in addition the following definitions apply:

A. “Park” A parcel, parcels of land or a portion of a parcel intended for active public recreation uses. Parks may include sports fields, playgrounds community buildings and unique or specialized activity areas. Land dedicated for open space and trails are not considered parks for the purposes of this Chapter.

- B. “Playground” A portion of land used for and equipped with public facilities for recreation specially by children. A playground includes the sand or rubberized floor around the apparatus.
- C. “Pole-mounted facility” means a wireless communications facility that is, or is proposed to be, attached to or contained in a pole.
- D. “School” any building, campus or sports field which is designed, constructed or used for education, instruction or school sports, whether public or private, in any branch of knowledge.
- E. “Stealth facility” (or “stealth facilities”) means a wireless communications facility designed to look like something other than a wireless tower or base station.

SECTION 4. General Standards for all Facilities The following general requirements apply at all times to all wireless communications facilities located in all zoning districts:

- A. All wireless communications facilities shall be engineered and designed to minimize the visual impact by means of placement, screening, camouflaging, painting and texturing and to be compatible with existing architectural elements, building materials and other site characteristics. The applicant shall use the smallest and least visible antenna possible to accomplish the facility’s objectives. All antennas and support structures shall be painted and/or textured to achieve architectural compatibility with the structures for which they are attached and/or located.
- B. Each facility must comply with any and all applicable provisions of the Malibu Municipal Code, including but not limited to provisions of the California Building Code, California Electric Code, California Plumbing Code, California Mechanical Code, and California Fire Code, and any conditions of approval imposed as part of the approval process.
- C. Each facility must comply with any and all applicable regulations and standards promulgated or imposed by any state or federal agency, including, but not limited to, the Federal Communications Commission (FCC) and the Federal Aviation Administration (FAA). Further, all wireless communications facilities, associated equipment and services shall comply with Americans with Disabilities Act (ADA) requirements.
- D. Fire and Electrical Safety Standards. All wireless communications facilities shall contain:
 - 1. Surge protection for lightning discharge or other significant electrical disturbances; and

2. Signage as required by the permit conditions, the National Electric Code or the Los Angeles County Fire Department Chief or their designee.
- E. The facility must at all times comply with all applicable health requirements and standards pertaining to radio frequency emissions.
- F. All antennas shall meet the minimum siting distances to habitable structures required for compliance with FCC regulations and standards governing the environmental effects of radio frequency emissions.
- G. Noise. Wireless communications facilities and equipment must comply with the City's noise ordinance in MMC Chapter 8.24, or any successor provisions, and be designed to prevent noise and sound from being plainly audible at a distance of fifty (50) feet from the facility or within ten (10) feet of any residence.
- H. Signs. No facility may display any signage or advertisement unless it is expressly allowed by this paragraph, necessary for stealth concealment purposes, or required by law or a permit condition. Every facility shall at all times display signage that accurately identifies the facility owner and provides the owner's unique site number and a local or toll-free telephone number to contact the facility owner's operations center.
- I. Landscaping. Where appropriate, facilities shall be installed so as to maintain and enhance existing landscaping on the site, including trees, foliage and shrubs, whether or not utilized for screening. In addition to any landscaping used for concealment or screening purposes, the applicant shall replace any existing landscaping displaced during construction or installation of the applicant's facility. The applicant's landscaping plan shall be subject to the City's review and approval but shall, at a minimum, match the existing landscaping and foliage surrounding the installation site consistent with MMC Section 17.53.090. The permittee shall ensure that any vegetation allowed to remain in place under the Fire Code, including vegetation provided for screening, is properly maintained and watered.
- J. All electrical support equipment located within cabinets, shelters, or similar structures shall be screened from public view. Roof-mounted electrical support equipment shall be discouraged. Ground-mounted electrical support equipment shall be encouraged. In addition, under grounding of support equipment is required wherever practicable.
- K. All antennas shall be located such that any person walking adjacent to the transmitting surface of the antenna will be walking on a grade that is a minimum of eight and one-half feet below the transmitting surface.

- L. Lighting of antenna structures and their electrical support equipment is prohibited, except as required by any order or regulation of the FCC or the FAA and except for manually operated emergency lights for use when official operating personnel are on site.
- M. A backup power supply must be required for all new wireless communications facilities to the extent allowed by law and in compliance with California Fire Code 1206.2.2.

SECTION 5. Location Standards for All Facilities The location standards for all wireless communications facilities, other than those that qualify as eligible facilities requests, are as follows:

- A. No wireless telecommunication facility shall be located within five hundred (500) feet of any school, playground, or park unless a finding is made, based on technical evidence acceptable to the reviewing authority showing a clear need for the facility and that no technically feasible alternative site exists. Except for facilities installed on the same pole or tower as an existing wireless telecommunication facility, wireless telecommunication facilities located within any residential zone district shall not be located within one thousand (1,000) feet of any other wireless communications facility, except from those facilities placed on utility poles along Pacific Coast Highway, unless a waiver is granted.
- B. All new freestanding wireless communications facilities and monopoles shall be set back a minimum distance of at least one hundred and twenty (120) percent of the height of the facility or monopole from any property line abutting a residentially zoned property. This minimum setback is not subject to the waivers allowed under Section 7 of this Resolution.
- C. Location preference for wireless communications facilities should be given to the following:
 - 1. Property designated non-residential (except for public open space and recreational vehicle park zoning districts), unless otherwise prohibited pursuant to this title.
 - 2. Facilities attached or sited adjacent to existing structures. Whenever possible, facilities shall be located on and/or inside existing structures. Appropriate types of existing structures may include, but are not limited to: buildings, water tanks, telephone poles and utility towers and poles, sign standards, light standards and roadway overpasses.
 - 3. Sites with minimum separation. Sites that are more than five hundred (500) feet from school, playgrounds, and parks.

4. Sites that are not highly visible from adjacent roadways.
5. Unless otherwise indicated in MMC Chapter 17.46 or these Standards, no wireless facility shall be installed on an exposed ridgeline unless the facility blends with the surrounding existing natural and man-made environment and a finding is made that no other location is technically feasible.
6. The City expressly designates residential, public open space and recreational vehicle park zoning districts, parks and schools as the least appropriate possible locations, and the absolute last choices for siting.

SECTION 6. Engineering and Design Standards for all Facilities The general design standards for wireless communications facilities subject to MMC Chapter 17.46 are as follows:

- A. **Basic Requirements.** The proposed wireless facility and its supporting structure (if needed) shall be limited to the minimum size necessary to serve the defined service objectives of the wireless service provider or providers that will be using the facility, except where a larger facility has superior concealment elements.
- B. **Materials.** The materials used shall be non-reflective and non-flammable.
- C. **Cabinet doors and other openings** must be designed to stay securely closed, and openings in all facilities shall be shielded or made the smallest size feasible to protect against fire and wind-blown embers.
- D. **The tower, or other support structure, and all equipment** shall be designed to withstand forces from seismic events. To that end, all wireless facility sites must be built to the applicable standards of Hardening Requirements including but not limited to APCO ANSI 2.106.1–2019, or their replacements. The telecommunications tower, pole or structure when fully loaded with antennas, transmitters, and other equipment and camouflaging shall be designed as determined by the Building Official. All equipment mounting racks and equipment used shall be anchored in such a manner that such a quake will not tip them over, throw the equipment off its shelves, or otherwise act to damage it.
- E. **All connections between various components of the facility, power lines, and conduit** shall be designed in a manner to protect against damage by a natural disaster, a vehicular accident, an act of vandalism or similar external forces.
- F. **Stealth.** The wireless facility shall be stealth. Stealth elements and techniques should be used to blend the facility with surrounding materials

and colors of the support structure and make the facility appear to be something other than a wireless facility. Stealth elements include, but are not limited to, the following:

1. Radio frequency (RF) transparent screening or shrouds;
 2. Matching the color of the existing support structure by painting, coating, or otherwise coloring the wireless facility, equipment, mounting brackets, and cabling;
 3. Placing cables and wires inside the pole or beneath conduit of the smallest size possible;
 4. Minimizing the size of the site;
 5. Installing new infrastructure that matches existing infrastructure in the area surrounding the proposed site; and
 6. Using paint of durable quality.
 7. Built with weather-resistant materials while permitting weathered treatment for aesthetic reasons and to avoid reflective material.
- G. **Minimum Height.** All antennas shall be located such that: (1) any person walking adjacent to the transmitting surface of the antenna will be walking on a grade that is a minimum of eight and one-half feet below the transmitting surface; and (2) no person at ground level will be exposed to an exposure level that is higher than allowed by the FCC's general population exposure rules.
- H. **Facade-Mounted Equipment.** Facade-mounted antennas and equipment shall be architecturally integrated into the building, or other support structure, design and otherwise made as unobtrusive as possible so that the facility does not appear to be a wireless facility. Antennas and equipment should be located entirely within an existing or newly created architectural feature so as to be completely screened from view. Facade-mounted facilities shall generally not extend more than eighteen (18) inches out from and may not project above the building face. Façade-mounted wireless telecommunication facilities shall not exceed twenty-eight (28) feet in height above the ground. However, antenna elements, mounted flush on the facade of an existing structure that exceeds twenty-eight (28) feet, may have a height equal to the height of the building.
- I. **Ground-Mounted Equipment.** Outdoor ground-mounted equipment associated with base stations shall be avoided whenever feasible. In locations visible or accessible to the public, applicants shall conceal outdoor

ground-mounted equipment, including ancillary power generation equipment, with opaque fences or landscape features that mimic the adjacent structure(s) (including, but not limited to, dumpster corrals and other accessory structures) and by painting, texturing, or otherwise concealing the facility as much as possible. Ground-mounted wireless communications facilities shall be located near existing structures or trees at similar heights for screening purposes where feasible. Not more than one ground-mounted antenna, provided that licensed amateur radio station antennas consistent with MMC 17.46.020(B)(2), shall also be permitted on each site.

- J. **Roof-Mounted Facilities.** Roof-mounted antennas and necessary equipment shall be screened from above if visible from higher elevations. Rooftop-mounted wireless telecommunication facilities shall not exceed twenty-eight (28) feet in height or three (3) feet above the roof parapet from which they are attached, whichever is less restrictive. Associated roof-mounted equipment cabinets shall not extend more than three (3) feet above the roof from which it is attached and shall be set back a minimum of ten (10) feet from the edge of the roof. All roof-mounted equipment cabinets shall be located behind a mechanical screen wall. In the event that a roof parapet wall screens the equipment cabinets, a mechanical screen wall will not be required.

- K. **Freestanding Facilities.** Freestanding facilities requiring a new monopole or other new support structure shall be stealth facilities. Further, they shall be located as close as possible to existing above-ground utilities, such as electrical towers or utility poles (which are not scheduled for removal or under grounding for at least 18 months after the date of application), light poles, trees of comparable heights, and in areas where they will not detract from the appearance of the City.
 - 1. Freestanding wireless telecommunication facilities, including monopoles, shall not exceed twenty-eight (28) feet in height and shall not extend higher than the top of the ridgeline nearest the antenna. The height of a freestanding facility shall be measured from the natural undisturbed ground surface below the center of the base of the tower itself to the tip of the highest antenna or piece of equipment attached thereto.

 - 2. Aside from the antenna itself, no additional equipment may be visible. All cables, including, but not limited to, electrical and utility cables, shall be run within the interior of the freestanding facility and shall be camouflaged or hidden to the fullest extent feasible without jeopardizing the physical integrity of the facility.

3. Monopole installations shall be situated so as to utilize existing natural or man-made features including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening.
 4. All antenna components and accessory wireless equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background or existing architectural elements so as to visually blend in with the surrounding development. Subdued colors and non-reflective materials that blend with surrounding materials and colors shall be used.
 5. Monopoles shall be no greater in diameter or other cross-sectional dimensions than is necessary for the proper functioning of the facility.
- L. All wireless telecommunication facilities shall be designed to prevent unauthorized climbing and graffiti.
- M. Fire Safety Standards. All wireless facilities designs shall include:
1. a power shut off, such as by means of rapid entry Knox or similar type systems shall be installed;
 2. surge protection devices capable of mitigating a direct or partial direct lightning discharge; and
 3. surge protection devices capable of mitigating significant electrical disturbances that may enter the facility via conductive cables.
- N. Satellite dish or parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their function.
- O. Support equipment pads, cabinets, shelters and buildings require architectural, landscape, color, fencing, or other camouflage treatment to minimize visual impacts to the extent deemed necessary by the Planning Director. Landscaping screening should also be provided if irrigation water is available.
- P. No freestanding facility or ancillary support equipment may be located between the face of a building and a public street, bikeway, park or residence.

SECTION 7. Waivers of These Standards.

- A. A waiver of one or more of these Standards may be granted in the following circumstances:
1. Pursuant to MMC Section 17.46.060(D), if an applicant demonstrates to the Planning Commission through clear and convincing evidence that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations;
 2. If an applicant demonstrates to the Planning Commission through clear and convincing evidence set forth in a feasibility study that compliance with a requirement of these Standards would be technically infeasible and the proposed wireless facility complies with the requirements of these Standards to the greatest extent technically feasible. For example, an exception to a requirement to conceal antennas in a shroud may be granted if shrouding is shown to be technically infeasible and an alternative concealment such as a colored film wrap is proposed; or
 3. If an applicant demonstrates to the Planning Commission with clear and convincing evidence that the particular engineering, design or location proposed involves an alternative that better meets the purposes of Chapter 17.46 and only minor non-compliance with a requirement of these design Standards and results in no increase in public visual impact to the community or provides other benefits. For example, an exception to the wireless facility location limitations may be granted when the applicant can demonstrate that the placement is less visible from viewsheds of residences or shielded by vegetation or existing infrastructure (such as barriers), or is less physically intrusive (for example, less impactful to tree roots or reduces noise). Among other factors, in deciding whether or not to grant an exception, the Planning Commission may consider the impact of expansions to the facility that the applicant would be entitled to make as of right if granted.
- B. Waivers may only be requested at the time an application is initially submitted for a discretionary permit. The request must include both the specific provision(s) from which waiver is sought and the basis of the request, including all supporting evidence on which the applicant relies. Any request for waiver after the City has deemed an application complete constitutes a material change to the proposed wireless facility and shall be considered a new application. A request for waiver from one or more

requirements does not relieve the applicant from compliance with all other applicable provisions of law or of MMC Section 17.46.060.

SECTION 8. Standard Conditions of Approval for Permits Under MMC Chapter 17.46.

- A. **Generally.** In addition to any supplemental conditions imposed by the Planning Director or Planning Commission, as the case may be, all development permits or conditional use permits granted for wireless communications facilities subject to this Chapter 17.46 shall be subject to the following conditions, unless modified by the approving authority:
1. The permittee shall defend, indemnify, and hold harmless the city or any of its boards, commissions, agents, officers, and employees from any claim, action or proceeding against the city, its boards, commission, agents, officers, or employees to attack, set aside, void, or annul, the approval of the project, or to hold the City liable in whole or in part as a result of the engineering, design, construction or operation of the facility. The City shall promptly notify the provider(s) of any such claim, action or proceeding if the city bears its own attorney's fees and costs, and the city defends the action in good faith.
 2. The permittee shall be strictly liable for interference caused by its facilities with city communications systems. The permittee shall be responsible for costs for determining the source of the interference, all costs associated with eliminating the interference (including but not limited to filtering, installing cavities, installing directional antennas, powering down systems, and engineering analysis), and all costs arising from third party claims against the city attributable to the interference.
 3. Subsequent submittals for this project shall be in substantial compliance with the plans date-stamped received by the Planning Department on _____. The project shall comply with all conditions of approval stipulated in the referral sheets attached to the agenda report for this project. In the event the project plans conflict with any condition of approval, the condition shall take precedence and revised plans shall be submitted and approved by the Planning Director prior to the Environmental Sustainability Department for plan check.
 4. The permit and rights conferred in this approval shall not be effective until the permittee signs, notarizes and returns the Acceptance of Conditions Affidavit accepting the conditions set forth herein. The applicant shall file this form with the Planning Department within 30 days of this decision or prior to issuance of

any development, conditional use, building, electrical or encroachment permit.

5. The applicant shall digitally submit a complete set of plans, including the items required in Condition No. 6 to the Planning Department for consistency review and approval prior to plan check and again prior to the issuance of any building or development permits.
6. The Notice of Decision (including the signed and notarized Acceptance of Conditions Affidavit) shall be copied in its entirety and placed directly onto a separate plan sheet(s) to be included in the development plans prior to submitting any development permits from the City of Malibu Environmental Sustainability Department and encroachment permit.
7. A development permit or conditional use permit, as applicable, shall be valid for a period of ten (10) years from issuance, unless pursuant to another provision of the Code or these conditions, it expires sooner or is terminated. At the end of ten (10) years from the date of issuance, such development or conditional use permit shall automatically expire, unless an extension or renewal has been granted. A person holding a development permit or conditional use permit must either (1) remove the facility within thirty (30) days following the permit's expiration (provided that removal of support structure owned by City, a utility, or another entity authorized to maintain a support structure need not be removed, but must be restored to its prior condition, except as specifically permitted by the City); or (2) prior to expiration, submit an application to renew the permit, which application must, among all other requirements, demonstrate that the impact of the wireless facility cannot be reduced. The wireless facility must remain in place until it is acted upon by the City and all appeals from the City's decision exhausted.
8. The installation and construction authorized by a permit shall be completed within three (3) years after its approval, or it will expire without further action by the City unless prior to the three (3) years the applicant submit an extension request and the City, in its sole discretion, grants a time extension for due cause. The installation and construction authorized by a permit shall conclude, including any necessary post-installation repairs and/or restoration to the property, within thirty (30) days following the day construction commenced. The permittee must provide written notice to City within ten (10) days after completing construction, and may not begin operations until all City and Fire Department (if applicable) inspections have been completed and the project is found to be

consistent with the permit. The expiration date shall be suspended until an appeal and/or litigation regarding the subject permit is resolved.

9. The Planning Director may grant up to four one-year extensions of the timeline, in Condition 7 above, for completing the installation and construction authorized by a development or condition use permit, if the Planning Director finds that the conditions, including but not limited to changes in the wireless ordinance under which the permit approval was issued, have not significantly changed.
10. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Director upon written request of such interpretation.
11. All structures shall conform to the requirements of the Environmental Sustainability Department, City Public Works Department, FCC and Los Angeles County Fire Department requirements, as applicable. Notwithstanding this review, all required permits, including but not limited to an encroachment permit from the City, shall be secured.
12. Minor changes to the approved plans or the conditions of approval may be approved by the Planning Director, provided such changes achieve substantially the same results and the project is still in compliance with the MMC. An application with all required materials and fees shall be required.

Cultural Resources

13. In the event that potentially important cultural resources are found in the course of geologic testing, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Where, as a result of this evaluation, the Planning Director determines that the project may have an adverse impact on cultural resources, a Phase II Evaluation of cultural resources shall be required pursuant to MMC Section 17.54.040(D)(4)(b).
14. If human bone is discovered, the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. These procedures require notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native

American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

Wireless Facility Conditions

15. All antennas shall meet the minimum siting distances to public/uncontrolled areas required for compliance with the FCC regulations and standards governing the environmental effects of radio frequency emissions. Permittee shall keep up-to-date on current information from the FCC in regards to maximum permissible radio frequency exposure levels. In the event that the FCC changes its guidelines for human exposure to radio frequency, permittee shall, within 30 days after any such change, submit to the Planning Director a report prepared by a qualified engineer that demonstrates actual compliance with such changed guidelines. The Director may, at permittee's sole cost, retain an independent consultant to evaluate the compliance report and any potential modifications to the permit necessary to conform to the FCC's guidelines. Failure to submit the compliance report required under this condition, or failure to maintain compliance with the FCC's guidelines for human exposure to radio frequency at all times shall constitute grounds for permit revocation.
16. All antennas shall be located so that any person walking adjacent to the transmitting surface of the antenna will be walking on a grade, which is a minimum of eight and one-half feet below the transmitting surface.
17. All antennas, equipment, and support structures shall be engineered and designed to prevent unauthorized climbing.
18. The wireless facility shall be erected, operated, and maintained in compliance with the general requirements set forth in the Standards and any specific requirements in the permit.
19. The antenna and electrical support equipment shall, at all times, be operated in a manner that conforms to the applicable health and safety standards, including those imposed by MMC Chapter 17.46 and this Resolution.
20. Wireless communications facilities and equipment must comply with the City's noise ordinance in MMC 8.24, or any successor provisions, and prevent noise and sound from being plainly audible at a distance of fifty (50) feet from the facility or within ten (10) feet of any residence.

21. The Planning Director's approval is required if a generator is to be placed onsite for temporary or permanent use.
22. All non-ground-mounted equipment associated with the application shall be located no lower than eight feet above grade or ground level on the monopole or support structure.
23. The City or its designee may enter onto the facility area to inspect the facility upon 48 hours prior notice to the permittee. The permittee shall cooperate with all inspections and may be present for any inspection of its facility by the City. The City reserves the right to enter or direct its designee to enter the facility and support, repair, disable, or remove any elements of the facility in emergencies or when the facility threatens imminent harm to persons or property. The City shall make an effort to contact the permittee prior to disabling or removing any facility elements, but in any case, shall notify permittee within 24 hours of doing so.
24. Testing of any equipment shall take place on weekdays only, and only between the hours of 8:30 a.m. and 4:30 p.m., except that testing is prohibited on holidays that fall on a weekday. In addition, testing is prohibited on weekend days.
25. Permittee shall obtain and maintain throughout the term of the permit commercial general liability insurance with a limit of five million dollars (\$5,000,000) per occurrence for bodily injury and property damage and six million dollars (\$6,000,000) general aggregate including premises operations, contractual liability, personal injury, and products completed operations. The relevant policy(ies) shall name the City, its elected/appointed officials, commission members, officers, representatives, agents, and employees as additional insureds. A true and correct copy of the policy of insurance shall constitute proof of insurance required by this Subsection. Permittee shall use its best efforts to provide thirty (30) days' prior notice to the City of to the cancellation or material modification of any applicable insurance policy. Failure to maintain insurance consistent with this Condition shall automatically void the permit, and the permittee shall immediately deenergize and remove the facility from operation. The policy shall not have a pollution or other exclusion which excludes injuries or damages from EMF/RF exposures.
26. Prior to issuance of a City permit or encroachment permit, the permittee shall file with the City, and shall maintain in good standing throughout the term of the approval, a performance bond or other surety or another form of security for the removal of the

facility in the event that the use is abandoned or the permit expires, or is revoked, or is otherwise terminated. The security shall be in the amount equal to the cost of physically removing the facility and all related facilities and equipment on the site, based on the higher of two contractor's quotes for removal that are provided by the permittee. The permittee shall reimburse the city for staff time associated with the processing and tracking of the bond, based on the hourly rate adopted by the City Council. Reimbursement shall be paid when the security is posted and during each administrative review.

27. Permittee shall not move, alter, temporarily relocate, change, or interfere with any existing structure, improvement, or property without the prior consent of the owner of that structure, improvement, or property. No structure, improvement, or property owned by the City shall be moved to accommodate a permitted activity or encroachment, unless the City determines that such movement will not adversely affect the City or any surrounding businesses or residents, and the Permittee pays all costs and expenses related to the relocation of the City's structure, improvement, or property. Prior to commencement of any work pursuant to any permit, the permittee shall provide the City with documentation establishing to the city's satisfaction that the permittee has the legal right to use or interfere with any other structure, improvement, or property to be affected by permittee's facilities.
28. No possessory interest is created by a Wireless Permit. However, to the extent that a possessory interest is deemed created by a governmental entity with taxation authority, permittee acknowledges that City has given to permittee notice pursuant to California Revenue and Taxation Code Section 107.6 that the use or occupancy of any public property pursuant to a development or conditional use permit may create a possessory interest which may be subject to the payment of property taxes levied upon such interest. Permittee shall be solely liable for, and shall pay and discharge prior to delinquency, any and all possessory interact taxes or other taxes, fees, and assessments levied against permittee's right to possession, occupancy, or use of any public property pursuant to any right of possession, occupancy, or use created by this development or conditional use permit.
29. If not already completed, permittee shall enter into the appropriate agreement with the City, as determined by the City, prior to

constructing, attaching, or operating a facility on municipal infrastructure. This permit is not a substitute for such agreement.

30. If a facility is not operated for a continuous period of three (3) months, the Wireless Permit and any other permit or approval therefor shall be deemed abandoned and terminated automatically, unless before the end of the three (3) month period (i) the Director has determined that the facility has resumed operations, or (ii) the City has received an application to transfer the permit to another service provider. No later than ninety (90) days from the date the facility is determined to have ceased operation, or the permittee has notified the Director of its intent to vacate the site, the permittee shall remove all equipment and improvements associated with the use and shall restore the site to its original condition to the satisfaction of the Director. The permittee shall provide written verification of the removal of the facilities within thirty (30) days of the date the removal is completed. If the facility is not removed within thirty (30) days after the permit has been discontinued pursuant to this subsection, the site shall be deemed to be a nuisance, and the City may cause the facility to be removed at permittee's expense or by calling any bond or other financial assurance to pay for removal. If there are two (2) or more users of a single facility or support structure, then this provision shall apply to the specific elements or parts thereof that were abandoned but will not be effective for the entirety thereof until all users cease use thereof.
31. In the event the City determines that it is necessary to take legal action to enforce any of these conditions, or to revoke a permit, and such legal action is taken, the permittee shall be required to pay any and all costs of such legal action, including reasonable attorney's fees, incurred by the City, even if the matter is not prosecuted to a final judgment or is amicably resolved, unless the City otherwise agrees, in its complete discretion, to waive said fees or any part thereof.
32. Interference with city communications systems and other governmental emergency systems is prohibited. Further, no permits issued pursuant to this chapter of the City Code establish any guarantee or warranty that Licensee's facility will be free from interference from city or third-party communication systems.

Construction

33. Installation hours shall be limited to Monday through Friday from 7:00 a.m. to 7:00 p.m. and Saturdays from 8:00 a.m. to 5:00 p.m. No installation activities shall be permitted on Sundays and City-

designated holidays. The restricted work hours described in this condition do not apply to emergency maintenance necessary to protect health or property. The City of Malibu may issue a Stop Work Order if permittee violates this condition. Construction activities shall be conducted in compliance with, and abide by, all applicable safety codes and permit conditions.

34. All sites must be designed and build to the standards of ANSI/APCO Public Safety Grade Site Hardening Requirements, also referred to as “APCO ANSI 2.106.1-2019”.

Site Specific Conditions

35. In the event that the electric service provider does not currently offer an alternative metering option, the permittee shall remove the above-grade electric meter when such option becomes available. Prior to removing the above-grade electric meter, the permittee shall apply for any encroachment and/or other ministerial permit(s) required to perform the removal. Upon removal, the permittee shall restore the affected area to its original condition that existed prior to installation of the equipment.
36. The permittee acknowledges that the City specifically includes conditions of approval related to (a) painting, coloring or finishing the equipment to match the monopole or support structure; (b) undergrounding all equipment to the extent possible; (c) installing equipment within shrouds, conduits and risers as concealment elements engineered and designed to integrate the wireless facility with the surrounding built and natural environment; and (d) specific structural, seismic, electrical, fire and operating/maintenance requirements. Any future modifications to the permittee’s wireless facility must maintain or improve all concealment elements and safety precautions.
37. Before the permittee submits any applications for construction, encroachment, excavation or other required permits in connection with this permit, the permittee must incorporate a true and correct copy of this permit, all conditions associated with this permit and any approved photo simulations into the project plans (collectively, the “Approved Plans”). The permittee must construct, install and operate the wireless facility in substantial compliance with the Approved Plans as determined by the Director or the Director’s designee. Any substantial or material alterations, modifications or other changes to the Approved Plans, whether requested by the permittee or required by other departments or public agencies with jurisdiction over the wireless facility, must be submitted in a written

request subject to the Director's prior review and approval, who may refer the request to the original approval authority if the Director finds that the requested alteration, modification or other change substantially deviates from the Approved Plans or implicates a significant or substantial land-use concern.

38. The permittee shall install and at all times maintain in good condition a "Network Operations Center Information" and "RF Caution" sign on the utility pole no less than three (3) feet below the antenna (measured from the top of the sign) and no less than nine (9) feet above the ground line (measured from the bottom of the sign). Signs required under this condition shall be installed so that a person can clearly see the sign as he or she approaches within three (3) feet of the antenna structure. If any person on or within the property is or may be exposed to emissions that exceed applicable FCC uncontrolled/general population limits at any time the sign shall expressly so state, and provide instructions on how persons can avoid any such exposure. The sign shall also include the name(s) of the facility owner(s), equipment owner(s) and operator(s)/carrier(s) of the antenna(s), property owner name, as well as emergency phone number(s) for all such parties. The sign shall not be lighted, unless applicable law, rule or regulation requires lighting. No signs or advertising devices other than required certification, warning, required seals or signage, other signage required by law, this Chapter, any City or applicable state code or the Los Angeles County Fire Department Chief or his or her designee shall be permitted. The sign shall be no larger than two (2) square feet.
39. The permittee shall ensure that all signage complies with FCC Office of Engineering and Technology Bulletin 65, CPUC General Order 95 or American National Standards Institute C95.2 for color, symbol, and content conventions. All such signage shall at all times provide a working local or toll-free telephone number to its network operations center, and such telephone number shall be able to reach a live person who can exert transmitter power-down control over this site as required by the FCC.
40. In the event that the FCC changes any of radio frequency signage requirements that are applicable to the project site approved herein or ANSI Z535.1, ANSI Z535.2, and ANSI C95.2 standards that are applicable to the project site approved herein are changed, the permittee, within 30 days of each such change, at its own cost and expense, shall replace the signage at the project site to comply with the current standards.

41. The permittee shall maintain the paint, color and finish of the facility in good condition at all times.
42. All improvements, including foundations, and appurtenant ground wires, shall be removed from the property and the site restored to its original pre-installation conditions within 90 days of cessation of operation or abandonment of the facility.
43. Build-Out Conditions.
 - a. Permittee shall not commence any excavation, construction, installation or other work on the project site until and unless it demonstrates to the City Public Works Department that the project complies with these Conditions along with all applicable laws, regulations, codes and other rules related to public health and safety, including without limitation all applicable provisions in California Public Utilities Commission General Order 95 and MMC Chapters 8.12, 8.24 and 15.08.
 - b. To the extent that a pole owner or any provision in the MMC or this resolution require greater or more restrictive standards than California Public Utilities Commission General Order 95, if applicable, those standards shall control.
44. Permittee shall at all times maintain compliance with all applicable federal, State and local laws, regulations, ordinances and other rules, including Americans with Disabilities Act (ADA) requirements.
45. The permittee shall cooperate with all inspections. The City and its designees reserve the right to support, repair, disable or remove any elements of the facility in emergencies or when the facility threatens imminent harm to persons or property.
46. Permittee shall at all times maintain accurate contact information for all parties responsible for the facility, which shall include a phone number, street mailing address and email address for at least one natural person. All such contact information for responsible parties shall be provided to the Planning Department at the time of permit issuance and within one business day of permittee's receipt of City staff's written request.
47. Permittee shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise

from the construction, operation, maintenance, modification and removal of the facility.

48. The site and the facility must be maintained in a neat and clean manner and in accordance with all approved plans and conditions of approval.
49. Permittee shall promptly remove any graffiti on the wireless facility at permittee's sole expense within 48 hours after notice.

Prior to Operation

50. The applicant shall request a final Planning Department inspection and final building inspection by the City of Malibu Environmental Sustainability Department immediately after the wireless facility has been installed and prior to the commencement of services.
51. Within thirty (30) calendar days following the installation of any wireless communications facilities, the applicant shall provide to the Planning Department with a field report prepared by a qualified engineer verifying that the unit has been inspected, tested, and is operating in compliance with FCC standards. Specifically, the on-site post-installation radiofrequency (RF) emissions testing must demonstrate actual compliance with the FCC OET Bulletin 65 RF emissions safety guidelines for general population/uncontrolled RF exposure in all sectors. For this testing, the transmitter shall be operating at maximum operating power, and the testing shall occur outwards to a distance where the RF emissions no longer exceed the uncontrolled/general population limit. Such report and documentation shall include the make and model (or other identifying information) of the unit tested, the date and time of the inspection, a certification that the unit is properly installed and working within applicable FCC limits, and a specific notation of the distance from the transmitter at which the emissions are equal to or less than the uncontrolled/general population limit.
52. The operation of the approved facility shall commence no later than one (1) month after the City completes its post-installation inspections of the facility, any issues with the facility are resolved, and the City receives the RF testing report required in the condition of approval above, or the development or conditional use permit will expire without further action by the City.

Fixed Conditions

- 53. Violation of any of the conditions of this approval shall be cause for revocation and termination of all rights thereunder.

Eligible Facilities Requests

All permits for an eligible facilities requests under MMC Chapter 17.46 shall be subject to the following conditions and all of the other conditions of approval placed on a Wireless Permit, unless modified by the approving authority:

- 54. Any permit granted in response to an application qualifying as an eligible facilities request shall be subject to the terms and conditions of the underlying permit.
- 55. The City's grant or grant by operation of law of an eligible facilities request permit constitutes a federally-mandated modification to the underlying permit or approval for the subject tower or base station. Notwithstanding any permit duration established in another permit condition, the City's grant or grant by operation of law of a eligible facilities request permit will not extend the permit term for the underlying permit or any other underlying regulatory approval, and its term shall be coterminous with the underlying permit or other regulatory approval for the subject tower or base station.
- 56. The City's grant or grant by operation of law of an eligible facilities request does not waive, and shall not be construed to waive, any standing by the City to challenge Section 6409(a) of the Spectrum Act, any FCC rules that interpret Section 6409(a) of the Spectrum Act, or any modification to Section 6409(a) of the Spectrum Act.

Small Cell Facilities

In addition to the other conditions of approval placed on a Wireless Permit, all permits for a small cell facility under MMC Chapter 17.46 shall be subject to the following additional condition, unless modified by the approving authority:

- 57. The City's grant of a permit for a small cell facility request does not waive, and shall not be construed to waive, any standing by the city to challenge any FCC orders or rules related to small cell facilities, or any modification to those FCC orders or rules.

SECTION 9. Basic Application Requirements for Permits Under MMC Chapter 17.46.

- A. Generally. In addition to providing all required fees, all wireless telecommunication facility carriers or providers shall provide the information required by a separate application form published, and updated

from time to time, by the City. If no such form is available, then the applicant must submit all documents, information, and any other materials necessary to allow the City to make required findings and ensure that the proposed facility will comply with applicable laws and not endanger the public health, safety, or welfare. Such information may include:

1. Contact information for:
 - a. Applicant and their representatives
 - b. Owner of proposed wireless communications facility
 - c. If different from facility owner, the identity of the person or entity responsible for operating the proposed wireless facility
 - d. The property owner or owner of the structure on which the proposed wireless facility would be installed
 - e. Names, addresses, telephone numbers, and email addresses of anyone acting on behalf of the applicant with regard to the application;
 - f. The name, address and phone number of all persons that prepared or assisted in preparing the application and any required reports;
 - g. The postal address, parcel number, or utility pole identifier of the property;
 - h. The location of the schools, playgrounds and parks within 500 feet of the project site;
 - i. Local contact person for emergencies
 - j. Assessor's Parcel Number
2. Purpose of new wireless communications facility or amendment
3. Type of Application (Select all that apply)
 - a. Eligible Facilities Request
 - b. Small Cell – Collocation
 - c. Small Cell – New Structure
 - d. Collocation (Non-Small Cell)
 - e. All Other Wireless Communications Facilities
 - f. Permit Renewal
 - g. Waiver
4. Letter of authorization signed by the property owner authorizing the applicant to submit and process the application, including executed copies of any leases, letters of agency, or proof of ownership, of private property involved in the project.
5. Authorizations, and Licenses
6. Provide previous approvals, if applicable, and Certificate of Completion. Site inspection fees may apply if a final inspection was never requested
7. Identify all other required permits and approvals for the subject facility.

8. Electrical and Structural Safety Information. The following engineering documents prepared under the responsible charge of and sealed by a California licensed Professional Engineer must be included in the application:
 - a. A short circuit and coordination study (“SCCS”) calculated pursuant to the IEEE 551-2006: Recommended Practice for Calculating AC Short-Circuit Currents in Industrial and Commercial Power Systems or the latest version of that standard. The study must demonstrate the protection devices will ensure the equipment enclosure will not be breached. The SCCS must include analysis of Voltage Transient Surges due to contact of conductors of different voltages;
 - b. A one-line diagram of the electrical system;
 - c. Voltage Drop & Load Flow Study;
 - d. Load Calculation;
 - e. Panel Directories;
 - f. A plot plan showing the location of the mounting structure including address, or structure designation, or GPS location on the front sheet;
 - g. A plot plan showing the location of the service disconnecting means; and
 - h. An elevation drawing of the equipment and the service disconnecting means.
9. Structural Safety Information. The structural/civil engineering documents prepared under the responsible charge of and sealed by a California licensed professional civil engineer.
 - a. Photo simulations, from at least three different angles, showing the pole and streetscape before and after installation. In some cases, more than three different angles may be required;
 - b. The azimuth, size and center-line height location of all proposed and existing antenna(s) on the supporting structure;
 - c. The number, type and model of the antenna(s) that will be used with a copy of the specification sheet;
 - d. The make, model, type and manufacturer of any tower involved and a design plan stating the tower’s capacity to accommodate multiple users;
 - e. Site and Construction Plans. Complete and accurate plans, drawn to scale, signed, and sealed by a California-licensed engineer, land surveyor, and/or architect, which include the following items.
 - (1) A site plan and elevation drawings for the facility as existing and as proposed with all height and width measurements explicitly stated.

- (2) A site plan describing the proposed tower and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
 - (3) A depiction, with height and width measurements explicitly stated, of all existing and proposed transmission equipment.
 - (4) A depiction of all existing and proposed utility runs and points of contact.
 - (5) A depiction of the leased or licensed area of the site with all rights-of-way and easements for access and utilities labeled in plan view.
- f. Detailed map with locations of the poles or other property on which equipment is to be located, including specific pole identification number, if applicable, and the areas it will service;
 - g. Description as to why the desired location is superior to other similar locations, from a community perspective, including, but not limited to:
 - (1) Proximity to residential buildings and descriptions of efforts to prevent any blocking of views of impressive scenes; and
 - (2) Written documentation demonstrating a good faith effort to locate the proposed facility in the least intrusive location in accordance with the location requirements of this Resolution.
 - h. A description in writing and a visual rendering demonstrating effective screening of all ground-mounted or roof-mounted equipment of the facility from view.
 - i. Color-coded carrier-generated RF Coverage (propagation) maps, at a scale no smaller than 1 inch (1") to a quarter (1/4) mile with all appropriate legends, showing the coverage for the highest and lowest frequencies to be used by the facility. Frequencies are to be stated numerically, not qualitatively. Provide a represented value in dB of each colors it specifically represents.
 - j. If the project involves, modifies or will use an existing facility or structure, a description of the type of structure (e.g., guyed, self-supporting lattice or monopole), and a report on the physical condition of the facility certified by a professional engineer licensed in the state of California.
 - k. If the application is for a new tower, clear and convincing technical evidence by a carrier or wireless service provider justifying the total height of the proposed facility and the need for such to the exclusion of all reasonable alternatives.

Evidence in the form of propagation studies must include all modeling data and assumptions used to produce the studies at the requested height and should take into consideration the ability to collocate other carriers in the future.

- l. A siting analysis which identifies other feasible locations within or outside the City which could serve the area intended to be served by the facility, unless the applicant provides compelling technical reasons for providing fewer than the minimum.
- m. An affirmation, under penalty of perjury, that the proposed installation will be FCC compliant, in that it will not cause members of the general public to be exposed to RF levels that exceed the emissions levels deemed safe by the FCC. A copy of the fully completed FCC form “A Local Government Official’s Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance: Appendix A” titled “Optional Checklist for Determination of Whether a Facility is Categorically Excluded” for each frequency band of RF emissions to be transmitted from the proposed facility upon the approval of the application. All planned radio frequency emissions on all frequency bands must be shown on the Appendix A form(s) attached to the application. All planned radio frequency emissions are to be entered on each Appendix A form only in wattage units of “effective radiated power.”
- n. A statement detailing the frequency, modulation and class of service of radio or other transmitting equipment;
- o. A copy of the FCC license applicable for the intended use of the proposed facilities;
- p. A HazMat Business Plan for all new generators, and any storage and/or use of hazardous materials during the project, to include:
 - i. A list of toxic substances that may develop during arcing or fire that may impede fire suppression efforts;
 - ii. A list of hazards that may develop during arcing or fire that may impede fire suppression efforts;
- q. A demolition plan, if applicable.
- r. A written statement of the applicant’s willingness to allow other carriers to co-locate on the proposed personal wireless service facility where technically and economically feasible and aesthetically desirable, subject to the qualification that collocation should not occur when public exposures from the resulting higher cumulative sources would exceed FCC limits.

- s. Such other information as the Director shall establish.
- t. A statement signed by a person with legal authority to bind the applicant attesting under penalty of perjury to the accuracy of the information provided in the application. If attester not an authorized employee of the applicant, then the attester must demonstrate that it is an authorized agent of the applicant, with lawful Power of Attorney from the applicant.

SECTION 10. Environmental Review

This Resolution is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act (CEQA) Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The Resolution does not authorize any specific development or installation on any specific piece of property within the City’s boundaries. Moreover, when and if an application for installation is submitted, the City will at that time conduct preliminary review of the application in accordance with CEQA. Alternatively, even if the Resolution is a “project” within the meaning of State CEQA Guidelines section 15378, the Resolution is exempt from CEQA on multiple grounds. First, the Resolution is exempt CEQA because the City Council’s adoption of the Resolution is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. (State CEQA Guidelines, § 15061(b)(3)). That is, approval of the Resolution will not result in the actual installation of any facilities in the City. In order to install a facility in accordance with this Resolution, the wireless provider would have to submit an application for installation of the wireless facility. At that time, the City will have specific and definite information regarding the facility to review in accordance with CEQA. And, in fact, the City will conduct preliminary review under CEQA at that time. Moreover, in the event that the Resolution is interpreted so as to permit installation of wireless communications facilities on a particular site, the installation would be exempt from CEQA review in accordance with either State CEQA Guidelines section 15302 (replacement or reconstruction), State CEQA Guidelines section 15303 (new construction or conversion of small structures), and/or State CEQA Guidelines section 15304 (minor alterations to land).

SECTION 11. This Resolution will become effective immediately upon adoption.

SECTION 12. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, and ADOPTED this 12th day of April 2021.



MIKKE PIERSON, Mayor

ATTEST:

Kelsey Pettijohn
KELSEY PETTIJOHN, Acting City Clerk
(seal)

APPROVED AS TO FORM:

John Cotti
JOHN COTTI, Interim City Attorney

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 21-17 was passed and adopted by the City Council of the City of Malibu at the Regular meeting thereof held on the 12th day of April 2021 by the following vote:

AYES: 5 Councilmembers: Farrer, Silverstein, Uhring, Grisanti, Pierson
NOES: 0
ABSTAIN: 0
ABSENT: 0

Kelsey Pettijohn
KELSEY PETTIJOHN, Acting City Clerk
(seal)

To: Los Altos City Council
council@losaltosca.gov
aenander@losaltosca.gov
smeadows@losaltosca.gov
nfligor@losaltosca.gov
lleeeng@losaltosca.gov
jweinberg@losaltosca.gov

From: Cindy Russell, MD

Re: Revisions to 2019 Los Altos Ordinance to Regulate Small Wireless Facilities

Date April 11, 2022

Dear Los Altos City Council:

I am writing today to strongly urge you to reinstate (with legally appropriate revisions) several of the major aspects of the original 2019 Small Cell Wireless Ordinance that diminish blight and protect the beauty, character and health of your lovely Silicon Valley community. In addition, after reading the new 2022 proposed Wireless Facilities Ordinance it appears that some important provisions may have been missed in crafting a new Small Cell ordinance which are critical for the safety of the residents and also reduce liability for the city. This includes several insurance provisions, minor modifications to existing facilities, permitting process, and more.

Encinitas and Malibu have passed ordinances which have elements that are protective but allow flexibility for cities and exceptions/waivers for the carriers. They remain uncontested.

- **Encinitas, CA-** Revised from 2019- Passed June 20, 2020
<https://encinitasca.gov/Portals/0/City%20Documents/Documents/Development%20Services/Planning/Land%20Development/Small%20Wireless%20Facilities/Resolution%20No.%202020-38%20With%20Policy.pdf?ver=2020-07-13-192634-373>
- **Malibu Resolution 21-17** – Attached please find an executed copy of Res. 21-17 is officially binding because Ordinance 484 adopts it by reference.

I will summarize my ask of the Los Altos City Council with these key points below, followed by backup for those points with additional pertinent legal information which does impact the issue of health/science, as per a court ruling from the second highest court in the land on August 13, 2021, a ruling that referred to the existing RF radiation regulatory limits as "arbitrary and capricious". Arbitrary and capricious means that the law and/or the facts were knowingly disregarded. That is a high bar indeed and the plaintiffs reached that bar. It behooves us to consider what is going on in the courts and pass ordinance language accordingly:

PLEASE PAUSE: There are resolutions as mentioned above that have successfully balanced the unique needs of communities with the rights of the telecommunications industry. The new resolution does not have to be passed Tuesday night. Some reflection on the best that Encinitas and Malibu have to offer may benefit all of us in the long run.

Key Points

- 1. TITLE OF ORDINANCE: Clarification if this applies to Small Cell or Macro Cells; macro towers must go through conditional use permits
- 2. LOCATION STANDARDS – PREFERRED SITES
- 3. WAIVERS FOR STANDARDS
- 4. FIRE SAFETY
- 5. APPEALS PROCESS

Thank you for passing the 2019 Wireless Facilities Telecommunications Ordinance. The original wireless facilities ordinance for Los Altos took into consideration public concerns, was well thought out and protects the city of Los Altos from poorly designed and poorly placed cell towers.

I understand, however, that there is a lawsuit against the City for Los Altos from Verizon and AT&T claiming that the 2019 ordinance as written “effectively prohibits” wireless communications. You are commended for taking on this task of revising the ordinance in response. Some of the 2022 proposed changes are good and clarify the permitting process for carriers to avoid lawsuits and provide for “personal wireless services”, however, I believe there are some gaps in protections and flexibility for the city that I would like to point out which could be remedied in addition to some clarifications.

It is important to consider adding the provisions below. As you note with the FCC lawsuit to reevaluation the 20 year-old FCC safety standards, the courts have judged that the FCC did not take into account several aspects of human health and environmental effects in setting their standards. We do not know what the future holds for the federal Telecommunications Act of 1996 or state law. The city of Los Altos needs to be prepared to alter its ordinance in case there is a change in the law in the future.

Representative Anna Eshoo Supports Local Control for Cell Towers

The 2018 FCC small cell order that fast tracks deployment of small cells in order to “cut the red tape” has prompted cities around the country, like Los Altos, to write these emergency ordinances and now revise them. The FCC Declaratory ruling has been considered an overreach of the Telecom Industry which dominates the FCC (FCC: Captured Agency, N. Alster), overriding the basic rights of cities to have local control. This was recognized by our local representative Anna Eshoo who in 2019 introduced HR530 to protect the rights of states and government by deeming that the “*Federal Communications Commission’s Declaratory Ruling in “Third Report and Order and Declaratory Ruling” (FCC 18-111) shall have no force or effect.*” This bill had 52 co-sponsors. Senator Feinstein introduced in 2019 a companion federal bill SB 2012 to block the FCC order. Neither moved.

Representative Eshoo also sent a letter to the FCC in 2020 to ask that the vote on the FCC order be delayed stating, *“we worry that if this Declaratory Ruling does not benefit from meaningful input from local governments, the result could undermine municipalities’ ability to balance their responsibilities to public safety and community design with their desire to ensure access to affordable wireless networks and the next generation services.”*

Please fight for the rights of your residents and government as our local representatives have done. You have more power than you know. Please exercise it.

Important Provisions to Add

1) Title of Ordinance

To clarify whether the ordinance title should apply only to Small Wireless Facilities or if this is for both Small Cell and Macro Towers it may be helpful to rename the ordinance to its original title and keep the descriptions separate within the ordinance. It is not clear to me in this rewrite. Small cell applications are different than for macro towers due to difference in structure of towers, power emitted and location in right of way as per FCC ruling.

(Section 14.82.050) See Encinitas Small Cell wireless Ordinance. Resolution 2019- 91-REGULATING SMALL WIRELESS FACILITIES AND OTHER INFRASTRUCTURE DEPLOYMENTS IN THE PUBLIC RIGHTS-OF-WAY
<https://encinitasca.gov/Portals/0/City%20Documents/Documents/Development%20Services/Planning/Land%20Development/Small%20Wireless%20Facilities/CC%20Policy%20C035.pdf>

2) **Location Standards- Preferred Sites-** Despite what the telecommunications industry says, you as a city can still have preferred sites and less preferred sites in your ordinance. (Encinitas and Malibu Ordinances) You can add an exception clause or waiver process to allow for placement of a cell tower if the carrier proves it is necessary (and other locations are not technically feasible) for “Personal Wireless Services” under the 1996 Telecom Act of 1996 and so that this does not constitute an “effective prohibition”.

*** Special Zones can be designated for schools, day care centers, residential dwellings, protected habitat or trees, parks, etc.**

*** Keep the 1000 foot distance between towers, not 200 feet.** Explanation below.

Here are examples of Location Standards in the Encinitas Small Cell Wireless Ordinance passed in June, 2020 and in Malibu April 2021, which to date are uncontested.

Encinitas Ordinance Passed June 10, 2020

SECTION 10. LOCATION STANDARDS

1. (a) **Restricted Site Locations.** All of the following locations will be deemed “Restricted Site Locations” that require an exception pursuant to SECTION 13 of this Policy:

1. (1) any location within a residential zone;
2. (2) any location within 500 feet from a residential dwelling unit;
3. (3) any location within 500 feet from a daycare facility or primary school;
4. (4) any location within a Very High Fire Hazard Severity Zone; and
5. (5) any location within the Ecological Resource/Open Space/Park Zone.

(b) **Location Preferences.** To better assist applicants and decision makers understand and respond to the community’s aesthetic preferences and values, this subsection sets out listed preferences for locations to be used in connection with small wireless facilities in an ordered hierarchy. Applications that involve lesser-preferred locations may be approved so long as the applicant demonstrates by clear and convincing evidence in the written record that: (1) any more preferred locations or structures within 500 feet from the proposed site would be technically infeasible; and (2) if the proposed site or the most-preferred location within 500 feet from the proposed site is within a Restricted Site Location, the applicant qualifies for an exception pursuant to SECTION 13 of this Policy. The City prefers small cells in the public rights-of-way to be installed in locations, ordered from most preferred to least preferred, as follows:

- (1) locations within industrial zones, commercial zones, business parks or office professional zones on or along prime arterials;
- (2) locations within industrial zones, commercial zones, business parks or office professional zones on or along major arterials;
- (3) locations within industrial zones, commercial zones, business parks or office professional zones on or along collector roads;
- (4) locations within industrial zones, commercial zones, business parks or office professional zones on or along local streets;
- (5) any location within 500 feet from any residential zone;
- (6) locations within residential zones on or along prime arterials;
- (7) locations within residential zones on or along major arterials;
- (8) locations within residential zones on or along collector roads;
- (9) locations within residential zones on or along local streets;

(10) any location within 1,000 feet from an existing/proposed small wireless facility;

In the event that a proposed facility would be within 500 feet from two or more restricted site locations (as defined in Subsection 10(a)), and the proposed facility qualifies for an exception pursuant to SECTION 13 of this Policy, the technically feasible location furthest from all such restricted site locations will be deemed to be the most preferred alternative.

(c) **Encroachments Over Private Property.** No small cell antennas, accessory equipment or other improvements may encroach onto or over any private or other property outside the public rights-of-way without the property owner’s express written consent.

Malibu Wireless Ordinance Resolution 21-17 Standards Passed April 2021.
<https://www.malibucity.org/DocumentCenter/View/27969/Ordinance-No-484>

Location Standards for All Facilities

The location standards for all wireless communications facilities, other than those that qualify as eligible facilities requests, are as follows:

1. No wireless telecommunication facility shall be located within five hundred (500) feet of any school, playground, or park unless a finding is made, based on technical evidence acceptable to the reviewing authority showing a clear need for the facility and that no technically feasible alternative site exists. Except for facilities installed on the same pole or tower as an existing wireless telecommunication facility, wireless telecommunication facilities located within any residential zone district shall not be located within one thousand (1,000) feet of any other wireless communications facility, except from those facilities placed on utility poles along Pacific Coast Highway, unless a waiver is granted.
2. All new freestanding wireless communications facilities and monopoles shall be set back a minimum distance of at least one hundred and twenty (120%) percent of the height of the facility or monopole from any property line abutting a residentially zoned property. This minimum setback is not subject to the waivers allowed under Section 7 of this Resolution.
3. Location preference for wireless communications facilities should be given to the following:
 1. Property designated non-residential (except for public open space and recreational vehicle park zoning districts), unless otherwise prohibited pursuant to this title.
 2. Facilities attached or sited adjacent to existing structures. Whenever possible, facilities shall be located on and/or inside existing structures. Appropriate types of existing structures may include, but are not limited to: buildings, water tanks, telephone poles and utility towers and poles, sign standards, light standards and roadway overpasses.
 3. Sites with minimum separation. Sites that are more than five hundred (500) feet from school, playgrounds, and parks.
4. Sites that are not highly visible from adjacent roadways.
5. Unless otherwise indicated in MMC Chapter 17.46 or these Standards, no wireless facility shall be installed on an exposed ridgeline unless the facility blends with the

surrounding existing natural and man-made environment and a finding is made that no other location is technically feasible.

6. The City expressly designates residential, public open space and recreational vehicle park zoning districts, parks and schools as the least appropriate possible locations, and the absolute last choices for siting.

3) Waivers for Standards

Malibu Wireless Facilities Ordinance 2021 has added a section on Waivers for Standards that clarifies the process and protects the city from liability.

Resolution No. 21-17 Page 9

1. A waiver of one or more of these Standards may be granted in the following circumstances:
 1. Pursuant to MMC Section 17.46.060(D), if an applicant demonstrates to the Planning Commission through clear and convincing evidence that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations;
 2. If an applicant demonstrates to the Planning Commission through clear and convincing evidence set forth in a feasibility study that compliance with a requirement of these Standards would be technically infeasible and the proposed wireless facility complies with the requirements of these Standards to the greatest extent technically feasible. For example, an exception to a requirement to conceal antennas in a shroud may be granted if shrouding is shown to be technically infeasible and an alternative concealment such as a colored film wrap is proposed; or
 3. If an applicant demonstrates to the Planning Commission with clear and convincing evidence that the particular engineering, design or location proposed involves an alternative that better meets the purposes of Chapter 17.46 and only minor non-compliance with a requirement of these design Standards and results in no increase in public visual impact to the community or provides other benefits. For example, an exception to the wireless facility location limitations may be granted when the applicant can demonstrate that the placement is less visible from viewsheds of residences or shielded by vegetation or existing infrastructure (such as barriers), or is less physically intrusive (for example, less impactful to tree roots or reduces noise). Among other factors, in deciding whether or not to grant an exception, the Planning Commission may consider the impact of expansions to the facility that the applicant would be entitled to make as of right if granted.
2. Waivers may only be requested at the time an application is initially submitted for a discretionary permit. The request must include both the specific provision(s) from which waiver is sought and the basis of the request, including all supporting evidence on which the applicant relies. Any request for waiver after the City has deemed an application

complete constitutes a material change to the proposed wireless facility and shall be considered a new application. A request for waiver from one or more

4) Fire Safety

All electrical equipment including small cell towers are a fire risk. The fire cannot be put out in a conventional manner with firefighters blasting water on the fire. They have to wait until the power is shut off or electrocution will result.

Examples are

- **San Diego tower that caught fire in a high school stadium-**
<https://fox5sandiego.com/news/local-news/stadium-light-catches-fire-at-south-bay-high-school/>
- **The Malibu fire in 2007 due to pole overload.** CPUC finds Edison and 4 telecom carriers \$51.5 million - <https://www.latimes.com/local/lanow/la-me-ln-malibu-fire-settlements-approved-state-puc-20130919-story.html>

Considering the increase in wildfires and the risk of earthquakes. Fire safety is a priority for citizens. **The Malibu Wireless Facilities Ordinance 2021 has language in the Fire Safety Standards that can be incorporated.** In the attached Executed Copy of Malibu Res. 21-17, please note fire language on pages 2, 3, 5, 8, 11, 12, and particularly beginning on page 23 with "Electrical and Structural Safety Information."

5) Appeals Process

Language for appeal is not in the ordinance Applications.

- A) Any person adversely affected by a decision of the Director pursuant to this Chapter may request an administrative hearing to appeal the Director’s decision. In order to request a hearing, the person shall submit to the City Clerk in the manner directed in the Director’s decision notice a fully completed request for administrative hearing form along with a full amount of the appeal fee set by the City Council (by way of check or money order). The request for administrative hearing shall be incomplete if it does not include the appeal fee in the full amount. ... etc.

Precaution is Warranted

We understand that, as per Section 704 of the 1996 Telecommunications Act, environmental concerns, and as courts have interpreted these it includes health impacts, cannot be a factor in denial of cell towers but we are early in the game.

Public health and ecosystem health are still important issues with new 5G systems untested for long term or short term safety for either human health or environmental health. 5G systems with a complex mix of low, medium and high frequencies (thus the need for macro and microcells) are very onerous to measure, requiring very expensive complex equipment that is very difficult

for engineers to accomplish let alone city facility engineers. Precaution in placement is paramount in this discussion. Once cell towers are placed there is no going back and you just wait for people to experience symptoms or develop cancer or a neurologic condition that you will not be able to sort out from the common toxic exposures we all encounter on a daily basis.

Elon Musk tells us that 5G millimeter wave systems are not needed for autonomous cars. 5G millimeter wavelengths are also not required for “personal wireless services”. For the later this technology can be effectively replaced with safer and more secure fiberoptic networks and current wireless technologies. I will explain why health matters.

Health Matters

I am a practicing physician who has studied the health impacts of environmental toxins through our local County Medical Association and the California Medical Association for over 25 years. I began studying the health impacts of wireless radiation when I learned of a proposal to place a cell tower on my daughter’s school.

After 10 years of research into the literature and talking to a variety of people affected by cell towers and wireless radiation I, like many others in the medical and scientific community, have come to the conclusion that wireless radiation is a pollutant just like lead or pesticides or mercury or toxic industrial waste. The mechanisms are similar - oxidation, the effects are broad on all living organisms and people are often unaware they are exposed to the toxin - unless they are “sensitive”. Wireless radiation causes oxidative stress on organisms and stem cells, and at low levels of radiation. These low levels cause a slow decline in physiologic processes, and for those who have become sensitive- an immediate reaction.

Antioxidants and Health

As we now know small amounts of toxins can cause harm in certain windows of development thus children are more vulnerable. We also know effects are cumulative. People vary in their vulnerability due to age, genetics and other toxic exposures. Not all people react the same. Our health, wellness and aging are determined by oxidation levels in our tissues that injure our DNA, proteins and lipids, thus antioxidants in foods have been shown to block oxidation, neutralize cellular injury and promote health. This is well established in the nutrition literature. The literature also demonstrates that taking antioxidants (Vitamin E, zinc and melatonin) protects the cell from oxidation injury from wireless radiation. Oxidative stress plays a major part in the development of chronic, degenerative and inflammatory illnesses such as cancer, autoimmune disorders, aging, cataracts, rheumatoid arthritis, cardiovascular and neurodegenerative diseases, as well as some acute pathologies (trauma, stroke). **It is well established that wireless radiation at non-thermal levels causes oxidative stress.** Effects of this are cumulative on our DNA, lipids and cellular membranes.

We Evolved in a Low Electromagnetic Environment

The natural environment of the Earth is electromagnetic. We have terrestrial electric and magnetic fields, radiation from the sun and cosmic microwaves. All living things evolved in

harmony with the Earth's natural but very very low-level electromagnetic rhythms. Birds, bees and mammals have magnetite in their bodies and brains that use the Earth's magnetic field for the delicate tasks of navigation and foraging. Our human nervous system, heart, reproductive and endocrine systems rely on minute electromagnetic signals for complex functions. Manmade electromagnetic fields (EMF) emitted by our modern technology can distort our bodies electric currents, delicate cell membranes and cause broad dysfunction. This can be with long term or sometimes short exposures with higher power and different pulsations. Science has shown us that organisms adapt to constant electromagnetic fields found in nature much easier than artificial pulsed radiation that is emitted from cell towers and wireless devices. It makes perfect sense that wireless radiation can be harmful to living organisms even it does not knock an electron out of its orbit.

Wildlife

You need to consider the unique ecosystem which surrounds this lovely town. Science has shown us that levels of artificial electromagnetic radiation we are increasingly exposed to is harming not only humans but the sensitive environment that we tend to ignore but depend upon for our sustenance and mental health. <https://midsafetech.org/environmental-and-wildlife-effects/>

New Review on Wildlife and wireless Radiofrequency Radiation

The most comprehensive 3 part peer reviewed article by Levitt, Lai and Manville (2021) provides an updated, thorough and well referenced overview of RFR and effects on all wildlife, revealing a disturbing picture of the future if we continue to expand wireless in our homes, communities and for the commercialization of space.

The authors state, *“But is there a larger environmental downside to rising ambient EMF exposures — particularly RFR — from popular mobile communication devices, WiFi antennas, and all accompanying infrastructure that is being overlooked by environmentalists, researchers, and government regulators alike. We may be missing critical physiological effects across species based on obsolete assumptions about low-level far-field exposures being too weak to adversely affect living tissue. We have yet to take into consideration the unique physiologies of other species, or how they use the environment in ways that humans do not, when we assume that the unfettered use of EMF/RFR can continue unabated and be allowed to grow indefinitely.”* **Effects of non-ionizing electromagnetic fields on flora and fauna, part 1.** Rising ambient EMF levels in the environment. (2021) Levitt BB et al. Rev Environ Health. 2021 May 27. <https://pubmed.ncbi.nlm.nih.gov/34047144/>

MOEF Report on Wildlife

The Inter-Ministerial Committee (IMC) of expert scientists reviewed the literature of the effects of RF-EMF radiations on wildlife, humans and the biosphere. In their 2010 MOEF Report they found that out of the 919 research papers collected on birds, bees, plants, other animals, and humans, 593 showed impacts, 180 showed no impacts, and 196 were inconclusive studies. All organisms had effects.

Human Effects– 62% showed effects, 13% no effect and 25% inconclusive **Plant Effects**– 87% showed effects and 13% were inconclusive

Wildlife Effects- 62% showed effects, 4% no effect and 36% inconclusive **Bee Effects**—85% showed effects and 15% no effect

Bird Effects- 77% showed effects, 10% no effect and 13% inconclusive **Current Standards are Scientifically Out of Date**

UNESCO World Heritage Wildlife Area Species Disappearing

An abundance of peer reviewed literature demonstrates adverse impacts to the environment with declines in insect, bird and wildlife populations in cities and where cell towers are placed. This spells disaster for biodiversity, fragile wildlife areas, critical pollinators and agriculture, especially with additive effects of pesticides, toxins and loss of habitat. A report on Unesco's Mt. Nardia World Heritage Park documents this slow decline in populations of species after cell towers were placed. Unesco Report on Disappearance of Species from Mt. Nardia Park World Heritage Area 2000-2015 with Increased Expansion of Telecommunications Antenna. Ethno-Botonist Mark Broomhall. [UNESCO Report on Disappearance of Species from Mt. Nardia with Increased EMR 2000-2015](#)

Cell Tower Health Effects

Current standards are based on short term thermal exposures and discount the abundant peer reviewed literature on harm from low level, non -thermal effects. It is clear that the limits for radiofrequency radiation are set too high in the U.S. and Canada. These limits are 100 times higher than that of Italy and Russia, who set their standards based on methodical research on immunologic, neurologic and biologic effects of low-level radiation fields. Current U.S. limits are up to 1,000 microwatts/cm² with symptoms seen at levels of 0.005 microwatts /cm².

Physicians in Germany ask for Health Investigation of Cell Towers in 2005

An open letter from Dr. Cornelia Waldmann-Selsam was sent to the German State Chancellor, Edmund Stoiber, on behalf of 114 physicians (Bamberger Appeal) asking for an investigation into the newly reported adverse health symptoms of 356 residents who lived near cell towers in Oberfranken, Germany. Dr. Waldmann-Selsam noted, *“Many humans get sick from emissions far below the recommended limit values, which consider only thermal effects, and we have a sickness picture with characteristic symptom combinations, which are new to us physicians, ”* *The list of symptoms were, ” Sleep disturbances, tiredness, concentration impairment, forgetfulness, problem with finding words, depressive tendencies, tinnitus, sudden loss of hearing, hearing loss, giddiness, nose bleeds, visual disturbances, frequent infections, sinusitis, joint and limb pains, nerve and soft tissue pains, feeling of numbness, heart rhythm disturbances,*

increased blood pressure , hormonal disturbances, night-time sweat, nausea.” Resident noted almost immediate improvement when moving away.”

Dr. Waldmann-Selsam goes on to say, *“physicians were able to prove, by re-testing the patients, the normalization of blood pressure, heart rhythm, hormone disturbances, visual disturbances, neurological symptoms, blood picture,”*. She called this an emergency medical situation and requested an official health investigation. http://www.next-up.org/pdf/Letter_to_Edmund_Stoiber.pdf

Cell Tower Effects on Cognition and Learning

The majority of studies, which have been done internationally, have shown an increase in neurologic symptoms in a percentage of residents living near cell towers. Symptoms vary with the distance from the cell tower. Symptoms include insomnia, headache, heart palpitations, dizziness, poor concentration, and fatigue. A study in Japan (Shinjo 2014) showed a decrease in symptoms when the cell tower was removed. There is also a well done study showing blood abnormalities in those living nearest to cell towers (Zothansiana 2017). DNA and lipid abnormalities were seen along with reduction in internal antioxidants which provide protection from pollutants.

Moreover, a recent study conducted over a 2 year period looked at effects of cell towers near two schools by Meo et al (2018) and clearly demonstrated cognitive dysfunction in students closest to the higher power cell tower.

Firefighters Fighting Fires and Now Cell Towers

After noticing that many of the firefighters were developing neurologic symptoms when first responder cell towers were placed on the fire stations the International Association of Firefighters studied the matter and passed a resolution in 2004 asking that cell towers not be placed in proximity to fire stations. In AB 537 (Quirk), signed into law by Gov. Newsom on October 4, 2021, the firefighters achieved the first ever health/readiness exemption in the world.

Every fire station in California is now exempt from having a 5G tower on their station. This movement began when cell towers were initially targeted for fire stations because of their location and the revenue received by the cities. Many firefighters developed symptoms including headaches, fatigue, memory impairment and insomnia within a week of the installation of the towers. An exemption was inserted in California bills on cell towers. [AB 57](#) (Quirk 2015) has an exemption on the grounds of health effects. AB 537 (Quirk 2021) also has this exemption and reads, *“Due to the unique duties and infrastructure requirements for the swift and effective deployment of firefighters, this section does not apply to a collocation or siting application for a wireless telecommunications facility where the project is proposed for placement on fire department facilities.”* [SB 649](#) (Hueso, Quirk and Dodd 2018) also had a health exemption for firefighters and was vetoed by Governor Brown.

500 Meter (1640 ft) Buffer from Cell Tower Recommended

Cell tower health studies that show impacts from cell towers with symptoms within about 1500 feet of the cell towers. That is why Pearce et al (2019) **recommended a “500 Meter buffer around schools, hospitals and homes “Limiting liability with positioning to minimize negative health effects of cellular phone towers.”**

Cancer and Cell Towers

3 Studies investigated the rates of cancer and cell towers looking at the distance from cell towers and the incidence of cancer. They found the rate of cancer incidence increased significantly in those living within about 350 -400 meters (around 1000 feet) to the cell tower.

[Dode 2011](#) performed a 10 year study (1996-2006) examining the distance from cell towers and cancer clusters. He and his colleagues found a highly significant increase in cancers in those living within 500 meters of the cell tower. They noted “The largest density power was 40.78 $\mu\text{W}/\text{cm}^2$, and the smallest was 0.04 $\mu\text{W}/\text{cm}^2$.” The current guidelines are about 1000 $\mu\text{W}/\text{cm}^2$. The authors conclude “Measured values stay below Brazilian Federal Law limits that are the same of ICNIRP. The human exposure pattern guidelines are inadequate. More restrictive limits must be adopted urgently.”

[Wolf and Wolf 2004](#) investigated the rates of cancer versus distance from cell towers in small towns in Israel. He found the rate of cancer incidence was 129 cases per 10,000 persons per year in those living within 350 meters of a cell tower versus a rate of 16-31/10,000 in those living greater than 350 meters from the cell tower.

Eger (2004) showed an increase in the development of new cancer cases within a 10 year period if residents lived within 400 meters of a cell tower. Their results revealed that within 5 years of operation of a transmitting station the relative risk of cancer development tripled in residents near the cell towers compared to residents outside the area.

Insurance Has an Exclusion for Radiofrequency Radiation as an Emerging Risk Insurance companies consider wireless radiation to be similar to asbestos in long term health impacts and do not provide coverage from harm for RF health effects. The cities are left with that liability unless they can provide insurance.

In a 2019 report, **New Emerging Risk Insights**, by Swiss RE Insurance Company, the second largest reinsurance company in the world, **5G is listed as an emerging concern** in the high risk category within 3 years. Included in the high-risk trends are artificial intelligence and the existential threats of climate change. “*The top five emerging risks in our SONAR 2019 report are digital technology’s clash with legacy hardware, potential threats from the spread of 5G mobile networks, increasingly limited fiscal and monetary flexibility by central banks, genetic testing’s implications on life insurers, and the impact of climate change on the life and health sector.*” <https://www.swissre.com/institute/research/sonar/sonar2019.html>

National Academy of Sciences Report on the Havana Syndrome and Harm from RFR

A recent report by the National Academy of Sciences concluded that the “sonic attacks” on diplomats in Cuba and China were most likely due to pulsed radiofrequency from directed energy weapons. They had symptoms similar to those who live near cell towers (headache, nausea, insomnia, dizziness, memory loss, heart palpitations, depression). Dr. Beatrice Golomb wrote the most extensive report to date on this subject linking these mystery “directed energy attacks” to pulsed microwaves similar to the wireless devices we use daily. In the case of these high powered beams there was documented injury to brain networks found by the University of Pittsburg physicians who studied the diplomats. Dr Golomb highlights that **the strength of the health effects are related to the peak power not the average power. The pulse makes the poison.**

The EUROPAEM EMF Guideline 2016 for the prevention, diagnosis and treatment of EMF-related health problems and illnesses is a comprehensive guide written by many scientists and physicians in Europe who are part of the European Academy for Environmental Medicine (EUROPAEM) – EMF working group who have recognized and treated those with electrosensitivity for many years. This is a thorough, well researched and well-referenced scientific paper that is based on the 2012 Austrian Medical Association **Guidelines for the Diagnosis and Treatment of EMF Illness**. A questionnaire from their group is included in the attachments.

New Hampshire 5G Commission Finds Radiofrequency Radiation Problematic

The first Commission formed in the United States to study the environmental and health effects of 5G technology released their comprehensive final report November 1, 2020. The Commission to Study the Environmental and Health Effects of Evolving 5G Technology was mandated by HB 522 passed by the state legislature in New Hampshire. Their final report included 15 recommendations addressing the need for public education about wireless hazards, RF health studies, RF measurements, cell antenna setbacks, fiberoptic rather than wireless deployment, commercial warning signs and wildlife protection. After hearing extensive testimony in a series of 13 meetings over the course of a year and reviewing an abundance of research, the Commission highlighted the lack of a single definition for 5G, **insufficient evidence of safety for 5th generation technology**, a concern that safety standards for wireless technologies have not been updated with the latest science and that 5G is largely a marketing concept. They also expressed concern that the FCC has a long history of being accountable to industry over the desires of communities and individuals.

FCC Told by DC Court to Reevaluate Safety Standards

On August 13, 2021 a joint lawsuit was won by petitioners against the Federal Communications Commission (FCC) for failure to protect human health and the environment by dismissing scientific evidence of harm from wireless radiation. The Petitioners challenged the FCC’s refusal

to reevaluate and update their 24-year-old radiofrequency (RF) safety guidelines for existing and new telecommunications technologies. The DC Circuit Court of Appeals ruled that the majority of the RF radiation standards established by the FCC did not use "reasoned decision-making" (they did not go by the science) and thus the standards were considered by the court to have been set in an "arbitrary and capricious" manner. This was an extremely high bar for the Plaintiffs to reach. The Circuit Court of Appeals rarely admonishes a federal agency or commission in this way. The DC Circuit Court of Appeals returned this decision back to the FCC and ordered the FCC to re-examine its standards for wireless radiation exposure and provide a review of wireless harms that is compliant with the law for non-cancer harms.

The Court Decision stated, "The National Environmental Policy Act ("NEPA") and its implementing regulations require federal agencies to "establish procedures to account for the environmental effects of [their] proposed actions." And "To fulfill its obligations under NEPA, the Commission has promulgated guidelines for human exposure to RF radiation... The Commission last updated its limits for RF exposure in 1996... The ANSI and IEEE developed limits are designed to protect against "thermal effects" of exposure to RF radiation, but not "non-thermal" effects. In March 2013, the Commission issued a notice of inquiry regarding the adequacy of its 1996 guidelines in response to changes in the ubiquity of wireless devices and in scientific standards and research since 1996. In December 2019, the Commission issued a final order resolving its 2013 notice of inquiry by declining to undertake any of the changes contemplated in the notice of inquiry. Petitioners challenge the 2019 final order under NEPA and the Administrative Procedure Act ("APA").

5G: A Manufactured Need by Industry

Reports indicate that the telecommunications industry has largely manufactured a "need" for expanding wireless technology in cities, while halting projects for safer fiberoptic broadband. Note a 2020 European Parliament report, **5G: State of Play in Europe, USA and Asia. In Depth Analysis**, suggests 5G is a manufactured need. *"As 5G is driven by the telecoms supply industry, and its long tail of component manufacturers, a major campaign is under way to convince governments that the economy and jobs will be strongly stimulated by 5G deployment."*

In my opinion, from all the research I have done, it appears the telecommunications industry has influenced laws to prevent health or environmental effects from being considered in the placement of cell towers (See FCC Captured Agency). They knew of the harm in early studies done by Dr. George Carlo in the 1990's but suppressed the data so they could move forward. That is well documented in Dr. Carlo's book, "Cell phones: Invisible Hazards in The Wireless Age".

A blizzard of robust science has appeared now to show biological and health impacts of wireless technology, but it is still denied, and the basis for genuinely safe RF radiation guidelines is flawed. An exponential growth in cell towers is now being played out with cities being left on their own to figure out how to regulate these towers locally. Industry places a heavy hand and complex laws on local policy makers who must navigate these complex FCC policies to prevent legal action.

Board of Health in Pittsfield Massachusetts Orders Verizon to Cease and Desist

For the first time in the U.S. a Board of Health has issued a cease and desist order to Verizon to remove or shut off a cell tower after 17 people in a neighborhood reported they became ill after the Verizon cell tower was turned on. Courtney Gilardi and her 2 children as well as residents living near the cell tower, reported experiencing a constellation of symptoms including stabbing headaches, nausea, vomiting, dizziness, “buzzing in the head”, and insomnia so severe her family had to move to the next town and into a house with no heat and no hot water to escape the sickness. Other neighbors drove an hour away to sleep at a relative’s house or slept in their cars away from the tower. These are classic symptoms of electromagnetic illness experienced in firefighters and military personnel working on radar and well documented by NASA, the Air Force and other military agencies as well as the “Havana Syndrome”. These symptoms were also seen in Japan after 2 cell towers were turned on and when the tower was removed the resident’s symptoms largely resolved.

Apple stops 5G Phone MMW: Is This the Death of 5G Millimeter Wavelengths?

You are probably aware that Verizon and AT&T built special hotspots in many cities in the U.S. to house 5G high band millimeter wavelengths that were to revolutionize wireless with ultrafast speeds. These small wavelengths the size of bees have been put into some community small cells which need to be about 1000 feet apart without obstruction to function properly. Apple, who already has some 5G MMW phones, just announced that it is not building any millimeter wave spectrum antennas in its next generation SE iphones. With 4G LTE low and mid band wavelengths they apparently do not need the millimeter 5G bandwidth. The article notes, “It’s not a surprise that Apple is dropping the spectrum from its phones. It costs chip space and power for every additional spectrum that is supported by a cellphone. Cell manufacturers care more about long battery life than they do about a technology that never made it out of the downtowns of a few major cities.”

FCC Limits: A False Sense of Security

We are told by the FCC that wireless radiation and cell towers are safe within current safety guidelines, or that we do not really know if there is harm or that the research is inconclusive or that it is not ionizing (like x-rays) so it cannot hurt us. This is the same dismissive and doubt creating language used by the tobacco industry and a host of other chemical companies to protect their toxic products, thus profits. The research shows that we do know, beyond a doubt, that wireless radiation is harmful to all living systems below the current safety standards. The most obvious evidence is that more and more children and adults are reporting symptoms of electrosensitivity (EHS) in the presence of wireless radiation when they live in a home near a cell tower, or use a cell phone, or in schools where wireless devices and cell towers are increasing.

Please use your authority and wisdom to keep this ordinance strong. Take more time if you need to in order for you to sort this out and be sure of your decision. Remember that you all live in Los Altos as well so you are protecting you and your families and the next generation as well.

Sincerely,

Cindy Russell, MD

Attached- Malibu Ordinances

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- **Firefighters Fighting Fires and Now Cell Towers-** <https://mdsafetech.org/2019/09/28/firefighters-fighting-fires-and-now-cell-towers/>
- **5G: State of Play in Europe, USA and Asia. In Depth Analysis, European Parliament.** [https://www.europarl.europa.eu/RegData/etudes/IDAN/2019/631060/IPOL_IDA\(2019\)631060_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2019/631060/IPOL_IDA(2019)631060_EN.pdf)
- **Apple ditches mmWave 5G with newest iPhone.** <https://www.lightreading.com/5g/apple-ditches-mmwave-5g-with-newest-iphone/d/d-id/775901>

From: [Susan Foster](#)
To: [Public Comment](#)
Date: Tuesday, April 12, 2022 1:54:33 PM
Attachments: [Electric Fire Safety Protocol-Malibu Res. 21-17 041122.pdf](#)

I am submitting my letter for comment on the proposed small cell ordinance for Los Altos.

I am a Fire and Utility consultant and have written the fire safety portions of the Encinitas Ordinance and the Malibu ordinance/resolution.

I am submitting content from Malibu that would be helpful to Los Altos from a safety setback perspective.

I will be speaking this evening. Thank you in advance for the opportunity.

SUSAN FOSTER
Medical Writer
Fire & Utility Consultant
PO Box 1444
Lyons, CO 80540



Susan Foster

PO Box 1444
Lyons, CO 80540



April 11, 2022

To whom it may concern:

Almost exactly one year ago to the day the Malibu City Council unanimously passed a fire safety protocol I wrote in collaboration with Tony Simmons, PE, a California licensed professional engineer. Our insurance and fire safety language is contained in Resolution 21-17.

The insurance and fire safety elements of Res. 21-17 are intended to be brought over to the small cell ordinance which is currently in Urgency Ordinance form. For example, here is our insurance language from Res. 21-17 [Page 14 of 27]:

25. Permittee shall obtain and maintain throughout the term of the permit commercial general liability insurance with a limit of five million dollars (\$5,000,000) per occurrence for bodily injury and property damage and six million dollars (\$6,000,000) general aggregate including premises operations, contractual liability, personal injury, and products completed operations. The relevant policy(ies) shall name the City, its elected/appointed officials, commission members, officers, representatives, agents, and employees as additional insureds. A true and correct copy of the policy of insurance shall constitute proof of insurance required by this Subsection. Permittee shall use its best efforts to provide thirty (30) days' prior notice to the City of to the cancellation or material modification of any applicable insurance policy. Failure to maintain insurance consistent with this Condition shall automatically void the permit, and the permittee shall immediately deenergize and remove the facility from operation. The policy shall not have a pollution or other exclusion which excludes injuries or damages from EMF/RF exposures.

Here is some of our fire safety language [Page 8 of 28; also passed unanimously for the Encinitas small cell ordinance and predicated on the Sebastopol small cell ordinance which had been previously passed]:

M. Fire Safety Standards. All wireless facilities designs shall include: 1. a power shut off, such as by means of rapid entry Knox or similar type systems shall be installed; 2. surge protection devices capable of mitigating a direct or partial direct lightning discharge; and 3. surge protection devices capable of mitigating significant electrical disturbances that may enter the facility via conductive cables.

Here is Malibu’s protocol for guarding against electrical fires within cell towers, frequently referred to as the Electric Fire Safety Protocol:

Resolution No. 21-17; Page 23 of 27

Electrical and Structural Safety Information.

The following engineering documents prepared under the responsible charge of and sealed by a California licensed Professional Engineer must be included in the application:

- a. A short circuit and coordination study (“SCCS”) calculated pursuant to the IEEE 551-2006: Recommended Practice for Calculating AC Short-Circuit Currents in Industrial and Commercial Power Systems or the latest version of that standard. The study must demonstrate the protection devices will ensure the equipment enclosure will not be breached. The SCCS must include analysis of Voltage Transient Surges due to contact of conductors of different voltages;
- b. A one-line diagram of the electrical system;
- c. Voltage Drop & Load Flow Study;
- d. Load Calculation; e. Panel Directories;
- f. A plot plan showing the location of the mounting structure including address, or structure designation, or GPS location on the front sheet;
- g. A plot plan showing the location of the service disconnecting means; and
- h. An elevation drawing of the equipment and the service disconnecting means.

What we are saying to the carriers is that they are welcome to come to Malibu and apply, but with their applications they must attach items “a. through h.” Each item must be signed and sealed by a professional engineer with the telecommunication carrier indicating certain tests have been run and diagrams are accurate and deemed fire safe for life, health and property according to their professional opinion.

Malibu has burned twice as a result of telecommunications fires in the last 15 years, first with the Malibu Canyon Fire in 2007 and in November 2018, the \$6 billion Woolsey Fire which destroyed over 400 homes in Malibu. We know at least one of the two ignition points for the Woolsey Fire was a result of a telecommunications lashing wire that came loose. Because the case is still under criminal investigation, we do not know which carrier was involved. But the four carriers involved in overloading utility poles in Malibu in 2007 were all fined by the CPUC and all were accused, along with the utility, of attempting to mislead fire investigators from the CPUC. Thus, fire prevention was not their priority and we do not believe it is now. That is why we are insisting on electrical engineering rigor at the application stage for all towers coming into Malibu.

Res. 21-17 currently applies only to macro towers but is soon to be officially introduced for inclusion in the small cell ordinance. We had been advised by Staff to wait for approval by Coastal Commission before going through this final and official step. However, as cities throughout California know, the Coastal Commission has called for all cities and counties to

reduce utility fires. Telecommunications is a utility so this is an urgent matter. We are urging Malibu to make this an agenda priority immediately, particularly since fire season is upon us.

Res. 21-17 is effective and binding because the Ordinance 484 adopts it by reference. The Electric Fire Safety Protocol is included on page 23 of 27 for your reference. Please see the attached signed and executed Res. 21-17. The fact that it is not on the Malibu City website is an oversight that is being corrected.

I have received calls from multiple cities wanting to and hoping to use our Electric Fire Safety Protocol. We encourage other cities and counties to use this protocol for all your towers but particularly including small cells because so many of them are brought so close to your residents. It does not promise to eliminate cell tower fires but it without doubt will catch some of the engineering flaws that have created electrical fires in the past.

I would further urge significant setbacks from residential, daycare and schools and other densely populated areas. All cell tower fires are electrical fires and they cannot be fought until the power is cut. That can take up to 60 minutes. A representative of PG&E or relevant utility must arrive on scene to inform your firefighters that the power has indeed been cut. Only then can the fire be attacked. Imagine this scenario amidst Santa Ana conditions. Cell towers and telecommunications equipment present a fire danger and people need time to escape.

I would further urge city councils throughout California to understand that new cell towers are not needed for calling 911. The CPUC has already implemented their Resiliency Plan to back up all existing cell towers with 72 hours of coverage even when the power has been cut.

Respectfully submitted,



SUSAN FOSTER
Fire and Utility Consultant

Attached: Resolution 21-17, Executed Copy

From: [ana pareja](#)
To: [Public Comment](#); [City Council](#)
Date: Tuesday, April 12, 2022 2:09:44 PM
Attachments: [Los Altos Letter Final 4 11 2022 PDF\(1\).pdf](#)

Dear Los Altos City Council,

I'm writing you to let you know that I strongly support Dr. Cindy Russell's attached letter regarding the Los Altos Wireless Ordinance and ask that you include all of the requests that she has brought to the attention of the Council and place them in the updated ordinance.

Sincerely,

Ana Pareja

To: Los Altos City Council
council@losaltosca.gov
aenander@losaltosca.gov
smeadows@losaltosca.gov
nfligor@losaltosca.gov
lleeeng@losaltosca.gov
jweinberg@losaltosca.gov

From: Cindy Russell, MD

Re: Revisions to 2019 Los Altos Ordinance to Regulate Small Wireless Facilities

Date April 11, 2022

Dear Los Altos City Council:

I am writing today to strongly urge you to reinstate (with legally appropriate revisions) several of the major aspects of the original 2019 Small Cell Wireless Ordinance that diminish blight and protect the beauty, character and health of your lovely Silicon Valley community. In addition, after reading the new 2022 proposed Wireless Facilities Ordinance it appears that some important provisions may have been missed in crafting a new Small Cell ordinance which are critical for the safety of the residents and also reduce liability for the city. This includes several insurance provisions, minor modifications to existing facilities, permitting process, and more.

Encinitas and Malibu have passed ordinances which have elements that are protective but allow flexibility for cities and exceptions/waivers for the carriers. They remain uncontested.

- **Encinitas, CA-** Revised from 2019- Passed June 20, 2020
<https://encinitasca.gov/Portals/0/City%20Documents/Documents/Development%20Services/Planning/Land%20Development/Small%20Wireless%20Facilities/Resolution%20No.%202020-38%20With%20Policy.pdf?ver=2020-07-13-192634-373>
- **Malibu Resolution 21-17** – Attached please find an executed copy of Res. 21-17 is officially binding because Ordinance 484 adopts it by reference.

I will summarize my ask of the Los Altos City Council with these key points below, followed by backup for those points with additional pertinent legal information which does impact the issue of health/science, as per a court ruling from the second highest court in the land on August 13, 2021, a ruling that referred to the existing RF radiation regulatory limits as "arbitrary and capricious". Arbitrary and capricious means that the law and/or the facts were knowingly disregarded. That is a high bar indeed and the plaintiffs reached that bar. It behooves us to consider what is going on in the courts and pass ordinance language accordingly:

PLEASE PAUSE: There are resolutions as mentioned above that have successfully balanced the unique needs of communities with the rights of the telecommunications industry. The new resolution does not have to be passed Tuesday night. Some reflection on the best that Encinitas and Malibu have to offer may benefit all of us in the long run.

Key Points

- 1. TITLE OF ORDINANCE: Clarification if this applies to Small Cell or Macro Cells; macro towers must go through conditional use permits
- 2. LOCATION STANDARDS – PREFERRED SITES
- 3. WAIVERS FOR STANDARDS
- 4. FIRE SAFETY
- 5. APPEALS PROCESS

Thank you for passing the 2019 Wireless Facilities Telecommunications Ordinance. The original wireless facilities ordinance for Los Altos took into consideration public concerns, was well thought out and protects the city of Los Altos from poorly designed and poorly placed cell towers.

I understand, however, that there is a lawsuit against the City for Los Altos from Verizon and AT&T claiming that the 2019 ordinance as written “effectively prohibits” wireless communications. You are commended for taking on this task of revising the ordinance in response. Some of the 2022 proposed changes are good and clarify the permitting process for carriers to avoid lawsuits and provide for “personal wireless services”, however, I believe there are some gaps in protections and flexibility for the city that I would like to point out which could be remedied in addition to some clarifications.

It is important to consider adding the provisions below. As you note with the FCC lawsuit to reevaluation the 20 year-old FCC safety standards, the courts have judged that the FCC did not take into account several aspects of human health and environmental effects in setting their standards. We do not know what the future holds for the federal Telecommunications Act of 1996 or state law. The city of Los Altos needs to be prepared to alter its ordinance in case there is a change in the law in the future.

Representative Anna Eshoo Supports Local Control for Cell Towers

The 2018 FCC small cell order that fast tracks deployment of small cells in order to “cut the red tape” has prompted cities around the country, like Los Altos, to write these emergency ordinances and now revise them. The FCC Declaratory ruling has been considered an overreach of the Telecom Industry which dominates the FCC (FCC: Captured Agency, N. Alster), overriding the basic rights of cities to have local control. This was recognized by our local representative Anna Eshoo who in 2019 introduced HR530 to protect the rights of states and government by deeming that the “*Federal Communications Commission’s Declaratory Ruling in “Third Report and Order and Declaratory Ruling” (FCC 18-111) shall have no force or effect.*” This bill had 52 co-sponsors. Senator Feinstein introduced in 2019 a companion federal bill SB 2012 to block the FCC order. Neither moved.

Representative Eshoo also sent a letter to the FCC in 2020 to ask that the vote on the FCC order be delayed stating, *“we worry that if this Declaratory Ruling does not benefit from meaningful input from local governments, the result could undermine municipalities’ ability to balance their responsibilities to public safety and community design with their desire to ensure access to affordable wireless networks and the next generation services.”*

Please fight for the rights of your residents and government as our local representatives have done. You have more power than you know. Please exercise it.

Important Provisions to Add

1) Title of Ordinance

To clarify whether the ordinance title should apply only to Small Wireless Facilities or if this is for both Small Cell and Macro Towers it may be helpful to rename the ordinance to its original title and keep the descriptions separate within the ordinance. It is not clear to me in this rewrite. Small cell applications are different than for macro towers due to difference in structure of towers, power emitted and location in right of way as per FCC ruling.

(Section 14.82.050) See Encinitas Small Cell wireless Ordinance. Resolution 2019- 91- REGULATING SMALL WIRELESS FACILITIES AND OTHER INFRASTRUCTURE DEPLOYMENTS IN THE PUBLIC RIGHTS-OF-WAY
<https://encinitasca.gov/Portals/0/City%20Documents/Documents/Development%20Services/Planning/Land%20Development/Small%20Wireless%20Facilities/CC%20Policy%20C035.pdf>

2) **Location Standards- Preferred Sites-** Despite what the telecommunications industry says, you as a city can still have preferred sites and less preferred sites in your ordinance. (Encinitas and Malibu Ordinances) You can add an exception clause or waiver process to allow for placement of a cell tower if the carrier proves it is necessary (and other locations are not technically feasible) for “Personal Wireless Services” under the 1996 Telecom Act of 1996 and so that this does not constitute an “effective prohibition”.

*** Special Zones can be designated for schools, day care centers, residential dwellings, protected habitat or trees, parks, etc.**

*** Keep the 1000 foot distance between towers, not 200 feet.** Explanation below.

Here are examples of Location Standards in the Encinitas Small Cell Wireless Ordinance passed in June, 2020 and in Malibu April 2021, which to date are uncontested.

Encinitas Ordinance Passed June 10, 2020

SECTION 10. LOCATION STANDARDS

1. (a) **Restricted Site Locations.** All of the following locations will be deemed “Restricted Site Locations” that require an exception pursuant to SECTION 13 of this Policy:

1. (1) any location within a residential zone;
2. (2) any location within 500 feet from a residential dwelling unit;
3. (3) any location within 500 feet from a daycare facility or primary school;
4. (4) any location within a Very High Fire Hazard Severity Zone; and
5. (5) any location within the Ecological Resource/Open Space/Park Zone.

(b) **Location Preferences.** To better assist applicants and decision makers understand and respond to the community’s aesthetic preferences and values, this subsection sets out listed preferences for locations to be used in connection with small wireless facilities in an ordered hierarchy. Applications that involve lesser-preferred locations may be approved so long as the applicant demonstrates by clear and convincing evidence in the written record that: (1) any more preferred locations or structures within 500 feet from the proposed site would be technically infeasible; and (2) if the proposed site or the most-preferred location within 500 feet from the proposed site is within a Restricted Site Location, the applicant qualifies for an exception pursuant to SECTION 13 of this Policy. The City prefers small cells in the public rights-of-way to be installed in locations, ordered from most preferred to least preferred, as follows:

- (1) locations within industrial zones, commercial zones, business parks or office professional zones on or along prime arterials;
- (2) locations within industrial zones, commercial zones, business parks or office professional zones on or along major arterials;
- (3) locations within industrial zones, commercial zones, business parks or office professional zones on or along collector roads;
- (4) locations within industrial zones, commercial zones, business parks or office professional zones on or along local streets;
- (5) any location within 500 feet from any residential zone;
- (6) locations within residential zones on or along prime arterials;
- (7) locations within residential zones on or along major arterials;
- (8) locations within residential zones on or along collector roads;
- (9) locations within residential zones on or along local streets;

(10) any location within 1,000 feet from an existing/proposed small wireless facility;

In the event that a proposed facility would be within 500 feet from two or more restricted site locations (as defined in Subsection 10(a)), and the proposed facility qualifies for an exception pursuant to SECTION 13 of this Policy, the technically feasible location furthest from all such restricted site locations will be deemed to be the most preferred alternative.

(c) **Encroachments Over Private Property.** No small cell antennas, accessory equipment or other improvements may encroach onto or over any private or other property outside the public rights-of-way without the property owner’s express written consent.

Malibu Wireless Ordinance Resolution 21-17 Standards Passed April 2021.
<https://www.malibucity.org/DocumentCenter/View/27969/Ordinance-No-484>

Location Standards for All Facilities

The location standards for all wireless communications facilities, other than those that qualify as eligible facilities requests, are as follows:

1. No wireless telecommunication facility shall be located within five hundred (500) feet of any school, playground, or park unless a finding is made, based on technical evidence acceptable to the reviewing authority showing a clear need for the facility and that no technically feasible alternative site exists. Except for facilities installed on the same pole or tower as an existing wireless telecommunication facility, wireless telecommunication facilities located within any residential zone district shall not be located within one thousand (1,000) feet of any other wireless communications facility, except from those facilities placed on utility poles along Pacific Coast Highway, unless a waiver is granted.
2. All new freestanding wireless communications facilities and monopoles shall be set back a minimum distance of at least one hundred and twenty (120%) percent of the height of the facility or monopole from any property line abutting a residentially zoned property. This minimum setback is not subject to the waivers allowed under Section 7 of this Resolution.
3. Location preference for wireless communications facilities should be given to the following:
 1. Property designated non-residential (except for public open space and recreational vehicle park zoning districts), unless otherwise prohibited pursuant to this title.
 2. Facilities attached or sited adjacent to existing structures. Whenever possible, facilities shall be located on and/or inside existing structures. Appropriate types of existing structures may include, but are not limited to: buildings, water tanks, telephone poles and utility towers and poles, sign standards, light standards and roadway overpasses.
 3. Sites with minimum separation. Sites that are more than five hundred (500) feet from school, playgrounds, and parks.
4. Sites that are not highly visible from adjacent roadways.
5. Unless otherwise indicated in MMC Chapter 17.46 or these Standards, no wireless facility shall be installed on an exposed ridgeline unless the facility blends with the

surrounding existing natural and man-made environment and a finding is made that no other location is technically feasible.

6. The City expressly designates residential, public open space and recreational vehicle park zoning districts, parks and schools as the least appropriate possible locations, and the absolute last choices for siting.

3) Waivers for Standards

Malibu Wireless Facilities Ordinance 2021 has added a section on Waivers for Standards that clarifies the process and protects the city from liability.

Resolution No. 21-17 Page 9

1. A waiver of one or more of these Standards may be granted in the following circumstances:
 1. Pursuant to MMC Section 17.46.060(D), if an applicant demonstrates to the Planning Commission through clear and convincing evidence that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations;
 2. If an applicant demonstrates to the Planning Commission through clear and convincing evidence set forth in a feasibility study that compliance with a requirement of these Standards would be technically infeasible and the proposed wireless facility complies with the requirements of these Standards to the greatest extent technically feasible. For example, an exception to a requirement to conceal antennas in a shroud may be granted if shrouding is shown to be technically infeasible and an alternative concealment such as a colored film wrap is proposed; or
 3. If an applicant demonstrates to the Planning Commission with clear and convincing evidence that the particular engineering, design or location proposed involves an alternative that better meets the purposes of Chapter 17.46 and only minor non-compliance with a requirement of these design Standards and results in no increase in public visual impact to the community or provides other benefits. For example, an exception to the wireless facility location limitations may be granted when the applicant can demonstrate that the placement is less visible from viewsheds of residences or shielded by vegetation or existing infrastructure (such as barriers), or is less physically intrusive (for example, less impactful to tree roots or reduces noise). Among other factors, in deciding whether or not to grant an exception, the Planning Commission may consider the impact of expansions to the facility that the applicant would be entitled to make as of right if granted.
2. Waivers may only be requested at the time an application is initially submitted for a discretionary permit. The request must include both the specific provision(s) from which waiver is sought and the basis of the request, including all supporting evidence on which the applicant relies. Any request for waiver after the City has deemed an application

complete constitutes a material change to the proposed wireless facility and shall be considered a new application. A request for waiver from one or more

4) Fire Safety

All electrical equipment including small cell towers are a fire risk. The fire cannot be put out in a conventional manner with firefighters blasting water on the fire. They have to wait until the power is shut off or electrocution will result.

Examples are

- **San Diego tower that caught fire in a high school stadium-**
<https://fox5sandiego.com/news/local-news/stadium-light-catches-fire-at-south-bay-high-school/>
- **The Malibu fire in 2007 due to pole overload.** CPUC finds Edison and 4 telecom carriers \$51.5 million - <https://www.latimes.com/local/lanow/la-me-ln-malibu-fire-settlements-approved-state-puc-20130919-story.html>

Considering the increase in wildfires and the risk of earthquakes. Fire safety is a priority for citizens. **The Malibu Wireless Facilities Ordinance 2021 has language in the Fire Safety Standards that can be incorporated.** In the attached Executed Copy of Malibu Res. 21-17, please note fire language on pages 2, 3, 5, 8, 11, 12, and particularly beginning on page 23 with "Electrical and Structural Safety Information."

5) Appeals Process

Language for appeal is not in the ordinance Applications.

- A) Any person adversely affected by a decision of the Director pursuant to this Chapter may request an administrative hearing to appeal the Director’s decision. In order to request a hearing, the person shall submit to the City Clerk in the manner directed in the Director’s decision notice a fully completed request for administrative hearing form along with a full amount of the appeal fee set by the City Council (by way of check or money order). The request for administrative hearing shall be incomplete if it does not include the appeal fee in the full amount. ... etc.

Precaution is Warranted

We understand that, as per Section 704 of the 1996 Telecommunications Act, environmental concerns, and as courts have interpreted these it includes health impacts, cannot be a factor in denial of cell towers but we are early in the game.

Public health and ecosystem health are still important issues with new 5G systems untested for long term or short term safety for either human health or environmental health. 5G systems with a complex mix of low, medium and high frequencies (thus the need for macro and microcells) are very onerous to measure, requiring very expensive complex equipment that is very difficult

for engineers to accomplish let alone city facility engineers. Precaution in placement is paramount in this discussion. Once cell towers are placed there is no going back and you just wait for people to experience symptoms or develop cancer or a neurologic condition that you will not be able to sort out from the common toxic exposures we all encounter on a daily basis.

Elon Musk tells us that 5G millimeter wave systems are not needed for autonomous cars. 5G millimeter wavelengths are also not required for “personal wireless services”. For the later this technology can be effectively replaced with safer and more secure fiberoptic networks and current wireless technologies. I will explain why health matters.

Health Matters

I am a practicing physician who has studied the health impacts of environmental toxins through our local County Medical Association and the California Medical Association for over 25 years. I began studying the health impacts of wireless radiation when I learned of a proposal to place a cell tower on my daughter’s school.

After 10 years of research into the literature and talking to a variety of people affected by cell towers and wireless radiation I, like many others in the medical and scientific community, have come to the conclusion that wireless radiation is a pollutant just like lead or pesticides or mercury or toxic industrial waste. The mechanisms are similar - oxidation, the effects are broad on all living organisms and people are often unaware they are exposed to the toxin - unless they are “sensitive”. Wireless radiation causes oxidative stress on organisms and stem cells, and at low levels of radiation. These low levels cause a slow decline in physiologic processes, and for those who have become sensitive- an immediate reaction.

Antioxidants and Health

As we now know small amounts of toxins can cause harm in certain windows of development thus children are more vulnerable. We also know effects are cumulative. People vary in their vulnerability due to age, genetics and other toxic exposures. Not all people react the same. Our health, wellness and aging are determined by oxidation levels in our tissues that injure our DNA, proteins and lipids, thus antioxidants in foods have been shown to block oxidation, neutralize cellular injury and promote health. This is well established in the nutrition literature. The literature also demonstrates that taking antioxidants (Vitamin E, zinc and melatonin) protects the cell from oxidation injury from wireless radiation. Oxidative stress plays a major part in the development of chronic, degenerative and inflammatory illnesses such as cancer, autoimmune disorders, aging, cataracts, rheumatoid arthritis, cardiovascular and neurodegenerative diseases, as well as some acute pathologies (trauma, stroke). **It is well established that wireless radiation at non-thermal levels causes oxidative stress.** Effects of this are cumulative on our DNA, lipids and cellular membranes.

We Evolved in a Low Electromagnetic Environment

The natural environment of the Earth is electromagnetic. We have terrestrial electric and magnetic fields, radiation from the sun and cosmic microwaves. All living things evolved in

harmony with the Earth's natural but very very low-level electromagnetic rhythms. Birds, bees and mammals have magnetite in their bodies and brains that use the Earth's magnetic field for the delicate tasks of navigation and foraging. Our human nervous system, heart, reproductive and endocrine systems rely on minute electromagnetic signals for complex functions. Manmade electromagnetic fields (EMF) emitted by our modern technology can distort our bodies electric currents, delicate cell membranes and cause broad dysfunction. This can be with long term or sometimes short exposures with higher power and different pulsations. Science has shown us that organisms adapt to constant electromagnetic fields found in nature much easier than artificial pulsed radiation that is emitted from cell towers and wireless devices. It makes perfect sense that wireless radiation can be harmful to living organisms even it does not knock an electron out of its orbit.

Wildlife

You need to consider the unique ecosystem which surrounds this lovely town. Science has shown us that levels of artificial electromagnetic radiation we are increasingly exposed to is harming not only humans but the sensitive environment that we tend to ignore but depend upon for our sustenance and mental health. <https://mdsafetech.org/environmental-and-wildlife-effects/>

New Review on Wildlife and wireless Radiofrequency Radiation

The most comprehensive 3 part peer reviewed article by Levitt, Lai and Manville (2021) provides an updated, thorough and well referenced overview of RFR and effects on all wildlife, revealing a disturbing picture of the future if we continue to expand wireless in our homes, communities and for the commercialization of space.

The authors state, *“But is there a larger environmental downside to rising ambient EMF exposures — particularly RFR — from popular mobile communication devices, WiFi antennas, and all accompanying infrastructure that is being overlooked by environmentalists, researchers, and government regulators alike. We may be missing critical physiological effects across species based on obsolete assumptions about low-level far-field exposures being too weak to adversely affect living tissue. We have yet to take into consideration the unique physiologies of other species, or how they use the environment in ways that humans do not, when we assume that the unfettered use of EMF/RFR can continue unabated and be allowed to grow indefinitely.”* **Effects of non-ionizing electromagnetic fields on flora and fauna, part 1.** Rising ambient EMF levels in the environment. (2021) Levitt BB et al. Rev Environ Health. 2021 May 27. <https://pubmed.ncbi.nlm.nih.gov/34047144/>

MOEF Report on Wildlife

The Inter-Ministerial Committee (IMC) of expert scientists reviewed the literature of the effects of RF-EMF radiations on wildlife, humans and the biosphere. In their 2010 MOEF Report they found that out of the 919 research papers collected on birds, bees, plants, other animals, and humans, 593 showed impacts, 180 showed no impacts, and 196 were inconclusive studies. All organisms had effects.

Human Effects– 62% showed effects, 13% no effect and 25% inconclusive **Plant Effects**– 87% showed effects and 13% were inconclusive

Wildlife Effects- 62% showed effects, 4% no effect and 36% inconclusive **Bee Effects**—85% showed effects and 15% no effect

Bird Effects- 77% showed effects, 10% no effect and 13% inconclusive **Current Standards are Scientifically Out of Date**

UNESCO World Heritage Wildlife Area Species Disappearing

An abundance of peer reviewed literature demonstrates adverse impacts to the environment with declines in insect, bird and wildlife populations in cities and where cell towers are placed. This spells disaster for biodiversity, fragile wildlife areas, critical pollinators and agriculture, especially with additive effects of pesticides, toxins and loss of habitat. A report on Unesco's Mt. Nardia World Heritage Park documents this slow decline in populations of species after cell towers were placed. Unesco Report on Disappearance of Species from Mt. Nardia Park World Heritage Area 2000-2015 with Increased Expansion of Telecommunications Antenna. Ethno-Botonist Mark Broomhall. [UNESCO Report on Disappearance of Species from Mt. Nardia with Increased EMR 2000-2015](#)

Cell Tower Health Effects

Current standards are based on short term thermal exposures and discount the abundant peer reviewed literature on harm from low level, non -thermal effects. It is clear that the limits for radiofrequency radiation are set too high in the U.S. and Canada. These limits are 100 times higher than that of Italy and Russia, who set their standards based on methodical research on immunologic, neurologic and biologic effects of low-level radiation fields. Current U.S. limits are up to 1,000 microwatts/cm² with symptoms seen at levels of 0.005 microwatts /cm².

Physicians in Germany ask for Health Investigation of Cell Towers in 2005

An open letter from Dr. Cornelia Waldmann-Selsam was sent to the German State Chancellor, Edmund Stoiber, on behalf of 114 physicians (Bamberger Appeal) asking for an investigation into the newly reported adverse health symptoms of 356 residents who lived near cell towers in Oberfranken, Germany. Dr. Waldmann-Selsam noted, *“Many humans get sick from emissions far below the recommended limit values, which consider only thermal effects, and we have a sickness picture with characteristic symptom combinations, which are new to us physicians, ”* *The list of symptoms were, ” Sleep disturbances, tiredness, concentration impairment, forgetfulness, problem with finding words, depressive tendencies, tinnitus, sudden loss of hearing, hearing loss, giddiness, nose bleeds, visual disturbances, frequent infections, sinusitis, joint and limb pains, nerve and soft tissue pains, feeling of numbness, heart rhythm disturbances,*

increased blood pressure , hormonal disturbances, night-time sweat, nausea.” Resident noted almost immediate improvement when moving away.”

Dr. Waldmann-Selsam goes on to say, “*physicians were able to prove, by re-testing the patients, the normalization of blood pressure, heart rhythm, hormone disturbances, visual disturbances, neurological symptoms, blood picture,”*. She called this an emergency medical situation and requested an official health investigation. http://www.next-up.org/pdf/Letter_to_Edmund_Stoiber.pdf

Cell Tower Effects on Cognition and Learning

The majority of studies, which have been done internationally, have shown an increase in neurologic symptoms in a percentage of residents living near cell towers. Symptoms vary with the distance from the cell tower. Symptoms include insomnia, headache, heart palpitations, dizziness, poor concentration, and fatigue. A study in Japan (Shinjo 2014) showed a decrease in symptoms when the cell tower was removed. There is also a well done study showing blood abnormalities in those living nearest to cell towers (Zothansiana 2017). DNA and lipid abnormalities were seen along with reduction in internal antioxidants which provide protection from pollutants.

Moreover, a recent study conducted over a 2 year period looked at effects of cell towers near two schools by Meo et al (2018) and clearly demonstrated cognitive dysfunction in students closest to the higher power cell tower.

Firefighters Fighting Fires and Now Cell Towers

After noticing that many of the firefighters were developing neurologic symptoms when first responder cell towers were placed on the fire stations the International Association of Firefighters studied the matter and passed a resolution in 2004 asking that cell towers not be placed in proximity to fire stations. In AB 537 (Quirk), signed into law by Gov. Newsom on October 4, 2021, the firefighters achieved the first ever health/readiness exemption in the world.

Every fire station in California is now exempt from having a 5G tower on their station. This movement began when cell towers were initially targeted for fire stations because of their location and the revenue received by the cities. Many firefighters developed symptoms including headaches, fatigue, memory impairment and insomnia within a week of the installation of the towers. An exemption was inserted in California bills on cell towers. [AB 57](#) (Quirk 2015) has an exemption on the grounds of health effects. AB 537 (Quirk 2021) also has this exemption and reads, “*Due to the unique duties and infrastructure requirements for the swift and effective deployment of firefighters, this section does not apply to a collocation or siting application for a wireless telecommunications facility where the project is proposed for placement on fire department facilities.*” [SB 649](#) (Hueso, Quirk and Dodd 2018) also had a health exemption for firefighters and was vetoed by Governor Brown.

500 Meter (1640 ft) Buffer from Cell Tower Recommended

Cell tower health studies that show impacts from cell towers with symptoms within about 1500 feet of the cell towers. That is why Pearce et al (2019) **recommended a “500 Meter buffer around schools, hospitals and homes “Limiting liability with positioning to minimize negative health effects of cellular phone towers.”**

Cancer and Cell Towers

3 Studies investigated the rates of cancer and cell towers looking at the distance from cell towers and the incidence of cancer. They found the rate of cancer incidence increased significantly in those living within about 350 -400 meters (around 1000 feet) to the cell tower.

[Dode 2011](#) performed a 10 year study (1996-2006) examining the distance from cell towers and cancer clusters. He and his colleagues found a highly significant increase in cancers in those living within 500 meters of the cell tower. They noted “The largest density power was 40.78 $\mu\text{W}/\text{cm}^2$, and the smallest was 0.04 $\mu\text{W}/\text{cm}^2$.” The current guidelines are about 1000 $\mu\text{W}/\text{cm}^2$. The authors conclude “Measured values stay below Brazilian Federal Law limits that are the same of ICNIRP. The human exposure pattern guidelines are inadequate. More restrictive limits must be adopted urgently.”

[Wolf and Wolf 2004](#) investigated the rates of cancer versus distance from cell towers in small towns in Israel. He found the rate of cancer incidence was 129 cases per 10,000 persons per year in those living within 350 meters of a cell tower versus a rate of 16-31/10,000 in those living greater than 350 meters from the cell tower.

Eger (2004) showed an increase in the development of new cancer cases within a 10 year period if residents lived within 400 meters of a cell tower. Their results revealed that within 5 years of operation of a transmitting station the relative risk of cancer development tripled in residents near the cell towers compared to residents outside the area.

Insurance Has an Exclusion for Radiofrequency Radiation as an Emerging Risk Insurance companies consider wireless radiation to be similar to asbestos in long term health impacts and do not provide coverage from harm for RF health effects. The cities are left with that liability unless they can provide insurance.

In a 2019 report, **New Emerging Risk Insights**, by Swiss RE Insurance Company, the second largest reinsurance company in the world, **5G is listed as an emerging concern** in the high risk category within 3 years. Included in the high-risk trends are artificial intelligence and the existential threats of climate change. *“The top five emerging risks in our SONAR 2019 report are digital technology’s clash with legacy hardware, potential threats from the spread of 5G mobile networks, increasingly limited fiscal and monetary flexibility by central banks, genetic testing’s implications on life insurers, and the impact of climate change on the life and health sector.”* <https://www.swissre.com/institute/research/sonar/sonar2019.html>

National Academy of Sciences Report on the Havana Syndrome and Harm from RFR

A recent report by the National Academy of Sciences concluded that the “sonic attacks” on diplomats in Cuba and China were most likely due to pulsed radiofrequency from directed energy weapons. They had symptoms similar to those who live near cell towers (headache, nausea, insomnia, dizziness, memory loss, heart palpitations, depression). Dr. Beatrice Golomb wrote the most extensive report to date on this subject linking these mystery “directed energy attacks” to pulsed microwaves similar to the wireless devices we use daily. In the case of these high powered beams there was documented injury to brain networks found by the University of Pittsburg physicians who studied the diplomats. Dr Golomb highlights that **the strength of the health effects are related to the peak power not the average power. The pulse makes the poison.**

The EUROPAEM EMF Guideline 2016 for the prevention, diagnosis and treatment of EMF-related health problems and illnesses is a comprehensive guide written by many scientists and physicians in Europe who are part of the European Academy for Environmental Medicine (EUROPAEM) – EMF working group who have recognized and treated those with electrosensitivity for many years. This is a thorough, well researched and well-referenced scientific paper that is based on the 2012 Austrian Medical Association **Guidelines for the Diagnosis and Treatment of EMF Illness**. A questionnaire from their group is included in the attachments.

New Hampshire 5G Commission Finds Radiofrequency Radiation Problematic

The first Commission formed in the United States to study the environmental and health effects of 5G technology released their comprehensive final report November 1, 2020. The Commission to Study the Environmental and Health Effects of Evolving 5G Technology was mandated by HB 522 passed by the state legislature in New Hampshire. Their final report included 15 recommendations addressing the need for public education about wireless hazards, RF health studies, RF measurements, cell antenna setbacks, fiberoptic rather than wireless deployment, commercial warning signs and wildlife protection. After hearing extensive testimony in a series of 13 meetings over the course of a year and reviewing an abundance of research, the Commission highlighted the lack of a single definition for 5G, **insufficient evidence of safety for 5th generation technology**, a concern that safety standards for wireless technologies have not been updated with the latest science and that 5G is largely a marketing concept. They also expressed concern that the FCC has a long history of being accountable to industry over the desires of communities and individuals.

FCC Told by DC Court to Reevaluate Safety Standards

On August 13, 2021 a joint lawsuit was won by petitioners against the Federal Communications Commission (FCC) for failure to protect human health and the environment by dismissing scientific evidence of harm from wireless radiation. The Petitioners challenged the FCC’s refusal

to reevaluate and update their 24-year-old radiofrequency (RF) safety guidelines for existing and new telecommunications technologies. The DC Circuit Court of Appeals ruled that the majority of the RF radiation standards established by the FCC did not use "reasoned decision-making" (they did not go by the science) and thus the standards were considered by the court to have been set in an "arbitrary and capricious" manner. This was an extremely high bar for the Plaintiffs to reach. The Circuit Court of Appeals rarely admonishes a federal agency or commission in this way. The DC Circuit Court of Appeals returned this decision back to the FCC and ordered the FCC to re-examine its standards for wireless radiation exposure and provide a review of wireless harms that is compliant with the law for non-cancer harms.

The Court Decision stated, "The National Environmental Policy Act ("NEPA") and its implementing regulations require federal agencies to "establish procedures to account for the environmental effects of [their] proposed actions." And "To fulfill its obligations under NEPA, the Commission has promulgated guidelines for human exposure to RF radiation... The Commission last updated its limits for RF exposure in 1996... The ANSI and IEEE developed limits are designed to protect against "thermal effects" of exposure to RF radiation, but not "non-thermal" effects. In March 2013, the Commission issued a notice of inquiry regarding the adequacy of its 1996 guidelines in response to changes in the ubiquity of wireless devices and in scientific standards and research since 1996. In December 2019, the Commission issued a final order resolving its 2013 notice of inquiry by declining to undertake any of the changes contemplated in the notice of inquiry. Petitioners challenge the 2019 final order under NEPA and the Administrative Procedure Act ("APA").

5G: A Manufactured Need by Industry

Reports indicate that the telecommunications industry has largely manufactured a "need" for expanding wireless technology in cities, while halting projects for safer fiberoptic broadband. Note a 2020 European Parliament report, **5G: State of Play in Europe, USA and Asia. In Depth Analysis**, suggests 5G is a manufactured need. *"As 5G is driven by the telecoms supply industry, and its long tail of component manufacturers, a major campaign is under way to convince governments that the economy and jobs will be strongly stimulated by 5G deployment."*

In my opinion, from all the research I have done, it appears the telecommunications industry has influenced laws to prevent health or environmental effects from being considered in the placement of cell towers (See FCC Captured Agency). They knew of the harm in early studies done by Dr. George Carlo in the 1990's but suppressed the data so they could move forward. That is well documented in Dr. Carlo's book, "Cell phones: Invisible Hazards in The Wireless Age".

A blizzard of robust science has appeared now to show biological and health impacts of wireless technology, but it is still denied, and the basis for genuinely safe RF radiation guidelines is flawed. An exponential growth in cell towers is now being played out with cities being left on their own to figure out how to regulate these towers locally. Industry places a heavy hand and complex laws on local policy makers who must navigate these complex FCC policies to prevent legal action.

Board of Health in Pittsfield Massachusetts Orders Verizon to Cease and Desist

For the first time in the U.S. a Board of Health has issued a cease and desist order to Verizon to remove or shut off a cell tower after 17 people in a neighborhood reported they became ill after the Verizon cell tower was turned on. Courtney Gilardi and her 2 children as well as residents living near the cell tower, reported experiencing a constellation of symptoms including stabbing headaches, nausea, vomiting, dizziness, “buzzing in the head”, and insomnia so severe her family had to move to the next town and into a house with no heat and no hot water to escape the sickness. Other neighbors drove an hour away to sleep at a relative’s house or slept in their cars away from the tower. These are classic symptoms of electromagnetic illness experienced in firefighters and military personnel working on radar and well documented by NASA, the Air Force and other military agencies as well as the “Havana Syndrome”. These symptoms were also seen in Japan after 2 cell towers were turned on and when the tower was removed the resident’s symptoms largely resolved.

Apple stops 5G Phone MMW: Is This the Death of 5G Millimeter Wavelengths?

You are probably aware that Verizon and AT&T built special hotspots in many cities in the U.S. to house 5G high band millimeter wavelengths that were to revolutionize wireless with ultrafast speeds. These small wavelengths the size of bees have been put into some community small cells which need to be about 1000 feet apart without obstruction to function properly. Apple, who already has some 5G MMW phones, just announced that it is not building any millimeter wave spectrum antennas in its next generation SE iphones. With 4G LTE low and mid band wavelengths they apparently do not need the millimeter 5G bandwidth. The article notes, “It’s not a surprise that Apple is dropping the spectrum from its phones. It costs chip space and power for every additional spectrum that is supported by a cellphone. Cell manufacturers care more about long battery life than they do about a technology that never made it out of the downtowns of a few major cities.”

FCC Limits: A False Sense of Security

We are told by the FCC that wireless radiation and cell towers are safe within current safety guidelines, or that we do not really know if there is harm or that the research is inconclusive or that it is not ionizing (like x-rays) so it cannot hurt us. This is the same dismissive and doubt creating language used by the tobacco industry and a host of other chemical companies to protect their toxic products, thus profits. The research shows that we do know, beyond a doubt, that wireless radiation is harmful to all living systems below the current safety standards. The most obvious evidence is that more and more children and adults are reporting symptoms of electrosensitivity (EHS) in the presence of wireless radiation when they live in a home near a cell tower, or use a cell phone, or in schools where wireless devices and cell towers are increasing.

Please use your authority and wisdom to keep this ordinance strong. Take more time if you need to in order for you to sort this out and be sure of your decision. Remember that you all live in Los Altos as well so you are protecting you and your families and the next generation as well.

Sincerely,

Cindy Russell, MD

Attached- Malibu Ordinances

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- **Apple ditches mmWave 5G with newest iPhone.** <https://www.lightreading.com/5g/apple-ditches-mmwave-5g-with-newest-iphone/d/d-id/775901>

From: [roger heyder](#)
To: [Public Comment](#); [City Council](#)
Date: Tuesday, April 12, 2022 3:23:00 PM

Hello,

This is public comment on Item 6, Wireless Telecommunications Facilities. Please have this read into the record for the meeting, and included as public comment in the meeting minutes.

Thanks -- Roger Heyder, resident of Los Altos

The 5G emergency ordinance was enacted after several large public meetings, where many hundreds of residents supported the 5G ordinance, and only 1 or 2 residents opposed the ordinance. Nothing has changed, yet Council used a back-door approach, via the Planning Commission, to alter the ordinance to the extent of basically eliminating it.

It seems Council supports many outside special interests, and the collecting of money, over the interest of residents. That is unacceptable. Council members that hold that posture should resign immediately, since you are failing in your responsibility to serve the residents of Los Altos. **If Council wants to eliminate the 5G ordinance, then do hold a specific, public vote to do so, and residents can see which council members disrespect the residents' clearly stated wishes.**

It is essential that Council inform residents how much money the city will make if the ordinance is lifted - right of way fees paid to the city by the 5G providers. That way residents can clearly see how much it takes to sell us out.

Pursuing the effective elimination of the 5G Emergency Ordinance through the Planning Commission, with little to no community visibility and transparency, is sleazy and dishonest. Seemingly pretty standard behavior for both the Planning Commission and Council. It is very hard to understand how residents could have any remaining trust or respect for Council or Planning Commission members. But then, it is unlikely you care much about that, or your behavior would be very different.

From: [Willem De Lange](#)
To: [Public Comment](#)
Date: Tuesday, April 12, 2022 6:02:54 PM

Hi all,

I forgot to add this email address to my sent email earlier today.

Best regards,

Willem

Begin forwarded message:

From: Willem De Lange <[REDACTED]>
Subject: Agenda Item #6 the City Council Meeting on Tuesday, April 12th, at 7 PM: 5G wireless facilities (small cell towers) for
Date: April 12, 2022 at 5:33:15 PM PDT
To: council@losaltosca.gov, planning@losaltosca.gov, Gabriel Engeland <gengeland@losaltosca.gov>

Dear Honorable Mayor, Vice Mayor, City Manager and Council Members,

Potential and suspected biological and health concerns that have been raised by numerous scientists and physicians, based on well-designed research, and reported in peer reviewed literature, is available. Therefore residents should not be discouraged from raising or expressing these concerns. It should help city officials to be aware of the perspectives and concerns of many, many residents, and reasonable to take into consideration. Our impressions are based on having reviewed at least a portion of the growing body of scientific literature (and videos) on this topic, over a period of several years. Willem and I, Margriet, have a background in science, including life-sciences/biological science, so the topic is of great interest to us. Willem has a significant background in science, having a masters degree in physics and electrical engineering!
I like to reveal that a large group of about 100 Los Altos residents are supportive of us to express our concern to city officials and wireless 5G decision makers (we are using an email address list to communicate).

At previous hearings on this subject, a majority of the participants stated wanting the policy to be equitable and fair--but that was not noted by the consultant or whoever wrote this ordinance.
The written testimony within the ordinance, did not change the policy or desire to now wanting to make some residents the second class citizens and "sacrificial lambs" by concentrating most of the cell tower/nodes on some specified residential streets. On the contrary, they even recommended an even higher concentration than was in the original draft, i.e., as close together as 200 feet apart, if including all cell carriers. We could be saturated with small cell towers as dense as one every two or three houses apart.
Specifically, on page 49, they recommended the first option i.e., reducing the

buffers from 1000 feet to 200 feet (for all carriers collectively) on the targeted (second class) streets (i.e., arterials, collectors and local collectors, and parts of local roads near the arterials, collectors and local collectors). They stated the following reason: **"The city wireless facilities team recommends adoption of the first option as in our view it most effectively balances the need to allow for technological advances in wireless facilities while preserving the beauty and aesthetics of Los Altos."** This makes me feel marginalized and mistreated if you live on one of the targeted streets!
The wireless team then goes on to say on page 50: "In addition, several members of the public testifying before the PC requested the city assist in providing improved wireless coverage." (This was after they made the other statement on page 50 that I noted the testimony of people who live along arterials, collectors and local collectors.) Actually, the "several members of the public" were three men (one who testified at both meetings).

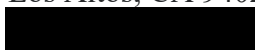
In my opinion, this was an overstatement. **At the first PC meeting, seven residents expressed concern about the revised ordinance, and one man was in support of it (7 to 1 ratio). At the second meeting, 9 people expressed concerns about the revised ordinance, while 3 men expressed support (9 to 3, or a 3 to 1 ratio).** The written communications that had been sent in were even more lopsided, with most of it coming from people who are opposed to allowing cell facilities in residential areas and close to schools.

KEY POINT:

If homes are on corner lots, like ours at 951 Castilleja Ct, we should not be dealing with a wireless cell tower fully exposed from the street into our side yard. Reason being that this side yard is where we spend the majority of our private time, when outside. Exposure to a cell tower would be devastating to our health, rural feel, beauty and character of our residence! The ordinance should explicitly spell out avoiding placement in front of side yard locations, as I just described. As we have been active in contributing to the wellbeing of the Los Altos community for many years, we feel that we should be listened to, please! A rigid 200 feet distance might therefore not be practical and importantly technically not necessary! The 5G microwaves could carry up to 1,500 feet without obstructions. Therefore I am opposed to having Verizon place repeaters at every 200 feet: overkill and unwanted impact onto residents. Flexibility is key to solve esthetics and radiation exposure of residents, please!

Thank you for your kind attention and best regards.

Willem and Margriet De Lange
 951 Castilleja Ct
 Los Altos, CA 94024



From: [Nicole Wallace](#)
To: [Public Comment](#); [City Council](#)
Date: Tuesday, April 12, 2022 10:05:19 PM
Attachments: [Los Altos Letter Final 4 11 2022 PDF\(1\).pdf](#)

Dear Los Altos City Council,

I strongly support Dr. Cindy Russell's attached letter regarding the Los Altos Wireless Ordinance and ask that you include all of the requests that she has brought to the attention of the Council and place them in the updated ordinance.

Sincerely,
Nicole Wallace

To: Los Altos City Council
council@losaltosca.gov
aenander@losaltosca.gov
smeadows@losaltosca.gov
nfligor@losaltosca.gov
lleeeng@losaltosca.gov
jweinberg@losaltosca.gov

From: Cindy Russell, MD

Re: Revisions to 2019 Los Altos Ordinance to Regulate Small Wireless Facilities

Date April 11, 2022

Dear Los Altos City Council:

I am writing today to strongly urge you to reinstate (with legally appropriate revisions) several of the major aspects of the original 2019 Small Cell Wireless Ordinance that diminish blight and protect the beauty, character and health of your lovely Silicon Valley community. In addition, after reading the new 2022 proposed Wireless Facilities Ordinance it appears that some important provisions may have been missed in crafting a new Small Cell ordinance which are critical for the safety of the residents and also reduce liability for the city. This includes several insurance provisions, minor modifications to existing facilities, permitting process, and more.

Encinitas and Malibu have passed ordinances which have elements that are protective but allow flexibility for cities and exceptions/waivers for the carriers. They remain uncontested.

- **Encinitas, CA-** Revised from 2019- Passed June 20, 2020
<https://encinitasca.gov/Portals/0/City%20Documents/Documents/Development%20Services/Planning/Land%20Development/Small%20Wireless%20Facilities/Resolution%20No.%202020-38%20With%20Policy.pdf?ver=2020-07-13-192634-373>
- **Malibu Resolution 21-17** – Attached please find an executed copy of Res. 21-17 is officially binding because Ordinance 484 adopts it by reference.

I will summarize my ask of the Los Altos City Council with these key points below, followed by backup for those points with additional pertinent legal information which does impact the issue of health/science, as per a court ruling from the second highest court in the land on August 13, 2021, a ruling that referred to the existing RF radiation regulatory limits as "arbitrary and capricious". Arbitrary and capricious means that the law and/or the facts were knowingly disregarded. That is a high bar indeed and the plaintiffs reached that bar. It behooves us to consider what is going on in the courts and pass ordinance language accordingly:

PLEASE PAUSE: There are resolutions as mentioned above that have successfully balanced the unique needs of communities with the rights of the telecommunications industry. The new resolution does not have to be passed Tuesday night. Some reflection on the best that Encinitas and Malibu have to offer may benefit all of us in the long run.

Key Points

- 1. TITLE OF ORDINANCE: Clarification if this applies to Small Cell or Macro Cells; macro towers must go through conditional use permits
- 2. LOCATION STANDARDS – PREFERRED SITES
- 3. WAIVERS FOR STANDARDS
- 4. FIRE SAFETY
- 5. APPEALS PROCESS

Thank you for passing the 2019 Wireless Facilities Telecommunications Ordinance. The original wireless facilities ordinance for Los Altos took into consideration public concerns, was well thought out and protects the city of Los Altos from poorly designed and poorly placed cell towers.

I understand, however, that there is a lawsuit against the City for Los Altos from Verizon and AT&T claiming that the 2019 ordinance as written “effectively prohibits” wireless communications. You are commended for taking on this task of revising the ordinance in response. Some of the 2022 proposed changes are good and clarify the permitting process for carriers to avoid lawsuits and provide for “personal wireless services”, however, I believe there are some gaps in protections and flexibility for the city that I would like to point out which could be remedied in addition to some clarifications.

It is important to consider adding the provisions below. As you note with the FCC lawsuit to reevaluation the 20 year-old FCC safety standards, the courts have judged that the FCC did not take into account several aspects of human health and environmental effects in setting their standards. We do not know what the future holds for the federal Telecommunications Act of 1996 or state law. The city of Los Altos needs to be prepared to alter its ordinance in case there is a change in the law in the future.

Representative Anna Eshoo Supports Local Control for Cell Towers

The 2018 FCC small cell order that fast tracks deployment of small cells in order to “cut the red tape” has prompted cities around the country, like Los Altos, to write these emergency ordinances and now revise them. The FCC Declaratory ruling has been considered an overreach of the Telecom Industry which dominates the FCC (FCC: Captured Agency, N. Alster), overriding the basic rights of cities to have local control. This was recognized by our local representative Anna Eshoo who in 2019 introduced HR530 to protect the rights of states and government by deeming that the “*Federal Communications Commission’s Declaratory Ruling in “Third Report and Order and Declaratory Ruling” (FCC 18-111) shall have no force or effect.*” This bill had 52 co-sponsors. Senator Feinstein introduced in 2019 a companion federal bill SB 2012 to block the FCC order. Neither moved.

Representative Eshoo also sent a letter to the FCC in 2020 to ask that the vote on the FCC order be delayed stating, *“we worry that if this Declaratory Ruling does not benefit from meaningful input from local governments, the result could undermine municipalities’ ability to balance their responsibilities to public safety and community design with their desire to ensure access to affordable wireless networks and the next generation services.”*

Please fight for the rights of your residents and government as our local representatives have done. You have more power than you know. Please exercise it.

Important Provisions to Add

1) Title of Ordinance

To clarify whether the ordinance title should apply only to Small Wireless Facilities or if this is for both Small Cell and Macro Towers it may be helpful to rename the ordinance to its original title and keep the descriptions separate within the ordinance. It is not clear to me in this rewrite. Small cell applications are different than for macro towers due to difference in structure of towers, power emitted and location in right of way as per FCC ruling.

(Section 14.82.050) See Encinitas Small Cell wireless Ordinance. Resolution 2019- 91- REGULATING SMALL WIRELESS FACILITIES AND OTHER INFRASTRUCTURE DEPLOYMENTS IN THE PUBLIC RIGHTS-OF-WAY
<https://encinitasca.gov/Portals/0/City%20Documents/Documents/Development%20Services/Planning/Land%20Development/Small%20Wireless%20Facilities/CC%20Policy%20C035.pdf>

2) **Location Standards- Preferred Sites-** Despite what the telecommunications industry says, you as a city can still have preferred sites and less preferred sites in your ordinance. (Encinitas and Malibu Ordinances) You can add an exception clause or waiver process to allow for placement of a cell tower if the carrier proves it is necessary (and other locations are not technically feasible) for “Personal Wireless Services” under the 1996 Telecom Act of 1996 and so that this does not constitute an “effective prohibition”.

*** Special Zones can be designated for schools, day care centers, residential dwellings, protected habitat or trees, parks, etc.**

*** Keep the 1000 foot distance between towers, not 200 feet.** Explanation below.

Here are examples of Location Standards in the Encinitas Small Cell Wireless Ordinance passed in June, 2020 and in Malibu April 2021, which to date are uncontested.

Encinitas Ordinance Passed June 10, 2020

SECTION 10. LOCATION STANDARDS

1. (a) **Restricted Site Locations.** All of the following locations will be deemed “Restricted Site Locations” that require an exception pursuant to SECTION 13 of this Policy:

1. (1) any location within a residential zone;
2. (2) any location within 500 feet from a residential dwelling unit;
3. (3) any location within 500 feet from a daycare facility or primary school;
4. (4) any location within a Very High Fire Hazard Severity Zone; and
5. (5) any location within the Ecological Resource/Open Space/Park Zone.

(b) **Location Preferences.** To better assist applicants and decision makers understand and respond to the community’s aesthetic preferences and values, this subsection sets out listed preferences for locations to be used in connection with small wireless facilities in an ordered hierarchy. Applications that involve lesser-preferred locations may be approved so long as the applicant demonstrates by clear and convincing evidence in the written record that: (1) any more preferred locations or structures within 500 feet from the proposed site would be technically infeasible; and (2) if the proposed site or the most-preferred location within 500 feet from the proposed site is within a Restricted Site Location, the applicant qualifies for an exception pursuant to SECTION 13 of this Policy. The City prefers small cells in the public rights-of-way to be installed in locations, ordered from most preferred to least preferred, as follows:

- (1) locations within industrial zones, commercial zones, business parks or office professional zones on or along prime arterials;
- (2) locations within industrial zones, commercial zones, business parks or office professional zones on or along major arterials;
- (3) locations within industrial zones, commercial zones, business parks or office professional zones on or along collector roads;
- (4) locations within industrial zones, commercial zones, business parks or office professional zones on or along local streets;
- (5) any location within 500 feet from any residential zone;
- (6) locations within residential zones on or along prime arterials;
- (7) locations within residential zones on or along major arterials;
- (8) locations within residential zones on or along collector roads;
- (9) locations within residential zones on or along local streets;

(10) any location within 1,000 feet from an existing/proposed small wireless facility;

In the event that a proposed facility would be within 500 feet from two or more restricted site locations (as defined in Subsection 10(a)), and the proposed facility qualifies for an exception pursuant to SECTION 13 of this Policy, the technically feasible location furthest from all such restricted site locations will be deemed to be the most preferred alternative.

(c) **Encroachments Over Private Property.** No small cell antennas, accessory equipment or other improvements may encroach onto or over any private or other property outside the public rights-of-way without the property owner’s express written consent.

Malibu Wireless Ordinance Resolution 21-17 Standards Passed April 2021.
<https://www.malibucity.org/DocumentCenter/View/27969/Ordinance-No-484>

Location Standards for All Facilities

The location standards for all wireless communications facilities, other than those that qualify as eligible facilities requests, are as follows:

1. No wireless telecommunication facility shall be located within five hundred (500) feet of any school, playground, or park unless a finding is made, based on technical evidence acceptable to the reviewing authority showing a clear need for the facility and that no technically feasible alternative site exists. Except for facilities installed on the same pole or tower as an existing wireless telecommunication facility, wireless telecommunication facilities located within any residential zone district shall not be located within one thousand (1,000) feet of any other wireless communications facility, except from those facilities placed on utility poles along Pacific Coast Highway, unless a waiver is granted.
2. All new freestanding wireless communications facilities and monopoles shall be set back a minimum distance of at least one hundred and twenty (120%) percent of the height of the facility or monopole from any property line abutting a residentially zoned property. This minimum setback is not subject to the waivers allowed under Section 7 of this Resolution.
3. Location preference for wireless communications facilities should be given to the following:
 1. Property designated non-residential (except for public open space and recreational vehicle park zoning districts), unless otherwise prohibited pursuant to this title.
 2. Facilities attached or sited adjacent to existing structures. Whenever possible, facilities shall be located on and/or inside existing structures. Appropriate types of existing structures may include, but are not limited to: buildings, water tanks, telephone poles and utility towers and poles, sign standards, light standards and roadway overpasses.
 3. Sites with minimum separation. Sites that are more than five hundred (500) feet from school, playgrounds, and parks.
4. Sites that are not highly visible from adjacent roadways.
5. Unless otherwise indicated in MMC Chapter 17.46 or these Standards, no wireless facility shall be installed on an exposed ridgeline unless the facility blends with the

surrounding existing natural and man-made environment and a finding is made that no other location is technically feasible.

6. The City expressly designates residential, public open space and recreational vehicle park zoning districts, parks and schools as the least appropriate possible locations, and the absolute last choices for siting.

3) Waivers for Standards

Malibu Wireless Facilities Ordinance 2021 has added a section on Waivers for Standards that clarifies the process and protects the city from liability.

Resolution No. 21-17 Page 9

1. A waiver of one or more of these Standards may be granted in the following circumstances:
 1. Pursuant to MMC Section 17.46.060(D), if an applicant demonstrates to the Planning Commission through clear and convincing evidence that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations;
 2. If an applicant demonstrates to the Planning Commission through clear and convincing evidence set forth in a feasibility study that compliance with a requirement of these Standards would be technically infeasible and the proposed wireless facility complies with the requirements of these Standards to the greatest extent technically feasible. For example, an exception to a requirement to conceal antennas in a shroud may be granted if shrouding is shown to be technically infeasible and an alternative concealment such as a colored film wrap is proposed; or
 3. If an applicant demonstrates to the Planning Commission with clear and convincing evidence that the particular engineering, design or location proposed involves an alternative that better meets the purposes of Chapter 17.46 and only minor non-compliance with a requirement of these design Standards and results in no increase in public visual impact to the community or provides other benefits. For example, an exception to the wireless facility location limitations may be granted when the applicant can demonstrate that the placement is less visible from viewsheds of residences or shielded by vegetation or existing infrastructure (such as barriers), or is less physically intrusive (for example, less impactful to tree roots or reduces noise). Among other factors, in deciding whether or not to grant an exception, the Planning Commission may consider the impact of expansions to the facility that the applicant would be entitled to make as of right if granted.
2. Waivers may only be requested at the time an application is initially submitted for a discretionary permit. The request must include both the specific provision(s) from which waiver is sought and the basis of the request, including all supporting evidence on which the applicant relies. Any request for waiver after the City has deemed an application

complete constitutes a material change to the proposed wireless facility and shall be considered a new application. A request for waiver from one or more

4) Fire Safety

All electrical equipment including small cell towers are a fire risk. The fire cannot be put out in a conventional manner with firefighters blasting water on the fire. They have to wait until the power is shut off or electrocution will result.

Examples are

- **San Diego tower that caught fire in a high school stadium-**
<https://fox5sandiego.com/news/local-news/stadium-light-catches-fire-at-south-bay-high-school/>
- **The Malibu fire in 2007 due to pole overload.** CPUC finds Edison and 4 telecom carriers \$51.5 million - <https://www.latimes.com/local/lanow/la-me-ln-malibu-fire-settlements-approved-state-puc-20130919-story.html>

Considering the increase in wildfires and the risk of earthquakes. Fire safety is a priority for citizens. **The Malibu Wireless Facilities Ordinance 2021 has language in the Fire Safety Standards that can be incorporated.** In the attached Executed Copy of Malibu Res. 21-17, please note fire language on pages 2, 3, 5, 8, 11, 12, and particularly beginning on page 23 with "Electrical and Structural Safety Information."

5) Appeals Process

Language for appeal is not in the ordinance Applications.

- A) Any person adversely affected by a decision of the Director pursuant to this Chapter may request an administrative hearing to appeal the Director’s decision. In order to request a hearing, the person shall submit to the City Clerk in the manner directed in the Director’s decision notice a fully completed request for administrative hearing form along with a full amount of the appeal fee set by the City Council (by way of check or money order). The request for administrative hearing shall be incomplete if it does not include the appeal fee in the full amount. ... etc.

Precaution is Warranted

We understand that, as per Section 704 of the 1996 Telecommunications Act, environmental concerns, and as courts have interpreted these it includes health impacts, cannot be a factor in denial of cell towers but we are early in the game.

Public health and ecosystem health are still important issues with new 5G systems untested for long term or short term safety for either human health or environmental health. 5G systems with a complex mix of low, medium and high frequencies (thus the need for macro and microcells) are very onerous to measure, requiring very expensive complex equipment that is very difficult

for engineers to accomplish let alone city facility engineers. Precaution in placement is paramount in this discussion. Once cell towers are placed there is no going back and you just wait for people to experience symptoms or develop cancer or a neurologic condition that you will not be able to sort out from the common toxic exposures we all encounter on a daily basis.

Elon Musk tells us that 5G millimeter wave systems are not needed for autonomous cars. 5G millimeter wavelengths are also not required for “personal wireless services”. For the later this technology can be effectively replaced with safer and more secure fiberoptic networks and current wireless technologies. I will explain why health matters.

Health Matters

I am a practicing physician who has studied the health impacts of environmental toxins through our local County Medical Association and the California Medical Association for over 25 years. I began studying the health impacts of wireless radiation when I learned of a proposal to place a cell tower on my daughter’s school.

After 10 years of research into the literature and talking to a variety of people affected by cell towers and wireless radiation I, like many others in the medical and scientific community, have come to the conclusion that wireless radiation is a pollutant just like lead or pesticides or mercury or toxic industrial waste. The mechanisms are similar - oxidation, the effects are broad on all living organisms and people are often unaware they are exposed to the toxin - unless they are “sensitive”. Wireless radiation causes oxidative stress on organisms and stem cells, and at low levels of radiation. These low levels cause a slow decline in physiologic processes, and for those who have become sensitive- an immediate reaction.

Antioxidants and Health

As we now know small amounts of toxins can cause harm in certain windows of development thus children are more vulnerable. We also know effects are cumulative. People vary in their vulnerability due to age, genetics and other toxic exposures. Not all people react the same. Our health, wellness and aging are determined by oxidation levels in our tissues that injure our DNA, proteins and lipids, thus antioxidants in foods have been shown to block oxidation, neutralize cellular injury and promote health. This is well established in the nutrition literature. The literature also demonstrates that taking antioxidants (Vitamin E, zinc and melatonin) protects the cell from oxidation injury from wireless radiation. Oxidative stress plays a major part in the development of chronic, degenerative and inflammatory illnesses such as cancer, autoimmune disorders, aging, cataracts, rheumatoid arthritis, cardiovascular and neurodegenerative diseases, as well as some acute pathologies (trauma, stroke). **It is well established that wireless radiation at non-thermal levels causes oxidative stress.** Effects of this are cumulative on our DNA, lipids and cellular membranes.

We Evolved in a Low Electromagnetic Environment

The natural environment of the Earth is electromagnetic. We have terrestrial electric and magnetic fields, radiation from the sun and cosmic microwaves. All living things evolved in

harmony with the Earth's natural but very very low-level electromagnetic rhythms. Birds, bees and mammals have magnetite in their bodies and brains that use the Earth's magnetic field for the delicate tasks of navigation and foraging. Our human nervous system, heart, reproductive and endocrine systems rely on minute electromagnetic signals for complex functions. Manmade electromagnetic fields (EMF) emitted by our modern technology can distort our bodies electric currents, delicate cell membranes and cause broad dysfunction. This can be with long term or sometimes short exposures with higher power and different pulsations. Science has shown us that organisms adapt to constant electromagnetic fields found in nature much easier than artificial pulsed radiation that is emitted from cell towers and wireless devices. It makes perfect sense that wireless radiation can be harmful to living organisms even it does not knock an electron out of its orbit.

Wildlife

You need to consider the unique ecosystem which surrounds this lovely town. Science has shown us that levels of artificial electromagnetic radiation we are increasingly exposed to is harming not only humans but the sensitive environment that we tend to ignore but depend upon for our sustenance and mental health. <https://mdsafetech.org/environmental-and-wildlife-effects/>

New Review on Wildlife and wireless Radiofrequency Radiation

The most comprehensive 3 part peer reviewed article by Levitt, Lai and Manville (2021) provides an updated, thorough and well referenced overview of RFR and effects on all wildlife, revealing a disturbing picture of the future if we continue to expand wireless in our homes, communities and for the commercialization of space.

The authors state, *“But is there a larger environmental downside to rising ambient EMF exposures — particularly RFR — from popular mobile communication devices, WiFi antennas, and all accompanying infrastructure that is being overlooked by environmentalists, researchers, and government regulators alike. We may be missing critical physiological effects across species based on obsolete assumptions about low-level far-field exposures being too weak to adversely affect living tissue. We have yet to take into consideration the unique physiologies of other species, or how they use the environment in ways that humans do not, when we assume that the unfettered use of EMF/RFR can continue unabated and be allowed to grow indefinitely.”* **Effects of non-ionizing electromagnetic fields on flora and fauna, part 1.** Rising ambient EMF levels in the environment. (2021) Levitt BB et al. Rev Environ Health. 2021 May 27. <https://pubmed.ncbi.nlm.nih.gov/34047144/>

MOEF Report on Wildlife

The Inter-Ministerial Committee (IMC) of expert scientists reviewed the literature of the effects of RF-EMF radiations on wildlife, humans and the biosphere. In their 2010 MOEF Report they found that out of the 919 research papers collected on birds, bees, plants, other animals, and humans, 593 showed impacts, 180 showed no impacts, and 196 were inconclusive studies. All organisms had effects.

Human Effects– 62% showed effects, 13% no effect and 25% inconclusive **Plant Effects**– 87% showed effects and 13% were inconclusive

Wildlife Effects- 62% showed effects, 4% no effect and 36% inconclusive **Bee Effects**—85% showed effects and 15% no effect

Bird Effects- 77% showed effects, 10% no effect and 13% inconclusive **Current Standards are Scientifically Out of Date**

UNESCO World Heritage Wildlife Area Species Disappearing

An abundance of peer reviewed literature demonstrates adverse impacts to the environment with declines in insect, bird and wildlife populations in cities and where cell towers are placed. This spells disaster for biodiversity, fragile wildlife areas, critical pollinators and agriculture, especially with additive effects of pesticides, toxins and loss of habitat. A report on Unesco's Mt. Nardia World Heritage Park documents this slow decline in populations of species after cell towers were placed. Unesco Report on Disappearance of Species from Mt. Nardia Park World Heritage Area 2000-2015 with Increased Expansion of Telecommunications Antenna. Ethno-Botonomist Mark Broomhall. [UNESCO Report on Disappearance of Species from Mt. Nardia with Increased EMR 2000-2015](#)

Cell Tower Health Effects

Current standards are based on short term thermal exposures and discount the abundant peer reviewed literature on harm from low level, non -thermal effects. It is clear that the limits for radiofrequency radiation are set too high in the U.S. and Canada. These limits are 100 times higher than that of Italy and Russia, who set their standards based on methodical research on immunologic, neurologic and biologic effects of low-level radiation fields. Current U.S. limits are up to 1,000 microwatts/cm² with symptoms seen at levels of 0.005 microwatts /cm².

Physicians in Germany ask for Health Investigation of Cell Towers in 2005

An open letter from Dr. Cornelia Waldmann-Selsam was sent to the German State Chancellor, Edmund Stoiber, on behalf of 114 physicians (Bamberger Appeal) asking for an investigation into the newly reported adverse health symptoms of 356 residents who lived near cell towers in Oberfranken, Germany. Dr. Waldmann-Selsam noted, *“Many humans get sick from emissions far below the recommended limit values, which consider only thermal effects, and we have a sickness picture with characteristic symptom combinations, which are new to us physicians, ”* *The list of symptoms were, ” Sleep disturbances, tiredness, concentration impairment, forgetfulness, problem with finding words, depressive tendencies, tinnitus, sudden loss of hearing, hearing loss, giddiness, nose bleeds, visual disturbances, frequent infections, sinusitis, joint and limb pains, nerve and soft tissue pains, feeling of numbness, heart rhythm disturbances,*

increased blood pressure , hormonal disturbances, night-time sweat, nausea.” Resident noted almost immediate improvement when moving away.”

Dr. Waldmann-Selsam goes on to say, *“physicians were able to prove, by re-testing the patients, the normalization of blood pressure, heart rhythm, hormone disturbances, visual disturbances, neurological symptoms, blood picture,”*. She called this an emergency medical situation and requested an official health investigation. http://www.next-up.org/pdf/Letter_to_Edmund_Stoiber.pdf

Cell Tower Effects on Cognition and Learning

The majority of studies, which have been done internationally, have shown an increase in neurologic symptoms in a percentage of residents living near cell towers. Symptoms vary with the distance from the cell tower. Symptoms include insomnia, headache, heart palpitations, dizziness, poor concentration, and fatigue. A study in Japan (Shinjo 2014) showed a decrease in symptoms when the cell tower was removed. There is also a well done study showing blood abnormalities in those living nearest to cell towers (Zothansiana 2017). DNA and lipid abnormalities were seen along with reduction in internal antioxidants which provide protection from pollutants.

Moreover, a recent study conducted over a 2 year period looked at effects of cell towers near two schools by Meo et al (2018) and clearly demonstrated cognitive dysfunction in students closest to the higher power cell tower.

Firefighters Fighting Fires and Now Cell Towers

After noticing that many of the firefighters were developing neurologic symptoms when first responder cell towers were placed on the fire stations the International Association of Firefighters studied the matter and passed a resolution in 2004 asking that cell towers not be placed in proximity to fire stations. In AB 537 (Quirk), signed into law by Gov. Newsom on October 4, 2021, the firefighters achieved the first ever health/readiness exemption in the world.

Every fire station in California is now exempt from having a 5G tower on their station. This movement began when cell towers were initially targeted for fire stations because of their location and the revenue received by the cities. Many firefighters developed symptoms including headaches, fatigue, memory impairment and insomnia within a week of the installation of the towers. An exemption was inserted in California bills on cell towers. [AB 57](#) (Quirk 2015) has an exemption on the grounds of health effects. AB 537 (Quirk 2021) also has this exemption and reads, *“Due to the unique duties and infrastructure requirements for the swift and effective deployment of firefighters, this section does not apply to a collocation or siting application for a wireless telecommunications facility where the project is proposed for placement on fire department facilities.”* [SB 649](#) (Hueso, Quirk and Dodd 2018) also had a health exemption for firefighters and was vetoed by Governor Brown.

500 Meter (1640 ft) Buffer from Cell Tower Recommended

Cell tower health studies that show impacts from cell towers with symptoms within about 1500 feet of the cell towers. That is why Pearce et al (2019) **recommended a “500 Meter buffer around schools, hospitals and homes “Limiting liability with positioning to minimize negative health effects of cellular phone towers.”**

Cancer and Cell Towers

3 Studies investigated the rates of cancer and cell towers looking at the distance from cell towers and the incidence of cancer. They found the rate of cancer incidence increased significantly in those living within about 350 -400 meters (around 1000 feet) to the cell tower.

[Dode 2011](#) performed a 10 year study (1996-2006) examining the distance from cell towers and cancer clusters. He and his colleagues found a highly significant increase in cancers in those living within 500 meters of the cell tower. They noted “The largest density power was 40.78 $\mu\text{W}/\text{cm}^2$, and the smallest was 0.04 $\mu\text{W}/\text{cm}^2$.” The current guidelines are about 1000 $\mu\text{W}/\text{cm}^2$. The authors conclude “Measured values stay below Brazilian Federal Law limits that are the same of ICNIRP. The human exposure pattern guidelines are inadequate. More restrictive limits must be adopted urgently.”

[Wolf and Wolf 2004](#) investigated the rates of cancer versus distance from cell towers in small towns in Israel. He found the rate of cancer incidence was 129 cases per 10,000 persons per year in those living within 350 meters of a cell tower versus a rate of 16-31/10,000 in those living greater than 350 meters from the cell tower.

Eger (2004) showed an increase in the development of new cancer cases within a 10 year period if residents lived within 400 meters of a cell tower. Their results revealed that within 5 years of operation of a transmitting station the relative risk of cancer development tripled in residents near the cell towers compared to residents outside the area.

Insurance Has an Exclusion for Radiofrequency Radiation as an Emerging Risk Insurance companies consider wireless radiation to be similar to asbestos in long term health impacts and do not provide coverage from harm for RF health effects. The cities are left with that liability unless they can provide insurance.

In a 2019 report, **New Emerging Risk Insights**, by Swiss RE Insurance Company, the second largest reinsurance company in the world, **5G is listed as an emerging concern** in the high risk category within 3 years. Included in the high-risk trends are artificial intelligence and the existential threats of climate change. *“The top five emerging risks in our SONAR 2019 report are digital technology’s clash with legacy hardware, potential threats from the spread of 5G mobile networks, increasingly limited fiscal and monetary flexibility by central banks, genetic testing’s implications on life insurers, and the impact of climate change on the life and health sector.”* <https://www.swissre.com/institute/research/sonar/sonar2019.html>

National Academy of Sciences Report on the Havana Syndrome and Harm from RFR

A recent report by the National Academy of Sciences concluded that the “sonic attacks” on diplomats in Cuba and China were most likely due to pulsed radiofrequency from directed energy weapons. They had symptoms similar to those who live near cell towers (headache, nausea, insomnia, dizziness, memory loss, heart palpitations, depression). Dr. Beatrice Golomb wrote the most extensive report to date on this subject linking these mystery “directed energy attacks” to pulsed microwaves similar to the wireless devices we use daily. In the case of these high powered beams there was documented injury to brain networks found by the University of Pittsburg physicians who studied the diplomats. Dr Golomb highlights that **the strength of the health effects are related to the peak power not the average power. The pulse makes the poison.**

The EUROPAEM EMF Guideline 2016 for the prevention, diagnosis and treatment of EMF-related health problems and illnesses is a comprehensive guide written by many scientists and physicians in Europe who are part of the European Academy for Environmental Medicine (EUROPAEM) – EMF working group who have recognized and treated those with electrosensitivity for many years. This is a thorough, well researched and well-referenced scientific paper that is based on the 2012 Austrian Medical Association **Guidelines for the Diagnosis and Treatment of EMF Illness**. A questionnaire from their group is included in the attachments.

New Hampshire 5G Commission Finds Radiofrequency Radiation Problematic

The first Commission formed in the United States to study the environmental and health effects of 5G technology released their comprehensive final report November 1, 2020. The Commission to Study the Environmental and Health Effects of Evolving 5G Technology was mandated by HB 522 passed by the state legislature in New Hampshire. Their final report included 15 recommendations addressing the need for public education about wireless hazards, RF health studies, RF measurements, cell antenna setbacks, fiberoptic rather than wireless deployment, commercial warning signs and wildlife protection. After hearing extensive testimony in a series of 13 meetings over the course of a year and reviewing an abundance of research, the Commission highlighted the lack of a single definition for 5G, **insufficient evidence of safety for 5th generation technology**, a concern that safety standards for wireless technologies have not been updated with the latest science and that 5G is largely a marketing concept. They also expressed concern that the FCC has a long history of being accountable to industry over the desires of communities and individuals.

FCC Told by DC Court to Reevaluate Safety Standards

On August 13, 2021 a joint lawsuit was won by petitioners against the Federal Communications Commission (FCC) for failure to protect human health and the environment by dismissing scientific evidence of harm from wireless radiation. The Petitioners challenged the FCC’s refusal

to reevaluate and update their 24-year-old radiofrequency (RF) safety guidelines for existing and new telecommunications technologies. The DC Circuit Court of Appeals ruled that the majority of the RF radiation standards established by the FCC did not use "reasoned decision-making" (they did not go by the science) and thus the standards were considered by the court to have been set in an "arbitrary and capricious" manner. This was an extremely high bar for the Plaintiffs to reach. The Circuit Court of Appeals rarely admonishes a federal agency or commission in this way. The DC Circuit Court of Appeals returned this decision back to the FCC and ordered the FCC to re-examine its standards for wireless radiation exposure and provide a review of wireless harms that is compliant with the law for non-cancer harms.

The Court Decision stated, "The National Environmental Policy Act ("NEPA") and its implementing regulations require federal agencies to "establish procedures to account for the environmental effects of [their] proposed actions." And "To fulfill its obligations under NEPA, the Commission has promulgated guidelines for human exposure to RF radiation... The Commission last updated its limits for RF exposure in 1996... The ANSI and IEEE developed limits are designed to protect against "thermal effects" of exposure to RF radiation, but not "non-thermal" effects. In March 2013, the Commission issued a notice of inquiry regarding the adequacy of its 1996 guidelines in response to changes in the ubiquity of wireless devices and in scientific standards and research since 1996. In December 2019, the Commission issued a final order resolving its 2013 notice of inquiry by declining to undertake any of the changes contemplated in the notice of inquiry. Petitioners challenge the 2019 final order under NEPA and the Administrative Procedure Act ("APA").

5G: A Manufactured Need by Industry

Reports indicate that the telecommunications industry has largely manufactured a "need" for expanding wireless technology in cities, while halting projects for safer fiberoptic broadband. Note a 2020 European Parliament report, **5G: State of Play in Europe, USA and Asia. In Depth Analysis**, suggests 5G is a manufactured need. *"As 5G is driven by the telecoms supply industry, and its long tail of component manufacturers, a major campaign is under way to convince governments that the economy and jobs will be strongly stimulated by 5G deployment."*

In my opinion, from all the research I have done, it appears the telecommunications industry has influenced laws to prevent health or environmental effects from being considered in the placement of cell towers (See FCC Captured Agency). They knew of the harm in early studies done by Dr. George Carlo in the 1990's but suppressed the data so they could move forward. That is well documented in Dr. Carlo's book, "Cell phones: Invisible Hazards in The Wireless Age".

A blizzard of robust science has appeared now to show biological and health impacts of wireless technology, but it is still denied, and the basis for genuinely safe RF radiation guidelines is flawed. An exponential growth in cell towers is now being played out with cities being left on their own to figure out how to regulate these towers locally. Industry places a heavy hand and complex laws on local policy makers who must navigate these complex FCC policies to prevent legal action.

Board of Health in Pittsfield Massachusetts Orders Verizon to Cease and Desist

For the first time in the U.S. a Board of Health has issued a cease and desist order to Verizon to remove or shut off a cell tower after 17 people in a neighborhood reported they became ill after the Verizon cell tower was turned on. Courtney Gilardi and her 2 children as well as residents living near the cell tower, reported experiencing a constellation of symptoms including stabbing headaches, nausea, vomiting, dizziness, “buzzing in the head”, and insomnia so severe her family had to move to the next town and into a house with no heat and no hot water to escape the sickness. Other neighbors drove an hour away to sleep at a relative’s house or slept in their cars away from the tower. These are classic symptoms of electromagnetic illness experienced in firefighters and military personnel working on radar and well documented by NASA, the Air Force and other military agencies as well as the “Havana Syndrome”. These symptoms were also seen in Japan after 2 cell towers were turned on and when the tower was removed the resident’s symptoms largely resolved.

Apple stops 5G Phone MMW: Is This the Death of 5G Millimeter Wavelengths?

You are probably aware that Verizon and AT&T built special hotspots in many cities in the U.S. to house 5G high band millimeter wavelengths that were to revolutionize wireless with ultrafast speeds. These small wavelengths the size of bees have been put into some community small cells which need to be about 1000 feet apart without obstruction to function properly. Apple, who already has some 5G MMW phones, just announced that it is not building any millimeter wave spectrum antennas in its next generation SE iphones. With 4G LTE low and mid band wavelengths they apparently do not need the millimeter 5G bandwidth. The article notes, “It’s not a surprise that Apple is dropping the spectrum from its phones. It costs chip space and power for every additional spectrum that is supported by a cellphone. Cell manufacturers care more about long battery life than they do about a technology that never made it out of the downtowns of a few major cities.”

FCC Limits: A False Sense of Security

We are told by the FCC that wireless radiation and cell towers are safe within current safety guidelines, or that we do not really know if there is harm or that the research is inconclusive or that it is not ionizing (like x-rays) so it cannot hurt us. This is the same dismissive and doubt creating language used by the tobacco industry and a host of other chemical companies to protect their toxic products, thus profits. The research shows that we do know, beyond a doubt, that wireless radiation is harmful to all living systems below the current safety standards. The most obvious evidence is that more and more children and adults are reporting symptoms of electrosensitivity (EHS) in the presence of wireless radiation when they live in a home near a cell tower, or use a cell phone, or in schools where wireless devices and cell towers are increasing.

Please use your authority and wisdom to keep this ordinance strong. Take more time if you need to in order for you to sort this out and be sure of your decision. Remember that you all live in Los Altos as well so you are protecting you and your families and the next generation as well.

Sincerely,

Cindy Russell, MD

Attached- Malibu Ordinances

References

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- **Firefighters Fighting Fires and Now Cell Towers-** <https://mdsafetech.org/2019/09/28/firefighters-fighting-fires-and-now-cell-towers/>
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From: [Angel Rodriguez](#)
To: [Public Comment](#)
Date: Wednesday, April 13, 2022 9:44:16 AM

From: Edgar Saadi [REDACTED]
Sent: Tuesday, April 12, 2022 8:17 PM
To: City Council <council@losaltosca.gov>; Planning Services <planning@losaltosca.gov>; Gabriel Engeland <gengeland@losaltosca.gov>
Subject: What she said below thank you

Dear City Council members.....

“Regarding the proposed modifications to the ordinance for small wireless facilities, I object to the inequitable treatment of and failure to represent residents who live on and adjacent to arterials, collectors, and local collectors. These locations are ranked as more preferred than other “residentially zoned” streets. Most of the collectors and local collectors in Los Altos, however, are residentially zoned! All residents of Los Altos will benefit equally from the 5G upgrade, so all neighborhoods should equally bear the brunt of the visual blight, noise, and estimated decrease in property values.

The authors of the revised ordinance state they are recommending the higher density of facilities on the local collectors, collectors, and arterial streets to retain the beauty and essential rural character throughout Los Altos, (p. 38 and p. 39). In other words, they think it is OK to destroy the character and safety and livability of some streets (collectors, local collectors, adjacent local roads, and arterials) in order to retain the beauty and character of the rest of the streets. There is absolutely no justification for this creation of two classes of residents.

Please remove this preference to protect the character of all residential properties equally.

Regards,
Katherine Weller
Los Altos Resident”

Best regards
Ed Saadi
1010 Loma Prieta Ct
Los Altos, CA 94024

Sent from my iPhone

From: [Cindy Russell](#)
To: [Andrea Chelmenkos](#); [Public Comment](#)
Date: Tuesday, April 12, 2022 1:38:38 PM
Attachments: [Malibu Resolution No. 21-17 as adopted.pdf](#)
[Executed Copy Malibu Res. 21-17.PDF](#)
[Los Altos Letter Final 4112022 PDF.pdf](#)

----- Forwarded message -----

From: **Cindy Russell** [REDACTED]
Date: Mon, Apr 11, 2022 at 11:04 PM
Subject: Los Altos City Council Agenda item #6 Wireless Telecommunications Facilities
To: <aenander@losaltosca.gov>; <smeadows@losaltosca.gov>; <nfligor@losaltosca.gov>; Lynette Lee Eng <lleeeng@losaltosca.gov>; <jweinberg@losaltosca.gov>; <publiccomments@losaltosca.gov>; <council@losaltosca.gov>

Dear Los Altos City Council:
Enclosed is my letter to you regarding the revised Wireless facilities ordinance I am attaching it as well as a PDF as well along with the Malibu Ordinance
Thank you for your consideration

To: Los Altos City Council

From: Cindy Russell, MD

Re: Revisions to 2019 Los Altos Ordinance to Regulate Small Wireless Facilities

Date April 11, 2022

Dear Los Altos City Council Members:

I am writing today to strongly urge you to reinstate (with legally appropriate revisions) several of the major aspects of the original 2019 Small Cell Wireless Ordinance that diminish blight and protect the beauty, character and health of your lovely Silicon Valley community In addition, after reading the new 2022 proposed Wireless Facilities Ordinance it appears that some important provisions may have been missed in crafting a new Small Cell ordinance which are critical for the safety of the residents and also reduce liability for the city This includes several insurance provisions, permitting process, and more

Encinitas and Malibu have passed ordinances which have elements that are protective but allow flexibility for cities and exceptions/waivers for the carriers They remain uncontested

- **Encinitas, CA-Revised from 2019- Passed June 20, 2020**
<https://encinitasca.gov/Portals/0/City%20Documents/Documents/Development%20Services/Planning/Land%20Development/Small%20Wireless%20Facilities/Resolution%20No.%202020-38%20With%20Policy.pdf?ver=2020-07-13-192634-373>
- **Malibu Resolution 21-17 – Attached please find an executed copy of Res 21-17 is officially binding because Ordinance 484 adopts it by reference**

I will summarize my ask of the Los Altos City Council with these key points below, followed by backup for those points with additional pertinent legal information which does impact the issue of health/science, as per a court ruling from the second highest court in the land on August 13, 2021, a ruling that referred to the existing RF radiation regulatory limits as "arbitrary and capricious" Arbitrary and capricious means that the law and/or the facts were knowingly disregarded That is a high bar indeed and the plaintiffs reached that bar It behooves us to consider what is going on in the courts and pass ordinance language accordingly:

PLEASE PAUSE: There are resolutions as mentioned above that have successfully balanced the unique needs of communities with the rights of the telecommunications industry The new resolution does not have to be passed Tuesday night Some reflection on the best that Encinitas and Malibu have to offer may benefit all of us in the long run

Key Points

- 1 TITLE OF ORDINANCE: Clarification if this applies to Small Cell or Macro Cells; macro towers must go through conditional use permits
- 2 LOCATION STANDARDS – PREFERRED SITES
- 3 WAIVERS FOR STANDARDS
- 4 FIRE SAFETY
- 5 APPEALS PROCESS

Thank you for passing the 2019 Wireless Facilities Telecommunications Ordinance The original wireless facilities ordinance for Los Altos took into consideration public concerns, was well thought out and protects the city of Los Altos from poorly designed and poorly placed cell towers

I understand, however, that there is a lawsuit against the City for Los Altos from Verizon and AT&T claiming that the 2019 ordinance as written "effectively prohibits" wireless communications You are commended for taking on this task of revising the ordinance in response Some of the 2022 proposed changes are good and clarify the permitting process for carriers to avoid lawsuits and provide for "personal wireless services", however, I believe there are some gaps in protections and flexibility for the city that I would like to point out which could be remedied in addition to some clarifications

It is important to consider adding the provisions below As you note with the FCC lawsuit to reevaluate the 20 year-old FCC safety standards, the courts have judged that the FCC did not take into account several aspects of human health and environmental effects in setting their standards We do not know what the future holds for the federal Telecommunications Act of 1996 or state law The city of Los Altos needs to be prepared to alter its ordinance in case there is a change in the law in the future

Representative Anna Eshoo Supports Local Control for Cell Towers

The 2018 FCC small cell order that fast tracks deployment of small cells in order to "cut the red tape" has prompted cities around the country, like Los Altos, to write these emergency ordinances and now revise them The FCC Declaratory ruling has been considered an overreach of the Telecom Industry which dominates the FCC (FCC: Captured Agency, N Alster), overriding the basic rights of cities to have local control This was recognized by our local representative Anna Eshoo who in 2019 introduced HR530 to protect the rights of states and government by deeming that the "Federal Communications Commission's Declaratory Ruling in "Third Report and Order and Declaratory Ruling" (FCC 18-111) shall have no force or effect." This bill had 52 co-sponsors Senator Feinstein introduced in 2019 a companion federal bill SB 2012 to block the FCC order Neither moved

Representative Eshoo also sent a letter to the FCC in 2020 to ask that the vote on the FCC order be delayed stating, "we worry that if this Declaratory Ruling does not benefit from meaningful input from local governments, the result could undermine municipalities' ability to balance their responsibilities to public safety and community design with their desire to ensure access to affordable wireless networks and the next generation services."

Please fight for the rights of your residents and government as our local representatives have done You have more power than you know Please exercise it

Important Provisions to Add

1) Title of Ordinance

To clarify whether the ordinance title should apply only to Small Wireless Facilities or if this is for both Small Cell and Macro Towers it may be helpful to rename the ordinance to its original title and keep the descriptions separate within the ordinance It is not clear to me in this rewrite Small cell applications are different than for macro towers due to difference in structure of towers, power emitted and location in right of way as per FCC ruling

(Section 14 82 050) See Encinitas Small Cell wireless Ordinance Resolution 2019- 91- REGULATING SMALL WIRELESS FACILITIES AND OTHER INFRASTRUCTURE

DEPLOYMENTS IN THE PUBLIC RIGHTS-OF-WAY <https://encinitas.ca.gov/Portals/0/City%20Documents/Documents/Development%20Services/Planning/Land%20Development/Small%20Wireless%20Facilities/CC%20Policy%20C035.pdf>

- 2) **Location Standards- Preferred Sites-** Despite what the telecommunications industry says, you as a city can still have preferred sites and less preferred sites in your ordinance (Encinitas and Malibu Ordinances) You can add an exception clause or waiver process to allow for placement of a cell tower if the carrier proves it is necessary (and other locations are not technically feasible) for "Personal Wireless Services" under the 1996 Telecom Act of 1996 and so that this does not constitute an "effective prohibition"
- * **Special Zones can be designated for schools, day care centers, residential dwellings, protected habitat or trees, parks, etc.**
- * Keep the 1000 foot distance between towers, **not 200 feet.** Explanation below

Here are examples of Location Standards in the Encinitas Small Cell Wireless Ordinance passed in June, 2020 and in Malibu April 2021, which to date are uncontested

Encinitas Ordinance Passed June 10, 2020
SECTION 10. LOCATION STANDARDS

- 1 (a) **Restricted Site Locations.** All of the following locations will be deemed "Restricted Site Locations" that require an exception pursuant to SECTION 13 of this Policy

- 1 (1) any location within a residential zone;
- 2 (2) any location within 500 feet from a residential dwelling unit;
- 3 (3) any location within 500 feet from a daycare facility or primary school;
- 4 (4) any location within a Very High Fire Hazard Severity Zone; and
- 5 (5) any location within the Ecological Resource/Open Space/Park Zone.

(b) **Location Preferences.** To better assist applicants and decision makers understand and respond to the community's aesthetic preferences and values, this subsection sets out listed preferences for locations to be used in connection with small wireless facilities in an ordered hierarchy. Applications that involve lesser-preferred locations may be approved so long as the applicant demonstrates by clear and convincing evidence in the written record that (1) any more preferred locations or structures within 500 feet from the proposed site would be technically infeasible; and (2) if the proposed site or the most-preferred location within 500 feet from the proposed site is within a Restricted Site Location, the applicant qualifies for an exception pursuant to SECTION 13 of this Policy. The City prefers small cells in the public rights-of-way to be installed in locations, ordered from most preferred to least preferred, as follows

- (1) locations within industrial zones, commercial zones, business parks or office professional zones on or along prime arterials;
- (2) locations within industrial zones, commercial zones, business parks or office professional zones on or along major arterials;
- (3) locations within industrial zones, commercial zones, business parks or office professional zones on or along collector roads;
- (4) locations within industrial zones, commercial zones, business parks or office professional zones on or along local streets;
- (5) any location within 500 feet from any residential zone;
- (6) locations within residential zones on or along prime arterials;
- (7) locations within residential zones on or along major arterials;
- (8) locations within residential zones on or along collector roads;
- (9) locations within residential zones on or along local streets;
- (10) any location within 1,000 feet from an existing/proposed small wireless facility;

In the event that a proposed facility would be within 500 feet from two or more restricted site locations (as defined in Subsection 10(a)), and the proposed facility qualifies for an exception pursuant to SECTION 13 of this Policy, the technically feasible location furthest from all such restricted site locations will be deemed to be the most preferred alternative.

- (c) **Encroachments Over Private Property.** No small cell antennas, accessory equipment or other improvements may encroach onto or over any private or other property outside the public rights-of-way without the property owner's express written consent.

Malibu Wireless Ordinance Resolution 21-17 Standards Passed April 2021. <https://www.malibucity.org/DocumentCenter/View/27969/Ordinance-No-484>
Location Standards for All Facilities

The location standards for all wireless communications facilities, other than those that qualify as eligible facilities requests, are as follows:

- 1 No wireless telecommunication facility shall be located within five hundred (500) feet of any school, playground, or park unless a finding is made, based on technical evidence acceptable to the reviewing authority showing a clear need for the facility and that no technically feasible alternative site exists. Except for facilities installed on the same pole or tower as an existing wireless telecommunication facility, wireless telecommunication facilities located within any residential zone district shall not be located within one thousand (1,000) feet of any other wireless communications facility, except from those facilities placed on utility poles along Pacific Coast Highway, unless a waiver is granted
- 2 All new freestanding wireless communications facilities and monopoles shall be set back a minimum distance of at least one hundred and twenty (120%) percent of the height of the facility or monopole from any property line abutting a residentially zoned property. This minimum setback is not subject to the waivers allowed under Section 7 of this Resolution
- 3 Location preference for wireless communications facilities should be given to the following:
 - 1 Property designated non-residential (except for public open space and recreational vehicle park zoning districts), unless otherwise prohibited pursuant to this title
 - 2 Facilities attached or sited adjacent to existing structures. Whenever possible, facilities shall be located on and/or inside existing structures. Appropriate types of existing structures may include, but are not limited to: buildings, water tanks, telephone poles and utility towers and poles, sign standards, light standards and roadway overpasses
 - 3 Sites with minimum separation. Sites that are more than five hundred (500) feet from school, playgrounds, and parks
- 4 Sites that are not highly visible from adjacent roadways
- 5 Unless otherwise indicated in MMC Chapter 17.46 or these Standards, no wireless facility shall be installed on an exposed ridgeline unless the facility blends with the surrounding existing natural and man-made environment and a finding is made that no other location is technically feasible
- 6 The City expressly designates residential, public open space and recreational vehicle park zoning districts, parks and schools as the least appropriate possible locations, and the absolute last choices for siting

3) Waivers for Standards

Malibu Wireless Facilities Ordinance 2021 has added a section on Waivers for Standards that clarifies the process and protects the city from liability
Resolution No 21-17 Page 9

- 1 A waiver of one or more of these Standards may be granted in the following circumstances:
 - 1 Pursuant to MMC Section 17.46.060(D), if an applicant demonstrates to the Planning Commission through clear and convincing evidence that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations;
 - 2 If an applicant demonstrates to the Planning Commission through clear and convincing evidence set forth in a feasibility study that compliance with a requirement of these Standards would be technically infeasible and the proposed wireless facility complies with the requirements of these Standards to the greatest extent technically feasible. For example, an exception to a requirement to conceal antennas in a shroud may be granted if shrouding is shown to be technically infeasible and an alternative concealment such as a colored film wrap is proposed; or
 - 3 If an applicant demonstrates to the Planning Commission with clear and convincing evidence that the particular engineering, design or location proposed involves an alternative that better meets the purposes of Chapter 17.46 and only minor non-compliance with a requirement of these design Standards and results in no increase in public visual impact to the community or provides other benefits. For example, an exception to the wireless facility location limitations may be granted when the applicant can demonstrate that the placement is less visible from viewsheds of residences or shielded by vegetation or existing infrastructure (such as barriers), or is less physically intrusive (for example, less impactful to tree roots or reduces noise). Among other factors, in deciding whether or not to grant an exception, the Planning Commission may consider the impact of expansions to the facility that the applicant would be entitled to make as of right if granted
- 2 Waivers may only be requested at the time an application is initially submitted for a discretionary permit. The request must include both the specific provision(s) from which waiver is sought and the basis of the request, including all supporting evidence on which the applicant relies. Any request for waiver after the City has deemed an application complete constitutes a material change to the proposed wireless facility and shall be considered a new application. A request for waiver from one or more

4) Fire Safety

All electrical equipment including small cell towers are a fire risk. The fire cannot be put out in a conventional manner with firefighters blasting water on the fire. They have to wait until the power is shut off or electrocution will result.

Examples are

- San Diego tower that caught fire in a high school stadium - <https://fox5sandiego.com/news/local-news/stadium-light-catches-fire-at-south-bay-high-school/>
- The Malibu fire in 2007 due to pole overload. CPUC finds Edison and 4 telecom carriers \$51.5 million - <https://www.latimes.com/local/lanow/la-me-ln-malibu-fire-settlements-approved-state-puc-20130919-story.html>

Considering the increase in wildfires and the risk of earthquakes Fire safety is a priority for citizens **The Malibu Wireless Facilities Ordinance 2021 has language in the Fire Safety Standards that can be incorporated.** In the attached Executed Copy of Malibu Res 21-17, please note fire language on pages 2, 3, 5, 8, 11, 12, and particularly beginning on page 23 with "Electrical and Structural Safety Information "

5) Appeals Process

Language for appeal is not in the ordinance
Applications

A) Any person adversely affected by a decision of the Director pursuant to this Chapter may request an administrative hearing to appeal the Director s decision. In order to request a hearing, the person shall submit to the City Clerk in the manner directed in the Director s decision notice a fully completed request for administrative hearing form along with a full amount of the appeal fee set by the City Council (by way of check or money order). The request for administrative hearing shall be incomplete if it does not include the appeal fee in the full amount. ... etc.

Precaution is Warranted

We understand that, as per Section 704 of the 1996 Telecommunications Act, environmental concerns, and as courts have interpreted these it includes health impacts, cannot be a factor in denial of cell towers but we are early in the game
Public health and ecosystem health are still important issues with new 5G systems untested for long term or short term safety for either human health or environmental health 5G systems with a complex mix of low, medium and high frequencies (thus the need for macro and microcells) are very onerous to measure, requiring very expensive complex equipment that is very difficult for engineers to accomplish let alone city facility engineers Precaution in placement is paramount in this discussion Once cell towers are placed there is no going back and you just wait for people to experience symptoms or develop cancer or a neurologic condition that you will not be able to sort out from the common toxic exposures we all encounter on a daily basis

Elon Musk tells us that 5G millimeter wave systems are not needed for autonomous cars 5G millimeter wavelengths are also not required for "personal wireless services" For the later this technology can be effectively replaced with safer and more secure fiberoptic networks and current wireless technologies I will explain why health matters

Health Matters

I am a practicing physician who has studied the health impacts of environmental toxins through our local County Medical Association and the California Medical Association for over 25 years I began studying the health impacts of wireless radiation when I learned of a proposal to place a cell tower on my daughter's school
After 10 years of research into the literature and talking to a variety of people affected by cell towers and wireless radiation I, like many others in the medical and scientific community, have come to the conclusion that wireless radiation is a pollutant just like lead or pesticides or mercury or toxic industrial waste The mechanisms are similar - oxidation, the effects are broad on all living organisms and people are often unaware they are exposed to the toxin - unless they are "sensitive" Wireless radiation causes oxidative stress on organisms and stem cells, and at low levels of radiation These low levels cause a slow decline in physiologic processes, and for those who have become sensitive- an immediate reaction

Antioxidants and Health

As we now know small amounts of toxins can cause harm in certain windows of development thus children are more vulnerable We also know effects are cumulative People vary in their vulnerability due to age, genetics and other toxic exposures Not all people react the same Our health, wellness and aging are determined by oxidation levels in our tissues that injure our DNA, proteins and lipids, thus antioxidants in foods have been shown to block oxidation, neutralize cellular injury and promote health This is well established in the nutrition literature The literature also demonstrates that taking antioxidants (Vitamin E, zinc and melatonin) protects the cell from oxidation injury from wireless radiation Oxidative stress plays a major part in the development of chronic, degenerative and inflammatory illnesses such as cancer, autoimmune disorders, aging, cataracts, rheumatoid arthritis, cardiovascular and neurodegenerative diseases, as well as some acute pathologies (trauma, stroke). **It is well established that wireless radiation at non-thermal levels causes oxidative stress** Effects of this are cumulative on our DNA, lipids and cellular membranes

We Evolved in a Low Electromagnetic Environment

The natural environment of the Earth is electromagnetic We have terrestrial electric and magnetic fields, radiation from the sun and cosmic microwaves All living things evolved in harmony with the Earth's natural but very very low-level electromagnetic rhythms Birds, bees and mammals have magnetite in their bodies and brains that use the Earth's magnetic field for the delicate tasks of navigation and foraging Our human nervous system, heart, reproductive and endocrine systems rely on minute electromagnetic signals for complex functions Manmade electromagnetic fields (EMF) emitted by our modern technology can distort our bodies electric currents, delicate cell membranes and cause broad dysfunction This can be with long term or sometimes short exposures with higher power and different pulsations Science has shown us that organisms adapt to constant electromagnetic fields found in nature much easier than artificial pulsed radiation that is emitted from cell towers and wireless devices It makes perfect sense that wireless radiation can be harmful to living organisms even it does not knock an electron out of its orbit

Wildlife

You need to consider the unique ecosystem which surrounds this lovely town Science has shown us that levels of artificial electromagnetic radiation we are increasingly exposed to is harming not only humans but the sensitive environment that we tend to ignore but depend upon for our sustenance and mental health <https://mdsafetech.org/environmental-and-wildlife-effects/>

New Review on Wildlife and wireless Radiofrequency Radiation

The most comprehensive 3 part peer reviewed article by Levitt, Lai and Manville (2021) provides an updated, thorough and well referenced overview of RFR and effects on all wildlife, revealing a disturbing picture of the future if we continue to expand wireless in our homes, communities and for the commercialization of space

The authors state, "But is there a larger environmental downside to rising ambient EMF exposures — particularly RFR — from popular mobile communication devices, WiFi antennas, and all accompanying infrastructure that is being overlooked by environmentalists, researchers, and government regulators alike. We may be missing critical physiological effects across species based on obsolete assumptions about low-level far-field exposures being too weak to adversely affect living tissue. We have yet to take into consideration the unique physiologies of other species, or how they use the environment in ways that humans do not, when we assume that the unfettered use of EMF/RFR can continue unabated and be allowed to grow indefinitely." **Effects of non-ionizing electromagnetic fields on flora and fauna, part 1.** Rising ambient EMF levels in the environment (2021) Levitt BB et al Rev Environ Health 2021 May 27 <https://pubmed.ncbi.nlm.nih.gov/34047144/>

MOEF Report on Wildlife

The Inter-Ministerial Committee (IMC) of expert scientists reviewed the literature of the effects of RF-EMF radiations on wildlife, humans and the biosphere In their 2010 MOEF Report they found that out of the 919 research papers collected on birds, bees, plants, other animals, and humans, 593 showed impacts, 180 showed no impacts, and 196 were inconclusive studies All organisms had effects

Human Effects— 62% showed effects, 13% no effect and 25% inconclusive **Plant Effects**— 87% showed effects and 13% were inconclusive

Wildlife Effects- 62% showed effects, 4% no effect and 36% inconclusive **Bee Effects**—85% showed effects and 15% no effect

Bird Effects- 77% showed effects, 10% no effect and 13% inconclusive **Current Standards are Scientifically Out of Date**

UNESCO World Heritage Wildlife Area Species Disappearing

An abundance of peer reviewed literature demonstrates adverse impacts to the environment with declines in insect, bird and wildlife populations in cities and where cell towers are placed This spells disaster for biodiversity, fragile wildlife areas, critical pollinators and agriculture, especially with additive effects of pesticides, toxins and loss of habitat A report on Unesco's Mt Nardia World Heritage Park documents this slow decline in populations of species after cell towers were placed Unesco Report on Disappearance of Species from Mt Nardia Park World Heritage Area 2000-2015 with Increased Expansion of Telecommunications Antenna Ethno- Botanist Mark Broomhall [UNESCO Report on Disappearance of Species from Mt Nardia with Increased EMR 2000-2015](#)

Cell Tower Health Effects

Current standards are based on short term thermal exposures and discount the abundant peer reviewed literature on harm from low level, non -thermal effects It is clear that the limits for radiofrequency radiation are set too high in the U S and Canada These limits are 100 times higher than that of Italy and Russia, who set their standards based on methodical research on immunologic, neurologic and biologic effects of low-level radiation fields Current U S limits are up to 1,000 microwatts/cm2 with symptoms seen at levels of 0.005 microwatts /cm2

Physicians in Germany ask for Health Investigation of Cell Towers in 2005

An open letter from Dr Cornelia Waldmann-Selsam was sent to the German State Chancellor, Edmund Stoiber, on behalf of 114 physicians (Bamberger Appeal) asking for an investigation into the newly reported adverse health symptoms of 356 residents who lived near cell towers in Oberfranken, Germany Dr Waldmann-Selsam noted, "Many humans get sick from emissions far below the recommended limit values, which consider only thermal effects, and we have a sickness picture with characteristic symptom combinations, which are new to us physicians." The list of symptoms were, " Sleep disturbances, tiredness, concentration impairment, forgetfulness, problem with finding words, depressive tendencies, tinnitus, sudden loss of hearing, hearing loss, giddiness, nose bleeds, visual disturbances, frequent infections, sinusitis, joint and limb pains, nerve and soft tissue pains, feeling of numbness, heart rhythm disturbances, increased blood pressure , hormonal disturbances, night-time sweat, nausea." Resident noted almost immediate improvement when moving away"

Dr Waldmann-Selsam goes on to say, "physicians were able to prove, by re-testing the patients, the normalization of blood pressure, heart rhythm, hormone disturbances, visual disturbances, neurological symptoms, blood picture." She called this an emergency medical situation and requested an official health investigation http://www.next-up.org/pdf/Letter_to_Edmund_Stoiber.pdf

Cell Tower Effects on Cognition and Learning

The majority of studies, which have been done internationally, have shown an increase in neurologic symptoms in a percentage of residents living near cell towers Symptoms vary with the distance from the cell tower Symptoms include insomnia, headache, heart palpitations, dizziness, poor concentration, and fatigue A study in Japan (Shinjo 2014) showed a decrease in symptoms when the

cell tower was removed There is also a well done study showing blood abnormalities in those living nearest to cell towers (Zothansiamia 2017) DNA and lipid abnormalities were seen along with reduction in internal antioxidants which provide protection from pollutants
Moreover, a recent study conducted over a 2 year period looked at effects of cell towers near two schools by Meo et al (2018) and clearly demonstrated cognitive dysfunction in students closest to the higher power cell tower

Firefighters Fighting Fires and Now Cell Towers

After noticing that many of the firefighters where developing neurologic symptoms when first responder cell towers were placed on the fire stations the International Association of Firefighters studied the matter and passed a resolution in 2004 asking that cell towers not be placed in proximity to fire stations In AB 537 (Quirk), signed into law by Gov Newsom on October 4, 2021, the firefighters achieved the first ever health/readiness exemption in the world

Every fire station in California is now exempt from having a 5G tower on their station. This movement began when cell towers were initially targeted for fire stations because of their location and the revenue received by the cities Many firefighters developed symptoms including headaches, fatigue, memory impairment and insomnia within a week of the installation of the towers An exemption was inserted in California bills on cell towers AB 57 (Quirk 2015) has an exemption on the grounds of health effects AB 537 (Quirk 2021) also has this exemption and reads, "Due to the unique duties and infrastructure requirements for the swift and effective deployment of firefighters, this section does not apply to a collocation or siting application for a wireless telecommunications facility where the project is proposed for placement on fire department facilities." SB 649 (Hueso, Quirk and Dodd 2018) also had a health exemption for firefighters and was vetoed by Governor Brown

500 Meter (1640 ft) Buffer from Cell Tower Recommended

Cell tower health studies that show impacts from cell towers with symptoms within about 1500 feet of the cell towers That is why Pearce et al (2019) recommended a "500 Meter buffer around schools, hospitals and homes "Limiting liability with positioning to minimize negative health effects of cellular phone towers."

Cancer and Cell Towers

3 Studies investigated the rates of cancer and cell towers looking at the distance from cell towers and the incidence of cancer They found the rate of cancer incidence increased significantly in those living within about 350 -400 meters (around 1000 feet) to the cell tower

Dodge 2011 performed a 10 year study (1996-2006) examining the distance from cell towers and cancer clusters He and his colleagues found a highly significant increase in cancers in those living within 500 meters of the cell tower They noted "The largest density power was 40 78 μW/cm2, and the smallest was 0 04 μW/cm2" The current guidelines are about 1000 μW/cm2 The authors conclude "Measured values stay below Brazilian Federal Law limits that are the same of ICNIRP The human exposure pattern guidelines are inadequate More restrictive limits must be adopted urgently "

Wolf and Wolf 2004 investigated the rates of cancer versus distance from cell towers in small towns in Israel He found the rate of cancer incidence was 129 cases per 10,000 persons per year in those living within 350 meters of a cell tower versus a rate of 16-31/10,000 in those living greater than 350 meters from the cell tower

Eger (2004) showed an increase in the development of new cancer cases within a 10 year period if residents lived within 400 meters of a cell tower Their results revealed that within 5 years of operation of a transmitting station the relative risk of cancer development tripled in residents near the cell towers compared to residents outside the area

Insurance Has an Exclusion for Radiofrequency Radiation as an Emerging Risk Insurance companies consider wireless radiation to be similar to asbestos in long term health impacts and do not provide coverage from harm for RF health effects The cities are left with that liability unless they can provide insurance

In a 2019 report, **New Emerging Risk Insights**, by Swiss RE Insurance Company, the second largest reinsurance company in the world, **5G is listed as an emerging concern** in the high risk category within 3 years Included in the high-risk trends are artificial intelligence and the existential threats of climate change "The top five emerging risks in our SONAR 2019 report are digital technology's clash with legacy hardware, potential threats from the spread of 5G mobile networks, increasingly limited fiscal and monetary flexibility by central banks, genetic testing's implications on life insurers, and the impact of climate change on the life and health sector." <https://www.swisssre.com/institute/research/sonar/sonar2019.html>

National Academy of Sciences Report on the Havana Syndrome and Harm from RFR

A recent report by the National Academy of Sciences concluded that the "sonic attacks" on diplomats in Cuba and China were most likely due to pulsed radiofrequency from directed energy weapons They had symptoms similar to those who live near cell towers (headache, nausea, insomnia, dizziness, memory loss, heart palpitations, depression) Dr Beatrice Golomb wrote the most extensive report to date on this subject linking these mystery "directed energy attacks" to pulsed microwaves similar to the wireless devices we use daily In the case of these high powered beams there was documented injury to brain networks found by the University of Pittsburgh physicians who studied the diplomats Dr Golomb highlights that **the strength of the health effects are related to the peak power not the average power. The pulse makes the poison.**

The EUROPAEM EMF Guideline 2016 for the prevention, diagnosis and treatment of EMF-related health problems and illnesses is a comprehensive guide written by many scientists and physicians in Europe who are part of the European Academy for Environmental Medicine (EUROPAEM) – EMF working group who have recognized and treated those with electrosensitivity for many years This is a thorough, well researched and well-referenced scientific paper that is based on the 2012 Austrian Medical Association **Guidelines for the Diagnosis and Treatment of EMF Illness** A questionnaire from their group is included in the attachments

New Hampshire 5G Commission Finds Radiofrequency Radiation Problematic

The first Commission formed in the United States to study the environmental and health effects of 5G technology released their comprehensive final report November 1, 2020 The Commission to Study the Environmental and Health Effects of Evolving 5G Technology was mandated by HB 522 passed by the state legislature in New Hampshire Their final report included 15 recommendations addressing the need for public education about wireless hazards, RF health studies, RF measurements, cell antenna setbacks, fiberoptic rather than wireless deployment, commercial warning signs and wildlife protection After hearing extensive testimony in a series of 13 meetings over the course of a year and reviewing an abundance of research, the Commission highlighted the lack of a single definition for 5G, **insufficient evidence of safety for 5th generation technology**, a concern that safety standards for wireless technologies have not been updated with the latest science and that 5G is largely a marketing concept They also expressed concern that the FCC has a long history of being accountable to industry over the desires of communities and individuals

FCC Told by DC Court to Reevaluate Safety Standards

On August 13, 2021 a joint lawsuit was won by petitioners against the Federal Communications Commission (FCC) for failure to protect human health and the environment by dismissing scientific evidence of harm from wireless radiation The Petitioners challenged the FCC's refusal to reevaluate and update their 24-year-old radiofrequency (RF) safety guidelines for existing and new telecommunications technologies The DC Circuit Court of Appeals ruled that the majority of the RF radiation standards established by the FCC did not use "reasoned decision-making" (they did not go by the science) and thus the standards were considered by the court to have been set in an "arbitrary and capricious" manner This was an extremely high bar for the Plaintiffs to reach The Circuit Court of Appeals rarely admonishes a federal agency or commission in this way The DC Circuit Court of Appeals returned this decision back to the FCC and ordered the FCC to re-examine its standards for wireless radiation exposure and provide a review of wireless harms that is compliant with the law for non-cancer harms

The Court Decision stated, "The National Environmental Policy Act ("NEPA") and its implementing regulations require federal agencies to "establish procedures to account for the environmental effects of [their] proposed actions" And "To fulfill its obligations under NEPA, the Commission has promulgated guidelines for human exposure to RF radiation The Commission last updated its limits for RF exposure in 1996 The ANSI and IEEE developed limits are designed to protect against "thermal effects" of exposure to RF radiation, but not "non-thermal" effects In March 2013, the Commission issued a notice of inquiry regarding the adequacy of its 1996 guidelines in response to changes in the ubiquity of wireless devices and in scientific standards and research since 1996 In December 2019, the Commission issued a final order resolving its 2013 notice of inquiry by declining to undertake any of the changes contemplated in the notice of inquiry Petitioners challenge the 2019 final order under NEPA and the Administrative Procedure Act ("APA")

5G: A Manufactured Need by Industry?

Reports indicate that the telecommunications industry has largely manufactured a "need" for expanding wireless technology in cities, while halting projects for safer fiberoptic broadband Note a 2020 European Parliament report, **5G: State of Play in Europe, USA and Asia. In Depth Analysis**, suggests 5G is a manufactured need "As 5G is driven by the telecoms supply industry, and its long tail of component manufacturers, a major campaign is under way to convince governments that the economy and jobs will be strongly stimulated by 5G deployment."

In my opinion, from all the research I have done, it appears the telecommunications industry has influenced laws to prevent health or environmental effects from being considered in the placement of cell towers (See FCC Captured Agency) They knew of the harm in early studies done by Dr George Carlo in the 1990's but suppressed the data so they could move forward That is well documented in Dr Carlo's book, "Cell phones: Invisible Hazards in The Wireless Age"

A blizzard of robust science has appeared now to show biological and health impacts of wireless technology, but it is still denied, and the basis for genuinely safe RF radiation guidelines is flawed An exponential growth in cell towers is now being played out with cities being left on their own to figure out how to regulate these towers locally Industry places a heavy hand and complex laws on local policy makers who must navigate these complex FCC policies to prevent legal action

Board of Health in Pittsfield Massachusetts Orders Verizon to Cease and Desist

For the first time in the U S a Board of Health has issued a cease and desist order to Verizon to remove or shut off a cell tower after 17 people in a neighborhood reported they became ill after the Verizon cell tower was turned on Courtney Gilardi and her 2 children as well as residents living near the cell tower, reported experiencing a constellation of symptoms including stabbing headaches, nausea, vomiting, dizziness, "buzzing in the head", and insomnia so severe her family had to move to the next town and into a house with no heat and no hot water to escape the sickness Other neighbors drove an hour away to sleep at a relative's house or slept in their cars away from the tower These are classic symptoms of electromagnetic illness experienced in firefighters and military personnel working on radar and well documented by NASA, the Air Force and other military agencies as well as the "Havana Syndrome" These symptoms were also seen in Japan after 2 cell towers were turned on and when the tower was removed the resident's symptoms largely resolved

Apple Stops 5G Phone MMW: Is This the Death of 5G Millimeter Wavelengths?

You are probably aware that Verizon and AT&T built special hotspots in many cities in the U S to house 5G high band millimeter wavelengths that were to revolutionize wireless with ultrafast speeds These small wavelengths the size of bees have been put into some community small cells which need to be about 1000 feet apart without obstruction to function properly Apple, who already has some 5G MMW phones, just announced that it is not building any millimeter wave spectrum antennas in its next generation SE iphones With 4G LTE low and mid band wavelengths they apparently do not need the millimeter 5G bandwidth The article notes, "It's not a surprise that Apple is dropping the spectrum from its phones It costs chip space and power for every additional

spectrum that is supported by a cellphone Cell manufacturers care more about long battery life than they do about a technology that never made it out of the downtowns of a few major cities ”

FCC Limits: A False Sense of Security

We are told by the FCC that wireless radiation and cell towers are safe within current safety guidelines, or that we do not really know if there is harm or that the research is inconclusive or that it is not ionizing (like x-rays) so it cannot hurt us. This is the same dismissive and doubt creating language used by the tobacco industry and a host of other chemical companies to protect their toxic products, thus profits. The research shows that we do know, beyond a doubt, that wireless radiation is harmful to all living systems below the current safety standards. The most obvious evidence is that more and more children and adults are reporting symptoms of electrosensitivity (EHS) in the presence of wireless radiation when they live in a home near a cell tower, or use a cell phone, or in schools where wireless devices and cell towers are increasing. Please use your authority and wisdom to keep this ordinance strong. Take more time if you need to in order for you to sort this out and be sure of your decision. Remember that you all live in Los Altos as well so you are protecting you, your families and the next generation as well.

Sincerely,
Cindy Russell, MD
Attached- Malibu Ordinances

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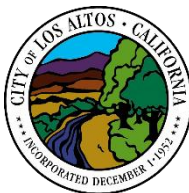
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Cindy Lee Russell, M.D.
Executive Director, Physicians for Safe Technology
WWW.MDSafeTech.org

Our vision is a world where technology serves our needs without undermining our physical, psychosocial or environmental health.

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Cindy Lee Russell, M.D.
Immediate Past President, Santa Clara County Medical Association
Executive Director, Physicians for Safe Technology
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AGENDA REPORT SUMMARY

Meeting Date: Month day, year

Subject Adopt Mid-Year 22 Budget update

Prepared by: John Furtado, Finance Director

Approved by: Gabriel Engeland, City Manager

Attachment(s):

1. Attachment 1 – Capital Projects Revised List FY 22-26Title
2. Attachment 2 – Revenue, Expenses, and Fund Balances Other Funds
3. Attachment 3 – General Fund Summary, Revenues, Expenditures, and Transfers Out.

Initiated by:

Staff

Previous Council Consideration:

June 2021

Fiscal Impact:

Budget revisions detail

Environmental Review:

Not applicable

Policy Question(s) for Council Consideration:

- Does the Council wish to adopt The Midyear Budget as presented, or with recommended changes?

Summary/ Background:

On June 1, 2021, the City Council approved the 2021-2023 Biennial Operating Budget, and as of December 31, 2021, six months of the 2021-23 budget cycle have been completed. Throughout the budget cycle, staff actively monitors actual revenues and expenditures and prepares a status update report to the Council at six-month intervals. These updates provide staff with opportunities to advise Council on major budget trends (revenue and expenditure) and propose changes where necessary to meet ongoing service demands or modifications related to economic or other factors.

Reviewed By:

City Manager

GE

City Attorney

JH

Finance Director

JE



Subject: Mid-Year 22 Budget update

This report provides an informational update to the City Council for the General Fund Operating Budget for Fiscal Year 2021-22, and outlines proposed budget adjustments for other funds.

Staff Recommendation:

Adopt the Mid-Year 2022 Budget amendments as presented

Discussion/Analysis

Every six months City Departments complete an in-depth review of their budgets in preparation for an update to the City Council. Departments evaluate their revenues and expenditures, as well as operational trends, and recommend necessary adjustments. In addition, each department evaluates service-level needs and identifies any adjustments necessary to respond to changes in the community’s demand for services or changes in Council policy or direction.

The Finance Department evaluates major non-departmental revenue sources (sales tax, property tax, real property transfer tax, business license tax, transient occupancy tax, etc.) to determine if any, mid-year adjustments are needed. Finance staff also evaluate any changes in compensation or cross-departmental expenses, such as medical costs or CalPERS rates, and recommend adjustments as needed.

On March 10th the newly formed Financial Commission subcommittee met with City staff and discussed the proposed changes, the subcommittee proposed some suggestions and changes that were incorporated in the analysis. Staff thereafter prepared the report and presented it to the Financial Commission at their March 21st, 2022, meeting. The commissioners discussed the report and voted unanimously to recommend that the city council approve the Mid-year budget as presented.

Summary of General Fund Budget for FY 2022

Table 1 outlines projected changes in resources available and their proposed uses in the General Fund for FY2021-2022. These resources are classified into 3 relevant areas as seen on the next page.



Subject: Mid-Year 22 Budget update

Table 1	
General Fund Summary (In millions)	
<i>Projected revenue increase</i>	Amount
Sales Tax	0.40
Property Tax	1.60
Documentary Transfer tax	0.15
Business License Tax	0.04
Recreation Revenue	0.13
Community Development Fees	-
<i>Total Revenue Increases</i>	2.32
<i>One time Items</i>	
Release of Notes Receivable	1.70
FY 21 Operating Surplus	1.21
Unemployment Fund Balance	0.45
<i>Total One Time Available Funds</i>	3.4
<i>Expenditure reductions</i>	
Rosita Park COP *	0.17
Community Center loan*	0.62
Anticipated Salary Savings	0.25
CIP Savings from Project review	0.28
<i>Total Expense reductions</i>	1.3
<i>Total Available</i>	7.0

*Funding will now come from the Park in Lieu Fund

Revenues

General Fund revenue is monitored in several categories, including general revenue and departmental revenue. General revenue includes City-wide revenues such as sales and property taxes. Departmental revenue represents monies generated by the activities of operating departments. For example, in Community & Economic Development, revenue is generated through the issuance of building permits and planning fees charged on a cost recovery basis.



Subject: Mid-Year 22 Budget update

- **General Revenue**

- **Sales Tax** – Sales tax revenues are anticipated to increase by approximately \$0.4 million, based on the most recent estimates by HDL the City’s consultant.
- **Property Tax** –Property tax revenue is estimated to increase by \$1.6 million also based on our property tax consultants HDL as well as staff projections on the unsecured roll and Educational Revenue Augmentation Funds (ERAF).
- **Documentary Transfer Tax** – This category has already exceeded the original budget and staff is anticipating a total increase of \$150K.
- **Business license tax** –Is anticipated to increase over budget by \$0.04K

- **Departmental Revenue**

Department revenues- Recreation revenue is expected to be higher by \$130,000 primarily due to the easing of COVID restrictions as well as the opening of the community center. While other departmental revenues are expected to be on target with the original budget.

Administrative Fees – The General Fund receives revenue amounting to \$918,500 related to staff costs incurred towards the Sewer and Solid waste Funds. Historically these have been treated as revenue for the general fund which is not an appropriate way to account for the funds. These should be treated as an offset to costs that are already incurred in the General Fund; therefore staff is proposing to remove this revenue from the general fund and reduce expenditure by the same amount.

One Time Items

- The close of the FY 2021 Financial year yielded a surplus of \$1.2 million
- The repayment of the housing loan granted to the prior City manager has freed up \$1.7 million
- The Fund balance available in the Unemployment Fund stands at \$546,000, while historically annual payments have not exceeded \$10,000 to \$20,000 staff is proposing that \$0.45 million of these funds be made available towards more urgent needs

In summary, the total of one time available funds is \$3.4 million that can be used towards balancing some of the cities one time needs which are shown in table 2, on the next page.



Subject: Mid-Year 22 Budget update

Table 2 outlines Funding needs for the proposed midyear budget and is forward-looking towards the Capital projects funding for FY 23.

TABLE 2	
Funding Needs (in millions)	
Fund Name	FY 22
General Liability	0.16
Workers Compensation	0.57
Dental Fund	0.10
Storm Drain Fund	0.02
Equipment Replacement	0.90
CIP for FY 23	6.05
Operating Reserve	1.00
CALPERS UAL Prepayments	
Total Funding Needs	8.80
Unfunded CIP for FY23	(2.09)

Expenditures

Staff has reviewed expenditures related to Personnel and Operations & Maintenance for FY22. Staff anticipates that we will have citywide salary savings of \$0.25 million by the end of the year due to vacancies.

During the council retreat, staff had sought direction if the Council would be willing to consider the use of Park in Lieu funds towards eligible expenses. The subcommittee and the Financial Commission agreed that this was a good idea and therefore the debt service payments for the Rosita Park and newly built community center are now moved out of the General Fund to the Park in Lieu fund for a General Fund expense reduction of \$0.87 million.

No changes in other appropriations are recommended.

Staff also reviewed the Capital projects list (**Attachment 1**), as based on the financial year-end we anticipated that we would be short by \$2 million to fund the FY 22 CIP. Staff was able to identify projects that could be removed, reduced, or find an alternative funding source. This exercise turned



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a negative \$2 million into a surplus CIP reserve of \$0.28 million in the General Fund as seen in Table 3.

Table 3		
CIP General Fund Summary (In Millions)		
	Original Budget Amount	Actual Budget Amount
Project Summary		
Estimated Prior Appropriated	6.41	7.88
Projected FY 2022 Expenditure	5.55	5.55
Cancelled / Reduced Projects	-	-
Total Revenue Increases	11.96	13.43
Funding Available		
CIP Reserves	11.48	11.48
Community Center Reserve	0.68	0.68
Total Funding Available	12.16	12.16
Projected Excess/ (Shortfall)	0.20	(1.26)
Mid Year Adjustments		
Cancelled / added Project Funding		1.55
Net Surplus / (Deficit in CIP Reserves GF)		0.28

Key changes were made to the following CIP projects

Community Chamber AV Equipment Project – The current project funding from the Peg fund is anticipated to be sufficient to complete the project therefore \$116,000 of General fund commitments are being released.

Asset Management System Project – The project is not anticipated to be undertaken in the near future therefore \$150,000 appropriated is released.

Emergency Operations Center Project (EOC)– The newly built community center was constructed to house an emergency operations center. The construction meets emergency service



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standards, including seismic standards, and was designed to operate independently from the grid in an emergency. Additionally, the community center EOC has operational capabilities that the proposed EOC would not contain. Taking this into account, staff has identified funds to complete the conversion of the standalone EOC project identified in the CIP to transition to the community center. This project conversation reduced costs by a minimum of \$1.5M, while also allowing for the purchase of multiple emergency generators which will eliminate this need for this expense in the Equipment Replacement Fund. The emergency generators currently owned by the City have all exceeded their expected operational life.

Annual Civic Facilities Improvement Project – Return to work for city employees is set to begin May 1st. Currently, almost 65% of City Hall staff share workspace or workstations with other employees, causing overcrowding at City Hall. Additionally, there is no permanent designated meeting space for the public or staff in City Hall. The few offices that are designated for only one staff member are often too small to be utilized for meeting space. Staff had identified the Los Altos Youth center (LAYC) as an ideal location to construct offices, allowing appropriate space for employees, and modern meeting space for the public and staff. To accommodate the first phase of this change, the CIP project has been increased by \$250,000.

Staff worked with the Subcommittee of the Financial Commission to review a list of unfunded expenses in the original budget and the following was proposed, which was subsequently accepted by the Financial Commission.

The **General Liability Fund** had a \$200,000 funding shortfall in the original budget. Rather than fund at the recommended 80% level in one year, the Subcommittee recommended funding at the 70% level this year, with an increase to the 80% level in the next Fiscal Year. We recommend moving \$160,000 from the General Fund to the General Liability Fund

The **Worker’s Compensation Fund** was underfunded in the original budget by \$500,000, the latest actuary report from Bickmore Actuarial projects a need of an additional \$366,000 therefore the requested transfer is \$566,000. \$450,000 will come from the Unemployment Fund and the balance \$126,000 will be moved from the General Fund

The **Dental Fund** has accumulated a negative fund balance of \$94,747 as of the close of FY 21 Audited financial statements. A transfer of \$100,000 is recommended from the General Fund to the Dental Fund.



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The **Storm Drain Fund** has accumulated a negative fund balance of \$23,939 as of the close of FY 21 Audited financial statements and is currently fully funded by the General Fund. A transfer of \$23,939 is recommended from the General Fund to the Storm Drain Fund.

The **Equipment Replacement Fund** is projected to have a negative fund balance of \$900,000 by the end of FY 23, during the Council retreat staff had presented immediate needs of \$3 million. Staff currently recommends moving \$900,000 from the General Fund to the Equipment Replacement Fund to cover the immediate, programmed shortfall. City staff will have to create and implement a Fleet and Equipment Replacement plan to address the remaining unfunded needs.

The Financial policies for the City recommend a 20% **Operating Reserve** for the General Fund, based on the current level of expenditure the amount needed to bring the reserve to 20% would be \$1.6 million. The operating reserve currently stands at 16.6%. The subcommittee discussed this in detail and recommended that we build the reserve back up over time, and no longer use the operating reserve to fund operations. The Subcommittee is recommending a transfer of \$1 million from the General Fund Unreserved fund balances be moved to the operating reserve, increase the balance to 18.5% this year, with the additional transfer in the coming fiscal year to return to 20%. Additionally, the subcommittee asked for information on if 20% is sufficient as an operating reserve.

The Subcommittee also reviewed the **Capital projects** list for FY 23, given that the needs were \$6.05 million the subcommittee decided to recommend the balance of available resources be reserved for the CIP, thus leaving approximately \$2 million of it unfunded at this time.

The Subcommittee also recommended that staff investigates the options of Setting up **Annual discretionary payments (ADP)** to CALPERS to reduce the unfunded liability, the committee felt that this needs to be reviewed at year-end if any surplus funds can be identified. The current recommendation is to fund an ADP at \$1 million in the next Fiscal Year, which will bring the unfunded total in the budget to \$3 million unfunded in the coming year.

The Financial Commission agreed with the above suggestions and recommended that the City council prioritize funding them first in case there is an additional surplus identified once the FY 22 books were closed.



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Changes to Other Funds

Staff recommends changes to Other Funds as highlighted below:

Other FY22 Changes – New Funds

- **Information Technology Fund** – The General Fund has a reserve balance of \$1,108,582 plus \$350,000 That the Council allocated from American Rescue Plan Act (ARPA) Funds towards the new Financial system, in the current process IT projects are identified as part of the CIP process and funds are moved to the CIP for use when incurred. Staff is proposing that in order to better manage and fund Technology needs in the future we create a separate Internal service fund to record and track all technology infrastructure needs and spending.
- **PERS and OPEB Stabilization Fund** – Council Approved the Prepayment of CALPERS Unfunded liability \$5 million (UAL) as well as \$1.5 million towards the OPEB CERBT Trust fund. Staff has completed those payments and is proposing that the Funds available in the General Fund reserve be moved to a newly created PERS and OPEB Stabilization fund from which the payment to CALPERS will be recorded. The rationale behind this is that we do have staff costs in the enterprise funds that need to contribute towards the UAL and CERBT payments, Staff determines based on the FY 21 audited financials and amount of \$254,612 and \$38,002 be moved from the sewer fund and the solid waste fund respectively towards their contribution of the payments, these monies shall remain in this fund until a future Discretionary payment is made to CAPERS
- **Outside Funding – Grants Fund** – The City undertakes several projects that are grant-funded such as Caltrans Grants or other one-time grants that are related to the CIP. Some of these grants are paid in advance while others are on a reimbursement basis (we do the work first and then submit it to get repaid). Past practice has been to book these receivables within the CIP fund where it lacks transparency and is difficult to identify. With several other funding sources, it is difficult to track causing several reimbursements to be delayed or not acted on. The new process will be transparent in terms of the receivables that can be reviewed within the new outside funding Fund.

Other funds (Attachment 2)

Attachment 2 provides a listing of all other funds in the City; no major changes have been made to these except for the below.



Subject: Mid-Year 22 Budget update

Vehicle Registration Fund- This fund had an opening fund balance of \$529,401 and received a further \$579,000 of pending funding from VTA. Eligible projects that were previously planned to be completed from the Traffic in Lieu fund have now been programmed to this fund \$550,000.

In Lieu Parkland Fund – The Eligible costs of servicing the annual Debt for the Rosita Park (\$167,400) and the community Center (\$622,090) have been programmed to this fund.

Conclusion

As of the Mid-Year budget update, revenue projections, including general revenue and department fees and charges, are trending higher than the original budget projections as adopted in May 2021, notwithstanding the proposed changes above. Overall, expenditures also appear to be on target with budget projections. It is expected that the FY22 operating budget will continue to be balanced, largely due to the stimulus funding received via ARPA, this funding has proved to be vital in helping the city navigate the FY 22 & 23 budget years by providing the much-needed bridge revenue as the economy opens and impacted revenues begin to recover. Other significant foreseeable challenge will be the rate of inflation, which is far exceeding our revenues and could cause unforeseen cost escalations across the board.

Any further surplus remaining at year-end can be considered for use to address the unfunded needs mentioned in this report.

CIP Fund

Project #	Project Name	Funding Source	Estimated Appropriated Per Budget	Estimated Appropriated Per Actual	Canceled / Add /Reduce	Council Allocations post Budget	2021/22 Budget	2022/23 Budget	2023/24 Budget	2024/25 Budget	2025/26 Budget	Total
CD-01009	Walter Singer Bust Relocation	CIP Fund	\$ 10,000	\$ 10,000	\$ (10,000)							\$ -
CD-01012	Annual Storm Drain Improvements	CIP Fund	12,492	12,492			950,000					962,492
CD-01017	First Street Streetscape Design -- Phase II	CIP Fund	261,243	261,243								261,243
CD-01018	Downtown Lighting Cabinet Replacement	CIP Fund	0	0				200,000				200,000
CD-01019	Public Works Electronic Document Management	CIP Fund	105,949	105,949								105,949
CD-01020	Climate Action Plan Implementation Program	CIP Fund	75,000	59,330						55,000		114,330
CD-01021	Community Chamber AV Equipment	CIP Fund	216,600	216,600	(116,600)		(100,000)					0
CD-01022	Asset Management System	CIP Fund	0	0	(150,000)		150,000					0
CF-01002	Los Altos Community Center Redevelopment	CIP Fund	970,509	970,509								970,509
CF-01003	Annual Civic Facilities Improvement	CIP Fund	0	0	250,000		750,000	1,200,000	1,200,000	1,200,000	1,200,000	5,800,000
CF-01010	Annual ADA Improvements (Facilities)	CIP Fund	317,000	316,883			75,000	75,000	75,000	75,000	75,000	691,883
CF-01011	City Hall Emergency Backup Power Generator	CIP Fund	0	0				150,000				150,000
CF-01013	MSC Fuel-Dispensing Station Overhead Canopy	CIP Fund	0	0					300,000			300,000
CF-01016	Waterline Backflow Preventers	CIP Fund	80,435	80,435								80,435
CF-01018	MSC Parking Lot Resurfacing	CIP Fund	0	0				1,300,000				1,300,000
TS-01001	Annual Street Resurfacing	CIP Fund	142,448	142,448			1,050,000	1,050,000	1,050,000	1,050,000	1,050,000	5,392,448
TS-01003	Annual Street Striping	CIP Fund	0	0			100,000	100,000	100,000	100,000	100,000	500,000
TS-01004	Annual Street Slurry Seal	CIP Fund	0	0			250,000	800,000	800,000	800,000	800,000	3,450,000
TS-01005	Annual Concrete Repair	CIP Fund	118,074	118,074			200,000	200,000	200,000	200,000	200,000	1,118,074
TS-01006	Annual Traffic Sign Replacement	CIP Fund	94,821	94,821			200,000					294,821
TS-01008	Annual ADA Improvements (Streets and Roadways)	CIP Fund	136,697	136,697			75,000	200,000	200,000	75,000	75,000	761,697
TS-01013	Annual Transportation Enhancements	CIP Fund	216,313	216,313			75,000	75,000	75,000	75,000	75,000	591,313
TS-01051	University Ave/Milverton Rd Sidewalk Gap Closure	CIP Fund	65,000	55,000				100,000				155,000
TS-01052	Annual Bicycle/Pedestrian Access Improvements	CIP Fund	336,506	313,712			350,000	350,000	350,000	350,000	350,000	2,063,712
TS-01055	Fremont Ave Pedestrian Bridge Rehabilitation	CIP Fund	193,234	155,118			260,000					415,118
TS-01056	Fremont Avenue Pavement Rehabilitation	CIP Fund	119,000	1,750,000								1,750,000
TS-01057	In-Road Light System Maintenance	CIP Fund	75,000				300,000					300,000
TS-01059	Diamond Court Reconstruction	CIP Fund	100,000	100,000								100,000
TS-01061	Foothill Expressway Widening from Homestead Rd to I-280	CIP Fund	0	0				250,000				250,000
CF-01021	Emergency Operations Center	CIP Fund	2,718,677	2,718,677	(1,518,677)		300,000					1,500,000
CD-01023	Housing Element Update	CIP Fund	42,139	42,139			565,000					607,139
CD01024	General Plan	CIP Fund	0	0					2,000,000			2,000,000
TOTAL		CIP Fund	\$ 6,407,137	\$ 7,876,439	(1,545,277)	\$ -	\$ 5,550,000	\$ 6,050,000	\$ 6,350,000	\$ 3,980,000	\$ 3,925,000	\$ 32,186,162
			Budget Error corrections	\$ 1,469,303						CIP Fund Surplus		\$ 280,630

CDBG

Project #	Project Name	Funding Source	Estimated Appropriated Per Budget	Estimated Appropriated Per Actual	Canceled / Add /Reduce	Council Allocations post Budget	2021/22 Budget	2022/23 Budget	2023/24 Budget	2024/25 Budget	2025/26 Budget	Total
TS-01058	Intersection Access Barrier Removal	CDBG	\$ 280,000	\$ (531,566)	\$ 531,566							\$ (0)
TOTAL		CDBG	\$ 280,000	\$ (531,566)	\$ 531,566	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (0)

Equipment Replacement Fund

Project #	Project Name	Funding Source	Estimated Appropriated Per Budget	Estimated Appropriated Per Actual	Canceled / Add /Reduce	Council Allocations post Budget	2021/22 Budget	2022/23 Budget	2023/24 Budget	2024/25 Budget	2025/26 Budget	Total
00923	Police Records Management & Dispatch System	Gen Fund	\$ 560,332	\$ 560,332								\$ 560,332
	Parks Division Utility Truck	Gen Fund					45,000					45,000
	Parks Division Van	Gen Fund					40,000					40,000
	Patrol Vehicle Automated License Plate Reader Replacement	Gen Fund					25,000					25,000
	Police Radio/Phone Recording Equipment	Gen Fund					60,000					60,000
	Patrol Vehicles (2)	Gen Fund					122,000					122,000
	Unmarked Police Vehicle	Gen Fund					42,500					42,500
	Traffic Division RIPA Collection Devices	Gen Fund					23,000					23,000
	Passenger Car (EV)	Gen Fund						37,000				37,000
	Patrol Vehicles (3)	Gen Fund						187,500				187,500
	Unmarked Police Vehicles (2)	Gen Fund						87,000				87,000
	Streets Division Bucket Truck	Gen Fund						65,000				65,000
TOTAL			\$ 560,332	\$ 560,332	\$ -	\$ -	\$ 357,500	\$ 376,500	\$ -	\$ -	\$ -	\$ 1,294,332

Gas Tax

Project #	Project Name	Funding Source	Estimated Appropriated Per Budget	Estimated Appropriated Per Actual	Canceled / Add /Reduce	Council Allocations post Budget	2021/22 Budget	2022/23 Budget	2023/24 Budget	2024/25 Budget	2025/26 Budget	Total
TS-01001	Annual Street Resurfacing	Gas Tax					\$ 350,000	\$ 350,000	\$ 350,000	\$ 350,000	\$ 350,000	\$ 1,750,000
TS-01003	Annual Street Striping	Gas Tax					100,000	100,000	100,000	100,000	100,000	500,000
TS-01004	Annual Street Slurry Seal	Gas Tax					800,000	250,000	250,000	250,000	250,000	1,800,000
TS-01009	Annual City Alley Resurfacing	Gas Tax					100,000	100,000	100,000	100,000	100,000	500,000
TOTAL			\$ -	\$ -	\$ -	\$ -	\$ 1,350,000	\$ 800,000	\$ 800,000	\$ 800,000	\$ 800,000	\$ 4,550,000

In-Lieu Parkland Fund

Project #	Project Name	Funding Source	Estimated Appropriated Per Budget	Estimated Appropriated Per Actual	Canceled / Add /Reduce	Council Allocations post Budget	2021/22 Budget	2022/23 Budget	2023/24 Budget	2024/25 Budget	2025/26 Budget	Total
CF-01009	Annual Pathway Rehabilitation	In L Park	\$ -	\$ -			\$ 50,000	\$ 250,000	\$ 250,000	\$ 250,000	\$ 250,000	\$ 1,050,000
CF-01017	Annual Park Improvement Project	In L Park	334,396	334,396			750,000	650,000	900,000	980,000	1,200,000	4,814,396
CF-01019	Veterans Community Plaza Shade Structure	In L Park	45,476	45,476								45,476
CF-01004	Halsey House rehabilitation	In L Park				290,480						290,480
	Dog Park Fencing Project	In L Park				100,000						100,000
CF-01023	Grant Park Master Plan	In L Park						150,000				150,000
CF-01024	City-wide Parks and Recreation Master Plan	In L Park								300,000		300,000
TOTAL			\$ 379,872	\$ 379,872	\$ -	\$ 390,480	\$ 800,000	\$ 1,050,000	\$ 1,150,000	\$ 1,530,000	\$ 1,450,000	\$ 6,750,352

Measure B Fund

Project #	Project Name	Funding Source	Estimated Appropriated Per Budget	Estimated Appropriated Per Actual	Canceled / Add /Reduce	Council Allocations post Budget	2021/22 Budget	2022/23 Budget	2023/24 Budget	2024/25 Budget	2025/26 Budget	Total
TS-01001	Annual Street Resurfacing	Measure B					\$ 550,000	\$ 550,000	\$ 550,000	\$ 550,000	\$ 550,000	\$ 2,750,000
TOTAL			\$ -	\$ -	\$ -	\$ -	\$ 550,000	\$ 550,000	\$ 550,000	\$ 550,000	\$ 550,000	\$ 2,750,000

OBAG

Project #	Project Name	Funding Source	Estimated Appropriated Per Budget	Estimated Appropriated Per Actual	Canceled / Add /Reduce	Council Allocations post Budget	2021/22 Budget	2022/23 Budget	2023/24 Budget	2024/25 Budget	2025/26 Budget	Total
TS-01056	Fremont Avenue Pavement Rehabilitation	Grant	\$ 2,064,864	\$ 336,000								\$ 336,000
TOTAL			\$ 2,064,864	\$ 336,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 336,000

PEG Fees

Project #	Project Name	Funding Source	Estimated Appropriated Per Budget	Estimated Appropriated Per Actual	Canceled / Add /Reduce	Council Allocations post Budget	2021/22 Budget	2022/23 Budget	2023/24 Budget	2024/25 Budget	2025/26 Budget	Total
CD-01021	Community Chamber AV Equipment	PEG		\$ 671,219			\$ 100,000					\$ 771,219
TOTAL		PEG	\$ -	\$ 671,219	\$ -	\$ -	\$ 100,000	\$ -	\$ -	\$ -	\$ -	\$ 771,219

Public Art Fund

Project #	Project Name	Funding Source	Estimated Appropriated Per Budget	Estimated Appropriated Per Actual	Canceled / Add /Reduce	Council Allocations post Budget	2021/22 Budget	2022/23 Budget	2023/24 Budget	2024/25 Budget	2025/26 Budget	Total
CD-01009	Walter Singer Bust Relocation	Public Art			\$ 10,000							\$ 10,000
CD-01003	Annual Public Arts Projects	Public Art					60,000	50,000	10,000	10,000	10,000	140,000
TOTAL			\$ -	\$ -	\$ 10,000	\$ -	\$ 60,000	\$ 50,000	\$ 10,000	\$ 10,000	\$ 10,000	\$ 150,000

REAP Grant

Project #	Project Name	Funding Source	Estimated Appropriated Per Budget	Estimated Appropriated Per Actual	Canceled / Add /Reduce	Council Allocations post Budget	2021/22 Budget	2022/23 Budget	2023/24 Budget	2024/25 Budget	2025/26 Budget	Total
CD-01023	Housing Element Update	Grant					\$ 35,000					\$ 35,000
TOTAL		Grant	\$ -	\$ -	\$ -	\$ -	\$ 35,000	\$ -	\$ -	\$ -	\$ -	\$ 35,000

Resident Contribution

Project #	Project Name	Funding Source	Estimated Appropriated Per Budget	Estimated Appropriated Per Actual	Canceled / Add /Reduce	Council Allocations post Budget	2021/22 Budget	2022/23 Budget	2023/24 Budget	2024/25 Budget	2025/26 Budget	Total
TS-01059	Diamond Court Reconstruction	R Cont	\$ 100,000	\$ 100,000								\$ 100,000
TOTAL			\$ 100,000	\$ 100,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 100,000

Road Maint and Acct Act

Project #	Project Name	Funding Source	Estimated Appropriated Per Budget	Estimated Appropriated Per Actual	Canceled / Add /Reduce	Council Allocations post Budget	2021/22 Budget	2022/23 Budget	2023/24 Budget	2024/25 Budget	2025/26 Budget	Total
TS-01001	Annual Street Resurfacing	RMNA					\$ 500,000	\$ 500,000	\$ 500,000	\$ 500,000	\$ 500,000	\$ 2,500,000
TOTAL			\$ -	\$ -	\$ -	\$ -	\$ 500,000	\$ 500,000	\$ 500,000	\$ 500,000	\$ 500,000	\$ 2,500,000

Sewer Fund

Project #	Project Name	Funding Source	Estimated Appropriated Per Budget	Estimated Appropriated Per Actual	Canceled / Add /Reduce	Council Allocations post Budget	2021/22 Budget	2022/23 Budget	2023/24 Budget	2024/25 Budget	2025/26 Budget	Total
WW-01001	Annual Sewer System Repair Program	Sewer	\$ 859,418	\$ 859,418			\$ 630,000	\$ 640,000	\$ 650,000	\$ 660,000	\$ 670,000	\$ 4,109,418
WW-01002	Annual Structural Reach Replacement	Sewer	1,117,369	1,117,369			800,000	800,000	800,000	800,000	800,000	5,117,369
WW-01005	Annual CIPP Corrosion Rehabilitation	Sewer	473,925	473,925			465,000	480,000	500,000	520,000	535,000	2,973,925
WW-01006	Annual Fats, Oils, Grease Program (FOG)	Sewer	66,566	66,566			66,000	68,000	70,000	72,000	74,000	416,566
WW-01008	Annual GIS Updates	Sewer	319,911	319,911			66,000	68,000	70,000	72,000	74,000	669,911
WW-01009	Sewer System Management Plan Update	Sewer	50,000	50,000			25,000				75,000	150,000
WW-01011	Sanitary Sewer Video Inspection	Sewer	467,997	467,997			430,000		440,000			1,337,997
WW-01012	Adobe Creek Sewer Main Replacement	Sewer	692,298	692,298				2,000,000		2,000,000		4,692,298
WW-01003	Annual Root Foaming	Sewer					200,000	200,000	200,000	200,000	200,000	1,000,000
TOTAL			\$ 4,047,484	\$ 4,047,484	\$ -	\$ -	\$ 2,682,000	\$ 4,256,000	\$ 2,730,000	\$ 4,324,000	\$ 2,428,000	\$ 20,467,484

Vehicle Registration Fund (VTA 80%)

Project #	Project Name	Funding Source	Estimated Appropriated Per Budget	Estimated Appropriated Per Actual	Canceled / Add /Reduce	Council Allocations post Budget	2021/22 Budget	2022/23 Budget	2023/24 Budget	2024/25 Budget	2025/26 Budget	Total
TS-01007	Annual Neighborhood Traffic Management	VRF			\$ 50,000							\$ 50,000
TS-01022	Annual Collector Street Traffic Calming	VRF			100,000							100,000
TS-01052	Annual Bicycle/Pedestrian Access Improvements	VRF			100,000							100,000
TS-01060	SR2S Improvement Projects	VRF			300,000							300,000
TOTAL			\$ -	\$ -	\$ 550,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 550,000

Prop 1B

Project #	Project Name	Funding Source	Estimated Appropriated Per Budget	Estimated Appropriated Per Actual	Canceled / Add /Reduce	Council Allocations post Budget	2021/22 Budget	2022/23 Budget	2023/24 Budget	2024/25 Budget	2025/26 Budget	Total
TS-01058	Intersection Access Barrier Removal	Prop 1 B			\$ 44,542							\$ 44,542
TOTAL			\$ -	\$ -	\$ 44,542		\$ -	\$ -	\$ -	\$ -	\$ -	\$ 44,542

Traffic Congestion Relief

Project #	Project Name	Funding Source	Estimated Appropriated Per Budget	Estimated Appropriated Per Actual	Canceled / Add /Reduce	Council Allocations post Budget	2021/22 Budget	2022/23 Budget	2023/24 Budget	2024/25 Budget	2025/26 Budget	Total
TS-01058	Intersection Access Barrier Removal	TCR			\$ 106,129							\$ 106,129
												\$ -
TOTAL			\$ -	\$ -	\$ 106,129	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 106,129

TDA Article III

Project #	Project Name	Funding Source	Estimated Appropriated Per Budget	Estimated Appropriated Per Actual	Canceled / Add /Reduce	Council Allocations post Budget	2021/22 Budget	2022/23 Budget	2023/24 Budget	2024/25 Budget	2025/26 Budget	Total
TS-01052	Annual Bicycle/Pedestrian Access Improvements	Grant					\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 250,000
TOTAL			\$ -	\$ -	\$ -	\$ -	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 250,000

Technology Fund

Project #	Project Name	Funding Source	Estimated Appropriated Per Budget	Estimated Appropriated Per Actual	Canceled / Add /Reduce	Council Allocations post Budget	2021/22 Budget	2022/23 Budget	2023/24 Budget	2024/25 Budget	2025/26 Budget	Total
CD-01008/	IT Initiatives	Gen Fund	\$ 214,160	\$ 214,160			\$ 180,000	\$ 350,000				\$ 744,160
CF-01022	City Hall and Maintenance Services Building Security Systems	Gen Fund					70,000					70,000
TOTAL			\$ 214,160	\$ 214,160	\$ -	\$ -	\$ 250,000	\$ 350,000	\$ -	\$ -	\$ -	\$ 814,160

Traffic Impact Fees

Project #	Project Name	Funding Source	Estimated Appropriated Per Budget	Estimated Appropriated Per Actual	Canceled / Add /Reduce	Council Allocations post Budget	2021/22 Budget	2022/23 Budget	2023/24 Budget	2024/25 Budget	2025/26 Budget	Total
TS-01007	Annual Neighborhood Traffic Management	TIF Fund	\$ 73,288	\$ 23,288	\$ (50,000)		\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 223,288
TS-01013	Annual Transportation Enhancements	TIF Fund										0
TS-01022	Annual Collector Street Traffic Calming	TIF Fund	24,700	24,700	(100,000)		100,000	100,000	100,000	100,000	100,000	424,700
TS-01052	Annual Bicycle/Pedestrian Access Improvements	TIF Fund			(100,000)		100,000	100,000	100,000	100,000	100,000	400,000
TS-01060	SR2S Improvement Projects	TIF Fund			(300,000)		300,000	200,000				200,000
TS-01058	Intersection Access Barrier Removal	TIF Fund			380,895							380,895
TOTAL			\$ 97,988	\$ 47,988	(169,105)	\$ -	\$ 550,000	\$ 450,000	\$ 250,000	\$ 250,000	\$ 250,000	\$ 1,628,883

GRAND TOTAL			\$ 14,151,836	\$ 13,701,927	\$ (472,145)	\$ 390,480	\$ 12,834,500	\$ 14,482,500	\$ 12,390,000	\$ 11,994,000	\$ 9,963,000	\$ 75,284,262
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Other Funds Projected Revenue, Expenses & Fund Balances

Fund Name	Fund Bal 6/21	FY 22 Revenue Projection	Transfers IN/ (Out)	Prior Approp.	FY 22 Operating Expenses	FY 22 CIP Expenses	Ending Fund Balances
Internal Service Funds							
Equipment Replacement	389,459		900,000	560,332		357,500	371,627
Technology Replacement			1,458,582	214,160		250,000	994,422
PERS & OPEB Stabilization	0		6,792,614		6,500,000		292,614
Dental/ Vision	(94,747)	269,595	100,000		269,959		4,889
Unemployment	546,698		(450,000)		15,000		81,698
Workers Compensation	1,568,308	291,003	576,000		791,003		1,644,308
General Liability	282,864	500,000	158,000		858,000		82,864
Sub Total	2,692,582	1,060,598	9,535,196	774,492	8,433,962	607,500	3,472,422
Special Revenue Funds							
Road Maint and Acct Act	273,040	609,599				500,000	382,639
CDBG	(531,566)		531,566				0
Grants ARPA							0
Downtown Parking	889,174	40,000	(40,000)				889,174
Estate Donations	18,138						18,138
Gas Tax	2,020,468	800,054				1,350,000	1,470,522
Prop 1B Road Maint.	44,542		(44,542)				0
Measure B	984,451	550,000				550,000	984,451
Sup. Law Enforcement	146,007		(100,000)				46,007
TDA Article III	0	50,000				50,000	0
Traffic Impact Fees	21,642	411,693	(380,895)	47,988			4,452
Vehicle Registration (VTA)	529,401	579,000				550,000	558,401
Traffic Congestion Relief	106,129		(106,129)				0
OBAG	0	336,000		336,000			0
In-Lieu Parkland	5,780,278	5,319,000	(789,490)	379,872		1,190,480	8,739,436
PEG Fees	740,037	105,000	(70,000)	671,219		100,000	3,818
Public Art	166,128				60,000	70,000	36,128
REAP Grant	0	35,000				35,000	0
Vehicle Impound		20,000	(20,000)				0
Resident Contribution	0	100,000					100,000
Sub Total	11,187,869	8,955,346	(1,019,490)	1,435,078	60,000	4,395,480	13,233,167
Enterprise Funds							
Sewer	9,928,022	8,420,000	(254,612)	4,047,484	5,233,270	2,682,000	6,130,656
Solid Waste	5,606,102	888,913	(38,002)		794,941		5,662,072
Storm Drain	(23,939)		23,939				
Sub Total	15,510,185	9,308,913	(268,675)	4,047,484	6,028,211	2,682,000	11,792,728
Debt Service							
General Debt Service	364,179		789,490	0	789,490	0	364,179
Sub Total	364,179	0	789,490	0	789,490	0	364,179
Grand Total	29,754,815	19,324,857	9,036,521	6,257,054	15,311,663	7,684,980	28,862,496

General Fund Summary

Revenues	FY 21 Actual	FY 22 Original Budget	FY 22 Year To Date Actuals	% Of Original Budget	FY 22 Revised Budget	Revised Budget Change	FY 22 Mid Year Budget	Mid Year Budget Change
Business License Tax	539,589	479,400	491,376	102.5%	479,400	-	520,000	40,600
Community Development Fees	3,846,830	3,791,300	2,711,554	71.5%	3,791,300	-	3,791,300	-
Documentary Transfer Tax	931,856	580,000	640,451	110.4%	580,000	-	730,000	150,000
Franchise Fees	2,214,947	2,317,500	1,097,712	47.4%	2,317,500	-	2,317,500	-
Motor Vehicle Tax	22,646	-	35,247	0.0%	-	-	-	-
Other Revenue	100,000	-	-	0.0%	-	-	-	-
Property Tax	28,464,194	28,713,170	19,433,104	67.7%	28,713,170	-	30,309,225	1,596,055
Sales Tax	2,996,325	3,053,000	1,381,950	45.3%	3,053,000	-	3,451,879	398,879
Transient Occupancy Tax	662,132	1,000,000	641,868	64.2%	1,000,000	-	1,000,000	-
Utility Users Tax	2,917,251	2,729,500	1,538,684	56.4%	2,729,500	-	2,729,500	-
Administrative Fees*	918,500	918,500	918,500	100.0%	918,500	-		(918,500)
Construction Tax	150,170	110,000	87,423	79.5%	110,000	-	110,000	-
Interest Income	136,671	335,000	3,201	1.0%	335,000	-	335,000	-
Miscellaneous Revenue	4,145,425	99,000	41,861	42.3%	99,000	-	99,000	-
One Time Revenue	-	3,598,964	-	0.0%	3,598,964	-	3,598,964	-
Police Fees	182,482	253,200	173,040	68.3%	253,200	-	253,200	-
Recreation	271,410	568,000	618,980	109.0%	568,000	-	698,000	130,000
Rental Income	8,228	24,000	-	0.0%	24,000	-	24,000	-
Transfer In	146,176	230,000	-	0.0%	230,000	-	230,000	-
Grand Total	48,654,832	48,800,534	29,814,949	61.1%	48,800,534	0.0%	50,197,568	1,397,034

* Administrative fees revenue moved to offset expenses in non-departmental (under Finance)

General Fund Summary

Expenditure	FY 21 Actual	FY 22 Original Budget	FY 22 Year To Date Actuals	% Of Original Budget	FY 22 Revised Budget	Revised Budget Change	FY 22 Mid Year Budget	Mid Year Budget Change
Executive	5,606,507	6,593,329	4,173,343	63.3%	6,823,329	230,000	6,823,329	-
Legislative	332,040	368,572	182,750	49.6%	473,572	105,000	473,572	-
Finance*	1,784,465	2,049,301	878,108	39.1%	2,049,301	-	1,130,801	(918,500)
Community Dev	3,557,649	4,278,005	2,007,345	46.9%	4,278,005	-	4,278,005	-
Engineering	3,165,378	3,847,984	1,789,644	46.5%	3,847,984	-	3,847,984	-
Maintenance	5,250,899	5,821,229	3,171,719	54.5%	5,972,959	151,730	6,034,458	61,499
Public Safety	19,389,800	21,662,657	10,859,581	50.1%	21,682,657	20,000	21,682,657	-
Recreation	1,782,020	2,471,738	1,210,299	49.0%	2,471,738	-	2,471,738	-
General Fund Operating Reserve							1,000,000	1,000,000
City Wide Salary Savings							(250,000)	(250,000)
Transfers out	8,693,434	1,707,719	6,500,000	385.2%	7,700,989	5,993,270	9,266,521	1,565,532
Grand Total	49,562,193	48,800,534	30,772,787	63.1%	55,300,534	6,500,000	56,759,065	1,458,531

* Administrative fees revenue moved to offset expenses in non-departmental (under Finance)

Details Of Transfers Out

Transfer Detail	FY 22 Original Budget	FY 22 Year To Date Actuals	FY 22 Revised Budget	Revised Budget Change	FY 22 Mid Year Budget	Mid Year Budget Change
Transfer to Debt Service COP 2004	167,400		167,400	-		(167,400)
Transfer to Debt Service Community Center	622,090		622,090	-		(622,090)
Transfer to ARPA Fund	918,229		61,499	(856,730)		(61,499)
Transfer for CAPERS UAL		5,000,000	5,000,000	5,000,000	5,000,000	-
Transfer for OPEB		1,500,000	1,500,000	1,500,000	1,500,000	-
Transfer to Technology Fund			350,000	350,000	1,458,582	1,108,582
Transfer to Dental Fund					100,000	100,000
Transfer to Workers Compensation Fund					126,000	126,000
Transfer to General Liability Fund					158,000	158,000
Transfer to Equipment Replacement fund					900,000	900,000
Transfer to Storm Drain Fund					23,939	23,939
Totals	1,707,719	6,500,000	7,700,989	5,993,270	9,266,521	1,565,532

From: [Jim Wing](#)
To: [Public Comment](#)
Subject: Public Comment Agenda Item 07 Meeting Date 04/12/2022
Date: Wednesday, April 6, 2022 9:09:40 AM

Council Mayor Enander and Distinguished Council Members,

Council 4/12/2022 Meeting Agenda Item 7, Mid-Year Budget Review

Please remove CD-01017 First Street Streetscape Design - Phase 2 from budget. This very old CIP project that is no longer needed because character of First Street from Main to San Antonio /Cuesta has changed from food service /retail / personal care / animal care to high density residential housing. Main purpose of original CIP was enhancing pedestrian / cyclists experience to encourage access to food service, retail / personal care and animal care. Now half are gone [32 to 16 with 11 in Draeger's block]! Staff has already requested design bids and that effort should be stopped to save precious engineering staff time.

Due to encouragement of Council and Staff, First Street from Main to San Antonio has seen many positive changes since CIP projected was approved with more to come:

- 475 First Office building developer added pedestrian enhanced streetscape at San Antonio entrance to First Street.
- Los Altos hardware relocated main entrance to allow wider sidewalks.
- All west side high density housing developments [4] are providing 50% landscaping in their building 10 ft. setback from street property line.
- Draeger's has Council approved plans for streetscape and removal of easement for parking trucks on First Street in their Phase 2 store remodel.
- All electrical and internet utilities are now underground.
- New housing developers providing sidewalk night lighting at resident's entrance and parking driveway.
- Pedestrian crossing bulb-outs provided by housing developers and Draeger's.

Based on what was learned during design and construction of Phase 1 First Street Streetscape Main to Edith, a successful Phase 2 Streetscape design has many difficult challenges:

- Los Altos right-away is very narrow and traffic travel lanes must accommodate very large trucks for access to Safeway and Draeger's. Lyell to San Antonio section must allow for VTA Bus.
- Eighteen driveway cuts are safety hazards for pedestrians and cyclist. It is not a pleasant experience to walk, always watching for cars crossing sidewalk.
- What little retail that is left, needs street parking and only way to plant trees is remove street parking.
- High density housing needs delivery van parking space that is not blocking travel lanes.
- Water and sewer lines need replacement due to age and capacity increase.
- Several man-months of staff time required to handle issues with property owners, public outreach, and Commission / Council support time during design approval.
- There may be "surprises" like underground Southern Pacific Railroad abandon fuel tanks under the street that require hazardous removal.

Thank you for your consideration!

Jim Wing, Milverton Road, Los Altos

From: [Andrea Chelemengos](#)
To: [Public Comment](#)
Date: Monday, April 11, 2022 1:52:27 PM

From: roylave@aol.com <roylave@aol.com>
Sent: Monday, April 11, 2022 1:28 PM
To: Anita Enander <aenander@losaltosca.gov>; sally.meadows.massey@gmail.com;
lleng@losaltosca.gov; nfligor@losaltosca.com; Jonathan Weinberg <jweinberg@losaltosca.gov>;
Gabriel Engeland <gengeland@losaltosca.gov>
Subject: Request for feasibility study funding

Honorable Mayor and Council Members

I write to support the funding request by the Theatre Task Force to contribute to the theatre feasibility study to determine the scale and feasibility of a new performance theatre to replace the Bus Barn.

A new theatre would be among the most important recreational facilities in the city. Rather than review the benefits of a theatre to the cultural life of the community as well as the educational value to both children and adults, which I assume you all know, I want to make the case for city financing.

For over 40 years the organization now known as Los Altos Stage Company (LASC), formerly the Bus Barn, and Los Altos Community Theatre (L'ACT), has provided successful live theatre. Operating from an unlikely and unsuitable metal building, it has provided professional level theatre using Bay Area actors. Additionally, LASC now operates the Youth Theatre for the city's recreation department. It has done this while paying its share of building costs with no cash subsidy unlike other organizations which provide city-like services for the city. Moreover, these contributions have been driven primarily by volunteer or near volunteer labor. The idea for the conversion of an empty school bus barn was driven by a volunteer who managed the original theatre as a volunteer or almost two decades.

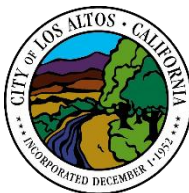
If we ignore the substantial benefits of a theatre and just recognize it as a beacon for volunteering, that alone would justify city support.

Finally, the funding requested is a minor share of that required for the study. Funds from private donors is providing the bulk of the funds. Moreover, the request is not competing for the operating budget as Park-In-Lieu funds are available and appropriate for this use.

The product, the shows, are amazing. Some of the scenes that have provided to the understanding of slices of community lives have remain in my memory for years. These experiences surpass the impact of professional theatre in large, impersonal theatres.

Moreover, LACT provides these experiences at affordable prices well below the three digits prices of Broadway-type theaters.

Your support will be greatly appreciated.
Roy Lave



AGENDA REPORT SUMMARY

Meeting Date: April 12, 2022

Subject City Council 2022 Strategic Priorities: Review the City’s 5-Year Strategic Goals and provide modifications as needed

Prepared by: Jon Maginot, Assistant City Manager

Approved by: Gabriel Engeland, City Manager

Attachment(s):

1. Agenda Report dated February 23, 2021: City Council 2021 Strategic Priorities

Initiated by:

City Council

Previous Council Consideration:

February 23, 2021

Fiscal Impact:

Unknown at this time

Environmental Review:

Not applicable

Policy Question(s) for Council Consideration:

- Does the Council wish to revise its 5-year strategic goals?

Summary:

- On February 23, 2021, the City Council adopted Resolution No. 2021-09 setting the City Council 5-Year Strategic Goals for 2021
- The City Council has adopted eight goal areas: Housing, Land Use, Fiscal Sustainability, Community Safety, Asset Management, Environmental Sustainability, Community Engagement, Transitioning Through Change

Staff Recommendation:

Review the City’s 5-Year Strategic Goals and provide modifications as needed

Reviewed By:

City Manager

GE

City Attorney

JH

Finance Director

JE



Subject: City Council 2022 Strategic Priorities

Purpose

To review the City’s 5-Year Strategic Goals

Background

As part of the City Council’s 2021 annual retreat, the City Council discussed what was of strategic importance to the City in 2021 and moving forward. At that time, the Council agreed that the planning horizon was three to five years. Council further discussed three-to-five-year goals for 2021 and potential one-to-two-year objectives for the goals.

On February 23, 2021, the City Council adopted Resolution No. 2021-09 setting the City Council 5-Year Strategic Goals for 2021. The five-year priorities were broken into eight goals, each with the intent of fulfilling the City’s Mission to “foster and maintain the City of Los Altos as a great place to live and to raise a family.”

Discussion/Analysis

The eight goals adopted by City Council in 2021 are:

1. **Housing:** The City of Los Altos will support the creation of housing that is safe, diverse, and affordable for all income levels to meet the needs of the Community and will advocate for State legislation and funding that support this goal.
2. **Land Use:** The City of Los Altos will implement policies that support a land use mix and density that reflect the values of the Community, which includes seeking to increase and protect its green space, while ensuring compliance with any applicable laws and regulations.
3. **Fiscal Sustainability:** The City of Los Altos will continue to be financial stewards of its resources and assets in order to provide fiscally sustainable government services that address the needs of the Community. This goal will be achieved by practicing sound, responsible, and transparent financial management principles and practices that are adaptable and flexible to meet the City’s financial needs in an ever-changing world.
4. **Community Safety:** The City of Los Altos will continue to provide the high-quality public safety services that the Community values. This will be achieved by continuing to implement plans and strategies for improving public safety, transportation safety and emergency preparedness services in a responsive, equitable, and professional manner.
5. **Asset Management:** The City of Los Altos will set clear expectations and allocate the necessary funding to support the maintenance and improvement of City facilities and infrastructure that are necessary to preserve the quality of services and well-being of residents.



Subject: City Council 2022 Strategic Priorities

-
6. **Environmental Sustainability:** The City of Los Altos will be a leader on environmental sustainability through education, and adopting and embracing policies, initiatives, and practices that advance this effort.
 7. **Community Engagement:** The City of Los Altos will continue to improve its community engagement process to ensure residents are heard, informed, and engaged. Completion of this priority will ensure that community engagement remains a foundation of how the City meets its responsibilities to the community on an on-going basis.
 8. **Transitioning Through Change:** The City Council will proactively address the impacts on the community from COVID-19 and other consequential changes in 2020 and 2021 to ensure Los Altos successfully navigates these transitions to be an even stronger, better community.

Many of these goals are engrained in the day-to-day activities of the City. Staff embraces these values in providing services to the community.

As the eight stated goals were intended to be five-year priorities, Council is asked to confirm whether these statements continue to be priorities and should be the focus of Council and the staff.

Recommendation

The staff recommends Council review the 5-Year Strategic Goals and update as necessary.



DISCUSSION ITEM
Agenda Item #9

AGENDA REPORT SUMMARY

Meeting Date: February 23, 2021
Subject: City Council 2021 Strategic Priorities
Prepared by: Brad Kilger, Interim City Manager
Prepared by: Jon Maginot, Deputy City Manager

Attachment(s):

1. Draft Resolution No. 2021-09
2. City Council Draft 5-year Strategic Goals for 2021 and FY 2021-23 Objectives
3. January 30, 2021 retreat meeting matrix
4. Community survey and public comments – These items can be found online at:
<https://www.losaltosca.gov/citycouncil/page/city-council-retreat>.

Initiated by:
City Council

Previous Council Consideration:
City Council Retreat, January 30, 2021

Fiscal Impact:
Unknown at this time

Environmental Review:
Not Applicable

Policy Question(s) for Council Consideration:

- Do the attached City Council Goal statements accurately reflect the Council’s goals in 2021 for the next three to five years?

Summary:

- Annually the Los Altos City Council adopts a list of Strategic Priorities to guide the Council’s budget decisions and allocation of City resources, including staffing
- The City Council met in a retreat format on January 30, 2021 to discuss their goals and objectives for the next strategic planning period (three to five years)
- At the conclusion of the retreat, the City Council agreed to a phased approval process for the Strategic Priorities
- After listening to the Council’s discussion at the retreat and reviewing the meeting notes, staff used their best professional judgement in developing a list of draft goals for Council consideration

Reviewed By:

City Manager

City Attorney

Finance Director

BK

JH

JM



Subject: City Council 2021 Strategic Goals

Staff Recommendation:

The City Council should review the attached draft Goals, amend as necessary and adopt Resolution No. 2021-09 setting the City Council 5-year Strategic Goals for 2021.



Subject: City Council 2021 Strategic Goals

Purpose

The City Council is asked to adopt its 5-year Strategic Goals for 2021.

Background/Discussion

The City Council conducted their annual strategic goal setting retreat on Saturday January 30, 2021. This process used the Council’s 2020 strategic goals and objectives as its starting point for assessing what is of strategic importance in 2021 and moving forward. The planning time horizon agreed to by the City Council was 3 to 5 years.

At the retreat, the Council first discussed their three-to-five-year strategic goals for 2021, and then discussed potential one-to-two-year objectives for those goals. The discussion by the Council at the retreat involved a visioning process and building consensus around shared interests, not taking formal votes. Therefore, as represented in the attached meeting matrix, the Council’s discussion resulted in a general scheme for staff to follow in developing the draft goals and objectives for the Council to review. It is therefore important to understand that staff did their best to listen to and interpret the sense of the Council in drafting the new goals and objectives. It is expected that the Council will thoroughly review the draft language and adopt final goals and objectives that reflect their priorities for Los Altos.

At the retreat, the City Council also agreed to a phased approach to adopting the new Strategic Priorities. The process involves the following: 1) returning to Council for the review and adoption of the 3 to 5-year goals; 2) following adoption of the goals, staff will finalize the FY 2021-22 Objectives and return to Council for review, approval and initial prioritization of those; 3) using the adopted Goals and Objectives, and in conjunction with development of the bi-annual budget, staff will prepare a two-year Implementation Plan that will incorporate estimated costs, staffing requirements, and other legal, regulatory and/or procedural factors effecting implementation of the objectives and return to Council for final prioritization; and 4) staff will then develop individual Workplans for each objective.

As stated above, please note that the draft objectives listed under each goal are for reference purposes only, not in-depth discussion. Staff will return at a subsequent Council meeting for review and adoption by the Council. Also, it is staff’s intent to return to Council quarterly with status reports on the progress being made on the FY 2021-23 Strategic Priorities Implementation Plan, unless otherwise directed by Council.

Recommendation

Staff recommends the City Council review, amend, and adopt the attached draft City Council 5-year Strategic Goals for 2021.

RESOLUTION NO. 2021-09**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
SETTING THE CITY COUNCIL 5-YEAR STRATEGIC GOALS FOR 2021**

WHEREAS, the Mission of the City of Los Altos is to foster and maintain the City of Los Altos as a great place to live and to raise a family; and

WHEREAS, the City Council of the City of Los Altos is committed to providing essential services to the community; and

WHEREAS, the City Council annually sets goals to help maintain Los Altos as the great place it is.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby adopts the following as its 5-year Strategic Goals for 2021:

1. **Housing:** The City of Los Altos will support the creation of housing that is safe, diverse, and affordable for all income levels to meet the needs of the Community and will advocate for State legislation and funding that support this goal.
2. **Land Use:** The City of Los Altos will implement policies that support a land use mix and density that reflect the values of the Community, which includes seeking to increase and protect its green space, while ensuring compliance with any applicable laws and regulations.
3. **Fiscal Sustainability:** The City of Los Altos will continue to be financial stewards of its resources and assets in order to provide fiscally sustainable government services that address the needs of the Community. This goal will be achieved by practicing sound, responsible, and transparent financial management principles and practices that are adaptable and flexible to meet the City's financial needs in an ever-changing world.
4. **Community Safety:** The City of Los Altos will continue to provide the high-quality public safety services that the Community values. This will be achieved by continuing to implement plans and strategies for improving public safety, transportation safety and emergency preparedness services in a responsive, equitable, and professional manner.
5. **Asset Management:** The City of Los Altos will set clear expectations and allocate the necessary funding to support the maintenance and improvement of City facilities and infrastructure that are necessary to preserve the quality of services and well-being of residents.
6. **Environmental Sustainability:** The City of Los Altos will be a leader on environmental sustainability through education, and adopting and embracing policies, initiatives, and practices that advance this effort.
7. **Community Engagement:** The City of Los Altos will continue to improve its community engagement process to ensure residents are heard, informed, and engaged. Completion of this priority will ensure that community engagement remains a foundation of how the City meets its responsibilities to the community on an on-going basis.

- 8. Transitioning Through Change:** The City Council will proactively address the impacts on the community from COVID-19 and other consequential changes in 2020 and 2021 to ensure Los Altos successfully navigates these transitions to be an even stronger, better community.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the ____ day of ____, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Neysa Fligor, MAYOR

Attest:

Andrea Chelemengos, MMC, CITY CLERK

LOS ALTOS CITY COUNCIL DRAFT 5-YEAR STRATEGIC GOALS AND FY 2021-23 OBJECTIVES

FEBRUARY 17, 2021

GOAL 1: HOUSING (as a standalone goal)

The City of Los Altos will support the creation of housing that is safe, diverse, and affordable for all income levels to meet the needs of the Community and will advocate for State legislation and funding that support this goal.

Draft Objectives below are for reference purposes only and are not in any particular order. The Council will discuss these draft objectives at a future meeting.

- Objective No. 1: Update the Housing Element in partnership with the Community through a constructive, collaborative, and efficient process, consistent with the housing needs identified in the final Regional Housing Needs Allocation (RHNA) and have the Housing Element Certified by the California Department of Housing and Community Development (HCD) within the required statutory deadlines.
- Objective No. 2: Collaborate and support the development of 330 Distel Circle for the purpose of developing a rental housing project with significant focus on supportive and very low/low-income housing.
- Objective No. 3: Collaborate with Alta Housing to establish a prequalification process focused on accessibility of housing opportunities for below market rate units.
- Objective No. 4: Implement linkage and impact fees.
- Objective No. 5: Develop policies and approaches to increase affordable units through public/private partnerships and other methods for all new projects in the CT zone.
- Objective No. 6: Support legislation to increase funding for affordable and workforce housing and associated infrastructure. Ensure cities retain flexibility for zoning and approval of housing based on the land-use needs of each community.

GOAL 2: LAND USE (as a standalone goal)

The City of Los Altos will implement policies that support a land use mix and density that reflect the values of the Community, which includes seeking to increase and protect its green space, while ensuring compliance with any applicable laws and regulations.

Draft Objectives below are for reference purposes only and are not in any particular order. The Council will discuss these draft objectives at a future meeting.

- Objective No. 1: Ensure zoning codes and other land use documents provide objective standards as required by State law while maintaining maximum City discretion.
- Objective No. 2: Reevaluate land use mix and density for each of the City's commercial districts and take into consideration elements such as economic vitality, neighborhood context, character, RHNA requirements, inclusionary zoning, and updated zoning codes/objective standards to achieve desired results.
- Objective No. 3: Proactively endeavor to increase and protect the City's park land with an emphasis on the acquisition and preservation of green space or open space.

- Objective No. 4: Update the Housing Element consistent with the housing needs identified in the final Regional Housing Needs Allocation (RHNA) and have the Housing Element Certified by the California Department of Housing and Community Development (HCD) within the required statutory deadlines.

GOAL 3: FISCAL SUSTAINABILITY

The City of Los Altos will continue to be financial stewards of its resources and assets in order to provide fiscally sustainable government services that address the needs of the Community. This goal will be achieved by practicing sound, responsible, and transparent financial management principles and practices that are adaptable and flexible to meet the City’s financial needs in an ever-changing world.

Draft Objectives below are for reference purposes only and are not in any particular order. The Council will discuss these draft objectives at a future meeting.

- Objective No. 1: Closely monitor the economic recovery and financial impacts associated with the ongoing COVID-19 pandemic and update the City Council and the community on a timely basis.
- Objective No. 2: Seek federal and state grant funding available through FEMA, CARES and others for the City resources expended in response to COVID-19.
- Objective No. 3: Evaluate the staffing and resource needs of the Finance Division.
- Objective No. 4: Through the biennial budget development process, continue to control and/or reduce costs to achieve a fiscally sustainable budget, while maintaining adequate fund balance reserves.
- Objective No. 5: Annually evaluate the City’s existing user fee schedules to ensure reasonable costs of providing services are appropriately assessed.
- Objective No. 6: Develop and implement plans to ensure effective and sustainable maintenance of City utilities, transportation infrastructure, buildings, and properties.
- Objective No. 7: Maintain sound financial practices in accordance with all Federal, State, and local laws and direct its financial resources towards meeting the City’s long-term goals.
- Objective No. 8: Proactively pursue ways to make financial information publicly available, accessible, and easy to understand to the community.
- Objective No. 9: Proactively identify and monitor long-term financial liabilities, including unfunded pension obligations, and take actions to manage these commitments that prioritize the City’s long-term financial sustainability.
- Objective No. 10: Reports on the City’s fiscal status will be provided to the City Council and Finance Commission on a timely basis.
- Objective No. 11 - Review the recommendations of the Council’s Ad-Hoc Subcommittee on Financial Practices for policy and procedural changes that are desired by the City Council.

Goal 4: Community Safety

The City of Los Altos will continue to provide the high-quality public safety services that the Community values. This will be achieved by continuing to implement plans and strategies for improving public safety, transportation safety and emergency preparedness services in a responsive, equitable, and professional manner.

Draft Objectives below are for reference purposes only and are not in any particular order. The Council will discuss these draft objectives at a future meeting.

- Objective No. 1 – Strengthen Code enforcement to support proactive engagement and to provide enforcement trending data that council can use to direct proactive revision of city ordinances.
- Objective No. 2 – Create safe multi-modal transportation solutions that align Community needs with city priorities.
- Objective No. 3–Assess long-term cumulative impacts from public and private development projects and regional traffic through established environmental review processes (CEQA), including the newly required Vehicle Miles Traveled (VMT) analysis, and the traffic impact fee (TIF) program.
- Objective No. 4 –Enhance Traffic and Pedestrian Safety Through Engineering, Education and Enforcement. Staff will work with the Complete Streets Commission to implement this objective.
- Objective No. 5 – Achieve an overall PCI (Pavement Condition Index) of 75 by 2026 by maintaining an annual resurfacing budget of \$3.5M
- Objective No. 6 – Evaluate Traffic Impact Fees

Goal 5: Asset Management

The City of Los Altos will set clear expectations and allocate the necessary funding to support the maintenance and improvement of City facilities and infrastructure that are necessary to preserve the quality of services and well-being of residents.

Draft Objectives below are for reference purposes only and are not in any particular order. The Council will discuss these draft objectives at a future meeting.

- Objective No. 1: Complete construction and open the Los Altos Community Center.
- Objective No. 2: Award a construction contract to build a new Emergency Operations Center.
- Objective No. 3: Develop a Needs Assessment & Options Analysis Plan for improving the police and fire stations, including but not limited to options for constructing new facilities versus renovation and increased maintenance measures on existing facilities.
- Objective No. 4: Make a policy decision on the future of the Halsey House.
- Objective No. 5: Make a policy decision on the disposition of Grant Park Improvements.
- Objective No. 6: Make a policy decision on the future of 999 Fremont Ave.
- Objective No. 7: Approve an update to the 5-year budget for the Civic Facilities-Buildings CIP (CF-01003).

Goal 6: Environmental Sustainability

The City of Los Altos will be a leader on environmental sustainability through education, and adopting and embracing policies, initiatives, and practices that advance this effort.

Draft Objectives below are for reference purposes only and are not in any particular order. The Council will discuss these draft objectives at a future meeting.

- Objective No. 1: Update the Climate Action Plan to include a menu of goals and objectives that establish and carry forward the City’s climate policy.
- Objective No. 2: Explore public/private partnerships (PPP) with clear roles and expectations to help educate the community on important environmental issues such as reach codes and the Climate Action plan.
- Objective No. 3: Create a water conservation strategy and implementation plan after the completion of the Climate Action Plan.

Goal 7: Community Engagement

The City of Los Altos will continue to improve its community engagement process to ensure residents are heard, informed, and engaged. Completion of this priority will ensure that community engagement remains a foundation of how the City meets its responsibilities to the community on an on-going basis.

Draft Objectives below are for reference purposes only and are not in any particular order. The Council will discuss these draft objectives at a future meeting.

- Objective No. 1: Continue to improve our community engagement tools and platforms.
- Objective No. 2: Continue to standardize our community engagement processes.
- Objective No. 3: Provide the community with relevant multiple engagement opportunities.
- Objective No. 4: Communicate with the community in an efficient, transparent manner.

GOAL 8: TRANSITIONING THROUGH CHANGE

The City Council will proactively address the impacts on the community from COVID-19 and other consequential changes in 2020 and 2021 to ensure Los Altos successfully navigates these transitions to be an even stronger, better community.

Draft Objectives below are for reference purposes only and are not in any particular order. The Council will discuss these draft objectives at a future meeting.

- Objective No. 1: Support efforts to keep the Community and City staff safe, including supporting County efforts on vaccine rollout, community communication, mask wearing, and other public health measures.
- Objective No. 2: Evaluate and support/implement adopted policies and guidance documents that support economic recovery across the City. This includes evaluating and implementing, as appropriate, improvements that will increase the number of parking stalls available for public use and the recommendations of the Downtown Buildings Committee that will support the economic recovery of businesses, property owners, and residents.
- Objective No. 3: Develop an Economic Recovery Plan with the assistance of community stakeholders that assists and supports the recovery of local businesses, citywide.
- Objective No. 4: Seek out grants that will assist the economic recovery of businesses, property owners, and residents.
- Objective No. 5: Starting in 2022, support the establishment or formation of an independent citizens working group with interest in establishing a theater in Downtown Los Altos.
- Objective No. 6: Review the measures put in place as a result of the work of the Public Safety Taskforce. Debrief what is working, what is not, and if any other best practices

should be initiated in building on the taskforce, while at the same time considering staff capacity to undertake new initiatives in 2021.

- Objective No. 7: Complete recruitment of the City’s next City Manager
- Objective No. 8: Review the City Council’s code of conduct/norms and ethics and reevaluate Council’s relationship with Commissions, including the appropriateness of Council commission liaisons.

COMBINED GOAL 1/2: HOUSING & LAND USE:

The City of Los Altos is committed to land use policies and regulations to support housing for all income levels in the City and a built environment that reflects envisioned outcomes.

Housing Objectives –

- Objective No. 1: Update the Housing Element in partnership with the Community through a constructive, collaborative, and efficient process, consistent with the housing needs identified in the final Regional Housing Needs Allocation (RHNA) and have the Housing Element Certified by the California Department of Housing and Community Development (HCD) within the required statutory deadlines.
- Objective No. 2: Collaborate and support the development of 330 Distel Circle for the purpose of developing a rental housing project with significant focus on supportive and very low/low-income housing.
- Objective No. 3: Collaborate with Alta Housing to establish a prequalification process focused on accessibility of housing opportunities for below market rate units.
- Objective No. 4: Implement linkage and impact fees.
- Objective No. 5: Develop policies and approaches to increase affordable units through public/private partnerships and other methods for all new projects in the CT zone.
- Objective No. 6: Support legislation to increase funding for affordable and workforce housing and associated infrastructure. Ensure cities retain flexibility for zoning and approval of housing based on the land-use needs of each community.

Land Use Objectives -

- Objective No. 1: Ensure zoning codes and other land use documents provide objective standards as required by State law while maintaining maximum City discretion.
- Objective No. 2: Reevaluate land use mix and density for each of the City’s commercial districts and take into consideration elements such as economic vitality, neighborhood context, character, RHNA requirements, inclusionary zoning, and updated zoning codes/objective standards to achieve desired results.
- Objective No. 3: Proactively endeavor to increase and protect the City’s park land with an emphasis on the acquisition and preservation of green space or open space.
- Objective No. 4: Update the Housing Element consistent with the housing needs identified in the final Regional Housing Needs Allocation (RHNA) and have the Housing Element Certified by the California Department of Housing and Community Development (HCD) within the required statutory deadlines.

DRAFT 2021 Goals and Objectives Comparison Matrix for Staff Report

2020 Adopted Goal & Objectives	2021 Proposed Goal & Draft Objectives for Reference Only	Council Key Interests re Goals and Objectives as Expressed during Retreat
<p>Goal: Housing Develop affordable housing policies that will enable the City to achieve its RHNA requirements and provide housing to support our community needs</p> <p>Objectives:</p> <ol style="list-style-type: none"> 1. Collaborate and Support the acquisition (change to development; SM) of 330 Distel Circle 2. Prequalification process for BMR's 3. Increase ADU's – Move below the water line 4. Implement Linkage and Impact Fees 5. Develop PPP methods to increase affordable units in CT zone 	<p>Goal: Housing The City of Los Altos will support the creation of housing that is safe, diverse, and affordable for all income levels to meet the needs of the Community and will advocate for State legislation and funding that support this goal.</p> <p>Draft Objectives below are for reference purposes only and are not in any particular order. The Council will discuss these draft objectives at a future meeting.</p> <p>Objective No. 1: Update the Housing Element in partnership with the Community in a constructive, collaborative and efficient process, consistent with the housing needs identified in the final Regional Housing Needs Allocation (RHNA) and have the Housing Element Certified by the California Department of Housing and Community Development (HCD) within the required statutory deadlines.</p> <p>Objective No. 2: Collaborate and support the development of 330 Distel Circle for the purpose of developing a rental housing project with significant focus on supportive and very low/low-income housing.</p>	<p>Continue this goal into 2021</p> <p>Broaden the goal statement to convey that housing is a policy issue whose purpose is to meet the needs of the community through an approved housing element and the RHNA process through a constructive, collaborative and efficient process.</p> <p>Consider combining Housing with the Land Use goal (see draft combined goal)</p> <p>Look holistically at land use and housing</p> <p>Continue objectives 1,2,4 & 5 from 2020. For Distel replace “the acquisition” with “the development”</p> <p>Obj 3, ADU's is now “below the waterline” Add an objective for the Housing Element/RHNA process and keep it on track</p> <p>Add an objective re Legislative Advocacy- VM Enander will provide language for Council consideration.</p>

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2020 Adopted Goal & Objectives	2021 Proposed Goal & Draft Objectives for Reference Only	Council Key Interests re Goals and Objectives as Expressed during Retreat
	<p>Objective No. 3: Collaborate with Alta Housing to establish a prequalification process focused on accessibility of housing opportunities for below market rate units.</p> <p>Objective No. 4: Implement linkage and impact fees.</p> <p>Objective No. 5: Develop policies and approaches to increase affordable units through public/private partnerships and other methods for all new projects in the CT zone.</p> <p>Objective No. 6: Support legislation to increase funding for affordable housing and workforce housing and associated infrastructure. Ensure cities retain flexibility for zoning and approval of housing based on the land use needs of each community.</p>	

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2020 Adopted Goal & Objectives	2021 Proposed Goal & Draft Objectives for Reference Only	Council Key Interests re Goals and Objectives as Expressed during Retreat
<p>Goal: Land Use</p> <p>The City of Los Altos will continually update land use planning documents (General Plans, Specific Plans, Zoning codes) to comply with State law and reflect the values of our community.</p> <p>Objectives:</p> <ol style="list-style-type: none"> 1. Develop objective standards. 2. Reevaluate land-use mix. 3. Increase and protect park land. 	<p>Goal: Land Use</p> <p>The City of Los Altos will implement policies that support a land use mix and density that reflect the values of the Community, which includes seeking to increase and protect its green space, while ensuring compliance with any applicable laws and regulations.</p> <p>Draft Objectives below are for reference purposes only and are not in any particular order. The Council will discuss these draft objectives at a future meeting.</p> <p>Objective No. 1: Ensure zoning codes and other land use documents provide objective standards as required by State law while maintaining maximum City discretion.</p> <p>Objective No. 2: Reevaluate land use mix and density for each of the City’s commercial districts and take into consideration elements such as economic vitality, neighborhood context, character, RHNA requirements, inclusionary zoning, and updated zoning codes/objective standards to achieve desired results.</p> <p>Objective No. 3: Proactively endeavor to increase and protect the City’s park land with an emphasis on the</p>	<ul style="list-style-type: none"> • Continue this goal into 2021 • Broaden the goal statement so it does not have a focus on documents. • Continue the 3 2020 objectives into 2021 and refine the objectives to be more in context with current planning work • Add an objective about the 2021 the Housing Element process for this goal, whether or not is combined with Housing (in addition to re-evaluating land use mix). • Incorporate “green space” into 2020 objective #3, “Increase and protect park land”. Convey the City’s interest in proactively protecting and increasing parkland and greenspace as well as seeking opportunities to do so (this objective is a “both and”). • Look holistically at land use and housing as land use and housing go hand in hand. • Acknowledge the importance of Affordable Housing, the Housing Element and/or RHNA process to this goal area.

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2020 Adopted Goal & Objectives	2021 Proposed Goal & Draft Objectives for Reference Only	Council Key Interests re Goals and Objectives as Expressed during Retreat
	<p>acquisition and preservation of green space or open space.</p> <p>Objective No. 4: Update the Housing Element consistent with the housing needs identified in the final Regional Housing Needs Allocation (RHNA) and have the Housing Element Certified by the California Department of Housing and Community Development (HCD) within the required statutory deadlines.</p>	<ul style="list-style-type: none"> • Land use and Housing may have independent objectives, however there may be overlapping objectives for Land Use and Housing which may be the more immediate priorities for this year and next. • Consider combining this goal with the Housing goal which could make sense for the next year or two, given the overlap between the two goals (e.g., the Housing Element update, RHNA process, objective standards, protecting and increasing parkland and green space). Provide Council with what combining the goals would look like.

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<p>Goal: Downtown Vision</p> <p>The City of Los Altos will identify and implement specific projects to advance conceptual elements of the Downtown Vision.</p> <p>Objectives:</p> <ol style="list-style-type: none"> 1. Increase public parking stalls with “low hanging fruit” 2. Consider a theatre plan if proposed by a citizen’s group 3. Downtown Building Committee (DBC) recommendations 	<p>Downtown Vision</p> <p>Drop for 2021</p>	<ul style="list-style-type: none"> • This goal as written is an important policy issue, however at the present time it is not a strategic goal. It can be reconsidered at another time. • The urgent and important focus for 2021 and the near-term future is the health, safety and economic recovery of the businesses, property owners, and residents of the community. Delete goal and incorporate the relevant objectives that could support this effort (e.g., from DBC recommendations; Downtown Vision Plan) as obj under goal “Transition Through Change”. • Staff bandwidth is a concern, including commissions committing staff resources on low priority issues. • Identify rezoning opportunities where the City can become more creative to get more businesses in commercial districts. • Theater to 2022 Parking Lot- Support the creation of a Citizen’s Group to explore possibility of developing a Los Altos Theater. The citizen’s group would fund and support this process.

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2020 Adopted Goal & Objectives	2021 Proposed Goal & Draft Objectives for Reference Only	Council Key Interests re Goals and Objectives as Expressed during Retreat
<p>Goal: Asset Management The City of Los Altos will set priorities and allocate financial resources to maintain and/or improve City facilities and infrastructure.</p> <p>Objectives:</p> <ol style="list-style-type: none"> 1. Review financial capacity 2. Community Center 3. Council Chambers 4. New EOC 5. Police and Fire Stations - 6. Main Library 7. Roadways – achieve overall PCI of 75 by 2026 	<p>Goal: Asset Management The City of Los Altos will set clear expectations and allocate the necessary funding to support the maintenance and improvement of City facilities and infrastructure that are necessary to preserve the quality of services and well-being of residents.</p> <p>Draft Objectives below are for reference purposes only and are not in any particular order. The Council will discuss these draft objectives at a future meeting.</p> <p>Objective No. 1: Complete construction and open the Los Altos Community Center.</p> <p>Objective No. 2: Award a construction contract to build a new Emergency Operations Center.</p> <p>Objective No. 3: Develop a Needs Assessment & Options Analysis Plan for improving the police and fire stations, including but not limited to options for constructing new facilities versus renovation and increased maintenance measures on existing facilities.</p> <p>Objective No. 4: Make a policy decision on the future of the Halsey House.</p>	<ul style="list-style-type: none"> • Continue goal in 2021 • Create a separate goal for Financial Capacity- rename • Drop Council Chambers- project complete and now below the water line • Table Main Library until JPA is ready to bring forward • Move PCI to Roadway Safety • Add Halsey House, Grant Park Improvements and 999 Fremont Ave for council to make policy decisions on the disposition of each.

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2020 Adopted Goal & Objectives	2021 Proposed Goal & Draft Objectives for Reference Only	Council Key Interests re Goals and Objectives as Expressed during Retreat
	<p>Objective No. 5: Make a policy decision on the disposition of Grant Park Improvements.</p> <p>Objective No. 6: Make a policy decision on the future of 999 Fremont Ave.</p> <p>Objective No. 7: Approve an update to the 5-year budget for the Civic Facilities-Buildings CIP (CF-01003).</p>	

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2020 Adopted Goal & Objectives	2021 Proposed Goal & Draft Objectives for Reference Only	Council Key Interests re Goals and Objectives as Expressed during Retreat
<p>Goal: FISCAL SUSTAINABILITY N/A</p> <p>Objectives (from Asset Management 2020):</p> <p>1. Financial Capacity: Review the City’s financial capacity for new construction, renovation and maintenance of City facilities and infrastructure, including consideration of various funding options.</p>	<p>Goal: FISCAL SUSTAINABILITY</p> <p>The City of Los Altos will continue to be financial stewards of its resources and assets in order to provide fiscally sustainable government services that address the needs of the Community. This goal will be achieved by practicing sound, responsible, and transparent financial management principles and practices that are adaptable and flexible to meet the City’s financial needs in an ever-changing world.</p> <p>Draft Objectives below are for reference purposes only and are not in any particular order. The Council will discuss these draft objectives at a future meeting.</p> <p>Objective No. 1: Closely monitor the economic recovery and financial impacts associated with the ongoing COVID-19 pandemic and update the City Council and the community on a timely basis.</p> <p>Objective No. 2: Seek federal and state grant funding available through FEMA, CARES and others for the City resources expended in response to COVID-19.</p> <p>Objective No. 3: Evaluate the staffing and resource needs of the Finance Division.</p>	<ul style="list-style-type: none"> • This new goal was previously an objective under Asset Management for 2020. Council separated and established as a new goal for 2021. • Recast the description of the 2020 objective into a goal statement. • Acknowledge that financial staff needs rebuilding • Balance fiduciary responsibility with staff work • Consider recommendations of Council Ad-Hoc Committee on City Finances • Review and understand the totality of the City’s finances, policies, and practices (e.g., reserves, investment policy, authorization thresholds, contracting practices). • Commit to transparency in all fiscal matters.

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	<p>Objective No. 4: Through the biennial budget development process, continue to control and/or reduce costs to achieve a fiscally sustainable budget, while maintaining adequate fund balance reserves.</p> <p>Objective No. 5: Annually evaluate the City’s existing user fee schedules to ensure reasonable costs of providing services are appropriately assessed.</p> <p>Objective No. 6: Develop and implement plans to ensure effective and sustainable maintenance of City utilities, transportation infrastructure, buildings, and properties.</p> <p>Objective No. 7: Maintain sound financial practices in accordance with all Federal, State, and local laws and direct its financial resources towards meeting the City’s long-term goals.</p> <p>Objective No. 8: Proactively pursue ways to make financial information publicly available, accessible, and easy to understand to the community.</p> <p>Objective No. 9: Proactively identify and monitor long-term financial liabilities, including unfunded pension obligations, and take actions to manage these</p>	

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2020 Adopted Goal & Objectives	2021 Proposed Goal & Draft Objectives for Reference Only	Council Key Interests re Goals and Objectives as Expressed during Retreat
	<p>commitments that prioritize the City’s long-term financial sustainability.</p> <p>Objective No. 10: Reports on the City’s fiscal status will be provided to the City Council and Finance Commission on a timely basis.</p> <p>Objective No. 11 - Review the recommendations of the Council’s Ad-Hoc Subcommittee on Financial Practices for policy and procedural changes that are desired by the City Council.</p>	

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2020 Adopted Goal & Objectives	2021 Proposed Goal & Draft Objectives for Reference Only	Council Key Interests re Goals and Objectives as Expressed during Retreat
<p>Goal: Public Safety The City of Los Altos will continually improve service and safety experiences and perceptions for residents and visitors.</p> <p>Objectives:</p> <ol style="list-style-type: none"> 1. Proactively create and expand emergency preparedness programs 2. Align crime prevention programs with the BATs to get 100% coverage 3. Strengthen code enforcement to support proactively enforcement <p>Goal: Roadway Safety The City of Los Altos will continually improve traffic/pedestrian/bicycle safety throughout the City with a specific focus on increasing safety on suggested routes to school.</p>	<p>Goal: Community Safety The City of Los Altos will continue to provide the high-quality public safety services that the Community values. This will be achieved by continuing to implement plans and strategies for improving public safety, transportation safety and emergency preparedness services in a responsive, equitable, and professional manner.</p> <p>Draft Objectives below are for reference purposes only and are not in any particular order. The Council will discuss these draft objectives at a future meeting.</p> <p>Objective No. 1 – Strengthen Code enforcement to support proactive engagement and to provide enforcement trending data that council can use to direct proactive revision of city ordinances.</p> <p>Objective No. 2 – Create safe multi-modal transportation solutions that align Community needs with city priorities.</p> <p>Objective No. 3–Assess long-term cumulative impacts from public and private development projects and regional traffic through established environmental review processes (CEQA), including the newly required</p>	<p>Continue Public Safety and Roadway Safety in 2021 and combine into one goal.</p> <p>Re: Public Safety</p> <ul style="list-style-type: none"> • Do not roll over 2020 Public Safety objectives 1 & 2 objectives. They are now below the waterline • Provide an update to Council on the status 2020 Public Safety objective #3. Consider continuing this objective. • In combining Public Safety and Roadway Safety convey through the goal statement or an objective that the City is still committed to providing quality public safety services • Include the interests in social justice and reviewing the status of the work from the taskforce as an objective under “Transitioning Through Change” <p>Re: Roadway Safety</p> <ul style="list-style-type: none"> • Keep the PCI objective from Asset Management and move it to this Goal area • Completing the CS Masterplan is important but not urgent. Allow the CSC to continue their work. Keep the Alta Bike Plan moving forward. • Leave traffic impact fees as an objective

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<p>Objectives:</p> <ol style="list-style-type: none"> 1. Develop Complete Streets Master Plan 2. Identify and take action on “hot spot” transportation projects 3. Leverage road maintenance and rehabilitation projects to include safety amenities (Something we talked about in 2021 SM) 4. Evaluate traffic impact fees 	<p>Vehicle Miles Traveled (VMT) analysis, and the traffic impact fee (TIF) program.</p> <p>Objective No. 4 –Enhance Traffic and Pedestrian Safety Through Engineering, Education and Enforcement. Staff will work with the Complete Streets Commission to implement this objective.</p> <p>Objective No. 5 – Achieve an overall PCI (Pavement Condition Index) of 75 by 2026 by maintaining an annual resurfacing budget of \$3.5M</p> <p>Objective No. 6 – Evaluate Traffic Impact Fees –</p>	<ul style="list-style-type: none"> • Traffic pattern may continue to change post-COVID. Former plans maybe being out of date; wait on implementations. • Look for leveraging/timing opportunities for implementing maintenance projects during this time of lighter traffic. • Consider including CSC input to the retreat as objectives for 2021.

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<p>Goal: Asset Management The City of Los Altos will set priorities and allocate financial resources to maintain and/or improve City facilities and infrastructure.</p> <p>Objectives:</p> <ul style="list-style-type: none"> 8. Review financial capacity 9. Community Center 10. Council Chambers 11. New EOC 12. Police and Fire Stations - 13. Main Library 14. Roadways – achieve overall PCI of 75 by 2026 	<p>Goal: Asset Management The City of Los Altos will set clear expectations and allocate the necessary funding to support the maintenance and improvement of City facilities and infrastructure that are necessary to preserve the quality of services and well-being of residents.</p> <p>Draft Objectives below are for reference purposes only and are not in any particular order. The Council will discuss these draft objectives at a future meeting.</p> <p>Objective No. 1: Complete construction and open the Los Altos Community Center.</p> <p>Objective No. 2: Award a construction contract to build a new Emergency Operations Center.</p> <p>Objective No. 3: Develop a Needs Assessment & Options Analysis Plan for improving the police and fire stations, including but not limited to options for constructing new facilities versus renovation and increased maintenance measures on existing facilities.</p> <p>Objective No. 4: Make a policy decision on the future of the Halsey House.</p>	<ul style="list-style-type: none"> • Continue goal in 2021 • Create a separate goal for Financial Capacity- rename • Drop Council Chambers- project complete and now below the water line • Table Main Library until JPA is ready to bring forward • Move PCI to Roadway Safety • Add Halsey House, Grant Park Improvements and 999 Fremont Ave for council to make policy decisions on the disposition of each.

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	<p>Objective No. 5: Make a policy decision on the disposition of Grant Park Improvements.</p> <p>Objective No. 6: Make a policy decision on the future of 999 Fremont Ave.</p> <p>Objective No. 7: Approve an update to the 5-year budget for the Civic Facilities-Buildings CIP (CF-01003).</p>	

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<p>Goal: Environment</p> <p>The City of Los Altos will adopt policies and practices that advance the City’s sustainability and GHG emission reductions and position Los Altos as a leader</p> <p>Objectives:</p> <ol style="list-style-type: none"> 1. Update the City’s Climate Action Plan 2. Prepared and adopt the reach codes 3. Ban single-use plastics 4. Increasing recycling and composting of waste in commercial districts 5. Support Santa Clara County Healthy Cities 6. Determine how City Council could use sustainability lens when evaluating projects 	<p>Goal: Environmental Sustainability</p> <p>The City of Los Altos will be a leader on environmental sustainability through education, and adopting and embracing policies, initiatives, and practices that advance this effort.</p> <p>Draft Objectives below are for reference purposes only and are not in any particular order. The Council will discuss these draft objectives at a future meeting.</p> <p>Objective No. 1: Update the Climate Action Plan to include a menu of goals and objectives that establish and carry forward the City’s climate policy.</p> <p>Objective No. 2: Explore public/private partnerships (PPP) with clear roles and expectations to help educate the community on important environmental issues such as reach codes and the Climate Action plan.</p> <p>Objective No. 3: Create a water conservation strategy and implementation plan after the completion of the Climate Action Plan.</p>	<ul style="list-style-type: none"> • This continues to be a priority goal • Updating the Climate Action Plan should be the main objective as the City’s priorities and actions will be identified in that plan • Defer “Ban single use plastics” to 2022 (currently 2020 Objective #3) • Add as an objective: Explore public/private relationship to help educating the community for issues such as reach codes and the Climate Action plan with clear rules and expectations. Includes the Mission Trails contract provision for community education, communication on water conservation, etc. • Some of the 2020 objectives are below the water line and should not roll over as objectives in 2021. • Future considerations following the CAP: <ul style="list-style-type: none"> ○ The City should be more aggressive with its environmental policies ○ Support State and Federal legislation that move the needle on mitigating climate change/improving the environment ○ Could the traffic analysis be programmed under environment? ○ Hydration stations ○ Consider the cost impacts of achieving environmental goals on local businesses

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<p>Goal: Community Engagement</p> <p>The City of Los Altos will continually improve ease of access to information through the City website and create robust community engagement opportunities (both online and in-person)</p> <p>Objectives:</p> <ol style="list-style-type: none"> 1. Implement improvements to the City’s website 2. Improve relationships among residents, City staff, and Council members 	<p>Goal: Community Engagement</p> <p>The City of Los Altos will continue to improve its community engagement process to ensure residents are heard, informed, and engaged. Completion of this priority will ensure that community engagement remains a foundation of how the City meets its responsibilities to the community on an on-going basis.</p> <p>Draft Objectives below are for reference purposes only and are not in any particular order. The Council will discuss these draft objectives at a future meeting.</p> <p>Objective No. 1: Continue to improve our community engagement tools and platforms.</p> <p>Objective No. 2: Continue to standardize our community engagement processes.</p> <p>Objective No. 3: Provide the community with relevant multiple engagement opportunities.</p> <p>Objective No. 4: Communicate with the community in an efficient, transparent manner.</p>	<ul style="list-style-type: none"> • This is a value, not a strategic goal; a value/way of doing business that should be integrated in all practices • Strive to ensure that the City uses best practices in community engagement as the way it does business, and that Community Engagement is no longer a strategic goal by 2023. • Improve City communication tools and practices: • Understand what motivates people to show up • Continue the tailored neighborhood cluster outreach within staff bandwidth/as a matter of practice • Reevaluate Granicus which is not user friendly for mobile devices and tablets

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<p>Goal: Transitioning Through Change</p> <p>N/A – New for 2021</p>	<p>Goal: Transitioning Through Change</p> <p>The City Council will proactively address the impacts on the community from COVID-19 and other consequential changes in 2020 and 2021 to ensure Los Altos successfully navigates these transitions to be an even stronger, better community.</p> <p>Draft Objectives below are for reference purposes only and are not in any particular order. The Council will discuss these draft objectives at a future meeting.</p> <p>Objective No. 1: Support efforts to keep the Community and City staff safe, including supporting County efforts on vaccine rollout, community communication, mask wearing, and other public health measures.</p> <p>Objective No. 2: Evaluate and support/implement adopted policies and guidance documents that support economic recovery across the City. This includes evaluating and implementing, as appropriate, improvements that will increase the number of parking stalls available for public use and the recommendations of the Downtown Buildings Committee that will support the economic recovery of businesses, property owners, and residents.</p>	

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	<p>Objective No. 3: Develop an Economic Recovery Plan with the assistance of community stakeholders that assists and supports the recovery of local businesses, citywide.</p> <p>Objective No. 4: Seek out grants that will assist the economic recovery of businesses, property owners, and residents.</p> <p>Objective No. 5: Starting in 2022, support the establishment or formation of an independent citizens working group with interest in establishing a theater in Downtown Los Altos.</p> <p>Objective No. 6: Review the measures put in place as a result of the work of the Public Safety Taskforce. Debrief what is working, what is not, and if any other best practices should be initiated in building on the taskforce, while at the same time considering staff capacity to undertake new initiatives in 2021.</p> <p>Objective No. 7: Complete recruitment of the City's next City Manager</p> <p>Objective No. 8: Review the City Council's code of conduct/norms and ethics and reevaluate Council's</p>	

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	relationship with Commissions, including the appropriateness of Council commission liaisons.	

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<p>Goal: Housing and Land Use</p> <p>N/A for 2020</p>	<p>Goal: Housing and Land Use</p> <p>The City of Los Altos is committed to land use policies and regulations to support housing for all income levels in the City and a built environment that reflects envisioned outcomes.</p> <p>Housing Objectives –</p> <p>Objective No. 1: Update the Housing Element in partnership with the Community in a constructive, collaborative, and efficient process, consistent with the housing needs identified in the final Regional Housing Needs Allocation (RHNA) and have the Housing Element Certified by the California Department of Housing and Community Development (HCD) within the required statutory deadlines.</p> <p>Objective No. 2: Collaborate and support the development of 330 Distel Circle for the purpose of developing a rental housing project with significant focus on supportive and very low/low-income housing.</p> <p>Objective No. 3: Collaborate with Alta Housing to establish a prequalification process focused on accessibility of housing opportunities for below market rate units.</p> <p>Objective No. 4: Implement linkage and impact fees.</p>	<ul style="list-style-type: none"> • Draft a combined Housing and Land Use Goal for Council consideration • Same interests as reflected under stand-alone goals • Keep the Housing element process on track, regardless of stand-alone or combined goal structure

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	<p>Objective No. 5: Develop policies and approaches to increase affordable units through public/private partnerships and other methods for all new projects in the CT zone.</p> <p>Objective No. 6: Support legislation to increase funding for affordable housing and workforce housing and associated infrastructure. Ensure cities retain flexibility for zoning and approval of housing based on the land use needs of each community.</p>	

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2020 Adopted Goal & Objectives	2021 Proposed Goal & Draft Objectives for Reference Only	Council Key Interests re Goals and Objectives as Expressed during Retreat
<p>Objectives: N/A for 2020</p>	<p>Land Use Objectives -</p> <p>Objective No. 1: Ensure zoning codes and other land use documents provide objective standards as required by State law while maintaining maximum City discretion.</p> <p>Objective No. 2: Reevaluate land use mix and density for each of the City’s commercial districts and take into consideration elements such as economic vitality, neighborhood context, character, RHNA requirements, inclusionary zoning, and updated zoning codes/objective standards to achieve desired results.</p> <p>Objective No. 3: Proactively endeavor to increase and protect the City’s park land with an emphasis on the acquisition and preservation of green space or open space.</p> <p>Objective No. 4: Update the Housing Element consistent with the housing needs identified in the final Regional Housing Needs Allocation (RHNA) and have the Housing Element Certified by the California Department of Housing and Community Development (HCD) within the required statutory deadlines.</p>	

DRAFT 2021 Goals and Objectives Comparison Matrix for Staff Report

2020 Adopted Goal & Objectives	2021 Proposed Goal & Draft Objectives for Reference Only	Council Key Interests re Goals and Objectives as Expressed during Retreat
		<p>2022 Parking Lot from Council Retreat</p> <ul style="list-style-type: none"> • Reconstitute Parking Taskforce • Downtown Theatre: Support the creation of a Citizens workgroup for downtown theatre. • Traffic Impacts based on Origination- What are the heaviest impacted intersection in the City based on origination/termination data • Ban Single Use Plastics

February 25, 2022

Honorable Los Altos Mayor, Vice-Mayor, and Councilmembers,

The Complete Streets Commission is interested in the City Council’s annual priorities. The commission would like to share its Work Plan again this year as the City Council considers any priority development.

The Complete Streets Commission believes it is in alignment with the City Council regarding the advancement of complete streets initiatives in the City. The Complete Streets Master Plan (CSMP) demonstrates our common interest in seeing positive transformation in street design in the City and we are actively working toward its broad implementation. Again this year, the Complete Streets Commission is working closely with City Staff in the Engineering Services Department to align the CIP Street Maintenance Programs (i.e. street resurfacing/paving) with Complete Streets Master Plan projects so the City can use active projects to implement complete streets initiatives. The commission also undertakes many other responsibilities.

The Complete Streets Commission has updated its annual CSC priorities for your review. This includes the addition of a fourth priority; an imperative to secure grant funding to implement the CSMP and complete streets projects. CSC priorities for 2022:

1. Plan and implement safe multi-modal transportation solutions that align community needs with city priorities.
2. Manage long-term cumulative impacts from public and private development projects, and regional traffic.
3. Achieve effective transportation-related community engagement with residents.
4. Pursue and secure adequate grant funding for safe, connected, and sustainable complete streets projects.

For each of these four priorities, we have detailed specific goals and key performance indicators (KPIs) with underlying projects and programs that are outlined in the attached Complete Streets Commission - Work Plan document. This is a multi-year plan, which our commission will update annually.

The commission would also like to remind the City Council of its 2021 priority: Achieve an overall PCI (Pavement Condition Index) of 75 by 2026 by maintaining an annual resurfacing budget of \$3.5 million.

Please let us know if you have any feedback, input, or questions as you set annual city-wide priorities and make funding decisions. In addition, we will be reviewing this plan with you in more detail during our annual Joint Session currently scheduled for May 3, 2022.

Nadim Maluf

Nadim Maluf, Chair - Los Altos Complete Streets Commission

CSC Vision: Our community-focused and sustainable streets empower people of all ages and abilities to access destinations comfortably, safely, and conveniently, regardless of their mode of transportation.

Goal 1: Plan and Implement Safe Multi-Modal Transportation Solutions that Align Community Needs with City Priorities

No	Initiative	KPIs	Projects & Programs	Deliverables
1A	Implement Complete Streets Master Plan - Prioritized Projects and Programs	Adopt plan in Spring 2022 (City Council)	Manage bike and ped network improvements from CSMP	Align with Resurfacing Program, see Goal 1E Create additional list of Bike and Ped improvements consistent with 5-year plan for CIP, see Goal 1E
		Implement high-priority projects within 10 years	Implement school improvement plans (Phases I and II)	Convert school improvement maps into reviewed/approved construction docs for school routes, and implement plans - Signage and striping improvement plans - Phase I (2022) - Civil improvements plans - Phase II (2022-23) Identify any budget shortfall to complete city-wide improvements on school routes
		Coordinate with Climate Action Plan (CAAP) on implementation of 1 project per year	Promote Suggested Routes to School maps, and Schoolroutes App	Promote Suggested Routes maps to school districts annually Roll out/Promote Schoolroutes app to parents and students in collaboration with school districts (spring/fall 2022) Deploy additional features of app including Carpool Coordinator and School Depot Stations (walking school bus and bike trains)
			Develop Conceptual Plan Line Drawings (from CSMP) into plans for Priority Locations	Some plan line drawings will not move forward due to lack of community support. Some will be implemented as part of the resurfacing program. The remainder will compete with

				<p>all CSMP recommended improvements for priority, and be considered for refinement as part of grant applications.</p> <p>Plans for pursuit include: Jardin, Clark, Covington, El Camino Real, Gordon, Grant, Loyola Corners, Berry & Miramonte, St Joseph, Alicia.</p>
			Align with Climate Action and Adaptation Plan, and Committee	[develop deliverable with CAAP]
1B	Align Pavement Program to Increase PCI and Simultaneously Add Multi-Modal Safety Amenities	Achieve PCI of 75 by 2026	Review PCI pavement program	Review biennial PCI report update (2022) and progress
			Implement Priority Bicycle and Pedestrian Facilities and Traffic Calming with Pavement Program	Develop pavement program identifying priority streets for annual resurfacing program including minimum 2 corridor goal per year for Bike/Ped/traffic calming improvement
			Expand sidewalk/shoulder policy	Enhance sidewalk/shoulder policy to include maintenance responsibility (current policy is on stormwater permeability)
1C	Develop Safe Routes to School Education & Encouragement Program with School Communities	Increase share of students walking/biking to school by 10%	Create and implement education programs to expand bike/ped safety knowledge with students/families	<p>Execute pilot education and encouragement program via assembly and in-class for bike safety and awareness</p> <p>Finalize and publicize plan and curriculum</p>
			Maintain advisory committee with quarterly meetings	Create and implement encouragement programs to increase bike/ped commuting
		Survey results showing at least 20% increase in student comfort walking and biking		

		10% of classrooms conduct hand tallies	Review school traffic	Receive update from PD about school traffic, and crossing guard program
1D	Enhance City's Traffic Calming Program	<p>Reduce traffic speed by 10% on city streets with traffic calming measures</p> <p>Reduce congestion and cut through traffic</p> <p>Improve downtown visitors and business owners satisfaction with traffic flow</p>	Develop New Traffic Calming Plan to slow traffic speed	<p>Have CSC discussion to scope the traffic calming program (2022) with goal of identifying needs in near term and establishing programs over the long-term.</p> <p>Review 2011 Collector Street Traffic Calming plan, and develop Traffic Calming Plan and Toolkit. Initiate pilot program for one corridor, and develop implementation plan including minimum 2 corridor goal per year for Traffic Calming implementation. Align with Resurfacing Program</p> <p>Revamp Neighborhood Traffic Management Program (NTMP) to be a more effective program to manage speeds and cut-thru traffic on residential streets</p> <p>Review enforceable speed limits especially with AB-43</p>
			Create strategy for congestion and cut-through management	<p>Develop plan to manage congestion and cut-through traffic</p> <p>Consider Residential Open Streets Program</p> <p>Review truck routes through City</p>
			Recommend transportation improvements for Downtown	<p>Receive update on Downtown Open Streets/Parklet Program</p> <p>Initiate downtown study (including one-way loop) per CSMP</p>
1E	Align CIP Transportation	At least 10% of Transportation CIP projects advance	Review Annual Street Resurfacing program to advance priority CIP projects	Review Annual Street Resurfacing Program (CIP) by March each year at CSC mtg, including (ideally year in advance) street selection for bike/ped/traffic calming improvements

	Program to CSC Work Plan	CSMP and CSC priorities each year	Annual Transportation CIP project selection	Review and prioritize annual transportation CIP selection by March each year at CSC mtg
			Conduct biannual review of CIP transportation projects	Receive biannual update report in February and September
1F	Coordinate Regional Transportation to Advance Los Altos interests	<p>Attendance at regional forums</p> <p>Meetings and communications with nearby jurisdictions</p> <p>Initiate inter-jurisdictional partnerships</p>	<p>Coordinate with partner government agencies to represent City of Los Altos multimodal transportation needs</p> <p>Participate in VTA regional meetings and other agency meetings that impact Los Altos, including provide a representative to the VTA/county BPAC and TSCN meetings</p>	<p>Coordinate multimodal transportation projects at/across jurisdictional borders proactively (example projects in 2022 include Hetch Hetchy trail crossing, County/VTA led Homestead Rd SR2S project, Caltrans El Camino Real resurfacing/bike lanes project, County led Measure B Foothill Expy widening from Homestead Rd to I-280) and monitor adjacent cities bike/ped/active transportation planning/implementation near jurisdictional borders</p> <p>Coordinate traffic signal timing and regional transportation projects with adjacent and regional jurisdictions</p> <p>Provide input on regional multimodal plans in 2022</p> <ul style="list-style-type: none"> - County of Santa Clara Active Transportation Plan and Expressway Bicycle Design Guidelines - MTC Regional Active Transportation Plan and MTC Complete Streets Policy <p>Monitor implementation of other regional plans and provide feedback when plans are updated</p> <ul style="list-style-type: none"> - Santa Clara Countywide Bicycle Plan 2018 - VTA Bicycle Superhighway Implementation Plan 2021 - VTA Bicycle Parking Guidelines 2022 - Caltrans District 4 Pedestrian Plan 2021 - Caltrans District 4 Bike Plan 2018 - Midpen Rancho San Antonio Multimodal Access Study 2021 - Others?

1G	Enhance Multimodal Parking Facilities	Increase multi-modal parking stock by 10%	Identify/Implement EV Charging Stations for Vehicles and eBikes	Define policy and plan for private sector e-charging facilities (Future project Pending Funding)
			Expand Bicycle Parking	(2022 Pending CSMP Adoption)
	Future Interests		Build Transit plan	
			Consider Scooter share and Ebike program	Partner with adjacent Cities to explore regional bike/scootershare program
			Adopt bicycle and pedestrian technology enhancements	Consider technology enhancements and digital traffic controls such as wave push buttons

Goal 2: Manage Long-Term Cumulative Impacts from Public and Private Development Projects and Regional Traffic

No	Initiative	KPIs	Projects & Programs	Deliverables
2A	Utilize Citywide Traffic Model to Monitor Traffic Trends and Impacts	Maintain Citywide traffic data model - update biannually	Collect traffic data regularly to identify changes in traffic patterns	Count traffic semi-annually citywide (88 locations) and add new data to model after independent data collection
			Provide developers traffic model for utilization in traffic analysis of qualifying developments	Receive update presentation on city-wide traffic model (what the model is/how it works) in 2022
			Monitor and track changes in Bicycle/Pedestrian stress level on local roads	Develop Bike-Ped Stress Measures
2B	Create Transportation Policy and	Adopt consistent policy and study methodology by 2022	Establish a Vehicle Miles Traveled (VMT) and updated Level of Service (LOS) Policy	Adopt VMT/LOS Policy (Spring 2022)

	Programs to Advance Los Altos goals and visions		Finalize Transportation Analysis Checklists for consultants by land use type to ensure consistency in study methodologies, including TDM incentives and transportation network improvements reqd for dev	Finalize Transportation Analysis Checklists for transportation consultants by land use type
			Develop CSC Development Review Questionnaire to streamline commission participation in private development approval process	Finalize CSC Development Review Questionnaire and circulate to developers and planning dept
			Develop transportation-related Objective Standards for development projects	Upcycle some of the Development Review Questionnaire into creation of Objective Standards (e.g. queuing at development parking garage entrances)
2C	Develop Streetscape Plans to Provide Holistic Area Planning	Develop Streetscape Plan in 2022 for First Street	Develop Streetscape Plan for First Street Consider future Streetscape Plan for El Camino Real (reference Grand Blvd Initiative vision and principles) Maintain existing streetscape plans (i.e. Loyola Corners) and identify any other areas that may require streetscape plans in the future (Sherwood Triangle, Woodland, Foothill Crossing)	Hire consultant to develop the First St Streetscape Plan in 2022
2D	Maintain General Plan as Required		Maintain General Plan Circulation Element - consider housing element goals, cut-through traffic/traffic calming, and all other relevant aspects	Review General Plan Circulation Element (do not review/update until authorized by city council/legal)
			Review the Housing Element and provide supporting transportation plans and infrastructure	Receive Housing Element Site Inventory presentation and identify next steps for CSC including a CSMP review for completeness and housing-need designation/prioritization, and

				identification of complete list of parking data collection locations (see 2F)
2E	Overhaul TIF to Help Fund Priority Transportation Projects	Development of report and review and implementation of Municipal Code Chapter 3.48	Align TIF with future development, Complete Streets Master Plan, and other Local and Regional Transportation Projects	Report on TIF rates and fees
			Evaluate existing TIF Rates to ensure fees reflect existing needs and construction costs	Recommend TIF increase to appropriate rate
2F	Evaluate Public Parking Needs (cumulative impacts) and Establish Parking Management Program as Needed		Develop Curb Management and Parking Management Plan including: - Study inventory and baseline utilization data at key locations (Downtown, ECR, LAHS area, Loyola Corners, future housing development areas) - Define parking policy and initiatives - Set methodology for future data collection and projection - Consider technology applications for future use	Work with staff or hire a consultant to develop a comprehensive Parking and Curb Management Plan
2G	Review Assigned Development Projects	Complete timely review of all assigned development application	Review all assigned development projects	Advise planning commission/city council on transportation related aspects of all development projects assigned to CSC

Goal 3: Achieve Effective Transportation-Related Community Engagement with Residents

No	Initiative	KPIs	Projects & Programs	Deliverables
3A	Develop Effective Outreach Strategies to Promote Public	Measure community satisfaction with level of engagement	Identify Better Methods of Engaging with Residents	Evaluate lessons learned from CSMP engagement

	Participation in Transportation Projects	Increase community participation in CSC projects by 5% Pre and post engagement surveys by 2025		Develop plan for efficient community outreach and engagement - methodology, function, and effectiveness Conduct Annual Survey on transportation related priorities
			Increase online communication and engagement	Use Los Altos Complete Streets Website as informational portal that residents may look to for updates on all transportation projects
			Incorporate Public Input into each Project Evaluation	Capture and share/summarize public input received while planning projects (from surveys, comment cards, emails, etc.) Develop online post construction surveys and summarize public input on construction projects
			Include Post-Project Data Collection to Monitor Project Effectiveness	Introduce post construction reporting in CSC Bi-Annual Reports. (2022)
3B	Integrate with City-School District School Issues Subcommittee		Keep subcommittees informed of and collect their feedback on relevant projects related to school routes, and education and encouragement programs	Present (staff) at subcommittee meetings Share feedback from meetings at CSC meetings
3C	Promote Walking and Bicycling in the Community		Determine Bike to Work/Wherever Day plans	Make annual plans to support Bike to Wherever Day (5/20/22) including activities/promotions
			Re-establish status as a Bicycle Friendly Community	Apply to become a Bicycle Friendly Community and maintain its status

			Use publicly-visible technology to encourage increased biking/walking	Consider publicly-visible attractive signs that count bicyclists/peds passing by couple locations
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Goal 4: Pursue and Secure Adequate Grant Funding for Safe, Connected and Sustainable Complete Streets Projects

No	Initiative	KPIs	Projects & Programs	Deliverables
4A	Identify and apply for grant funding opportunities for construction and studies/design	Secure 1-2 grants in 2022 Establish annual or regular grants for complete streets funding	<p>Establish CSC Grant Subcommittee to create grant application strategy and support the grant application process</p> <p>Identify available grants and create priority list of strategic projects that correlate with available grants and likely funding success</p>	<p>Review available grants (see list of grants from CSMP, VTA, distribution lists, etc.) and list/review key submission details (confirm eligibility criteria, grant cycle and submission deadline, project status requirements at application, key selection criteria, funding amount available, etc.)</p> <p>Recommend priority list of 3-5 projects for which to seek construction grant funding (Projects at intersection of CSMP priority, concept plan line/community engagement started, projects that will score well on grant applications, etc.)</p> <p>Identify list of 1-2 projects (see CSMP) for which to seek funding for project study and/or design</p>
			<p>Establish team to create and write successful grant applications</p> <p>Seek VTA funding and other outside funding</p>	<p>Hire a consultant to manage grant application process and write grant applications, supported by CSC Grant Subcommittee. (Consultant should specialize in transportation and climate/sustainability grant writing)</p>

				<p>Formulate plan to get identified projects in state of grant application readiness, and create grant applications for key grants</p> <p>Track grant/funding sources - establish tracking spreadsheet or system for funding and grants</p>
4B	Identify and apply for grant funding to implement CAAP Transportation Plans	Implement 1 Transportation Action per year as identified by the CAAP	<p>Establish a joint working group between the CSC Grant Subcommittee and the Environmental Commission to identify any synergistic CSMP projects and CAAP actions</p> <p>Identify available grants and create a priority list of strategic projects that support both CSMP and CAAP</p>	<p>Review available grants (see list of grants identified in the CAAP transportation strategy), and list key submission details (see goal 4A)</p> <p>Coordinate grant priority transportation-related projects into a single list (see goal 4A)</p>

1. Plan and implement safe multi-modal transportation solutions that align community needs with city priorities.
2. Manage long-term cumulative impacts from public and private development projects, and regional traffic.
3. Achieve effective transportation-related community engagement with residents.
4. Pursue and secure adequate grant funding for safe, connected, and sustainable complete streets projects.

Month	Proposed Meeting Topics* for 2022
January	<p>Consent/Update Items</p> <ul style="list-style-type: none"> - Work plan review - Annual CSC Letter to City Council for council priorities (with CSC workplan attached) - Formation of plan review subcommittee (for SRTS and potential other) <p>Discussion Items</p> <ul style="list-style-type: none"> - Hetch Hetchy crossing (public noticing) - St Joseph update (public noticing) (update sign & striping plan, update on parking data collection, update about sidewalk, schedule for design)
February	<ul style="list-style-type: none"> - Biannual transportation CIP update report - status update on transportation projects in the works - Attorney update / info training - Cuesta Dr - Almond Ave - update on bike lane barrier, signal timing update - Fremont bridge (ongoing/update item) - Bike to Work Day (5/20/22) plan
March	<ul style="list-style-type: none"> - Annual Street Resurfacing Program recommendations - Annual transportation CIP Program recommendations - (part of council budgeting process) - St Joseph outreach/combined CSC meeting for sidewalk/walkway alternatives - Michelle & updated TDM – info/update item - Update on Signage & Striping Plans with Public Noticing, after school community and subcommittee approval, circulate to commissioners in advance of CSC meeting and ask for specific feedback, use subcommittee comments to facilitate CSC approval - ECR updates from Caltrans
April	<ul style="list-style-type: none"> - Annual CSC letter to city council in advance of joint meeting (with updated CSC workplan attached) - First Street Streetscape Plan - Jaime’s traffic model – output, how are we using the output, Data already collected, how will we use the data, purpose of model, overview, etc. Receive review/explanation of city-wide traffic model. what the model is, how it works, when to use it? - Traffic Calming Project Scoping
Tuesday, May 3rd	Annual Joint Meeting with Commission and City Council

Los Altos – Complete Streets Commission
Proposed Schedule of Activities 2022

May	<ul style="list-style-type: none"> - Transportation-related Objective Standards Review - Homestead Rd SR2S Design Phase - Sidewalk / shoulder policy (current policy re: stormwater/permeability, proposed policy re: maintenance responsibility) -
June	<ul style="list-style-type: none"> - TBD
July	<ul style="list-style-type: none"> - SRTS school improvements phase 2, civil improvements (curb ramps, speed feedback signs, etc)
August	<ul style="list-style-type: none"> - TBD
September	<ul style="list-style-type: none"> - Biannual transportation CIP update report - Form annual workplan subcommittee
October	<ul style="list-style-type: none"> - TBD
November & December (combined)	<ul style="list-style-type: none"> - Work plan review - Annual CSC Letter to City Council for council priorities (with CSC workplan attached)
To be scheduled	<ul style="list-style-type: none"> - County of Santa Clara - Expressway Bicycle Design Guidelines - County of Santa Clara - Active Transportation Plan - Housing Element Site Inventory Presentation - SRTS Education and Encouragement Program Update - PD update on school traffic and crossing guard program - CIPs - Annual Bike/Ped access improvements - Hetch Hetchy trail crossing - City-wide Pathway rehabilitation project - SRTS 500k - Cuesta Dr - In-road light system maintenance
Proposed	<ul style="list-style-type: none"> - Form Grant subcommittee - Grant subcommittee report (and any follow-on work) - Curb Management and Parking Management policy/plan - TIF review - El Camino Real resurfacing update (bike lanes) - Community Outreach best practices

Los Altos – Complete Streets Commission
Proposed Schedule of Activities 2022

Joint CSC/Planning Commission mtgs - to be scheduled	<ul style="list-style-type: none">- Parking Management policy- Transportation-Related Development Objective Standards
Future	<ul style="list-style-type: none">- Measure B Project, Foothill Exp Widening (Homestead to I-280) (pending city funding to county for design phase - \$150K)
	Notes: Tie each item into a goal/initiative

* Development project reviews will be added to CSC meetings based on Planning Department schedules

From: [Justin Lin](#)
To: [Public Comment](#)
Subject: [External Sender]EV as a priority
Date: Tuesday, March 1, 2022 8:55:51 PM

Hello, Los Alto City Council. Though temporarily canceled, your priority-setting for the 2022 calendar, I advise, must include a thorough policy for energy and Electric Vehicles. As a senior in high school, committed to college as a STEM major, I see that innovation is the ticket to our success in the fight against climate change. Solutions that once seemed farfetched and too expensive now have resulted in massive grid upgrades, large-scale renewable energy, and more. Yet, in our city, I feel as though I rarely see or hear about clean tech implemented on a municipal level that is preparing us for future sustainability. I suggest that EV charging infrastructure be improved so that, by the time wide-scale EV usage is affordable, students like myself will buy electric cars instead of putting a twenty-year deposit on our first gas-powered car due to accessibility. Please do not let us forget the power our city has when it comes to making change and set a priority for EV and energy policy for 2022. Best regards, Justin Lin

From: [Karl Danz](#)
To: [Public Comment](#)
Subject: PUBLIC COMMENT AGENDA ITEM 1 - March 1 - 2022 COUNCIL GOALS
Date: Tuesday, March 1, 2022 8:53:01 PM

I have lived in Los Altos since 1991. Over the years I have appreciated the actions taken by the City Council to address climate change. Adopting the first Climate Action Plan in 2013 and joining Silicon Valley Clean Energy in 2016 were good early steps. Now it is imperative that the city take it to the next level.

The IPCC just released its [Working Group II report, "Climate Change 2022: Impacts, Adaptation and Vulnerability"](#). It's not a pretty picture. Every decision maker at all levels of government needs to take bold action, now! At a minimum the city needs to adopt the draft Climate Action and Adaptation Plan. Then we all need to get to work on rapidly implementing the key provisions. There are many other priorities facing us today, but if we no longer have an inhabitable planet, then those other concerns are moot.

Thank you,
Karl Danz
1540 Morton Ave.
Los Altos, CA 94024

From: [Sage Leland](#)
To: [Public Comment](#)
Subject: Public Comment for Mar. 1 Priority Setting
Date: Tuesday, March 1, 2022 3:27:49 PM

Los Altos City Council,

Although the priority-setting meeting is cancelled today, I would like to symbolically advocate on behalf of strong environmental policy for the future of our city.

While I do not attend a high school in Los Altos, I am the senior class Vice President at Gunn High School, a position that has given me insight enough to understand that making change through a bureaucratic body is hard, particularly when being demanded to constantly go faster than precedent allows.

That said, climate change is a new urgency. Climate change is an urgency that demands defiance from the status quo of the legislative process and merits unification of the Los Altos community to activate themselves (and their council) against this omnipresent threat. We have been getting the ball rolling on climate policy for a long time, and is time that we call for our community to embrace our legislative potential by taking action against climate change.

All of this to say, we must prioritize climate policy in 2022; there is no more-pressing issue that faces us today

Thank you,
Sage Leland
--
Best,
Sage Leland
(she/her)

From: [Ken Branson](#)
To: [Public Comment](#)
Subject: Support for CAAP
Date: Monday, February 28, 2022 1:05:01 PM

Dear City Council Members,

I understand that on 3/1 you will be setting priorities for our city for 2022. Please make actions to address environmental and climate issues a high priority.

As state senator Josh Becker's policy advisor for climate, energy, and environmental issues, I work every day to advance climate policy in Sacramento. While we can accomplish a lot at the state level (and others at the national level), a lot of progress is possible from local governments at the city and county level. As an example, many Bay Area cities paved the way with reach codes for all-electric buildings that have given the CEC enough evidence and courage to implement stronger building codes statewide. Cities can continue to take action through local education efforts, building codes and other ordinances to reduce the use of natural gas, transportation infrastructure investments to encourage ZEVs and reduce VMT, improvements to organic waste diversion efforts, and efforts to make the city government itself net zero in its own operations. These are important steps that go beyond just the impact in our own community. They set an example and show what is possible, making it easier for other cities and eventually the entire state (and beyond) to follow in our footsteps.

In the 2022 Los Altos Climate Action and Adaptation Plan (CAAP), the environmental quality committee has done an outstanding job of identifying priorities and steps the city can take to address our greenhouse gas emissions here in Los Altos. The CAAP documents that 97% of Los Altos greenhouse gas emissions are from the transportation and energy sectors. There are numerous CAAP actions the City can take, like planting trees and conserving water, that are positive and supportive but which would have minimal, if any, direct impact on reducing our GHG emissions. We must prioritize what matters: emission reductions from transportation and the use of fossil fuels in buildings.

As a 20 year Los Altos resident and strong advocate for climate action, I urge the council to approve the CAAP and prioritize the actions identified in it that will make the most meaningful reductions in GHG emissions. The path you choose for Los Altos will matter far beyond our town's borders. Don't miss this chance to make a positive difference in the fight to reduce climate change and prepare our community to handle the unavoidable changes.

Thank you,
Ken Branson
Los Altos

From: [Pat Marriot](#)
To: [Public Comment](#)
Subject: PUBLIC COMMENT ITEM #1 - MARCH 1, 2022 COUNCIL GOALS
Date: Monday, February 28, 2022 12:19:47 PM

Council Members:

When we built our home in Los Altos, we achieved 181 green points when only 70 were required. We have since added solar panels and backup batteries.

I've been driving an EV (Nissan LEAF) since 2013.

We are concerned about climate change and support many environmental organizations.

That said, some of the CAAP proposals are over the top, e.g.,

- Charging residents for a Carbon Emission Permit. Ever drop wears away a stone. While \$50 - \$200/year is not a huge amount of money, you will soon be adding some sort of tax for a public safety building + bond financing.
- "4-5 FTE for mitigation actions" is not affordable, given our current financial situation.

Serious efforts that will make a significant difference are worthwhile. Virtue signaling is not. We should all be mindful of green living, but at this time it should not be a separate goal/priority.

The city has serious problems to content with: finances, staffing and state-required housing to name a few.

As you set goals for the coming year(s) I urge you to FOCUS on what is essential, achievable and affordable. Work with our capable and experienced city manager to set measurable objectives (i.e., with dates), ensure adequate resources are provided, and monitor progress. That should give us all a sense of accomplishment and reasons to celebrate success.

Thanks,

Pat Marriott

From: [Cindy Sidaris](#)
To: [Public Comment](#)
Subject: Public Comment - Agenda Item 1 - March 1, 2022
Date: Monday, February 28, 2022 10:56:22 AM

Mayor, Vice Mayor, City Council Members,

As you consider goals for 2022 it is urgent that you take concrete and substantive steps to address environmental and climate issues. According to US News and World Report, "Deadly with extreme weather now, climate change is about to get so much worse. It is likely going to make the world sicker, hungrier, poorer, gloomier and way more dangerous in the next 18 years with an "unavoidable" increase in risks, a new United Nations science report says."
[USNews 2-28-22 UN Climate Report](#)

We must act locally to take our part to reduce the City's GHG emissions in meaningful ways. Token efforts and only education are not sufficient nor acceptable. Please do at least the following:

1. Approve the 2022 Los Altos Climate Action and Adaptation Plan.
2. Enact changes to our City's building codes for new and remodel construction, commercial and residential, to decrease building energy use, greatly reduce the use of natural gas, motivate increased use of renewable solar energy.
3. Enact changes to support more efficient and cleaner transportation in our City and by our City (ie City-owned vehicles).
4. Work with neighboring cities collaboratively to take real, substantial steps to jointly reduce our energy use and sources of pollution (ie transportation).

If every city takes only the "easy" efforts we face dire consequences as the UN report states. Please take real steps that will make a difference.

Thank you,
Cindy Sidaris
Los Altos resident



February 22, 2022

Dear Mayor Enander and Members of the Los Altos City Council,

As you plan to address priorities for the current year, Los Altos Community Voices (LACV), a broad coalition of community members committed to advancing solutions to important local challenges while preserving the small town feel of our city, offers the following ideas for your consideration:

Our experienced and knowledgeable city manager, Gabriel Engeland has laid out his thoughts about the “housecleaning” that should be a priority in 2022. Since last year you unanimously voted to hire him, we believe you should support, as we do, his ideas, specifically

1. Clean up accounting and budgeting practices to include all the City’s obligations and liabilities;
2. Develop compensation and other policies aimed at attracting, hiring, and retaining well-qualified staff for the City;
3. Resolve existing lawsuits and avoid initiating new lawsuits that are within the City’s control.

In addition, we are at crisis points and must act immediately to address climate change and social/environmental justice, and one way to do that while addressing another crisis is to adopt a housing element for 2023-31 that provides realistic options for and policies supportive of infill housing affordable to essential workers (many of whom are people of color) who provide critical services to our residents. Doing so not only helps solve the longstanding housing shortage and encourages racial diversity, it also addresses climate by reducing the need for long commutes that, per Greenbelt Alliance (www.greenbelt.org), contribute up to 50% of California’s greenhouse gas emissions. Infill multifamily, or “compact” housing also has the benefit of using less water per capita than single family homes sited on large lots, per SPUR (originally San Francisco Planning and Urban Renewal Association; www.spur.org).

We encourage you to exercise discipline by adopting no more than 3-5 priorities so that you, the City staff, and Los Altos residents can reasonably expect to see substantial progress this year. While there are many other worthwhile priorities, many of which LACV supports, we sincerely believe that if you focus, you will actually achieve more than if you try to be comprehensive –

and there will be time, resources, and bandwidth to tackle additional priorities in the coming years.

Many thanks for all you do for our fair City.

Los Altos Community Voices Steering Committee

Robin Abrams, Curtis Cole, Kim Cranston, Cathy Lazarus, Bill Sheppard, Marie Young

From: [John Corrigan](#)
To: [Public Comment](#)
Subject: PUBLIC COMMENT DISCUSSION ITEM 1 - MARCH 1, 2022 - 2022 COUNCIL GOALS
Date: Sunday, February 27, 2022 1:52:27 PM

Dear Los Altos City Council Members,

I would like to raise a concern as a Los Altos resident, and not in my capacity as a Los Altos Parks and Recreation Commissioner.

I respectfully request that the City Council deprioritize the Climate Action and Adaptation Plan (CAAP), contrary to its position stated in the packet accompanying Agenda Item 5 of the February 8, 2022 City Council Meeting: “The City Council and Environmental Commission prioritized the Climate Crisis and agreed that this is a priority....”¹

The elephant in the room for the CAAP is that, even if Los Altos were to reduce greenhouse gas (GHG) emissions to zero, our efforts would have no impact. “...under current trends, every 10 percent reduction that the developed world makes in its emissions (a reduction it has barely managed in fifteen years) will offset less than four years of growth in the developing world.”² Since the developed world can’t offset GHG emissions growth in the developing world, Los Altos can’t - particularly because Los Altos accounts for only ~ 0.0003% of global GHG emissions.^{3,4,5} Los Altos would require ~ 1,000 years of zero emissions to offset the volume of global GHG emissions generated in a single day.

Nevertheless, the CAAP proposes a Carbon Emission Permit of \$50 - \$200/year per household.⁶ Assuming 10K households, Los Altos residents will pay \$500K - \$2M per year in Carbon Emission Permit taxes. Raising taxes to reduce emissions may be a well-meaning proposal, but it is costly and manifestly unproductive since achieving no emissions in Los Altos will have no impact on global emissions.

Residents and businesses are free to take actions of their choice with respect to climate change. But the city shouldn’t make emissions reduction a strategic goal or priority if its actions can only have a maximum potential impact of 0.0003% on global emissions. As a policy matter, therefore, the Los Altos City Council should aim to achieve the minimum GHG emissions reduction required by state and federal law to minimize associated burdens on residents, businesses, the budget, and staff.

Thank you for your consideration in this matter.

Best regards,
John Corrigan

¹ February 8, 2022 City Council Meeting Agenda Packet [Attachment 1](#), p. 4.

² Koonin, Steven E. "Unsettled: What Climate Science Tells Us, What It Doesn't, and Why It Matters." Ed. Alexa Stevenson. Dallas, TX: BenBella Books, Inc., 2021. 281.

³ Los Altos produces 110,192 MTCO₂e/year. (February 8, 2022 City Council Meeting Agenda Packet [Attachment 1](#), p. 17)

⁴ The U.S. produces 5,216 million MTCO₂e/year. ("[Inventory of U.S. Greenhouse Gas Emissions and Sinks](#)." Environmental Protection Agency, April 13, 2020)

⁵ The U.S. accounts "...for only some 13% of global greenhouse gas." (Koonin, Steven E. "Unsettled: What Climate Science Tells Us, What It Doesn't, and Why It Matters." Ed. Alexa Stevenson. Dallas, TX: BenBella Books, Inc., 2021. 300.)

⁶ February 8, 2022 City Council Meeting Agenda Packet [Attachment 1](#), p. 6.

From: [roger heyder](#)
To: [Public Comment](#); [City Council](#)
Subject: [External Sender]Public comment on City Council Goal Setting meeting 3/1/2022
Date: Saturday, February 26, 2022 8:36:30 AM

Hello,

Please include my comment in the public correspondence record, and read my comment into the minutes.

Roger Heyder - resident of Los Altos

It is important that Council address the needs and objectives of residents when they set their goals. Residents should take a priority over special interest groups. There apparently has been little real outreach to residents, since the only input is from members of LACF and LAPOD.

LACV is an organization primarily composed of LACF and LAPOD members. Their objectives seem frequently out of alignment with those of residents. Counter to LACV recommendation, lawsuits on activities that violate city code are appropriate and necessary. This would include things like 5G and over-sized buildings. If Los Altos does not legally defend its statutes and laws, then it has no laws. Supporting Los Altos code, appropriately pursuing these legal cases, and recognizing and addressing city corruption (pending legal cases), requires leadership, courage, and morality.

Mr. Weiden is a member of Greentown Los Altos, a LACF organization. The Environment Commission, including Mr. Weiden and a board member of LACF, drove the Natural Gas Ban proposal. An open survey of approximately 800 Los Altos residents indicated that 80% opposed the ban (survey provided to Council at the time). Council proceeded to ignore the residents wishes and approve the ban. One can only wonder how much the Environment Commission was involved in the development of the 'Climate Action and Adaptation Plan'. More climate control suggestions from LACF Greentown are likely to be as unfortunate as the Natural Gas Ban, and just as onerous to residents.

The majority on Council are people that were heavily supported and campaigned for by LACV, LACF, and LAPOD members during the election - members of these organizations were instrumental in their election to Council. That would seem to generate a potential conflict of interest. Seeing specific written direction from LACV (LACF and LAPOD members) being provided to Council is more than concerning. Apparently if Council is receiving this direction, then there is no need to actively and competently solicit appropriate goals and objectives from regular residents. When Council populates commissions with a majority of LACF people, or LACF inclined people, that also leads to proposals and actions that do not necessarily reflect the desires of the regular residents.

This concern is reinforced when over-sized buildings are approved which

violate the Los Altos General Plan, and change the very character of Los Altos. This benefits developers and property owners, but not residents. These big buildings have not made any substantive progress towards meeting low income housing goals.

The recent Downtown Theater proposal was was driven by a LACF member and former mayor. Residents have protested putting buildings on parking lots in the past, the theater plan apparently has virtually zero fiscal viability, and the Los Altos General Plan calls for tree lined parking lots (rather than parking structures). Council approved the proposal anyway.

There are concerns with regards to who Council actually represents. Council is elected by residents, and is supposed to specifically represent resident best interests and objectives, rather than those of special interest groups. This does not appear to be happening.

I ask that Council cancel this goals meeting, and make a genuine effort to collect resident input on optimal Los Altos goals and objectives, and utilize that input in their process. Special interest groups can develop and propose specific projects to the city, and those projects can later be reviewed in light of resident objectives and goals.

I would recommend that Council goals include - balance budget and establish a surplus fund, increase focus on city maintenance, update the General Plan with broad resident participation, perform a full city financial audit and present it to the residents, return city employees to a 5 day work week, focus on city employees being hands on rather than contractor managers, provide an accurate and precise executive summary on every city proposal, work with city businesses to help them survive until the pandemic ends, and have the city offices and city attorney assure that all projects conform completely to the General Plan and city code.

From: [Couture, Terri](#)
To: [Public Comment](#)
Subject: public comments City council meeting March 1, agenda item 1
Date: Saturday, February 26, 2022 12:16:03 PM

Dear City Council

from Terri Couture (as a private citizen) and Fred Tuerk

Since we did not have access to the details of the meeting for Tuesday March 1, I am using 2021-23 goals and objectives as guideline.

For 2022 the number 1 goal should be fiscal responsibility and sustainability. The recent national and state financial predictions are going to require maximum conservation of reserves and careful determination of any expenses. Please do not count on continuing increasing property taxes as your buffer for poor planning and decisions. The housing market has seen more than one correction in the last 20 years. We have to pay the loan for the community center among other critical needs.

Number 2 goal should be community safety. More and more reports of crime, and less punishment allows criminals to become bold. Our population are aging and will need more care and protection. We need to support our public safety members.

Number 3 - Asset management. We can no longer ignore our aging facilities. After the finance committee and staff finish their audit, there must be a detailed plan to repair, protect and replace our facilities and infrastructure. This includes recruiting and keeping valuable staff. You must find people that want to work in public service, because just competing with tech ite salaries will not find the people you need.

Number 4 - Community engagement. This is a high priority item, and much of the population has no idea of what the council is doing and also it appears that when members of the public do speak up, many of their concerns have been ignored.

Number 5 - Land use. We are already losing our downtown charm, so maybe we should concentrate on protecting our single family residence neighborhoods, our parks and our open space. We must protect our Village from overwhelming high buildings.

Number 6 - Housing on the path developed this year.

If this council can fulfill on those goals and objectives they can consider themselves a success.

thank you

***Wire Fraud is Real*. Before wiring any money, call the intended recipient at a number you know is valid to confirm the instructions.** Additionally, please note that the sender does not have authority to bind a party to a real estate contract via written or verbal communication.

From: [Roberta Phillips](#)
To: [City Council](#); [Public Comment](#)
Subject: City Council Special Meeting/ Goal Setting March 1, 2022
Date: Sunday, February 27, 2022 12:15:58 PM

Dear Council

At your special meeting for goal setting , I suggest you have only one goal. That goal should be the lens you look through as items come before you. The goal is to have "Good Government."

Thomas Jefferson often referred to the term good government. In his opinion,the government ought to be judged by how well it meets its legitimate objectives. For him, a good government was the one that most effectively secures the rights of the people and rewards of their labor, which promotes their happiness, and also does their will.

If you ask yourself, every time you make a decision if you are promoting good government then you can improve the performance of city business, become more productive, promote stability, foster trust and ensure safer growth.

Sincerely
Roberta Phillips
650-941-6940

From: [Cheryl Weiden](#)
To: [City Council](#); [Public Comment](#)
Subject: Public Comments City Council meeting Mar 1 Prioritize Meaningful Climate Action
Date: Wednesday, February 16, 2022 9:29:22 PM

Dear City Council Members:

On Mar 1 you will be setting 2022 priorities for the City of Los Altos for 2022. Please make actions to address environmental and climate issues a high priority.

The 2022 Los Altos Climate Action and Adaptation Plan has been drafted but not yet approved by City Council. The Plan documents that 97% of Los Altos greenhouse gas emissions are from the transportation and energy sectors. Actions in these two areas need to be quickly advanced to reduce the City’s GHG emissions in meaningful ways.

The effects of climate change are here and now.

- On Feb 15 national news reported the [mega drought in the western US is the worst in 1200 years](#).
- On the same day a [report](#) by NOAA, NASA and five other federal agencies reported human-caused climate change has accelerated sea level rise to the fastest rate in over 3000 years, and global sea level rise of one foot is baked in even with drastic immediate action to curb greenhouse gas emissions.
- The 2022 report of the International Panel of Climate Change paints a dire future, but with hope if drastic immediate action is taken. Key takeaways - human activities are the cause, weather is getting more extreme, sea levels and temperatures will rise, and cities contribute 70% of the GHG emissions.
- Preparing for climate change is not without cost, but not doing so is more expensive. The US National Institute of Building Sciences reports that every \$1 invested in climate mitigation saves \$6.

Locally we have droughts, fires, smoke, extreme heat events, reduced quality of life, and detrimental effects to health. We observe in the US and the world extreme weather events and mass climate refugee migration...and it will only get worse from here. We have only about seven years to change our course away from a major climate catastrophe.

We must get real about working with neighboring Bay Area cities to avert a future catastrophe. We are naive if we believe that other cities must individually solve the climate change problems they face and that those problems will not impact Los Altos. The CAAP lays out the priorities...energy and transportation. There are numerous CAAP actions the City can take, like planting trees and conserving water, that are positive and supportive but have minimal if any direct impact on reducing our GHG emissions. We must do what matters.

Please make addressing environmental and climate issues with energy and transportation actions as specified in the CAAP a high priority.

Best regards,

Cheryl & Don Weiden
Los Altos

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From: [Abby Ahrens](#)
To: [Public Comment](#)
Subject: #8 Grant for a New Theater downtown
Date: Wednesday, April 6, 2022 3:28:15 PM

Honorable City Council Members,

The wave of new construction occurring on First Street will add millions of dollars to the City's coffers. Bringing many new residents to live downtown will improve vitality and as the Downtown Study showed increase revenues. This opportunity affords the City the better use of the property on which the old bus barn sits for badly need City services.

Please support the Grant Request.

Respectfully,
Abby Ahrens,
Hotelier, Enchante Boutique Hotel
Design and Development, Abigail Co

From: [Connie Miller](#)
To: [Public Comment](#)
Subject: PUBLIC COMMENT AGENDA ITEM 8 Priority Setting - April 12, 2022
Date: Friday, April 8, 2022 1:04:18 PM

Dear Mayor Enander and Members of the Los Altos City Council:

Eight years. That’s all the time we have to drastically reduce our CO2 emissions to avert the worst climate-fueled disasters. The updated UN IPCC report, issued this past week, says, *“Humanity must phase out fossil fuel extraction and combustion and immediately cease constructing new fossil fuel infrastructure.”* While this Climate disaster trajectory is definitively caused by humanity’s fossil fuel use, we possess the technological and economic tools today to avert this crisis. The success of averting it is dependent upon the political will to make the right decisions.

This is not another country’s or community’s problem; it is everyone’s problem, including our city of Los Altos. The impacts of pollution tend to be localized: living near sources of air pollution (like gas stoves, roads and gas leaf blowers) puts our community at risk of health impacts from asthma to respiratory disease. Drought, fire risk and temperature extremes all are felt at the local level. We implore Council to protect Los Altos. We will not be insulated from the Climate change consequences. We ask that every Council Member take this threat seriously and set Council priorities with the Climate Action and Adaptation Plan (CAAP) in mind.

We know from the CAAP that our highest leverage in reducing our CO2 emissions comes from the transportation and building sectors. We urge Council to prioritize the CAAP items that have the biggest impact in these two areas, regardless of the perceived difficulty in completing them. We also urge you to look beyond the CAAP by including a Climate metric in every decision the City makes.

We believe our citizens, who understand the Climate threat, fully support decisions that substantially mitigate our Climate exposure. You are in a great position of leadership to steer our wonderful city to a healthy and safe future.

With full support and confidence,

The Board of GreenTown Los Altos and Executive Director
Suresh Venkatraman, Gary Hedden, Connie Miller, Don Weiden, Jana Schlansker, Glenda Chang, Michelle Gerstel, Kim Jelfs, Kris Jensen

Legislative Committee Report April 12, 2022, meeting

The committee met once, at a noticed meeting on March 18, to discuss criteria for identifying bills for tracking and to create an initial list of such bills. Two members of the public attended. The committee is focusing on proposed measures with direct, potentially adverse effects on Los Altos Council governance. We are deferring tracking of measures to support until later in the session. We are considering, but not necessarily following, bills tracked by CalCities. At this time, CalCities has taken an “oppose” position on two bills.

Below is the calendar for council action, based on the legislative calendar (also given below). This is followed by the initial list of bills.

Council action: Committee welcomes council members’ and staffs’ suggestions for additional bills to track.

Calendar for City Council action

April 26 – Council action on any bills in **policy** committees (originating house)

May 10 – Council action on any bills in **fiscal** committees and floor votes (originating house)

Note: No further Council meetings for action prior to **floor votes** in originating house

June 14 – Council action for **policy** committees (second house)

June 28 – Council action for **fiscal** bills (second house)

July 12 – Last opportunity for Council action on **floor votes for second houses** (note: fiscal committees for second houses will not necessarily have taken action)

Legislative Calendar – key dates

Apr. 29 – Last day for policy committees to hear and report to fiscal Committees **fiscal** bills introduced in originating house.

May 6 – Last day for policy committees to hear and report to the floor **nonfiscal** bills introduced in originating house.

May 13 – Last day for **policy** committees to meet prior to May 31.

May 20 – Last day for **fiscal** committees to hear and report to the **floor** bills introduced in originating house.

May 27 – Last day for each house to pass bills introduced in that house

July 1 – Last day for **policy** committees to meet and report bills (second house)

Aug. 12 – Last day for **fiscal** committees to meet and report bills (second house)

Aug. 25 – Last day to **amend** bills on the floor

Aug. 31 – Last day for each house to pass bills.

Current list of bills being tracked for possible action.

The description is not comprehensive as to the provisions of the proposed legislation.

AB 2053 (Lee) Would create a new California Housing Authority

AB 2063 (Berman) Would prohibit collection of certain impact fees on “density bonus” units (collection currently is limited on affordable units).

AB 2097 (Friedman) Would prohibit any requirement for parking on developments within one-half mile of public transit. [CalCities: Oppose]

AB 2221 (Quirk-Silva) Would require an agency to return an approved permit or a full set of comments with a comprehensive request for revisions, within the specified time, on certain ADU applications.

AB 2625 (Ting) Would create certain exemptions to the Subdivision Map Act for leasing or easement of land involving an electrical energy storage system.

AB 2762 (Bloom) States intent of the Legislature to enact subsequent legislation to allow local agencies to build affordable housing on parking lots that serve public parks and recreational facilities.

SB 897 (Wieckowski) Would require objective standards for ADUs and JADUs, would prohibit standards limiting ADUs to less than 25 feet in height, would reduce the required parking in a multifamily dwelling by 2 parking spaces for each ADU located on the lot, and eliminates the owner-occupancy requirement in either the primary or JADU unit.

SB 922 (Wiener) Would remove the January 1, 2030, sunset to exempt certain bicycle transportation plans, signal timing, and other related projects from CEQA.

SB 930 (Wiener) Would authorize the Department of Housing and Community Development to review, adopt, amend, and repeal standards, forms, or definitions to implement the Housing Accountability Act without complying with the Administrative Procedure Act.

SB 932 (Portantino) Would require addition of a multi-modal transportation network in the Circulation Element of the General Plan for plans after June 30, 2024. [Cal Cities: Oppose]

SB 1067 (Portantino) Would prohibit a city with population greater than 200,000 from imposing any minimum automobile parking requirement on a housing development within ½ mile of public transit under certain conditions.

SB 1292 (Stern) Would require jurisdictions that constrain development within certain fire hazard zones to provide for replacement development double the number of units eliminated in the fire hazard zones.



City of Los Altos 2022 Tentative Council Agenda Calendar
April 4, 2022

All items and dates are tentative and subject to change unless a specific date has been noticed for a legally required Public Hearing. Items may be added or removed from the shown date at any time and for any reason prior to the publication of the agenda eight days prior to the next Council meeting.

Date	Agenda Item (Date identified by Council)	Agenda Section (Consent, Discussion Item - note in red if Public Hearing)	Dept/ Date of request to add.
April 26, 2022	REGULAR COUNCIL MEETING		
	705 Vista Grande Avenue - tentative parcel map	CC - Public Hearing	
	376 First Street - Design Review Approval	Public Hearing	
	Small Cell Ordinance – second reading		Planning
	Alta Housing BMR waiting list		
	Award of Excellence for the Design of the Los Altos Community Center presented by the California Park and Recreation Society	Special Item	
	Countywide Household Hazardous Waste Collection Program and AB 939 Implementation Fee		
	Award of Maintenance Contract: Full Trash Capture Devices Cleaning and Inspection		
	Return to in-person Council Meeting		
May 3, 2022	Joint Meeting w/Commissions		
May 10, 2022	REGULAR COUNCIL MEETING		
	Special Item – Intro of New Development Services Director		
	Resolution Calling for Election (?)		
	FY23 Budget Session	Public Hearing?	
	Tree Policy – tree protection ordinance		
	Use of Civic Center Property		



City of Los Altos Tentative Council Agenda Calendar
April 4, 2022

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Date	Agenda Item (Date identified by Council)	Agenda Section (Consent, Discussion Item - note in red if Public Hearing)	Dept.
	3rd Quarter Report		
	REGULAR COUNCIL MEETING		
May 24, 2022	Joint Council/Planning Commission Study Session; Draft Housing Element update 4 p./m		
May 24, 2022	REGULAR COUNCIL MEETING		
	Resolution Calling for Election (?)		
	Financial System Purchase		
June 14, 2022	Adopt Resolution No. 2022-XX approving the Report of Sewer Service Charges and directing the Filing of Charges for Collection by the Tax Collector		
	FY23 Budget Adoption		
June 28, 2022	REGULAR COUNCIL MEETING		
July 12, 2022	REGULAR COUNCIL MEETING		
August 23, 2022	REGULAR COUNCIL MEETING		
August 30, 2022	Commission Interviews		
September 6, 2022	REGULAR COUNCIL MEETING		



City of Los Altos Tentative Council Agenda Calendar
April 4, 2022

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Date	Agenda Item (Date identified by Council)	Agenda Section (Consent, Discussion Item - note in red if Public Hearing)	Dept.
September 20, 2022*	Year End tentative report – September (if needed)		
	REGULAR COUNCIL MEETING		
October 11, 2022	REGULAR COUNCIL MEETING		
October 25, 2022	REGULAR COUNCIL MEETING		
November 1, 2021	Joint w/Commissions		
November 15, 2022 *	1st Quarter report FY 2021/2022		
	REGULAR COUNCIL MEETING		
November 29, 2022	REGULAR COUNCIL MEETING		
December 6, 2022	CAFR and Year End – 1st meeting December		
December 13, 2022	Special meeting REORG.		

Future Agenda Topics To Be Scheduled....

Proposed City policy that modifies the environmental analysis standard for circulation impacts from a	Public	
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City of Los Altos Tentative Council Agenda Calendar
April 4, 2022

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Date	Agenda Item (Date identified by Council)	Agenda Section (Consent, Discussion Item - note in red if Public Hearing)	Dept.
	Level of Service (LOS) analysis to a Vehicle Miles Traveled (VMT) analysis. info on Cuesta speed tables	Hearing	
	League of California Cities – Role and Representation	Presentati on/Discu ssion	Council Initiated
	Story Pole Policy		CI 03.22.2022
	FOL Waiver Request at LACC		
	Subcommittee on Grants		GE 03.22.2022
	Comprehensive multi-modal traffic study (analysis of recent projects projected parking, trip generation, & traffic impacts to actuals; ECR impacts should include adjacent streets)		ES
	Reach Code 2.0		
	Policy of use of City Land by Non-Profits at Civic Center		