

CITY OF GARDENA
WIRELESS FACILITIES POLICY

(Adopted by City Council Resolution No. 6391)

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WIRELESS FACILITIES POLICY

SECTION 1. GENERAL PROVISIONS

SECTION 1.1. PURPOSE AND INTENT

- (a) The City of Gardena intends this policy to establish reasonable, uniform and comprehensive standards and procedures for wireless facilities deployment, construction, installation, collocation, modification, operation, relocation and removal within the City, consistent with and to the extent permitted under federal and California state law. The standards and procedures contained in this policy are intended to, and should be applied to, protect and promote public health, safety and welfare, and balance the benefits that flow from robust, advanced wireless services with the City's local values, which include without limitation the aesthetic character of the City, its neighborhoods and community. This policy is also intended to reflect and promote the community interest by (1) ensuring that the balance between public and private interest is maintained on a case-by-case basis; (2) protecting the City's visual character from potential adverse impacts or visual blight created or exacerbated by wireless communications infrastructure; (3) protecting and preserving the City's environmental resources; and (4) promoting access to high-quality, advanced wireless services for the City's residents, businesses and visitors.

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

SECTION 1.2. GENERAL DEFINITIONS

- (a) **"Approval Authority"** means the Planning Commission or the Director, whichever is responsible, to review permit applications and vested with the authority to approve or deny such applications. "Approval Authority" also includes the person or body entitled to hear an appeal under this policy.

- (b) **“Collocation”** means the same as defined by the FCC in 47 C.F.R. § 1.6002(g), as may be amended or superseded, which defines that term as mounting or installing an antenna facility on a pre-existing structure and/or modifying a structure for the purpose of mounting or installing an antenna facility on that structure. The definition of collocation as used in Section 3 only applies in the context of eligible facilities requests as that term used in that section.
- (c) **“Concealed”** or **“Concealment”** means camouflaging techniques that integrate the transmission equipment into the surrounding natural and/or built environment such that the average, untrained observer cannot directly view the equipment but would likely recognize the existence of the wireless facility or concealment technique. Camouflaging concealment techniques include, but are not limited to: (1) facade or rooftop mounted pop-out screen boxes; (2) antennas mounted within a radome above a streetlight; (3) equipment cabinets in the public rights-of-way painted or wrapped to match the background; and (4) an isolated or standalone faux-tree.
- (d) **“CPUC”** means the California Public Utilities Commission established in the California Constitution, Article XII, § 5, or its duly appointed successor agency.
- (e) **“Decorative Pole”** means any pole that includes decorative or ornamental features, design elements, and/or materials intended to enhance the appearance of the pole or the public rights-of-way in which the pole is located.
- (f) **“Director”** means the Director of Public Works or his designee for permits relating to the public right-of-way and means the Director of Community Development or his designee for permits relating to private property and all other public property.
- (g) **“Eligible Facilities Request”** means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(3), as may be amended or superseded, which defines that term as any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.
- (h) **“FCC”** means the Federal Communications Commission or its duly appointed successor agency.
- (i) **“FCC Shot Clock”** means the presumptively reasonable time frame within which the City generally must act on a given wireless application, as defined by the FCC and as may be amended or superseded.
- (j) **“Macro Wireless Facility”** means any wireless facility that does not qualify as a “small wireless facility” as defined by the FCC in 47 C.F.R. § 1.6002(l), as may be amended or superseded.

- (k) **“Ministerial Permit”** means any City-issued non-discretionary permit required to commence or complete any construction or other activity subject to the City’s jurisdiction. Ministerial permits may include, without limitation, any building permit, construction permit, electrical permit, encroachment permit, excavation permit, traffic control permit and/or any similar over-the-counter approval issued by the City’s departments.
- (l) **“OTARD”** means any over-the-air reception device subject to 47 C.F.R. §§ 1.4000 *et seq.*, as may be amended or superseded, and which includes satellite television dishes not greater than one meter in diameter.
- (m) **“Personal Wireless Services”** means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended or superseded, which defines the term as commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services.
- (n) **“Personal Wireless Service Facilities”** means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended or superseded, which defines the term as facilities that provide personal wireless services.
- (o) **“Right-of-way”** means any land or interest therein which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for or dedicated to the use of the general public for road or highway purposes. The term “right-of-way” does not encompass any private property (real or personal), private utility easements or any public easements for pedestrian ingress and egress on, in, under, over or across private property, unless such property or interest therein has been dedicated for public road or highway purposes.
- (p) **“Routine Maintenance and Repair”** means work performed solely to maintain or repair the existing transmission equipment approved in accordance with the regulatory approvals or permits required at the time the subject wireless facility was constructed or modified. As an illustration, routine maintenance and repair includes fixing the internal components of damaged, inoperable or malfunctioning transmission equipment or replacing such equipment with new equipment of the same make, model and size of the equipment being replaced. Maintenance or repair that involves adding any new transmission equipment, increasing the size or dimensions of any existing transmission equipment, or implementing technology upgrades shall not be considered routine.
- (q) **“Section 6409”** means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. § 1455(a), as may be amended or superseded.
- (r) **“Section 6409 Approval”** means the same as defined in Section 3.1(b).

- (s) **“Small Wireless Facility”** means the same as defined by the FCC in 47 C.F.R. § 1.6002(*J*), as may be amended or superseded, which defines that term as facilities that (1) are mounted on structures 50 feet or less in height including their antennas, are mounted on structures no more than 10 percent taller than other adjacent structures, or do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater; (2) each antenna associated with the deployment, excluding associated antenna equipment (as defined in 47 C.F.R. § 1.1320(*d*)), is no more than three cubic feet in volume; and (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.
- (t) **“Stealth”** means concealment techniques that completely screen all transmission equipment from public view and integrate the transmission equipment with the surrounding natural and/or built environment such that, given the particular context, the average, untrained observer does not recognize the existence of the wireless facility or concealment technique. These facilities are so integrated and well-hidden that the average, untrained observer would need special knowledge to recognize their existence. Stealth concealment techniques include, but are not limited to: (1) transmission equipment placed completely within existing architectural features such that the installation causes no visible change to the underlying structure and (2) new architectural features that mimic the underlying building in architectural style, physical proportion and quality of construction materials. Architectural features commonly used as stealth concealment include, but are not limited to, church steeples, cupolas, bell towers, clock towers, pitched faux-roofs, water tanks and flagpoles. Further, whether a wireless facility qualifies as a stealth facility depends on the context that exists at a given location and is evaluated on a case-by-case basis.
- (u) **“Temporary Wireless Facilities”** means portable wireless facilities intended or used to provide personal wireless services on a temporary or emergency basis, such as a large-scale special event in which more users than usual gather in a confined location or when a disaster disables permanent wireless facilities. Temporary wireless facilities include, without limitation, cells-on-wheels (**“COWs”**), sites-on-wheels (**“SOWs”**), cells-on-light-trucks (**“COLTs”**) or other similarly portable wireless facilities not permanently affixed to site on which is located.
- (v) **“Tower”** means the same as defined by the FCC in 47 C.F.R. § 1.6100(*b*)(9), as may be amended or superseded, which defines that term as any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. Examples include, but are not limited to, monopoles (i.e., a bare, unconcealed pole

solely intended to support wireless transmission equipment), mono-trees and lattice towers.

SECTION 1.3. GENERAL APPLICABILITY AND EXEMPTIONS

- (a) **Applicable Wireless Facilities.** The provisions in this policy shall be applicable to all existing wireless facilities and all applications and requests for authorization to construct, install, attach, operate, collocate, modify, reconstruct, relocate or otherwise deploy wireless facilities within the City, whether on private property or within the public rights-of-way.
- (b) **Exemptions.** Notwithstanding any provision in this policy to the contrary, the provisions in this policy will not be applicable to: (1) wireless facilities owned and operated by the City for public purposes; (2) amateur radio facilities; (3) OTARD antennas; (4) wireless facilities or equipment owned and operated by CPUC-regulated electric companies for use in connection with electrical power generation, transmission and distribution facilities subject to CPUC General Order 131-D; and (5) routine maintenance and repair.
- (c) **Special Provisions for Macro Wireless Facilities.** Except as expressly provided otherwise in this policy, all applications and requests for authorization to construct, install, attach, operate, collocate, modify, reconstruct, relocate or otherwise deploy wireless facilities within the City outside the public rights-of-way will be reviewed under the procedures and standards in Section 2.
- (d) **Special Provisions for Eligible Facilities Requests.** Notwithstanding any provision in this policy to the contrary, all requests for approval to collocate, replace or remove transmission equipment at an existing wireless tower or base station submitted pursuant to Section 6409 will be reviewed under the procedures and standards in Section 3.
- (e) **Special Provisions for Small Wireless Facilities.** Notwithstanding Section 2, all applications and requests for authorization to construct, install, attach, operate, collocate, modify, reconstruct, relocate or otherwise deploy small wireless facilities, as defined by the FCC in 47 C.F.R. § 1.6002(l), will be reviewed under the procedures and standards in Section 4.
- (f) **Special Provisions for Temporary Wireless Facilities.** All applications for temporary wireless facilities will be reviewed under the procedures and standards in Section 5. To the extent that the application does not meet the required findings for a temporary wireless facility, the applicant may submit the same for a substantially similar application for a permit under Section 2 or Section 4.

SECTION 1.4. GENERAL APPLICATION REQUIREMENTS AND PROCEDURES

- (a) **General Application Contents.** Except for applications for temporary wireless facilities, and in addition to any special requirements provided in this policy or other publicly stated application requirements, all permit applications must include the information and materials required in this subsection (a). Applications for wireless facilities in the public right-of-way shall be submitted to the Department of Public Works. Applications for wireless facilities on private property or public property other than public rights-of-way shall be submitted to the Community Development Department.
- (1) **Application Form.** The applicant shall submit a complete, duly executed permit application on the then-current form prepared by the Director.
 - (2) **Application Fee.** The applicant shall submit the applicable permit application fee established by City Council resolution. If no application fee has been established, then the applicant must submit a signed written statement that acknowledges that the applicant will be required to reimburse the City for its reasonable and actual costs incurred in connection with the application.
 - (3) **Site Survey.** For any application in connection with a wireless facility within the public rights-of-way, the applicant shall submit a survey prepared, signed and stamped by a California licensed or registered engineer. The survey must identify and depict all existing boundaries, encroachments and other structures within 300 feet from the proposed project site, which includes without limitation all: (i) traffic lanes; (ii) all private properties and property lines; (iii) above and below-grade utilities and related structures and encroachments; (iv) fire hydrants, roadside call boxes and other public safety infrastructure; (v) streetlights, decorative poles, traffic signals and permanent signage; (vi) sidewalks, driveways, parkways, curbs, gutters and storm drains; (vii) benches, trash cans, mailboxes, kiosks and other street furniture; and (viii) existing trees, planters and other landscaping features.
 - (4) **Photo Simulations.** The applicant shall submit site photographs and photo simulations that show the existing location and the proposed wireless facility before and after the installation, collocation or modification. The photographs and photo simulations must show the wireless facility in context from at least three vantage points within the public streets or other publicly accessible spaces, together with a vicinity map that shows the proposed site location and the photo location for each vantage point.
 - (5) **RF Compliance Report.** The applicant shall submit an RF exposure compliance report that certifies that the proposed wireless facility, as well as any collocated wireless facilities, will comply with applicable federal RF exposure standards and exposure limits. The RF report must be prepared and certified by an RF engineer acceptable to the City. The RF report must include

- the actual frequency and power levels (in watts ERP) for all existing and proposed antennas at the site and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also the boundaries of areas with RF exposures in excess of the controlled/occupational limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.
- (6) **Regulatory Authorization.** The applicant shall submit evidence of the applicant's regulatory status under federal and California law to provide the services and construct the wireless facility proposed in the application.
 - (7) **Title Report and Property Owner's Authorization.** For any wireless facility proposed to be installed on any private property not owned or controlled by the City, the applicant must submit: (i) a title report issued within 30 days from the date the applicant filed the application; and (ii) if the applicant is not the property owner, a written authorization signed by the property owner identified in the title report that authorizes the applicant to submit and accept a permit in connection with the subject property.
 - (8) **Acoustic Analysis.** The applicant shall submit an acoustic analysis prepared and certified by an engineer for the proposed wireless facility, collocation or modification and all associated equipment including all environmental control units, sump pumps, temporary backup power generators and permanent backup power generators demonstrating compliance with the City's noise regulations. The acoustic analysis must also include an analysis of the manufacturers' specifications for all noise-emitting equipment and a depiction of the proposed equipment relative to all adjacent property lines. In lieu of an acoustic analysis, the applicant may submit evidence from the equipment manufacturer that the ambient noise emitted from all the proposed equipment will not, both individually and cumulatively, exceed the applicable limits.
 - (9) **Landscape Plans.** All applications must include landscape features and a landscape plan when the wireless facility is proposed to be placed in a landscaped area. The landscape plan must include existing vegetation, and vegetation proposed to be removed or trimmed, and the landscape plan must identify proposed landscaping by species type, size and location.
 - (10) **Mailing Information.** The applicant shall submit: a map of all properties within a 300-foot radius of the subject property for a macro facilities permit and within a 100-foot radius of the subject property for a small wireless facilities permit, keyed to a list of names and addresses of the current property owner(s); two sets of adhesive mailing labels and one copy of the list of names and addresses for all properties and property owners within the required radius; certification that the names and addresses provided are those of the property owner(s)

currently listed on the latest available Tax Assessor's records; and unaddressed business envelopes sufficient for one mailing, stamped with first class postage, of sufficient number to contact every property owner within the required radius, the subject property owner(s), and the applicants.

- (b) **Requirements for a Duly Filed Application.** Except for applications for temporary wireless facilities, and in addition to any special requirements provided in this policy or other publicly stated application procedures, any permit application will not be considered duly filed unless submitted in accordance with the requirements in this subsection (b).
- (1) **Submittal Appointment.** All applications must be submitted to the City at a pre-scheduled appointment with the Public Works Department for applications relating to public rights of way and to the Community Development Department for applications relating to private property and all other public property. Applicants may generally submit one application (or one batch of applications subject to Section 4.3(b)) per appointment. Applicants may schedule successive appointments for multiple applications whenever feasible and not prejudicial to other applicants. The Department shall use reasonable efforts to provide the applicant with an appointment within five working days after the Department receives a written request. Any application received without an appointment, whether delivered in-person, by mail or through any other means, will not be considered duly filed.
- (2) **Voluntary Pre-Submittal Conference.** The City strongly encourages, but does not require, applicants to schedule and attend a pre-submittal conference with the appropriate Department for all permit applications. This voluntary pre-submittal conference does not cause the FCC Shot Clock to begin and is intended to streamline the review process through informal discussion that includes, without limitation, the appropriate project classification and review process; any latent issues in connection with the proposed project, including compliance with generally applicable rules for public health and safety; potential concealment issues or concerns (if applicable); coordination with other City departments responsible for application review; and application completeness issues. To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications or other materials so that City staff may provide informal feedback and guidance about whether such applications or other materials may be incomplete or unacceptable. The Department shall use reasonable efforts to provide the applicant with an appointment within five working days after receiving a written request and any applicable fee or deposit to reimburse the City for its reasonable costs to provide the services rendered in the pre-submittal conference.
- (c) **Applications Deemed Withdrawn.** To promote efficient review and timely decisions, and to mitigate unreasonable delays or barriers to entry caused by

chronically incomplete applications, any application governed under this policy will be automatically deemed withdrawn by the applicant when the applicant fails to tender a substantive response to the Department within 60 calendar days after the Department deems the application incomplete in a written notice to the applicant. As used in this subsection (c), a “substantive response” must include the materials identified as incomplete in the Department’s notice.

- (d) **Additional Requirements and Regulations.** The City Council authorizes the Community Development Department and Department of Public Works to develop, publish and from time to time update or amend permit application requirements, forms, checklists, guidelines, informational handouts and other related materials that the Departments finds necessary, appropriate or useful for processing any application governed under this policy. The City Council further authorizes the Departments to establish other reasonable rules and regulations for duly filed applications, which may include without limitation regular hours for appointments with applicants, as the Department deems necessary or appropriate to organize, document and manage the application intake process. All such requirements, materials, rules and regulations must be in written form and publicly stated to provide all interested parties with prior notice.

SECTION 2. MACRO WIRELESS FACILITIES ON PRIVATE PROPERTY

SECTION 2.1. APPLICABILITY; REQUIRED PERMITS AND APPROVALS

- (a) **Applicability.** Except as expressly provided otherwise in this policy, the provisions in this Section 2 shall be applicable to all existing macro wireless facilities and all applications and requests for authorization to construct, install, attach, operate, collocate, modify, reconstruct, relocate or otherwise deploy macro wireless facilities within the City outside the public rights-of-way.
- (b) **Macro Facility Permit.**
 - (1) **Director Review.** The Director’s review and approval in accordance with the procedures and design regulations in this Section 2, is required for any new macro wireless facility proposed in a preferred location pursuant to Section 2.3(a) and must be compliant with all applicable design standards in Section 2.4.
 - (2) **Planning Commission Review.** The Planning Commission’s review and approval in accordance with the procedures and design regulations in this Section 2, is required for any new macro wireless facility proposed in the locations below and must be compliant with all applicable standards in Section 2.3 and Section 2.4:

- (A) any wireless facility proposed to be located in or within 100 feet from a single-family residential (R-1) or low-density multiple-family (R-2) residential zone;
 - (B) any wireless facility proposed to be located in the commercial-residential (C-R) zone;
 - (C) any wireless facility that requires a limited exception pursuant to Section 2.5(b)(3);
 - (D) any wireless facility proposed to be constructed in conjunction with a new development that requires Planning Commission approval; and
 - (E) any wireless facility not identified as subject to the Director review process in subsection (b)(1).
- (3) **Other Permits and Regulatory Approvals.** In addition to the approval required under this Section 2, the applicant must also obtain all other permits and regulatory approvals as may be required by any other federal, state or local government agencies, which includes, without limitation, any other permits and/or approvals issued by other departments or divisions within the City. Furthermore, any macro cell permit granted under this Section 2 (or deemed granted or deemed approved by law) shall remain subject to any and all lawful conditions and/or legal requirements associated with such other permits or approvals.

SECTION 2.2. SPECIAL APPLICATION REQUIREMENTS AND PROCEDURES

- (a) **Special Application Contents.** In addition to the requirements in Section 1.4, all applications for a macro cell permit must include all the information and materials required in this subsection (a).
- (1) **Site Development Plans.** A fully dimensioned site plan and elevation drawings prepared and scaled by a California licensed or registered engineer and/or architect showing any existing wireless facilities with all existing transmission equipment and other improvements, the proposed facility with all proposed transmission equipment and other improvements and the legal boundaries of the leased or owned area surrounding the proposed facility and any associated access or utility easements. The plans must contain all other elements and details set forth on the Macro Facility application form, as applicable, including a landscape plan for any facility proposed in a landscaped area.
 - (2) **Project Narrative and Justification.** A written statement that includes: (a) a description in plain factual detail of the technical objectives to be achieved; (b) an annotated topographical map that identifies the targeted service area to be benefitted; and (c) full-color signal propagation maps with objective units of

signal strength measurement that show the applicant's current service coverage levels from all adjacent sites without the proposed site, predicted service coverage levels from all adjacent sites with the proposed site, and predicted service coverage levels from the proposed site without all adjacent sites.

- (3) **Alternative Sites Analysis.** The applicant must provide a list of all the alternatives to the proposed location that the applicant considered, together with a general description of the site design considered at each location. The applicant must also provide a written explanation and a meaningful comparative analysis for why the alternatives considered were unacceptable, infeasible, unavailable or not as consistent with the development standards in this Section 2 as the proposed location. If an existing facility is listed among the alternatives, the applicant must specifically address why the modification of such wireless communication facility is not a viable option.
- (b) **Application Completeness Review.** Within 30 calendar days after the Director receives a duly filed permit application, the Director shall review the application for completeness and, if the application does not contain all the required publicly stated materials, may send a written notice to the applicant that identifies the missing or incomplete requirements. Within 10 calendar days after the Director receives any permit application resubmittal, the Director shall review the application for completeness and, if the resubmittal does not contain all the materials identified in the initial written notice, may send a subsequent written notice to the applicant that identifies the remaining missing or incomplete requirements.

SECTION 2.3. LOCATION STANDARDS

- (a) **Preferred Locations.** When evaluating compliance with this Section 2, the Approval Authority will take into consideration whether any more preferred locations are technically feasible and potentially available. All applicants must propose new macro wireless facilities according to the following preferences, ordered from most preferred to least preferred:
 - (1) parcels within parking (P) zones;
 - (2) parcels within industrial (M-1/M-2) zones or approved for an industrial use;
 - (3) parcels within commercial (C-2/C-3/C-4) zones or approved for a commercial use;
 - (4) parcels with official (O) zones or approved for an official use;

- (5) parcels within a mixed-use overlay (MU), home business (H-B), or business and professional (C-P) zone or approved for such uses with a residential component;
 - (6) parcels in residential zones other than R-1 or R-2 district, including Specific Plan zones.
- (b) **Discouraged Locations.** The City strongly discourages new macro wireless facilities in the following locations, ordered from most discouraged to least discouraged, when a technically feasible and potentially available alternative in a “preferred” location exists. Any application for a new wireless facility in the following “discouraged” locations shall not be approved without a limited exception granted by the Approval Authority pursuant to Section 2.5(b)(3).
- (1) parcels within a single-family (R-1) or low-density multiple-family (R-2) residential zone or within 100 feet of an R-1 or R-2 zone;
 - (2) parcels within a commercial-residential (C-R) zone.

SECTION 2.4. DESIGN STANDARDS FOR MACRO WIRELESS FACILITIES

(a) General Design Standards.

- (1) **Concealment.** Wireless facilities must incorporate concealment elements, measures and techniques that blend the equipment and other improvements into the natural and/or built environment in a manner consistent and/or compatible with the uses germane to the underlying zoning district and existing in the immediate vicinity. As an illustration and not a limitation, a wireless facility designed to mimic a native tree species may be appropriate in an open space location where other natural elements exist to provide effective camouflaging and/or concealment.
- (2) **Overall Height.** Wireless facilities on private property may not exceed the applicable height limit for structures in the applicable zoning district or overlay zone; provided, however, that a stealth wireless facility in a preferred location may exceed the applicable height limit by not more than ten (10) feet.
- (3) **Setbacks.** Wireless facilities on private property may not encroach into any applicable setback for structures in the subject zoning district.
- (4) **Noise.** Wireless facilities and all accessory equipment and transmission equipment must comply with all applicable noise control standards and regulations in the Gardena General Plan and Gardena Municipal Code Chapter 8.36, and shall not exceed, either individually or cumulatively, the applicable ambient noise limit in the subject zoning district. The Approval Authority may

require the applicant to incorporate appropriate noise-baffling materials and/or strategies whenever necessary to avoid any ambient noise from equipment (such as backup power generators) reasonably likely to exceed the applicable limit. In the event a duly authorized federal, state, county or City official declares an emergency within a region that includes the City in whole or in part, backup power generators may exceed the applicable noise control standards and regulations to the extent reasonably necessary to operate the facility until the declared emergency is lifted or power is restored to the affected facility.

- (5) **Lights.** Wireless facilities may not include exterior lights other than: (a) as may be required under Federal Aviation Administration, FCC, or other applicable governmental regulations; and (b) timed or motion-sensitive lights for security and/or worker safety. All exterior lights permitted or required to be installed must be installed in locations and within enclosures that mitigates illumination impacts on other properties to the maximum extent feasible. All equipment with lights (such as indicator or status lights) must be installed in locations and within enclosures that mitigate illumination impacts visible from publicly accessible areas.
- (6) **Landscape Features.** Landscape maintenance must be performed in order to avoid the landscaping becoming a nuisance as specified in accordance with Gardena Municipal Code § 8.64.020. The Approval Authority may require additional landscape features to screen the wireless facility from public view, avoid or mitigate potential adverse impacts on adjacent properties or otherwise enhance the concealment required under this policy.
- (7) **Site Security Measures.** Wireless facilities may incorporate reasonable and appropriate site security measures, such as fences, walls and anti-climbing devices, to prevent unauthorized access, theft or vandalism. Site security measures must be designed to enhance concealment to the maximum extent possible, such as installing equipment within an enclosure designed to mimic a trash-can enclosure or corral. The Approval Authority may require additional concealment elements as the Approval Authority finds necessary to blend the security measures and other improvements into the natural and/or built environment. The Approval Authority shall not approve chain link, barbed wire, razor ribbon, electrified fences or any similar security measures.
- (8) **Backup Power Sources.** The Approval Authority may approve backup power sources and/or generators on a case-by-case basis. The Approval Authority shall not approve any diesel generators or other similarly noisy or noxious generators in or within 300 feet from any residence; provided, however, the Approval Authority may approve sockets or other connections used for temporary backup generators.
- (9) **Signage; Advertisements.** All wireless facilities must include signage that accurately identifies the equipment owner/operator, the owner/operator's site

name or identification number and a toll-free number to the owner/operator's network operations center. Wireless facilities may not bear any other signage or advertisements unless expressly approved by the City, required by law or recommended under FCC or other United States governmental agencies for compliance with RF emissions regulations.

- (10) **Future Collocations and Equipment.** To the extent feasible and aesthetically desirable, all new wireless facilities should be designed and sited in a manner that accommodates potential future collocations and equipment installations that can be integrated into the proposed wireless facility or its associated structures with no or negligible visual changes to the outward appearance.
- (11) **Utilities.** All cables and connectors for telephone, primary electric and other similar utilities must be routed underground to the extent feasible in conduits large enough to accommodate future collocated wireless facilities. Meters, panels, disconnect switches and other associated improvements must be placed in inconspicuous locations to the extent possible. The Approval Authority shall not approve new overhead utility lines or service drops merely because compliance with the undergrounding requirements would increase the project cost; provided, however, that the Approval Authority may waive this requirement to the extent the approval of new overhead lines or service drops would amount to a *de minimis* visual change. Microwave or other wireless backhaul is discouraged when it would involve a separate and unconcealed antenna.
- (12) **Parking; Access.** Any equipment or improvements constructed or installed in connection with any wireless facilities must not reduce any parking spaces below the minimum requirement for the subject property. Whenever feasible, wireless facilities should use existing parking and access rather than construct new parking or access improvements. Any new parking or access improvements should be the minimum size necessary to reasonably accommodate the proposed use.

(b) **Towers and Freestanding Wireless Facilities.**

- (1) **Tower-Mounted Equipment—In General.** All tower-mounted equipment must be mounted as close to the vertical support structure as possible to reduce its overall visual profile. Applicants must mount non-antenna, tower-mounted equipment (including, but not limited to, remote radio units/heads, surge suppressors and utility demarcation boxes) directly behind the antennas to the maximum extent feasible. All tower-mounted equipment, cables and hardware must be painted with flat/neutral colors subject to the Approval Authority's prior approval.
- (2) **Ground-Mounted Equipment—In General.** All ground-mounted equipment must be concealed underground, within an existing or new structure or other

enclosure(s) subject to the Approval Authority's prior approval. The Approval Authority may require additional concealment elements as the Approval Authority finds necessary or appropriate to blend the ground-mounted equipment, enclosure and/or other improvements into the natural and/or built environment.

(3) **Monopines and Faux Trees.**

- (A) **Shape and Branching.** Monopines shall be gradually tapered from bottom to top to resemble the natural conical pine-tree shape, with shorter branches at the top and wider branches at the bottom. All monopines shall include a "crown" or "topper" installed above the monopole to create a natural point at the top. Branches shall begin at no greater than 15 feet above ground level and maintain at least 3.5 branches per vertical foot when averaged between the bottom-most branch and the highest point on the monopole (excluding any "crown" or "topper" installed above the monopole). The Approval Authority may consider other faux trees designs including without limitation monoecalyptus trees, monopalms, and monocypress trees. The canopy for the faux tree species must be naturally tapered to mimic the particular species. The canopy must completely envelop all tower-mounted equipment and extend beyond such equipment by at least 18 inches.
- (B) **Bark Cladding.** The entire monopole shall be fitted with faux-tree bark cladding, painted or colored with browns or other appropriate earth tones to mimic natural tree bark for the particular species.
- (C) **Equipment Concealment.** All antennas, accessory equipment, cross arms, hardware, cables and other attachments to the monopine or other tree species must be painted or colored with a flat greens, browns or other appropriate earth tones to blend into the faux branches. All antennas, remote radio units, tower-mounted amplifiers and other similar equipment larger than one cubic foot shall be fitted with a faux-pine or broadleaf "sock" with faux-pine needles or other faux-foliage. No tower-mounted equipment shall be permitted to protrude beyond the branch canopy such that it would materially alter the tapered tree shape.
- (D) **Concealment Material Selection and Approval.** All materials and finishes used to conceal the monopine shall be subject to prior approval by the Community Development Department. Applicants shall use only high-quality materials to conceal the wireless facility. The applicant shall use color-extruded plastics for elements such as the faux-foliage and faux-bark cladding to prolong the like-new appearance and reduce fading caused by exposure to the sun and other weather conditions.

(c) **Building-Mounted Wireless Facilities.**

- (1) **Preferred Concealment Techniques.** All applicants should, to the extent feasible, propose new non-tower wireless facilities that are completely concealed and architecturally integrated into the existing facade or rooftop features with no visible impacts from any publicly accessible areas at ground level (examples include, but are not limited to, antennas behind existing parapet walls or facades replaced with RF-transparent material and finished to mimic the replaced materials). Alternatively, when integration with existing building features is not feasible, the applicant should propose completely concealed new structures or appurtenances designed to mimic the support structure's original architecture and proportions (examples include, but are not limited to, cupolas, steeples, chimneys and water tanks). Facilities must be located behind existing parapet walls or other existing screening elements to the maximum extent feasible.
- (2) **Facade-Mounted Equipment.** When wireless facilities cannot be placed behind existing parapet walls or other existing screening elements, the Approval Authority may approve facade-mounted equipment in accordance with this subsection. All facade-mounted equipment must be concealed behind screen walls and mounted as flush to the facade as practicable. The Approval Authority may not approve "pop-out" screen boxes unless the design is architecturally consistent with the original building or support structure. Except in industrial zones, the Approval Authority may not approve any exposed facade-mounted antennas, including but not limited to exposed antennas painted to match the facade. To the extent feasible, facade-mounted equipment must be installed on the facade(s) along the building frontage that is the least prominent or publicly visible.
- (3) **Rooftop-Mounted Equipment.** All rooftop-mounted equipment must be screened from public view with concealment measures that match the underlying structure in proportion, quality, architectural style and finish. The Approval Authority may approve unscreened rooftop equipment only when it expressly finds that such equipment is effectively concealed due to its low height and/or setback from the roofline.

SECTION 2.5. NOTICES; DECISIONS AND APPEALS

(a) Notices.

- (1) **Public Notice.** Prior to any approval, conditional approval or denial, public notice shall be mailed to all properties and record owners of properties within 300 feet from the project site. The notice must contain: (1) a general project description; (2) the applicant's identification and contact information as provided on the application submitted to the City; (3) contact information for the Approval Authority; (4) for a macro facility in a preferred location a statement that the Director will act on the application without a public hearing by a date certain, which date shall be at least ten calendar days from the date of the

notice, and will evaluate the application and comments received during that period for compliance with the standards in Section 2.3 and Section 2.4 or for all other macro facilities - contains information as to when the Planning Commission will consider the matter at a public meeting, which meeting shall be at least ten calendar days from the date of the notice; and (5) a statement that the FCC requires the City to act on macro cell permit applications, which includes any administrative appeals, in 90 days for attachments to existing structures and 150 days for new structures, unless the applicant voluntarily agrees to toll the timeframe for review. No newspaper notice shall be required.

(2) **Deemed-Approval Notice.** Not more than 30 days before the applicable FCC Shot Clock expires, and in addition to any public notice required prior to a decision, an applicant for a macro cell permit must provide a posted notice at the project site that contains: (1) a statement the project will be automatically deemed approved pursuant to California Government Code § 65964.1 unless the City approves or denies the application or the applicant voluntarily agrees to toll the timeframe for review within the next 30 days; (2) a general description for the proposed project; (3) the applicant's name and contact information as provided on the application submitted to the City; and (4) contact information for the Community Development Department. The public notice required under this subsection will be deemed given when the applicant delivers written notice to the Community Development Department that shows the appropriate notice has been posted at the project site. Notwithstanding the foregoing, the Approval Authority shall be permitted to act on an application for a macro cell permit at any time so long as the applicable prior public notice in subsection (a)(1) has occurred.

(3) **Decision Notice.** Within five calendar days after the Approval Authority acts on a macro cell permit application governed under this policy or before the FCC Shot Clock expires (whichever occurs first), the Approval Authority or its designee shall send a written notice to the applicant. The notice may be sent as an attachment to the email address supplied on the application and a copy of the notice and the email shall be placed in the file along with the notice. The written notice to the applicant must contain: (1) the reasons for the decision; and (2) instructions for how and when to file an appeal. Notice shall also be sent to any person who filed a written comment or appeared at a public meeting.

(b) **Decisions and Appeals.**

(1) **Required Findings.** The Approval Authority may approve or conditionally approve an application submitted under this Section 2 when the Approval Authority finds all the following:

- (A) the proposed wireless facility complies with all applicable standards in Section 2.3 and Section 2.4, unless findings are made for a Limited Exception as specified in Section 2.5(b)(3)(A) below; and
 - (B) the applicant has demonstrated that its proposed wireless facility will be in planned compliance with all applicable FCC regulations and guidelines for human exposure to RF emissions; and
 - (C) the applicant has proposed to place the wireless facility in the most-preferred location or, if the wireless facility is not proposed in the most-preferred location, the applicant has demonstrated a good-faith effort to identify and evaluate more-preferred alternative locations through a meaningful comparative analysis; and
 - (D) the applicant has provided the Approval Authority with a meaningful comparative analysis that shows all more-preferred alternative designs identified in the administrative record are either technically infeasible or unavailable.
- (2) **Conditional Approvals; Denials without Prejudice.** Subject to any applicable federal or California laws, nothing in this policy is intended to limit the Approval Authority’s ability to conditionally approve or deny without prejudice any macro facility permit application governed under this policy as may be necessary or appropriate to protect and promote the public health, safety and welfare, and to advance the goals or policies in the General Plan and any specific plan, the Gardena Municipal Code and/or this policy.
- (3) **Limited Exception.** In the event that an applicant claims that strict compliance with the location or design standards in Section 2.3 or Section 2.4 would effectively prohibit the applicant’s ability to provide personal wireless services, the Planning Commission may grant a limited exception from such requirements in accordance with this subsection.
- (A) **Required Findings for a Limited Exception.** The Approval Authority shall not grant any limited exception unless the applicant shows that:
 - (i) the proposed wireless facility qualifies as a “personal wireless service facility”; and
 - (ii) the applicant has provided the Approval Authority with a reasonable and clearly defined technical service objective to be achieved by the proposed wireless facility; and
 - (iii) the applicant has provided the Approval Authority with a written statement that contains a detailed and fact-specific explanation as to

why the proposed wireless facility cannot be deployed in compliance with the applicable provisions in this policy; and

- (iv) the applicant has provided the Approval Authority with a meaningful comparative analysis with the factual reasons why all alternative locations and/or designs identified in the administrative record (whether suggested by the applicant, the City, public comments or any other source) are not technically feasible or potentially available to reasonably achieve the applicant's reasonable and clearly defined technical service objective to be achieved by the proposed wireless facility; and
 - (v) the applicant has demonstrated to the Approval Authority that the proposed location and design is the least non-compliant configuration that will reasonably achieve the applicant's reasonable and clearly defined technical service objective to be achieved by the proposed wireless facility, which includes without limitation a meaningful comparative analysis into multiple smaller or less intrusive wireless facilities dispersed throughout the intended service area.
- (B) **Scope.** Any limited exception shall be narrowly tailored to ensure that any deviations from the development standards in Section 2.3 or Section 2.4 are no greater than necessary to avoid an effective prohibition of the applicant's personal wireless services. Limited exceptions shall be based on the facts and circumstances of the applicant, its demonstrated technical service objectives at the time the exception is granted and the proposed wireless facility, and shall not be deemed to establish any precedent for similar deviations for the same or any other applicant, location or wireless facility.
- (4) **Appeals.** Any interested person or entity may appeal any decision by the Approval Authority; provided, however, that appeals from an approval shall not be permitted when based solely on the environmental effects from radio frequency emissions that are compliant with applicable FCC regulations and guidelines. Appeals must be filed within ten calendar days of the date of the notice with the City Clerk's office with the appropriate appeal fee and must state in plain terms the grounds for reversal and the facts that support those grounds. Appeals relating to a Director decision for a new structure shall first be presented to the Planning Commission at a public meeting, and then, if necessary, to the City Council at a public meeting. In the case of an appeal from the decision of the Director relating to an attached structure, or an appeal from the decision of the Planning Commission, the appeal shall go directly to the City Council to be heard at a public meeting. Notice of the appeal shall be mailed to all properties and property owners within 300 feet of the subject property at least seven calendar days before the hearing. No newspaper notice shall be required.

SECTION 2.6. STANDARD CONDITIONS OF APPROVAL

- (a) **Standard Conditions.** In addition to all other conditions adopted by the Approval Authority, all macro facility permit approvals, whether approved by the Approval Authority or deemed approved by the operation of law, shall be automatically subject to the conditions in this Section 2.6. The Approval Authority shall have discretion to modify or amend any standard conditions of approval on a case-by-case basis as may be necessary or appropriate to protect and promote the public health, safety and welfare, allow for the proper operation of the approved wireless facility, maintain compliance with applicable laws and/or to advance the goals or policies in the General Plan and any specific plan, the Gardena Municipal Code and/or this policy. The permittee shall be required to sign the list of conditions acknowledging and agreeing to all such conditions.
- (1) **Permit Term.** This permit will automatically expire 10 years and one day from its issuance, except when California Government Code § 65964(b), as may be amended or superseded in the future, authorizes the City to establish a shorter term for public safety or substantial land use reasons. Any other permits or approvals issued in connection with any collocation, modification or other change to this wireless facility, which includes without limitation any permits or other approvals deemed-granted or deemed-approved under federal or state law, will not extend this term limit unless expressly provided otherwise in such permit or approval or required under federal or state law.
- (2) **Permit Renewal.** Within six (6) months before the expiration date of this permit, the permittee may submit an application for permit renewal. To be eligible for administrative review and renewal, the permittee must demonstrate that (a) the subject wireless facility is in compliance with all the conditions of approval associated with this permit and all applicable provisions in the Gardena Municipal Code and this policy that exist at the time the decision to renew the permit is rendered or (b) this permit was issued as a Director-level approval in the first instance. Notwithstanding the foregoing, the Director may refer any application for a permit renewal to the Planning Commission when the Director determines that the application raises a significant policy or design issue. If the City administratively issued this permit in the first instance, the Director shall have discretion to modify or amend the conditions of approval for permit renewal on a case-by-case basis as may be necessary or appropriate to protect and promote the public health, safety and welfare, allow for the proper operation of the approved wireless facility, maintain compliance with applicable laws and/or to advance the goals or policies in the General Plan and any specific plan, the Gardena Municipal Code and/or this policy. Upon renewal, this permit will automatically expire 10 years and one day from its issuance, except when California Government Code § 65964(b), as may be amended or superseded in the future, authorizes the City to establish a shorter term for public safety or substantial land use reasons.

- (3) **Post-Installation Certification.** Within 60 calendar days after the permittee commences full, unattended operations of a small wireless facility approved or deemed-approved, the permittee shall provide the Approval Authority with documentation reasonably acceptable to the Approval Authority that the small wireless facility has been installed and/or constructed in strict compliance with the approved construction drawings and photo simulations. Such documentation shall include without limitation as-built drawings, GIS data and site photographs.
- (4) **Compliance with Approved Plans.** Before the permittee submits any applications to the Building Division required to commence construction in connection with this permit, the permittee must incorporate this permit, all conditions associated with this permit and the approved photo simulations into the project plans (the “**Approved Plans**”). The permittee must construct, install and operate the wireless facility in substantial compliance with the Approved Plans. Any 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.
- (5) **Build-Out Period.** This permit will automatically expire one (1) year from the approval or deemed-granted date unless the permittee obtains all other permits and approvals required to install, construct and/or operate the approved wireless facility, which includes without limitation any permits or approvals required by the any federal, state or local public agencies with jurisdiction over the subject property, the wireless facility or its use. The Director may grant one written extension to a date certain, but not to exceed one (1) additional year, when the permittee shows good cause to extend the limitations period in a written request for an extension submitted at least 30 days prior to the automatic expiration date in this condition.
- (6) **Site Maintenance.** The permittee shall keep the site, which includes without limitation any and all improvements, equipment, structures, access routes, fences and landscape features, in a neat, clean and safe condition in accordance with the Approved Plans and all conditions in this permit. The permittee shall keep the site area free from all litter and debris at all times. The permittee, at no cost to the City, shall remove and remediate any graffiti or other vandalism at the site within 48 hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.
- (7) **Compliance with Laws.** The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law (“**Laws**”) applicable to the permittee, the subject property,

the wireless facility or any use or activities in connection with the use authorized in this permit, which includes without limitation any Laws applicable to human exposure to RF emissions. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee's obligations to maintain compliance with all Laws. In the event that the City fails to timely notice, prompt or enforce compliance with any applicable provision in the Gardena Municipal Code, any permit, any permit condition or any applicable law or regulation, the applicant or permittee will not be relieved from its obligation to comply in all respects with all applicable provisions in the Gardena Municipal Code, any permit, any permit condition or any applicable law or regulation.

- (8) **Adverse Impacts on Other Properties.** The permittee shall use all reasonable efforts to avoid any and all unreasonable, undue or unnecessary adverse impacts on nearby properties that may arise from the permittee's or its authorized personnel's construction, installation, operation, modification, maintenance, repair, removal and/or other activities on or about the site. The permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines except during normal construction work hours authorized by the Gardena Municipal Code. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the City or other state or federal government agency or official with authority to declare a state of emergency within the City. The Director or the Director's designee may issue a stop work order for any activities that violates this condition in whole or in part.
- (9) **Inspections; Emergencies.** The permittee expressly acknowledges and agrees that the City's officers, officials, staff or other designees may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the permittee. Notwithstanding the prior sentence, the City's officers, officials, staff or other designees may, but will not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The permittee, if present, may observe the City's officers, officials, staff or other designees while any such inspection or emergency access occurs.
- (10) **Permittee's Contact Information.** Within 10 days from the final approval, the permittee shall furnish the Director with accurate and up-to-date contact information for a person responsible for the wireless facility, which includes without limitation such person's full name, title, direct telephone number, facsimile number, mailing address and email address. The permittee shall keep such contact information up-to-date at all times and immediately provide the

Director with updated contact information in the event that either the responsible person or such person's contact information changes.

- (11) **Indemnification.** The permittee and, if applicable, the property owner upon which the wireless facility is installed shall defend, indemnify and hold harmless the City, City Council and City boards, commissions, agents, officers, officials, employees and volunteers from any and all (1) damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs and other actions or proceedings ("**Claims**") brought against the City or its agents, officers, officials, employees or volunteers to challenge, attack, seek to modify, set aside, void or annul the City's approval of this permit, and (2) other Claims of any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the permittee's or its agents', directors', officers', employees', contractors', subcontractors', licensees', or customers' acts or omissions in connection with this permit or the wireless facility. In the event the City becomes aware of any Claims, the City will use best efforts to promptly notify the permittee and the private property owner and shall reasonably cooperate in the defense. The permittee expressly acknowledges and agrees that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the property owner and/or permittee (as applicable) shall promptly reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. The permittee expressly acknowledges and agrees that the permittee's indemnification obligations under this condition are a material consideration that motivates the City to approve this permit, and that such indemnification obligations will survive the expiration or revocation of this permit.
- (12) **Performance Bond.** Before the Building Division issues any permits required to commence construction in connection with this permit, the permittee shall post a performance bond from a surety and in a form acceptable to the Director in an amount reasonably necessary to cover the cost to remove the improvements and restore all affected areas based on a written estimate from a qualified contractor with experience in wireless facilities removal. The written estimate must include the cost to remove all equipment and other improvements, which includes without limitation all antennas, radios, batteries, generators, utilities, cabinets, mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles, footings and foundations, whether above ground or below ground, constructed or installed in connection with the wireless facility, plus the cost to completely restore any areas affected by the removal work to a standard compliant with applicable laws. In establishing or adjusting the bond amount required under this condition, and in accordance with California Government Code § 65964(a), the Director shall take into consideration any information provided by the permittee regarding the cost to remove the wireless facility to a standard compliant with applicable laws. The performance bond shall expressly survive the duration of the permit term to the

extent required to effectuate a complete removal of the subject wireless facility in accordance with this condition.

- (13) **Permit Revocation.** The Director may revoke this approval at any time due to complaints about noncompliance with applicable laws or any approval conditions attached to this permit. A written notice of intention to revoke shall be mailed to the permit holder not less than 10 days before the date of revocation. The applicant may request an appeal in accordance with the procedures set forth in Section 2.5(b) (4) above.
- (14) **Record Retention.** Throughout the permit term, the permittee must maintain a complete and accurate copy of the written administrative record, which includes without limitation the permit application, permit, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval, any ministerial permits or approvals issued in connection with this approval and any records, memoranda, documents, papers and other correspondence entered into the public record in connection with the permit (collectively, “records”). If the permittee does not maintain such records as required in this condition, any ambiguities or uncertainties that would be resolved by inspecting the missing records will be construed against the permittee. The permittee shall protect all records from damage from fires, floods and other hazards that may cause deterioration. The permittee may keep records in an electronic format; provided, however, that hard copies or electronic records kept in the City’s regular files will control over any conflicts between such City-controlled copies or records and the permittee’s electronic copies, and complete originals will control over all other copies in any form. The requirements in this condition shall not be construed to create any obligation to create or prepare any records not otherwise required to be created or prepared by other applicable laws. Compliance with the requirements in this condition shall not excuse the permittee from any other similar record-retention obligations under applicable law.
- (15) **Abandoned Wireless Facilities.** The wireless facility authorized under this permit shall be deemed abandoned if not operated for any continuous six-month period. Within 90 days after a wireless facility is abandoned or deemed abandoned, the permittee and/or property owner shall completely remove the wireless facility and all related improvements and shall restore all affected areas to a condition compliant with all applicable laws, which includes without limitation the Gardena Municipal Code. In the event that neither the permittee nor the property owner complies with the removal and restoration obligations under this condition within said 90-day period, the City shall have the right (but not the obligation) to perform such removal and restoration with or without notice, and the permittee and property owner shall be jointly and severally liable for all costs and expenses incurred by the City in connection with such removal and/or restoration activities.

- (16) **Landscaping.** The permittee shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the permittee or at the permittee's direction on or about the site. If any trees are damaged or displaced, the permittee shall hire and pay for a licensed arborist to select, plant and maintain replacement landscaping in an appropriate location for the species. Only International Society of Arboriculture certified workers under the supervision of a licensed arborist shall be used to install the replacement tree(s). Any replacement tree must be substantially the same size as the damaged tree. The permittee shall, at all times, be responsible to maintain any replacement landscape features.
- (17) **Cost Reimbursement.** The permittee acknowledges and agrees that (i) the permittee's request for authorization to construct, install and/or operate the wireless facility will cause the City to incur costs and expenses; (ii) the permittee shall be responsible to reimburse the City for all costs incurred in connection with the permit, which includes without limitation costs related to application review, permit issuance, site inspection and any other costs reasonably related to or caused by the request for authorization to construct, install and/or operate the wireless facility; (iii) any application fees required for the application may not cover all such reimbursable costs and that the permittee shall have the obligation to reimburse City for all such costs 10 days after a written demand for reimbursement and reasonable documentation to support such costs; and (iv) the City shall have the right to withhold any permits or other approvals in connection with the wireless facility until and unless any outstanding costs have been reimbursed to the City by the permittee.

SECTION 3. ELIGIBLE FACILITIES REQUESTS

SECTION 3.1. APPLICABILITY; REQUIRED PERMITS AND APPROVALS

- (a) **Applicability.** Notwithstanding any provision in this policy to the contrary, all requests for approval to collocate, replace or remove transmission equipment at an existing wireless tower or base station submitted pursuant to Section 6409 will be reviewed and approved or denied without prejudice in accordance with the standards and procedures in this Section 3.
- (b) **Section 6409 Approval.** Any request to collocate, replace or remove transmission equipment at an existing wireless tower or base station submitted with a written request for approval under Section 6409 shall require an approval in such form determined by the Approval Authority consistent with all valid and enforceable terms and conditions of the underlying permit or other prior regulatory authorization for the tower or base station (each amendment a "**section 6409 approval**").
- (c) **Option to Seek a Discretionary Permit.** A discretionary permit under Section 2 or Section 4 is not required for any request that qualifies for approval pursuant to Section 6409. For any application for a section 6409 approval properly denied, the

applicant may submit the same or a substantially similar application for a discretionary permit under Section 2 or Section 4.

- (d) **Other Permits and Regulatory Approvals.** No collocation or modification approved pursuant to this Section 3 may occur unless the applicant also obtains all other permits and regulatory approvals as may be required by any other federal, state or local government agencies, which includes without limitation any other permits and/or regulatory approvals issued by other departments or divisions within the City. Furthermore, any section 6409 approval granted under this Section 3 shall remain subject to any and all lawful conditions and/or legal requirements associated with such other permits or regulatory approvals.

SECTION 3.2. SPECIAL DEFINITIONS FOR ELIGIBLE FACILITIES REQUESTS

- (a) **“Base Station”** means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(1), as may be amended or superseded, which defines that term as a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in 47 C.F.R. § 1.6100(b)(9) or any equipment associated with a tower. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks). The term includes any structure other than a tower that, at the time the relevant application is filed with the State or local government under this section, supports or houses equipment described in 47 C.F.R. § 1.6100(b)(1)(i)-(ii) that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support. The term does not include any structure that, at the time the relevant application is filed with the State or local government under this section, does not support or house equipment described in 47 C.F.R. § 1.6100(b)(1)(i)-(ii).
- (b) **“Collocation”** means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(2), as may be amended or superseded, which defines that term as the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes. As an illustration and not a limitation, the FCC’s definition effectively means “to add” and does not necessarily refer to more than one wireless facility installed at a single site.
- (c) **“Eligible Support Structure”** means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(4), as may be amended or superseded, which defines that term as

any tower or base station as defined in 47 C.F.R. § 1.6100(b), provided that it is existing at the time the relevant application is filed with the State or local government under 47 C.F.R. § 1.6100.

- (d) **“Existing”** means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(4), as may be amended or superseded, which provides that a constructed tower or base station is existing for purposes of the FCC’s Section 6409 regulations if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.
- (e) **“Site”** means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(6), as may be amended or superseded, which provides that for towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.
- (f) **“Substantial Change”** means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(7), as may be amended or superseded, which defines that term differently based on the particular wireless facility type (tower or base station) and location (in or outside the public right-of-way). For clarity, this definition organizes the FCC’s criteria and thresholds for a substantial change according to the wireless facility type and location.
 - (1) For towers outside the public rights-of-way, a substantial change occurs when:
 - (A) the proposed collocation or modification increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet (whichever is greater); or
 - (B) the proposed collocation or modification involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower by more than 20 feet or more than the width of the tower structure at the level of the appurtenance (whichever is greater); or
 - (C) the proposed collocation or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four; or
 - (D) the proposed collocation or modification involves excavation outside the current boundaries of the leased or owned property surrounding the

wireless tower, including any access or utility easements currently related to the site.

(2) For towers in the public rights-of-way and for all base stations, a substantial change occurs when:

- (A) the proposed collocation or modification increases the height of the structure by more than 10% or more than 10 feet (whichever is greater); or
- (B) the proposed collocation or modification involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than 6 feet; or
- (C) the proposed collocation or modification involves the installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure; or
- (D) the proposed collocation or modification involves the installation of any new ground-mounted equipment cabinets that are more than ten percent (10%) larger in height or volume than any other ground cabinets associated with the structure; or
- (E) the proposed collocation or modification involves excavation outside the area in proximity to the structure and other transmission equipment already deployed on the ground.

(3) In addition, for all towers and base stations wherever located, a substantial change occurs when:

- (A) the proposed collocation or modification would defeat the existing concealment elements of the support structure; or
- (B) the proposed collocation or modification violates a prior condition of approval, provided however that the collocation need not comply with any prior condition of approval that is inconsistent with the thresholds for a substantial change described in 47 C.F.R. § 1.6100(b)(7)(i)-(iv).

(g) **“Transmission Equipment”** means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(8), as may be amended or superseded, which defines that term as equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

SECTION 3.3. SPECIAL APPLICATION REQUIREMENTS AND PROCEDURES

- (a) **Special Application Contents.** In addition to the requirements in Section 1.4, all applications for a section 6409 approval must include all the information and materials required in this subsection (a).
- (1) **Construction Drawings.** The applicant shall submit true and correct construction drawings, prepared, signed and stamped by a California licensed or registered engineer and/or architect, that depict all the existing and proposed improvements, equipment and conditions related to the proposed project, which includes without limitation all transmission equipment, support structures and the legal boundaries of the leased or owned area surrounding the proposed wireless facility and any associated access or utility easements. The construction drawings must specifically depict and call out the original overall height of the structure and, if the structure was constructed prior to February 22, 2012, the overall height that existed on February 22, 2012. The construction drawings must: (i) contain cut sheets that contain the technical specifications for all existing and proposed antennas and accessory equipment, which includes without limitation the manufacturer, model number and physical dimensions; (ii) depict the applicant's plan for electric and data backhaul utilities, which shall include the locations for all conduits, cables, wires, handholes, junctions, transformers, meters, disconnect switches, and points of connection; and (iii) demonstrate that proposed project will be in full compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes, local street standards and specifications, and public utility regulations and orders.
- (2) **Project Narrative and Justification.** A written statement that explains in plain factual detail whether and why Section 6409 and the related FCC regulations at 47 C.F.R. §§ 1.6100 *et seq.* require approval for the specific project. A complete written narrative analysis will state the applicable standard and all the facts that allow the City to conclude the standard has been met—bare conclusions not factually supported do not constitute a complete written analysis. As part of this written statement the applicant must also include (i) whether and why the support structure qualifies as an existing tower or existing base station; and (ii) whether and why the proposed collocation or modification does not cause a substantial change in height, width, excavation, equipment cabinets, concealment or permit compliance.
- (b) **Application Completeness Review.** Within 30 calendar days after the Director receives a duly filed permit application, the Director shall review the application for completeness and, if the application does not contain all the required publicly stated materials, may send a written notice to the applicant that identifies the missing or incomplete requirements. Within 10 calendar days after the Director receives any permit application resubmittal, the Director shall review the

application for completeness and, if the resubmittal does not contain all the materials identified in the initial written notice, may send a subsequent written notice to the applicant that identifies the remaining missing or incomplete requirements.

SECTION 3.4. DECISIONS AND APPEALS

- (a) **Administrative Review.** The Director shall review a complete and duly filed application for a section 6409 approval, and may act on such application without a public hearing or notice.
- (b) **Decision Notice.** Within five calendar days after the Director acts on an application for a section 6409 approval or before the FCC Shot Clock expires (whichever occurs first), the Director or his designee shall send a written notice to the applicant. The notice may be sent as an attachment to an email to the email address provided on the application and a copy of the notice and email shall be placed in the file, The written notice must contain (1) the reasons for the decision; (2) a statement that denial will be without prejudice; and (3) instructions for how and when to file an appeal.
- (c) **Required Findings for Approval.** The Director may approve or conditionally approve an application for a section 6409 approval when the Director finds that the proposed project:
 - (1) involves collocation, removal or replacement of transmission equipment on an existing wireless tower or base station; and
 - (2) does not substantially change the physical dimensions of the existing wireless tower or base station.
- (d) **Criteria for Denial without Prejudice.** Notwithstanding any other provision in this policy, and consistent with all applicable federal laws and regulations, the Director may deny without prejudice any application for a section 6409 approval when the Director finds that the proposed project:
 - (1) does not meet the findings required in subsection (c);
 - (2) involves the replacement of the entire support structure; or
 - (3) violates any legally enforceable law, regulation, rule, standard or permit condition reasonably related to public health or safety.
- (e) **Conditional Approvals.** Subject to any applicable limitations in federal or state law, nothing in this Section 3 is intended to limit the Director's authority to conditionally approve an application for a section 6409 approval to protect and promote the public health and safety.

- (f) **Appeals.** Subject to the applicable FCC Shot Clock, any applicant may appeal the Director's written decision. The written appeal together with any applicable appeal fee must be tendered to the City Clerk within seven calendar days from the Director's written decision, and must state in plain terms the grounds for reversal and the facts that support those grounds. The City Manager or the City Manager's designee (either party, the "**City Manager**") shall be the appellate authority for all appeals from the Director's written decision to deny an application for section 6409 approval. The City Manager shall review the application *de novo* without public notice or a public hearing; provided, however, that at least five calendar days' notice shall be provided to the applicant. The City Manager's decision shall be limited to only whether the application should be approved or denied in accordance with the provisions in this Section 3 and any other applicable laws. Within the applicable FCC shot clock, the City Manager shall issue a written decision that contains the reasons for the decision, and such decision shall be final and not subject to any further administrative appeals.

SECTION 3.5. STANDARD CONDITIONS OF APPROVAL

In addition to all other conditions adopted by the Approval Authority, all section 6409 approvals, whether approved by the Approval Authority or deemed approved by the operation of law, shall be automatically subject to the conditions in this Section 3.5. The Approval Authority shall have discretion to modify or amend these conditions on a case-by-case basis as may be necessary or appropriate under the circumstances to protect public health and safety or allow for the proper operation of the approved facility consistent with the goals of this Section 3.

- (a) **Permit Term.** The City's grant or grant by operation of law of a section 6409 approval constitutes a federally-mandated modification to the underlying permit or other prior regulatory authorization for the subject tower or base station, and will be regarded as a modification to the underlying approval for the subject tower or base station. The City's grant or grant by operation of law of this section 6409 approval will not extend the permit term, if any, for any underlying permit or other underlying prior regulatory authorization. Accordingly, the term for this section 6409 approval shall be coterminous with the underlying permit or other prior regulatory authorization for the subject tower or base station, and any renewals thereof. This condition shall not be applied or interpreted in any way that would cause the term of the underlying permit for the modified facility to be less than 10 years in total length.
- (b) **Compliance Obligations Due to Invalidation.** In the event that any court of competent jurisdiction invalidates all or any portion of Section 6409 or any FCC rule that interprets Section 6409 such that federal law would not mandate approval for any eligible facilities request(s), such approval(s) shall automatically expire one year from the effective date of the judicial order, unless the decision would not authorize accelerated termination of previously approved eligible facilities requests or the Director grants an extension upon written request from the permittee that

shows good cause for the extension, which includes without limitation extreme financial hardship. Notwithstanding anything in the previous sentence to the contrary, the Director may not grant a permanent exemption or indefinite extension. A permittee shall not be required to remove its improvements approved under the invalidated eligible facilities request when it has obtained the applicable permit(s) or submitted an application for such permit(s) before the one-year period ends.

- (c) **City's Standing Reserved.** 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, any FCC rules that interpret Section 6409 or any eligible facilities request.
- (d) **Compliance with Approved Plans.** Before the permittee submits any applications to the Building Division required to commence construction in connection with this section 6409 approval, the permittee must incorporate this section 6409 approval, all conditions associated with section 6409 approval and any approved photo simulations into the project plans (the "**Approved Plans**"). The permittee must construct, install and operate the wireless facility in substantial compliance, as determined by the Director, with the Approved Plans. Any 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. The Director may refer the request to the Approval Authority, if other than the Director, who may revoke the section 6409 approval if the Approval Authority finds that the requested alteration, modification or other change may cause a substantial change as that term is defined by the FCC in 47 C.F.R. § 1.6100(b)(7), as may be amended.
- (e) **Post-Installation Certification.** Within 60 calendar days after the permittee commences full, unattended operations of a small wireless facility approved or deemed-approved, the permittee shall provide the Approval Authority with documentation reasonably acceptable to the Approval Authority that the small wireless facility has been installed and/or constructed in strict compliance with the approved construction drawings and photo simulations. Such documentation shall include without limitation as-built drawings, GIS data and site photographs.
- (f) **Build-Out Period.** This section 6409 approval will automatically expire one (1) year from the approval or deemed-granted date unless the permittee obtains all other permits and approvals required to install, construct and/or operate the approved wireless facility, which includes without limitation any permits or approvals required by the any federal, state or local public agencies with jurisdiction over the subject property, the wireless facility or its use. The Director may grant one written extension to a date certain, but not to exceed one (1) additional year, when the permittee shows good cause to extend the limitations

period in a written request for an extension submitted at least 30 days prior to the automatic expiration date in this condition.

- (g) **Site Maintenance.** The permittee shall keep the site, which includes without limitation any and all improvements, equipment, structures, access routes, fences and landscape features, in a neat, clean and safe condition in accordance with the Approved Plans and all conditions in this permit. The permittee shall keep the site area free from all litter and debris at all times. The permittee, at no cost to the City, shall remove and remediate any graffiti or other vandalism at the site within 48 hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.
- (h) **Compliance with Laws.** The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law (“**Laws**”) applicable to the permittee, the subject property, the wireless facility or any use or activities in connection with the use authorized in this section 6409 approval, which includes without limitation any Laws applicable to human exposure to RF emissions. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee’s obligations to maintain compliance with all Laws. In the event that the City fails to timely notice, prompt or enforce compliance with any applicable provision in the Gardena Municipal Code, any permit, any permit condition or any applicable law or regulation, the applicant or permittee will not be relieved from its obligation to comply in all respects with all applicable provisions in the Gardena Municipal Code, any permit, any permit condition or any applicable law or regulation.
- (i) **Adverse Impacts on Other Properties.** The permittee shall use all reasonable efforts to avoid any and all unreasonable, undue or unnecessary adverse impacts on nearby properties that may arise from the permittee’s or its authorized personnel’s construction, installation, operation, modification, maintenance, repair, removal and/or other activities on or about the site. The permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines except during normal construction work hours authorized by the Gardena Municipal Code. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the City or other state or federal government agency or official with authority to declare a state of emergency within the City. The Director or the Director’s designee may issue a stop work order for any activities that violates this condition in whole or in part.
- (j) **Inspections; Emergencies.** The permittee expressly acknowledges and agrees that the City’s officers, officials, staff or other designee may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the

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

- (k) **Permittee's Contact Information.** Within 10 days from the final approval, the permittee shall furnish the Director with accurate and up-to-date contact information for a person responsible for the wireless facility, which includes without limitation such person's full name, title, direct telephone number, facsimile number, mailing address and email address. The permittee shall keep such contact information up-to-date at all times and immediately provide the Director with updated contact information in the event that either the responsible person or such person's contact information changes.

- (l) **Indemnification.** The permittee and, if applicable, the property owner upon which the wireless facility is installed, shall defend, indemnify and hold harmless the City, City Council and City boards, commissions, agents, officers, officials, employees and volunteers from any and all (1) damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs and other actions or proceedings ("**Claims**") brought against the City or its agents, officers, officials, employees or volunteers to challenge, attack, seek to modify, set aside, void or annul the City's approval of this section 6409 approval, and (2) other Claims of any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the permittee's or its agents', directors', officers', employees', contractors', subcontractors', licensees', or customers' acts or omissions in connection with this section 6409 approval or the wireless facility. In the event the City becomes aware of any Claims, the City will use best efforts to promptly notify the permittee and the private property owner and shall reasonably cooperate in the defense. The permittee expressly acknowledges and agrees that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the property owner and/or permittee (as applicable) shall promptly reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. The permittee expressly acknowledges and agrees that the permittee's indemnification obligations under this condition are a material consideration that motivates the City to approve this section 6409 approval, and that such indemnification obligations will survive the expiration or revocation of this section 6409 approval.

- (m) **Performance Bond.** Before the Building Division issues any permits required to commence construction in connection with this section 6409 approval, the permittee shall post a performance bond from a surety and in a form acceptable to the Director in an amount reasonably necessary to cover the cost to remove the improvements and restore all affected areas based on a written estimate from a

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

- (n) **Permit Revocation.** The Director may recall this section 6409 approval for review at any time due to complaints about noncompliance with applicable laws or any approval conditions attached to this section 6409 approval after notice and an opportunity to cure the violation is provided to the permittee. If the noncompliance continues after notice and reasonable opportunity to cure the noncompliance, the Approval Authority may revoke this section 6409 approval or amend these conditions as the Approval Authority deems necessary or appropriate to correct any such noncompliance.
- (o) **Record Retention.** Throughout the permit term, the permittee must maintain a complete and accurate copy of the written administrative record, which includes without limitation the section 6409 approval application, section 6409 approval, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval, any ministerial permits or approvals issued in connection with this approval and any records, memoranda, documents, papers and other correspondence entered into the public record in connection with the section 6409 approval (collectively, “**records**”). If the permittee does not maintain such records as required in this condition, any ambiguities or uncertainties that would be resolved by inspecting the missing records will be construed against the permittee. The permittee shall protect all records from damage from fires, floods and other hazards that may cause deterioration. The permittee may keep records in an electronic format; provided, however, that hard copies or electronic records kept in the City’s regular files will control over any conflicts between such City-controlled copies or records and the permittee’s electronic copies, and complete originals will control over all other copies in any form. The requirements in this condition shall not be construed to create any obligation to create or prepare any records not otherwise required to be created or prepared by other applicable laws. Compliance with the requirements in this condition shall not excuse the permittee from any other similar record-retention obligations under applicable law.

- (p) **Abandoned Wireless Facilities.** The wireless facility authorized under this section 6409 approval shall be deemed abandoned if not operated for any continuous six-month period. Within 90 days after a wireless facility is abandoned or deemed abandoned, the permittee and/or property owner shall completely remove the wireless facility and all related improvements and shall restore all affected areas to a condition compliant with all applicable laws, which includes without limitation the Gardena Municipal Code. In the event that neither the permittee nor the property owner complies with the removal and restoration obligations under this condition within said 90-day period, the City shall have the right (but not the obligation) to perform such removal and restoration with or without notice, and the permittee and property owner shall be jointly and severally liable for all costs and expenses incurred by the City in connection with such removal and/or restoration activities.
- (q) **Landscaping.** The permittee shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the permittee or at the permittee's direction on or about the site. If any trees are damaged or displaced, the permittee shall hire and pay for a licensed arborist to select, plant and maintain replacement landscaping in an appropriate location for the species. Only International Society of Arboriculture certified workers under the supervision of a licensed arborist shall be used to install the replacement tree(s). Any replacement tree must be substantially the same size as the damaged tree. The permittee shall, at all times, be responsible to maintain any replacement landscape features.
- (r) **Cost Reimbursement.** The permittee acknowledges and agrees that (i) the permittee's request for authorization to construct, install and/or operate the wireless facility will cause the City to incur costs and expenses; (ii) the permittee shall be responsible to reimburse the City for all costs incurred in connection with the permit, which includes without limitation costs related to application review, permit issuance, site inspection and any other costs reasonably related to or caused by the request for authorization to construct, install and/or operate the wireless facility; (iii) any application fees required for the application may not cover all such reimbursable costs and that the permittee shall have the obligation to reimburse City for all such costs 10 days after a written demand for reimbursement and reasonable documentation to support such costs; and (iv) the City shall have the right to withhold any permits or other approvals in connection with the wireless facility until and unless any outstanding costs have been reimbursed to the City by the permittee.

SECTION 4. SMALL WIRELESS FACILITIES

SECTION 4.1. APPLICABILITY; REQUIRED PERMITS AND APPROVALS

- (a) **Applicability.** Except as expressly provided otherwise in this policy, the provisions in this Section 4 shall be applicable to all existing small wireless facilities and all

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

- (b) **Small Cell Permit.** A small cell permit to be issued by the Director of Public Works is required for any small wireless facility proposed on an existing, new or replacement support structure.
- (c) **Other Permits and Regulatory Approvals.** In addition to a small cell permit, the applicant must obtain all other permits and regulatory approvals as may be required by any other federal, state or local government agencies, which includes without limitation any ministerial permits and/or approvals issued by other City departments or divisions. All applications for ministerial permits submitted in connection with a proposed small wireless facility must contain a valid small cell permit issued by the City for the proposed facility. Any application for any ministerial permit(s) submitted without such small cell permit may be denied without prejudice. Furthermore, any permit or approval granted under this Section 4 shall remain subject to all lawful conditions and/or legal requirements associated with such other permits or approvals.
- (d) **Other Infrastructure Deployments.** To the extent that other infrastructure deployments, including without limitation any deployments that require approval pursuant to Gardena Municipal Code Chapter 13.56, involve the same or substantially similar structures, apparatus, antennas, equipment, fixtures, cabinets, cables or improvements, the department or official responsible to review and approve or deny requests for authorization in connection with such other infrastructure deployment shall apply the provisions in this Section 4 unless specifically prohibited by applicable law.

SECTION 4.2. SPECIAL DEFINITIONS FOR SMALL WIRELESS FACILITIES

- (a) **“Antenna”** means the same as defined by the FCC in 47 C.F.R. § 1.6002(b), as may be amended or superseded, which defines that term as an apparatus designed for the purpose of emitting RF radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the provision of personal wireless service and any commingled information services.
- (b) **“Arterial Roadway”** means the same as defined by the Gardena General Plan Circulation Plan, as may be amended or superseded.
- (c) **“Collector Roadway”** means the same as defined by the Gardena General Plan Circulation Plan, as may be amended or superseded.
- (d) **“Local Street”** means the same as defined by the Gardena General Plan Circulation Plan, as may be amended or superseded.

- (e) **“Major Collector Roadway”** means the same as defined by the Gardena General Plan Circulation Plan, as may be amended or superseded.

SECTION 4.3. SPECIAL APPLICATION REQUIREMENTS AND PROCEDURES

- (a) **Special Application Contents.** In addition to the requirements in Section 1.4, all applications for a small cell permit must include all the information and materials required in this subsection (a).
- (1) **Application Fee.** For batched applications, the applicant must include the applicable small cell permit application fee for each small wireless facility in the batch.
 - (2) **Construction Drawings.** The applicant shall submit true and correct construction drawings, prepared, signed and stamped by a California licensed or registered engineer, that depict all the existing and proposed improvements, equipment and conditions related to the proposed project, which includes without limitation any and all poles, posts, pedestals, traffic signals, towers, streets, sidewalks, pedestrian ramps, driveways, curbs, gutters, drains, handholes, manholes, fire hydrants, equipment cabinets, antennas, cables, trees and other landscape features. The construction drawings must: (i) contain cut sheets that contain the technical specifications for all existing and proposed antennas and accessory equipment, which includes without limitation the manufacturer, model number and physical dimensions; (ii) identify all structures within 300 feet from the proposed project site and call out such structures’ overall height above ground level; (iii) depict the applicant’s plan for electric and data backhaul utilities, which shall include the locations for all conduits, cables, wires, handholes, junctions, transformers, meters, disconnect switches, and points of connection; and (iv) demonstrate that proposed project will be in full compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes, local street standards and specifications, and public utility regulations and orders.
 - (3) **Project Narrative and Justification.** The applicant shall submit a written statement that explains in plain factual detail whether and why the proposed wireless facility qualifies as a “small wireless facility” as defined by the FCC in 47 C.F.R. § 1.6002(*l*). A complete written narrative analysis will state the applicable standard and all the facts that allow the City to conclude the standard has been met—bare conclusions not factually supported do not constitute a complete written analysis. As part of the written statement the applicant must also include (i) whether and why the proposed support is a structure as defined by the FCC in 47 C.F.R. § 1.6002(*m*); and (ii) whether and why the proposed wireless facility meets each required finding for a small cell permit as provided in Section 4.4(c).

- (4) **Site Agreement.** For any small wireless facility proposed to be installed on any structure owned or controlled by the City and located within the public rights-of-way, the applicant shall submit a partially-executed site agreement on a form prepared by the City that states the terms and conditions for such non-exclusive use by the applicant. No changes shall be permitted to the City's form site agreement except as may be indicated on the form itself. Any unpermitted changes to the City's form site agreement shall be deemed a basis to deem the application incomplete.
- (b) **Batched Applications.** Applicants may submit up to five individual applications for a small cell permit in a batch; provided, however, that small wireless facilities in a batch must be proposed with substantially the same equipment in the same configuration on the same support structure type. Each application in a batch must meet all the requirements for a complete application, which includes without limitation the application fee for each application in the batch. If any application in a batch is incomplete, the entire batch shall be deemed incomplete. If any application is withdrawn or deemed withdrawn from a batch, the entire batch shall be deemed withdrawn. If any application in a batch fails to meet the required findings for approval, the entire batch shall be denied.
- (c) **Small Cell Permit Application Completeness Review.** Within 10 calendar days after the Director receives a duly filed permit application, the Director shall review the application for completeness and, if the application is materially incomplete, may send a written notice to the applicant that identifies all the missing or incomplete requirements to reset the FCC Shot Clock to day 0. Within 10 calendar days after the Director receives any permit application resubmittal, the Director shall review the application for completeness and, if the resubmittal does not contain all the materials identified in the initial written notice, may send a subsequent written notice to the applicant that identifies the remaining missing or incomplete requirements. Any such subsequent notice does not reset the FCC Shot Clock.

SECTION 4.4. APPROVALS AND DENIALS; NOTICES

- (a) **Public Notice.** Prior to any approval, conditional approval or denial, public notice shall be mailed to all properties and record owners of properties within 100 feet from the project site. The notice must contain: (1) a general project description; (2) the applicant's identification and contact information as provided on the application submitted to the City; (3) contact information for the Approval Authority; (4) a statement that the Director will act on the application without a public hearing by a date certain, which date shall be at least seven calendar days from the date of the notice, and will evaluate the application and comments received during that period for compliance with the standards in Section 4.6 and Section 4.7; and (5) a statement that the FCC requires the City to act on small cell permit applications, which includes any administrative appeals, in 60 days for attachments to existing

structures and 90 days for new structures, unless the applicant voluntarily agrees to toll the timeframe for review.

- (b) **Administrative Review.** Not less than 15 calendar days after the public notice required in subsection (a), unless the applicable FCC shot clock will expire before such time, the Director shall approve, conditionally approve or deny a complete and duly filed small cell permit application without a public hearing.
- (c) **Required Findings.** The Director may approve or conditionally approve a complete and duly filed application for a small cell permit when the Director finds:
 - (1) the proposed project meets the definition for a “small wireless facility” as defined by the FCC;
 - (2) the proposed project would be in the most preferred location as specified in Section 4.6 within 300 feet from the proposed site in any direction or the applicant has demonstrated with clear and convincing evidence in the written record that any more-preferred location(s) within 300 feet would be technically infeasible;
 - (3) the proposed project would not be located on a prohibited support structure identified in this Section 4.6;
 - (4) the proposed project would be on the most preferred support structure within 300 feet from the proposed site in any direction or the applicant has demonstrated with clear and convincing evidence in the written record that any more-preferred support structure(s) within 300 feet would be technically infeasible;
 - (5) the proposed project complies with all applicable design standards in this Section 4.7;
 - (6) the applicant has demonstrated that the proposed project will be in planned compliance with all applicable FCC regulations and guidelines for human exposure to RF emissions; and
 - (7) all public notices required for the application have been given.
- (d) **Conditional Approvals; Denials without Prejudice.** Subject to any applicable federal or California laws, nothing in this policy is intended to limit the Director’s ability to conditionally approve or deny without prejudice any small cell permit application as may be necessary or appropriate to ensure compliance with this Section 4.
- (e) **Decision Notices.** Within five calendar days after the Director acts on a small cell permit application or before the FCC Shot Clock expires (whichever occurs first),

the Director or his designee shall send a written notice to the applicant. The notice may be sent as an attachment to an email to the email address provided on the application and a copy of the notice and the email shall be placed in the file. The written notice to the applicant must contain: (1) the reasons for the decision; and (2) instructions for how and when to file an appeal. Notice shall also be sent to any person who filed a written comment.

- (g) **Appeals.** Subject to the applicable FCC Shot Clock, any applicant or an interested party may appeal the Director's written decision; provided, however, that appeals from an approval shall not be permitted when based solely on the environmental effects from radio frequency emissions that are compliant with applicable FCC regulations and guidelines. The written appeal together with any applicable appeal fee must be tendered to the City Clerk within seven calendar days from the Director's written decision, and must state in plain terms the grounds for reversal and the facts that support those grounds. The City Manager or the City Manager's designee shall be the appellate authority for all appeals from the Director's written decision. The City Manager shall review the application *de novo* without public notice or a public hearing; provided, however, that at least five calendar days' notice shall be provided to the applicant and any person who filed a written comment. Within the applicable FCC shot clock, the City Manager shall issue a written decision that contains the reasons for the decision, and such decision shall be final and not subject to any further administrative appeals.

SECTION 4.5. STANDARD CONDITIONS OF APPROVAL

- (a) **General Conditions.** In addition to all other conditions adopted by the Approval Authority for a small cell permit, all small cell permits issued under this Section 4 shall be automatically subject to the conditions in this subsection (a). The Director shall have discretion to modify or amend these conditions on a case-by-case basis as may be necessary or appropriate under the circumstances to protect public health and safety or allow for the proper operation of the approved facility consistent with the goals of this Section 4. To the extent required by applicable FCC regulations, the Director shall take care to ensure that any different conditions applied to small wireless facilities are no more burdensome than those applied to other infrastructure deployments.
- (1) **Permit Term.** This permit will automatically expire 10 years and one day from its issuance, except when California Government Code § 65964(b), as may be amended or superseded in the future, authorizes the City to establish a shorter term for public safety or substantial land use reasons. Any other permits or approvals issued in connection with any collocation, modification or other change to this wireless facility, which includes without limitation any permits or other approvals deemed-granted or deemed-approved under federal or state law, will not extend this term limit unless expressly provided otherwise in such permit or approval or required under federal or state law.

- (2) **Permit Renewal.** Within one (1) year before the expiration date of this permit, the permittee may submit an application for permit renewal. To be eligible for administrative review and renewal, the permittee must demonstrate that the subject wireless facility is in compliance with all the conditions of approval associated with this permit and all applicable provisions in the Gardena Municipal Code and this policy that exist at the time the decision to renew the permit is rendered. The Approval Authority shall have discretion to modify or amend the conditions of approval for permit renewal on a case-by-case basis as may be necessary or appropriate to ensure compliance with this policy. Upon renewal, this permit will automatically expire 10 years and one day from its issuance, except when California Government Code § 65964(b), as may be amended or superseded in the future, authorizes the City to establish a shorter term for public safety reasons or substantial land use reasons.
- (3) **Post-Installation Certification.** Within 60 calendar days after the permittee commences full, unattended operations of a small wireless facility approved or deemed-approved, the permittee shall provide the Approval Authority with documentation reasonably acceptable to the Approval Authority that the small wireless facility has been installed and/or constructed in strict compliance with the approved construction drawings and photo simulations. Such documentation shall include without limitation as-built drawings, GIS data and site photographs.
- (4) **Build-Out Period.** This small cell permit will automatically expire one (1) year from the approval date (the “**build-out period**”) unless the permittee obtains all other permits and approvals required to install, construct and/or operate the approved small wireless facility, which includes without limitation any permits or approvals required by the any federal, state or local public agencies with jurisdiction over the subject property, the small wireless facility or its use. If this build-out period expires, the City will not extend the build-out period but the permittee may resubmit a complete application, including all application fees, for the same or substantially similar project.
- (5) **Site Maintenance.** The permittee shall keep the site, which includes without limitation any and all improvements, equipment, structures, access routes, fences and landscape features, in a neat, clean and safe condition in accordance with the approved construction drawings and all conditions in this small cell permit. The permittee shall keep the site area free from all litter and debris at all times. The permittee, at no cost to the City, shall remove and remediate any graffiti or other vandalism at the site within 48 hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.
- (6) **Compliance with Laws.** The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law (“**laws**”) applicable to the permittee, the subject property,

the small wireless facility or any use or activities in connection with the use authorized in this small cell permit, which includes without limitation any laws applicable to human exposure to RF emissions. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee's obligations to maintain compliance with all laws. No failure or omission by the City to timely notice, prompt or enforce compliance with any applicable provision in the Gardena Municipal Code, this policy any permit, any permit condition or any applicable law or regulation, shall be deemed to relieve, waive or lessen the permittee's obligation to comply in all respects with all applicable provisions in the Gardena Municipal Code, this policy, any permit, any permit condition or any applicable law or regulation.

- (7) **Adverse Impacts on Other Properties.** The permittee shall use all reasonable efforts to avoid any and all unreasonable, undue or unnecessary adverse impacts on nearby properties that may arise from the permittee's or its authorized personnel's construction, installation, operation, modification, maintenance, repair, removal and/or other activities on or about the site. The permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines except during normal construction work hours authorized by the Gardena Municipal Code. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the City or other state or federal government agency or official with authority to declare a state of emergency within the City. The Director may issue a stop work order for any activities that violates this condition in whole or in part.
- (8) **Inspections; Emergencies.** The permittee expressly acknowledges and agrees that the City's officers, officials, staff, agents, contractors or other designees may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the permittee. Notwithstanding the prior sentence, the City's officers, officials, staff, or other designees may, but will not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The permittee, if present, may observe the City's officers, officials, staff or other designees while any such inspection or emergency access occurs.
- (9) **Permittee's Contact Information.** Within 10 days from the final approval, the permittee shall furnish the City with accurate and up-to-date contact information for a person responsible for the small wireless facility, which includes without limitation such person's full name, title, direct telephone number, facsimile

number, mailing address and email address. The permittee shall keep such contact information up-to-date at all times and promptly provide the City with updated contact information if either the responsible person or such person's contact information changes.

- (10) **Indemnification.** The permittee and, if applicable, the property owner upon which the small wireless facility is installed shall defend, indemnify and hold harmless the City, City Council and the City's boards, commissions, agents, officers, officials, employees and volunteers (collectively, the "**indemnitees**") from any and all (i) damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs and other actions or proceedings ("**claims**") brought against the indemnitees to challenge, attack, seek to modify, set aside, void or annul the City's approval of this small cell permit, and (ii) other claims of any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the permittee's or its agents', directors', officers', employees', contractors', subcontractors', licensees' or customers' acts or omissions in connection with this small cell permit or the small wireless facility. In the event the City becomes aware of any claims, the City will use best efforts to promptly notify the permittee and the private property owner (if applicable) and shall reasonably cooperate in the defense. The permittee expressly acknowledges and agrees that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the property owner and/or permittee (as applicable) shall promptly reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. The permittee expressly acknowledges and agrees that the permittee's indemnification obligations under this condition are a material consideration that motivates the City to approve this small cell permit, and that such indemnification obligations will survive the expiration, revocation or other termination of this small cell permit.
- (11) **Performance Bond.** Before the Building Division issues any permits required to commence construction in connection with this permit, the permittee shall post a performance bond from a surety and in a form acceptable to the Director in an amount reasonably necessary to cover the cost to remove the improvements and restore all affected areas based on a written estimate from a qualified contractor with experience in wireless facilities removal. The written estimate must include the cost to remove all equipment and other improvements, which includes without limitation all antennas, radios, batteries, generators, utilities, cabinets, mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles, footings and foundations, whether above ground or below ground, constructed or installed in connection with the wireless facility, plus the cost to completely restore any areas affected by the removal work to a standard compliant with applicable laws. In establishing or adjusting the bond amount required under this condition, and in accordance with California Government Code § 65964(a), the Director shall take into

consideration any information provided by the permittee regarding the cost to remove the wireless facility to a standard compliant with applicable laws. The performance bond shall expressly survive the duration of the permit term to the extent required to effectuate a complete removal of the subject wireless facility in accordance with this condition.

- (12) **Permit Revocation.** Any permit granted under this policy may be revoked in accordance with the provisions and procedures in this condition. The Director may initiate revocation proceedings when the Director has information that the facility may not be in compliance with all applicable laws, which includes without limitation, any permit in connection with the facility and any associated conditions with such permit(s). Before the Director may conduct a public hearing to revoke any permit granted under this policy, the Director must issue a written notice to the permittee that specifies (i) the facility; (ii) the violation(s) to be corrected; (iii) the timeframe in which the permittee must correct such violation(s); and (iv) that, in addition to all other rights and remedies the City may pursue, the City may initiate revocation proceedings for failure to correct such violation(s). A permit granted under this policy may be revoked only by the City Council after a duly notice public hearing. The City Council may revoke a permit when it finds substantial evidence in the written record to show that the facility is not in compliance with any applicable laws, which includes without limitation, any permit in connection with the facility and any associated conditions with such permit(s). Any decision by the City Council to revoke or not revoke a permit shall be final and not subject to any further appeals. Within five business days after the City Council adopts a resolution to revoke a permit, the Director shall provide the permittee with a written notice that specifies the revocation and the reasons for such revocation.
- (13) **Record Retention.** Throughout the permit term, the permittee must maintain a complete and accurate copy of the written administrative record, which includes without limitation the small cell permit application, small cell permit, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval, any ministerial permits or approvals issued in connection with this approval and any records, memoranda, documents, papers and other correspondence entered into the public record in connection with the small cell permit (collectively, “**records**”). If the permittee does not maintain such records as required in this condition, any ambiguities or uncertainties that would be resolved by inspecting the missing records will be construed against the permittee. The permittee shall protect all records from damage from fires, floods and other hazards that may cause deterioration. The permittee may keep records in an electronic format; provided, however, that hard copies or electronic records kept in the City’s regular files will control over any conflicts between such City-controlled copies or records and the permittee’s electronic copies, and complete originals will control over all other copies in any form. The requirements in this condition shall not be construed to create any obligation to create or prepare any records not otherwise required

to be created or prepared by other applicable laws. Compliance with the requirements in this condition shall not excuse the permittee from any other similar record-retention obligations under applicable law.

- (14) **Abandoned Wireless Facilities.** The small wireless facility authorized under this small cell permit shall be deemed abandoned if not operated for any continuous six-month period. Within 90 days after a small wireless facility is abandoned or deemed abandoned, the permittee and/or property owner shall completely remove the small wireless facility and all related improvements and shall restore all affected areas to a condition compliant with all applicable laws, which includes without limitation the Gardena Municipal Code. In the event that neither the permittee nor the property owner complies with the removal and restoration obligations under this condition within said 90-day period, the City shall have the right (but not the obligation) to perform such removal and restoration with or without notice, and the permittee and property owner shall be jointly and severally liable for all costs and expenses incurred by the City in connection with such removal and/or restoration activities.
- (15) **Landscaping.** The permittee shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the permittee or at the permittee's direction on or about the site. If any trees are damaged or displaced, the permittee shall hire and pay for a licensed arborist to select, plant and maintain replacement landscaping in an appropriate location for the species. Only International Society of Arboriculture certified workers under the supervision of a licensed arborist shall be used to install the replacement tree(s). Any replacement tree must be substantially the same size as the damaged tree. The permittee shall, at all times, be responsible to maintain any replacement landscape features.
- (16) **Cost Reimbursement.** The permittee acknowledges and agrees that (i) the permittee's request for authorization to construct, install and/or operate the wireless facility will cause the City to incur costs and expenses; (ii) the permittee shall be responsible to reimburse the City for all costs incurred in connection with the permit, which includes without limitation costs related to application review, permit issuance, site inspection and any other costs reasonably related to or caused by the request for authorization to construct, install and/or operate the wireless facility; (iii) any application fees required for the application may not cover all such reimbursable costs and that the permittee shall have the obligation to reimburse City for all such costs 10 days after a written demand for reimbursement and reasonable documentation to support such costs; and (iv) the City shall have the right to withhold any permits or other approvals in connection with the wireless facility until and unless any outstanding costs have been reimbursed to the City by the permittee.
- (b) **Conditions for Small Wireless Facilities in the Public Rights-of-Way.** In addition to all conditions in subsection (a), all small cell permits for small wireless

facilities in the public rights-of-way issued under this Section 4 shall be automatically subject to the conditions in this subsection (b).

- (1) **Future Undergrounding Programs.** Notwithstanding any term remaining on any small cell permit, if other utilities or communications providers in the public rights-of-way underground their facilities in the segment of the public rights-of-way where the permittee's small wireless facility is located, the permittee must also underground its equipment, except the antennas and any approved electric meter, at approximately the same time. Accessory equipment such as radios and computers that require an environmentally controlled underground vault to function shall not be exempt from this condition. Small wireless facilities installed on wood utility poles that will be removed pursuant to the undergrounding program may be reinstalled on a streetlight that complies with the City's standards and specifications. Such undergrounding shall occur at the permittee's sole cost and expense except as may be reimbursed through tariffs approved by the state public utilities commission for undergrounding costs.
- (2) **Electric Meter Upgrades.** If the commercial electric utility provider adopts or changes its rules obviating the need for a separate or ground-mounted electric meter and enclosure, the permittee on its own initiative and at its sole cost and expense shall remove the separate or ground-mounted electric meter and enclosure. Prior to removing the electric meter, the permittee shall apply for any encroachment and/or other ministerial permit(s) required to perform the removal. Upon removal, the permittee shall restore the affected area to its original condition that existed prior to installation of the equipment.
- (3) **Rearrangement and Relocation.** The permittee acknowledges that the City, in its sole discretion and at any time, may: (i) change any street grade, width or location; (ii) add, remove or otherwise change any improvements in, on, under or along any street owned by the City or any other public agency, which includes without limitation any sewers, storm drains, conduits, pipes, vaults, boxes, cabinets, poles and utility systems for gas, water, electric or telecommunications; and/or (iii) perform any other work deemed necessary, useful or desirable by the City (collectively, "**City work**"). The City reserves the rights to do any and all City work without any admission on its part that the City would not have such rights without the express reservation in this small cell permit. If the Public Works Director determines that any City work will require the permittee's small wireless facility located in the public rights-of-way to be rearranged and/or relocated, the permittee shall, at its sole cost and expense, do or cause to be done all things necessary to accomplish such rearrangement and/or relocation. If the permittee fails or refuses to either permanently or temporarily rearrange and/or relocate the permittee's small wireless facility within a reasonable time after the Public Works Director's notice, the City may (but will not be obligated to) cause the rearrangement or relocation to be performed at the permittee's sole cost and expense. The City may exercise its rights to rearrange or relocate the permittee's small wireless facility without

prior notice to permittee when the Public Works Director determines that the City work is immediately necessary to protect public health or safety. The permittee shall reimburse the City for all costs and expenses in connection with such work within 10 days after a written demand for reimbursement and reasonable documentation to support such costs.

SECTION 4.6. LOCATION REQUIREMENTS

- (a) **Preface to Location Requirements.** This subsection (a) provides guidance as to how to interpret and apply the location requirements in this Section 4.6. To better assist applicants and decisionmakers understand and respond to the community's aesthetic preferences and values, subsections (b), (c), (d), (e) and (f) set out listed preferences for locations and support structures to be used in connection with small wireless facilities in ordered hierarchies. Applications that involve lesser-preferred locations or structures may be approved so long as the applicant demonstrates that either (1) no more preferred locations or structures exist within 300 feet from the proposed site; or (2) any more preferred locations or structures within 300 feet from the proposed site would be technically infeasible as supported by clear and convincing evidence in the written record. Subsection (g) identifies "prohibited" support structures on which the Approval Authority shall not approve any small cell permit application for any competitor or potential competitor.
- (b) **Locations in the Public Rights-of-Way.** The City prefers small wireless facilities in the public rights-of-way to be installed in locations based on zoning districts as the first priority, and roadway classifications as the second. As an illustration, a location within a residential zone on or along an arterial roadway is less preferred than a location in a non-residential zone on or along a local street.
- (c) **Zoning Preference.** Whether in the public right-of-way or on private property, the following is the order of preferred zoning, ordered from most-preferred to least preferred:
- (1) parcels within parking (P) zones;
 - (2) parcels within industrial (M-1/M-2) zones or approved for an industrial use;
 - (3) parcels within commercial (C-2/C-3/C-4) zones or approved for a commercial use;
 - (4) parcels with official (O) zones or approved for an official use;
 - (5) parcels within a mixed-use overlay (MU), home business (H-B), or business and professional (C-P) zone or approved for such uses with a residential component;

- (6) parcels in residential zones other than R-1 or R-2 district, including Specific Plan zones;
 - (7) parcels within a commercial-residential (C-R) zone;
 - (8) parcels within a single-family (R-1) or low-density multiple-family (R-2) residential zone.
- (d) **Roadway Classifications.** The City prefers small wireless facilities in the public right-of-way to be installed on or along roadway classifications, ordered from most-preferred to least preferred, as follows:
- (1) arterial roadways;
 - (2) major collector roadways;
 - (3) collector roadways;
 - (4) local streets.
- (e) **Support Structures in the Public Rights-of-Way.** The City prefers small wireless facilities to be installed on support structures in the public rights-of-way, ordered from most preferred to least preferred, as follows:
- (1) existing or replacement streetlight poles;
 - (2) existing or replacement wood utility poles;
 - (3) new, non-replacement streetlight poles;
 - (4) new, non-replacement poles for small wireless facilities.
- (f) **Support Structures Outside the Public Rights-of-Way.** The City prefers small wireless facilities to be installed on support structures outside the public rights-of-way, ordered from most preferred to least preferred, as follows:
- (1) existing buildings or other non-tower structures previously approved for use as a support structure for personal wireless service facilities;
 - (2) other existing buildings or non-tower structures;
 - (3) existing or replacement poles or towers;
 - (4) new, non-replacement towers for small wireless facilities.

(g) **Prohibited Support Structures.** The City prohibits small wireless facilities to be installed on the following support structures, whether located in the public rights-of-way or not:

- (1) decorative poles;
- (2) traffic signals, signs, poles, cabinets and related devices;
- (3) any utility pole scheduled for removal or relocation within 12 months from the time the Approval Authority acts on the small cell permit application;
- (4) new, non-replacement wood poles.

SECTION 4.7. DESIGN STANDARDS

(a) **General Design Standards.**

- (1) **Noise.** Small wireless facilities and all accessory equipment and transmission equipment must comply with all applicable noise control standards and regulations in the Gardena General Plan and Gardena Municipal Code Chapter 8.36, as may be amended or superseded, and shall not exceed, either on an individual or cumulative basis, the noise limit in the applicable district. In the event a duly authorized federal, state, county or City official declares an emergency within a region that includes the City in whole or in part, backup power generators may exceed the applicable noise control standards and regulations to the extent reasonably necessary to operate the facility until the declared emergency is lifted or power is restored to the affected facility.
- (2) **Lights.** Small wireless facilities shall not include any lights that would be visible from publicly accessible areas, except as may be required under Federal Aviation Administration, FCC, other applicable regulations for health and safety. All equipment with lights (such as indicator or status lights) must be installed in locations and within enclosures that mitigate illumination impacts visible from publicly accessible areas. The provisions in this subsection shall not be interpreted or applied to prohibit installations on streetlights or luminaires installed on new or replacement poles as may be required under this Section.
- (3) **Landscape Features.** Small wireless facilities shall not displace any existing landscape features unless: (A) such displaced landscaping is replaced with native and/or drought-resistant plants, trees or other landscape features approved by the Approval Authority and (B) the applicant submits and adheres to a landscape maintenance plan. The landscape plan must include existing vegetation, and vegetation proposed to be removed or trimmed, and the landscape plan must identify proposed landscaping by species type, size and location. Landscape maintenance must be performed in order to avoid the

landscaping becoming a nuisance as specified in accordance with Gardena Municipal Code Section 8.64.020, as may be amended.

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

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

- (B) **Undergrounded Accessory Equipment.** All undergrounded accessory equipment must be installed in an environmentally controlled vault that is load-rated to meet the City's standards and specifications. Underground vaults located beneath a sidewalk must be constructed with a slip-resistant cover. Vents for airflow shall be flush-to-grade when placed within the sidewalk and may not exceed two feet above grade when placed off the sidewalk. Applicants shall not be permitted to install an underground vault in a location that would cause any existing tree to be materially damaged or displaced.
- (C) **Pole-Mounted Accessory Equipment.** All pole-mounted accessory equipment must be installed flush to the pole to minimize the overall visual profile. If any applicable health and safety regulations prohibit flush-mounted equipment, the maximum separation permitted between the accessory equipment and the pole shall be the minimum separation required by such regulations. All pole-mounted equipment and required or permitted signage must be placed and oriented away from adjacent sidewalks and structures. Pole-mounted equipment may be installed behind street, traffic or other signs to the extent that the installation complies with applicable public health and safety regulations. All cables, wires and other connectors must be routed through conduits within the pole, and all conduit attachments, cables, wires and other connectors must be concealed from public view. To the extent that cables, wires and other connectors cannot be routed through the pole, applicants shall route them through a single external conduit or shroud that has been finished to match the underlying support structure.
- (D) **Base-Mounted Accessory Equipment.** All base-mounted accessory equipment must be installed within a shroud, enclosure or pedestal integrated into the base of the support structure. All cables, wires and other connectors routed between the antenna and base-mounted equipment must be concealed from public view.
- (E) **Ground-Mounted Accessory Equipment.** On collector roads and local roads, the City prefers ground-mounted accessory equipment to be concealed as follows: (A) within a landscaped parkway, median or similar location, behind or among new/existing landscape features and painted or wrapped in flat natural colors to blend with the landscape features; and (B) if landscaping concealment is not technically feasible, disguised as other

street furniture adjacent to the support structure, such as, for example, mailboxes, benches, trash cans and information kiosks. On arterial roads outside underground districts, proposed ground-mounted accessory equipment should be completely shrouded or placed in a cabinet substantially similar in appearance to existing ground-mounted accessory equipment cabinets. All ground-mounted accessory equipment cabinets must comply with the City's public safety visibility requirements.

- (F) **Accessory Equipment Volume.** All accessory equipment associated with a small wireless facility installed above ground level shall not cumulatively exceed: (i) nine (9) cubic feet in volume if installed within 300 feet from a residential district; or (ii) seventeen (17) cubic feet in volume if installed in all other locations. The volume calculation shall include any shroud, cabinet or other concealment device used in connection with the non-antenna accessory equipment. The volume calculation shall not include any equipment or other improvements placed underground.
- (4) **Streetlights.** Applicants that propose to install small wireless facilities on an existing streetlight must remove and replace the existing streetlight with one substantially similar to the City's standards and specifications but designed to accommodate wireless antennas and accessory equipment. To mitigate any material changes in the streetlighting patterns, the replacement pole must: (A) be located as close to the removed pole as possible; (B) be aligned with the other existing streetlights; and (C) include a luminaire at substantially the same height and distance from the pole as the luminaire on the removed pole. All antennas must be installed above the pole within a single, canister-style shroud or radome that tapers to the pole.
- (5) **Wood Utility Poles.** Applicants that propose to install small wireless facilities on an existing wood utility pole must install all antennas above the pole unless the applicant demonstrates that mounting the antennas above the pole would be technically infeasible as supported by clear and convincing evidence in the written record. Side-mounted antennas on a stand-off bracket or extension arm must be concealed within a shroud. All cables, wires and other connectors must be concealed within the side-arm mount or extension arm. The maximum horizontal separation between the antenna and the pole shall be the minimum separation required by applicable health and safety regulations.
- (6) **New, Non-Replacement Poles.** Applicants that propose to install small wireless facilities on a new, non-replacement pole must install a new streetlight substantially similar to the City's standards and specifications but designed to accommodate wireless antennas and accessory equipment located immediately adjacent to the proposed location. If there are no existing streetlights in the immediate vicinity, the applicant may install a metal or composite pole capable of concealing all the accessory equipment either within the pole or within an integrated enclosure located at the base of the pole. The

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

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

be routed through or concealed from view within: (A) internal risers or conduits if on a concrete, composite or similar pole; or (B) a cable shroud or conduit mounted as flush to the pole as possible if on a wood pole or other pole without internal cable space. All external cable shrouds or conduit must match the color of the support structure. The Approval Authority shall not approve new overhead utility lines or service drops merely because compliance with the undergrounding requirements would increase the project cost.

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

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

- (1) **Overall Height.** Small wireless facilities on private property may not exceed the applicable height limit for structures in the applicable zoning district or overlay zone.
- (2) **Setbacks.** Small wireless facilities on private property may not encroach into any applicable setback for structures in the subject zoning district.
- (3) **Backup Power Sources.** The Approval Authority shall not approve any diesel generators or other similarly noisy or noxious generators in or within 300 feet from any residence; provided, however, the Approval Authority may approve sockets or other connections used for temporary backup generators.
- (4) **Parking; Access.** Any equipment or improvements constructed or installed in connection with any small wireless facilities must not reduce any parking spaces below the minimum requirement for the subject property. Whenever feasible, small wireless facilities must use existing parking and access rather than construct new parking or access improvements. Any new parking or access improvements must be the minimum size necessary to reasonably accommodate the proposed use.

- (5) **Towers, Poles and Other Freestanding Small Wireless Facilities.** All new towers, poles or other freestanding structures that support small wireless facilities must be made from a metal or composite material capable of concealing all the accessory equipment, including cables, mounting brackets, radios, and utilities, either within the support structure or within an integrated enclosure located at the base of the support structure. All antennas must be installed above the pole in a single, canister-style shroud or radome. The support structure and all transmission equipment must be painted with flat/neutral colors that match the support structure. The pole height shall not exceed thirty-five (35) feet or the height limit for the applicable zoning district or overlay zone, whichever is less. The pole diameter shall not exceed twelve (12) inches and any base enclosure diameter shall not exceed sixteen (16) inches.
- (6) **Building-Mounted Small Wireless Facilities.**
- (A) **Preferred Concealment Techniques.** All applicants must propose new non-tower small wireless facilities that are completely concealed and architecturally integrated into the existing facade or rooftop features with no visible impacts from any publicly accessible areas at ground level (examples include, but are not limited to, antennas behind existing parapet walls or facades replaced with RF-transparent material and finished to mimic the replaced materials). Alternatively, if the applicant demonstrates with clear and convincing evidence that integration with existing features is technically infeasible, the applicant may propose completely concealed new structures or appurtenances designed to mimic the support structure's original architecture and proportions (examples include, but are not limited to, steeples and chimneys).
- (B) **Facade-Mounted Equipment.** When small wireless facilities cannot be placed behind existing parapet walls or other existing screening elements, facade-mounted equipment must be concealed behind screen walls and mounted flush to the facade. The Approval Authority may not approve "pop-out" screen boxes. Except in industrial zones, the Approval Authority may not approve any exposed facade-mounted antennas, including but not limited to exposed antennas painted to match the facade.

SECTION 5 TEMPORARY WIRELESS FACILITIES

SECTION 5.1. REQUIRED PERMITS

- (a) **Temporary Use Permit.** A temporary use permit, subject to the Director's prior review and approval in accordance with the procedures and standards in this Section 5, is required for any temporary wireless facility, unless deployed in connection with an emergency pursuant to Section 5.4.

- (b) **Other Permits and Regulatory Approvals.** In addition to any permit required under this Section 5, the applicant must show that the temporary wireless facility will comply with FCC maximum exposure limits for human exposure to radio frequency and also obtain all other permits and approvals as may be required by any other federal, state or local government agencies, which includes, without limitation, any other permits and/or approvals issued by other City departments or divisions. Furthermore, any permit or approval granted under this Section 5 (or deemed granted or deemed approved by law) shall remain subject to any and all lawful conditions and/or legal requirements associated with such other permits or approvals.

SECTION 5.2. APPLICATIONS AND SUBMITTAL PROCEDURES

- (a) **Application Required.** The Director shall not approve any temporary wireless facility subject to a temporary use permit except upon a duly filed application and any other written application requirements or procedures the Director may publish in any publicly-stated format.
- (b) **Minimum Application Requirements.** Applicants for a temporary wireless facility shall submit at a minimum: (1) a temporary use permit application on the most current form prepared by the Community Development Department; (2) the applicable fee for the application; (3) a site plan that shows the proposed temporary wireless facility and its equipment, physical dimensions and placement on the proposed site relative to property lines and existing structures; (4) an RF compliance report in accordance with the City's requirements; and (5) an insurance certificate for general commercial liability that names the City as an additional insured, includes coverage for the time period in which the temporary wireless facility will be placed and carries at least \$1,000,000 in coverage per occurrence.
- (c) **Procedures for a Duly Filed Application.** Applications must be submitted in person to the City unless the Director grants written consent to receive an application by mail or electronic means. No pre-application conference or appointment is required for a temporary use permit application.

SECTION 5.3. DECISIONS AND APPEALS

- (a) **Required Findings for Temporary Wireless Facilities.** The Director may approve or conditionally approve a temporary use permit for a temporary wireless facility only when the Director finds:
 - (1) the proposed temporary wireless facility will not exceed the overall zone height limit of the zoning district in which it is located; and
 - (2) the proposed temporary wireless facility complies with all setback requirements applicable to the proposed location; and

- (3) the proposed temporary wireless facility will not involve any excavation or ground disturbance; and
 - (4) the proposed temporary wireless facility will be compliant with all generally applicable public health and safety laws and regulations, which include without limitation maximum permissible exposure limits for human exposure to RF emissions established by the FCC; and
 - (5) the proposed temporary wireless facility will not create any nuisance or violate any noise limits applicable to the proposed location; and
 - (6) the proposed temporary wireless facility will be identified with a sign that clearly identifies the (i) site operator, (ii) the operator's site identification name or number and (iii) a working telephone number answered 24 hours per day, seven days per week by a live person who can exert power-down control over the antennas; and
 - (7) the proposed temporary wireless facility will be removed within 30 days after the Director grants the administrative use permit, or such longer time as the Director finds reasonably related to the applicant's need or purpose for the temporary wireless facility (but in no case longer than one year); and
 - (8) the applicant has not been denied an approval for any permanent wireless facility in substantially the same location within the previous 365 days.
- (b) **Appeals.** Any applicant may appeal the Director's written decision to deny a temporary use permit for a temporary wireless facility in accordance with Gardena Municipal Code § 18.60.090.

SECTION 5.4. EMERGENCY TEMPORARY WIRELESS FACILITIES

- (a) **Authorization.** Temporary wireless facilities may be placed and operated within the City without a temporary use permit only when a duly authorized federal, state, county or City agency or official declares an emergency within a region that includes the City in whole or in part.
- (b) **Notice.** All temporary wireless facilities deployed in an emergency shall bear a sign that clearly identifies the site operator and the contact information for the person responsible for such temporary wireless facility. Any person or entity that places temporary wireless facilities pursuant to this Section 5.4 must send a written notice that identifies the approximate site location and person responsible for its operation to the Director as soon as reasonably practicable. One notice may cover multiple temporary wireless facilities.
- (c) **Removal.** Any temporary wireless facilities placed pursuant to this Section 5.4 must be removed within 15 days after the date the emergency is lifted. The Director

may authorize a longer timeframe for emergency temporary wireless facilities when the Director finds that (1) the temporary wireless facilities were deployed to temporarily replace permanent wireless facilities destroyed or otherwise rendered inoperable in connection with the emergency or (2) removal within the default timeframe would threaten public health, safety or welfare.