

ORDINANCE NO. ____

ORDINANCE OF THE COUNCIL OF THE CITY OF ROSEVILLE ADDING CHAPTER
13.30 TO TITLE 13 OF THE ROSEVILLE MUNICIPAL CODE REGARDING WIRELESS
TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHT-OF-WAY AND
AMENDING SECTION 19.34.010 OF CHAPTER 19.34 OF TITLE 19 OF THE ROSEVILLE
MUNICIPAL CODE REGARDING ANTENNAS AND COMMUNICATIONS FACILITIES

THE CITY OF ROSEVILLE ORDAINS:

SECTION 1. Chapter 13.30 of Title 13 is hereby added to the Roseville Municipal Code
and shall read as follows:

Chapter 13.30

WIRELESS TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHT-OF-WAY

13.30.010 Purpose.

The purpose and intent of this chapter is to provide a uniform and comprehensive set of regulations and standards for the permitting, development, siting, installation, design, operation, and maintenance of wireless telecommunications facilities in the city's public right-of-way.

These regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with wireless telecommunications facilities. This chapter provides standards necessary:

- A. For the preservation of the public right-of-way in the city for the maximum benefit and use of the public;
- B. To promote and protect public health and safety, community welfare, visual resources, and the aesthetic quality of the city consistent with the goals, objectives and policies of the general plan; and
- C. To provide for the orderly, managed and efficient development of wireless telecommunications facilities in accordance with state and federal laws, rules and regulations.

13.30.020 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Accessory equipment" means any equipment associated with the installation of a wireless telecommunications facility, including but not limited to cabling, generators, fans, air conditioning units, electrical panels, equipment shelters, equipment cabinets, equipment buildings, pedestals, meters, vaults, splice boxes, uninterruptible power supplies, and surface location markers.

"Antenna" means that part of a wireless telecommunications facility which is designed to radiate or receive radio frequency signals.

“Base station” means a structure or equipment at a fixed location that enables Federal Communications Commission's (“FCC”) licensed or authorized wireless communications between user equipment and a communications network.

"Cellular" means an analog or digital wireless telecommunications technology that is based on a system of interconnected neighboring cell sites.

“City” means the City of Roseville or a designated agent of the City of Roseville.

“City-owned property” means any property owned, rented or leased by the city, or in which the city has the right to use or occupancy by virtue of an easement or other similar interest, excluding the public right-of-way. For purposes of this definition, “property” includes real property or improvements thereon, and personal property, fixtures or equipment.

"Code" means the Roseville Municipal Code.

"Co-Location" means the mounting or installation of transmission equipment on an eligible support structure which is for the purpose of transmitting and/or receiving radio frequency signal for communication purposes.

"COW" means a "cell on wheels," which is a wireless telecommunications facility temporarily rolled in or temporarily installed.

"Director" means the director of development services, or his or her designee.

“Eligible facilities” means the modification of an existing wireless tower or base station that involves the co-location of new transmission equipment, the removal of transmission equipment, or the replacement of transmission equipment as defined in 47 U.S.C. § 1455 or its successor statute.

“Eligible support structure” means any tower or base station provided that it is existing at the time the application is filed with the city.

"Facility(ies)" means wireless telecommunications facilities.

"Ground-mounted" means placed directly on the ground.

"Located within the public right-of-way" includes any facility which in whole or in part, itself or as part of another structure, rests upon, in, over, or under the public right-of-way.

"Modification" means a change to an existing wireless telecommunications facility that involves any of the following: co-location, expansion, alteration, enlargement, intensification, reduction, augmentation, removal of transmission equipment, or replacement of transmission equipment, including, but not limited to, changes in size, shape, color, visual design, or exterior material. "Modification" does not include repair, replacement (excluding replacement of transmission equipment) or maintenance if those actions do not involve a change to the existing facility involving any of the following: co-location, expansion, alteration, enlargement, intensification, reduction, or augmentation.

"Monopole" means a structure composed of a pole or tower used to support antennas or related equipment. A monopole also includes a monopine, monopalm and similar monopoles camouflaged to resemble faux trees or other faux objects attached on a monopole (e.g., water tower).

"Mounted" means attached or supported.

"Permittee" shall include the applicant and all successors in interest to the wireless telecommunications facilities permit.

"Pole" means a single shaft of wood, steel, concrete or other material capable of supporting the equipment mounted thereon in a safe and adequate manner and as required by provisions of this code.

"Public right-of-way" means the area on, below, or above a public roadway, highway, street, or alley that is owned by the city, publicly held by the city or dedicated to the city for public use and over which the city has jurisdiction and control and may lawfully grant access pursuant to applicable law. "Public right-of-way" shall also include: (1) public utility easements adjacent to public roadways, highways, streets, or alleys that are under the jurisdiction and control of the city wherein the city now or hereafter acquires the right to locate or permit the location of wireless telecommunications facilities, provided that the terms and conditions of any such easement expressly allow, or any restrictions thereon do not expressly prohibit, the use of the particular easement for purposes other than which it was conveyed, dedicated or condemned; and (2) all landscape corridors adjacent to public roadways, highways, streets, or alleys that are owned by the city, publicly held by the city or dedicated to the city for public use and over which the city has jurisdiction and control and may lawfully grant access pursuant to applicable law.

"Public right-of-way" shall not include: (1) county, state or federal rights-of-way; (2) property owned by any person other than the city; (3) service entrances or driveways leading from the road or street onto adjoining property; or (4) except as described above, any real or personal property of the city, such as, but not limited to, bike trails, city parks, buildings, fixtures, poles, conduits, sewer lines, facilities, or other structures or improvements, regardless of whether they are situated in the public right-of-way.

"Street light pole" means a pole located on the edge of the public right-of-way containing a raised source of light whose main purpose is to light the public right-of-way.

“Substantial evidence” means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

"Telecommunications tower" means a freestanding structure designed and primarily used to support wireless telecommunications facility antennas.

“Tower” means 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.

“Traffic signal pole” means a pole containing signaling devices positioned at road intersections, pedestrian crossings, and other locations to control the flow of traffic.

"Utility pole" means any pole or tower owned by any utility company that is primarily used to support wires or cables necessary to the provision of electrical or other utility services.

"Wireless telecommunications facility," "facility" or "facilities" mean any facility that transmits and/or receives electromagnetic waves. It includes, but is not limited to, antennas and/or other types of equipment for the transmission or receipt of such signals, telecommunications towers or similar structures supporting such equipment, related accessory equipment, equipment buildings, parking areas, fences, and other accessory development.

The term "wireless telecommunications facility" does not apply to the following:

- A. Government owned and operated telecommunications facilities.
- B. Emergency medical care provider-owned and operated telecommunications facilities.

C. A mobile wireless telecommunications facility operated by the media on a temporary basis at various locations in the city to provide public information coverage of news events.

D. Any wireless telecommunications facilities exempted from this code by state or federal law.

"Wireless telecommunications services" means the provision of services using a wireless telecommunications facility or a wireless telecommunications co-location facility, and shall include, but is not limited to, the following services: personal wireless services as defined in the federal Telecommunications Act of 1996 at 47 U.S.C. § 332(c)(7)(C) or its successor statute, cellular service, personal communication service, and/or data radio telecommunications.

13.30.030 Applicability.

A. This chapter applies to the siting, construction or modification of any and all wireless telecommunications facilities proposed to be located in the public right-of-way.

B. This chapter does not apply to the following:

1. Wireless telecommunication facilities not located within the public right-of-way.

These facilities are regulated by Chapter 19.34 of the Roseville Municipal Code.

2. Amateur radio facilities.

3. Over the air reception devices ("OTARD") antennas.

4. Facilities owned and operated by the city for its use.

5. Any entity legally entitled to an exemption pursuant to state or federal law or governing franchise agreement.

6. Wireless telecommunications facilities proposed to be located on city-owned property.

7. Wireless telecommunications facilities proposed to be located on city-owned street light poles, traffic signal poles, and utility poles located in the public right-of-way.

8. Like-kind replacements of antennas or accessory equipment.

13.30.040 Wireless telecommunications facility permit requirements.

A. Wireless Telecommunications Facilities Permit.

1. A wireless telecommunications facilities permit, subject to the director's approval, may be issued for new facilities or co-locations or modifications to existing facilities that comply with all applicable provisions in this chapter without need for an exception pursuant to Section 13.30.160 (Exceptions).

B. Master Wireless Telecommunications Facilities Permit.

1. Any applicant that seeks approval for five (5) or more wireless telecommunications facilities located within a one (1) mile radius (including new facilities and co-locations to existing facilities) may elect to submit an application for a master wireless telecommunications facilities permit subject to the director's approval. The proposed facilities in a master plan shall be reviewed together at the same time and subject to the same requirements and procedures applicable to a wireless telecommunications facilities permit.

2. A master wireless telecommunications facilities permit shall be deemed an approval for all wireless telecommunications facilities within the master plan; provided, however, that an individual encroachment permit shall be required for each wireless telecommunications facility.

3. After the director approves a master wireless telecommunications facilities permit, any deviations or alterations from the approved master plan for an individual wireless telecommunications facility shall require a new wireless telecommunications facilities permit.

C. Other Permits Required. In addition to any permit that may be required under this chapter, the applicant must obtain all other required prior permits or other approvals from other city departments, or state or federal agencies, including but not limited to building and encroachment permits. Any permit granted under this chapter is subject to the conditions and/or requirements of other required prior permits or other approvals from other city departments, state or federal agencies.

D. Eligible Applicants. Only applicants who have been granted the right to enter the public right-of-way pursuant to state or federal law shall be eligible for a permit to install or modify a wireless telecommunications facility or a wireless telecommunications co-location facility in the public right-of-way.

E. Speculative Equipment Prohibited. The city finds that the practice of pre-approving wireless equipment or other improvements that the applicant does not presently intend to install but may wish to install at some undetermined future time does not serve the public's best interest. The city shall not approve any equipment or other improvements in connection with a wireless telecommunications facility permit when the applicant does not actually and presently intend to install such equipment or construct such improvements.

13.30.050 Application for wireless telecommunications facility permits.

A. Application. In addition to the information required of an applicant for an encroachment permit or any other permit required by this code, each applicant requesting approval of the installation or modification of a wireless telecommunications facility in the public right-of-way shall fully and completely submit to the city a written application on a form prepared by the director.

B. Application Contents. The director shall develop an application form and make it available to applicants upon request. The application form for new wireless telecommunications facilities to be installed in the public right-of-way, or for modifications to existing wireless telecommunications facilities, shall require the following information, in addition to all other information determined necessary by the director:

1. The name, address and telephone number of the applicant, owner and the operator of the proposed or modified facility.

2. If the applicant is an agent, the applicant shall provide a duly executed letter of authorization from the owner of the facility. If the owner will not directly provide wireless telecommunications services, the applicant shall provide a duly executed letter of authorization from the person(s) or entity(ies) that will provide those services.

3. If the facility will be located on or in the property of someone other than city owned infrastructure or the owner of the facility (e.g., non-city owned utility pole, utility cabinet, vault, or cable conduit), the applicant shall provide a duly executed written authorization from the property owner(s) authorizing the placement of the facility on or in the property owner's property.

4. A list of applicant's existing facilities located in the city and any pending applications with the city.

5. Detailed engineering plans of the proposed facility and related report documenting the following:

a. Height, length, diameter and design of the facility, including technical engineering specifications, together with evidence that demonstrates that the proposed facility has been designed to be the least visible equipment within the particular technology the carrier chooses to deploy. A layout plan, section and elevation of the tower structure shall be included.

b. A photograph and model name and number of each piece of equipment included.

c. Power output and operating frequency for the proposed antenna.

d. Total anticipated capacity of the structure, indicating the number, types, power, and frequency ranges of applicant's antennas, which can be accommodated.

e. Sufficient evidence to the city's satisfaction of the structural integrity of the pole or other supporting structure as required by the city.

f. Electric service requirements to include metered service pedestal location, pedestal manufacturer and cut sheet, main bussing size of service in amps, voltage requested, service entrance conductor quantity and size, and load calculations.

g. Structural load calculations if planning on attaching antennae on existing poles or towers that shows the existing structure and base can support the new load without being replaced.

6. Site plan(s) to scale, specifying and depicting the exact proposed location of the pole, pole diameter, antennas, accessory equipment, public right-of-way, access or utility easements, landscaped areas, existing utilities, adjacent land uses, sidewalk, curb, road, street signs, traffic control devices, and showing compliance with Section 13.30.070 (Requirements for Facilities within the Public Right-of-Way).

7. Scaled elevation plans of proposed poles, antennas, accessory equipment, and related landscaping and screening.

8. If the applicant requests an exception to the requirements of this chapter (in accordance with Section 13.30.160 (Exceptions)), the applicant shall provide all information and studies necessary for the city to evaluate that request except that for eligible facilities, the city may only require the applicant to provide documentation or information only to the extent reasonably related to determining whether the request for an exception meets the requirements of this chapter.

9. An accurate visual impact analysis showing the maximum silhouette, color and finish palette and proposed screening for the facility, including scaled photo simulations from at least three (3) different angles. A visual impact analysis shall not be required for eligible facilities or for any application that will not impact appearance, such as a modification to equipment behind existing screening.

10. Completion of the radio frequency ("RF") emissions exposure guidelines checklist contained in Appendix A to the FCC's "Local Government Official's Guide to Transmitting Antenna RF Emission Safety" to determine whether the facility will be "categorically excluded" as that term is used by the FCC.

11. For a facility that is not categorically excluded under the FCC regulations for RF emissions, the applicant shall submit an RF exposure compliance report prepared and certified by an RF engineer acceptable to the city that certifies that the proposed facility will comply with applicable federal RF exposure standards and exposure limits. The RF report must include the actual frequency and power levels (in watts effective radio power "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.

12. A traffic control plan for any work or staging of work within the traveled way including streets and sidewalks.

13. Copies of any documents that the applicant is required to file pursuant to Federal Aviation Administration ("FAA") regulations for the facility.

14. A noise study prepared by a qualified acoustic engineer documenting that the level of noise to be emitted by the proposed wireless telecommunications facility will comply with this code including Section 13.30.070(A)(16)(b), if requested by the director. In lieu of a noise study, the applicant may submit manufacturer specifications demonstrating no noise emissions. No noise study shall be required for modifications that will not introduce new noise-generating equipment.

15. Except for eligible facilities, a scaled conceptual landscape plan shall be prepared by a licensed landscape architect showing existing trees and vegetation and all proposed landscaping, concealment, screening and proposed irrigation with a discussion of how the chosen material at maturity will screen the site. Plans shall include repairs of any irrigation and plant replacements impacted by the proposed wireless telecommunications facility consistent with the city's parks construction standards.

16. A written description identifying the geographic service area for the subject installation including geographic maps, that identifies the location of the proposed facility in relation to all existing and planned facilities maintained within the city by each of the applicant, operator, and owner, if different entities. This requirement shall not apply to eligible facilities. In addition, applicant shall not be required to identify the location of its proposed facility in relation to existing and planned facilities of other entities.

17. Certification that applicant, owner, or operator is a telephone corporation or a statement providing the basis for its claimed right to enter the public right-of-way. If the applicant has a certificate of public convenience and necessity ("CPCN") issued by the California Public Utilities Commission, it shall provide a copy of its CPCN.

18. An application fee as established by resolution adopted by the city council, as amended from time to time.

19. Any other information and/or studies determined necessary by the director.

C. Effect of State or Federal Law Change. In the event a subsequent state or federal law prohibits the collection of any information required by Section 13.30.050(B), the director is authorized to omit, modify or add to that request from the city's application form. Nonetheless,

for requests for eligible facilities, the director shall not require the applicant to submit information beyond what is necessary to determine whether the proposed facility qualifies as an eligible facility which must be approved by law.

13.30.060 Review procedure.

A. Pre-submittal Conference. Prior to application submittal, the city strongly encourages all applicants to schedule and attend a pre-submittal conference with applicable city staff to receive informal feedback on the proposed location, design and application materials. The pre-submittal conference is intended to identify potential concerns and streamline the formal application review process after submittal. Development services department staff will endeavor to provide applicants with an appointment within approximately seven (7) calendar days after receipt of a written request and include other city departments as necessary.

B. Notice; Decisions. The provisions in this section describe the procedures for approval and any required notice for an application.

1. Director's Decision Notice; Public Hearings. The director may approve, or conditionally approve, an application only after he or she makes the findings required in Section 13.30.080 (Findings). Notice of an intent to approve a wireless telecommunications facilities permit shall be mailed or delivered at least ten (10) calendar days prior to an action to the applicant, the property owner, all property owners, as shown on the most recent secured assessor's roll, within three hundred (300) feet of the location where the wireless telecommunications facility is proposed to be located, and all persons who have requested notice. No public hearing shall be required unless a public hearing is requested in writing by anyone

wanting to comment on the project prior to the scheduled approval date. Alternatively, if the director determines that because of the location, size or design of the wireless telecommunications facility that a public hearing should be required, the director shall refer the project for a public hearing within the applicable shot clock period. If a public hearing is requested or required, the director shall schedule and notice the project for public hearing by the planning commission. If no public hearing is requested or required, within five (5) calendar days after the director approves or conditionally approves an application under this chapter, the director shall mail a notice of the decision to the applicant at the address appearing on the application.

2. Notice of Shot Clock Expiration. The city acknowledges there are federal and state shot clocks which may be applicable to a proposed wireless telecommunications facility. That is, federal and state law provide time periods in which the city must approve or deny a proposed wireless telecommunications facility. As such, the applicant is required to provide the city written notice of the expiration of any shot clock, which the applicant shall ensure is received by the city (e.g., overnight mail) no later than twenty (20) calendar days prior to the expiration.

3. Written Decision Required. All final decisions made pursuant to this chapter shall be in writing and based on substantial evidence in the written administrative record. The written decision shall include the reasons for the decision.

C. Appeals. Any aggrieved person or entity may appeal a decision by the director to the planning commission in accordance with the provisions set forth in Chapter 19.80 (Appeals). Any aggrieved person or entity may appeal a decision by the planning commission to the city

council in accordance with the provisions set forth in Chapter 19.80 (Appeals). All noticing and public hearing requirements shall be as set forth in Chapter 19.80 (Appeals).

13.30.070 Requirements for facilities within the public right-of-way.

A. Design and Development Standards. All wireless telecommunications facilities that are located within the public right-of-way shall be designed and maintained as to minimize visual, noise and other impacts on the surrounding community and shall be planned, designed, located, and erected in accordance with the city's design and construction standards and the following:

1. General Guidelines.

a. The applicant shall employ screening, undergrounding and camouflage design techniques in the design and placement of wireless telecommunications facilities in order to ensure that the facility is as visually screened as possible. Site lines for vehicular safety should be considered when adding screening.

b. All wireless telecommunications facilities that are located within the public right-of-way shall not obstruct vehicular travel, pedestrian travel, or any public utility.

c. Screening shall be designed to be architecturally compatible with surrounding structures using appropriate techniques to camouflage, disguise, and/or blend into the environment, including landscaping, color, and other techniques to minimize the facility's visual impact as well as be compatible with the architectural character of the surrounding buildings or structures in terms of color, size, proportion, style, and quality.

d. Screening of the metered service pedestal shall meet the minimum clear working space requirements per Section 10 of Roseville Electric's Specification for Commercial Construction, as amended from time to time.

e. All proposed equipment shall meet the minimum street light clear area per Section 10 of Roseville Electric's Specification for Commercial Construction, as amended from time to time.

f. If feasible, wireless telecommunications facilities shall not be installed directly in front of a residence. In locations where homes are only along one side of a street, it is the city's preference that such facilities be installed along the side of the street with no homes.

g. All network communications and power shall have a means of disconnection at the pole so that utility workers can turn off the antennae and accessory equipment while working on the pole.

2. Metered Service Pedestal. All power required shall come from an approved metered service location. The metered power pedestal shall meet the requirements of Roseville Electric's Metered Service Pedestal Requirements and the Roseville Electric approved pages of the Electric Utility Service Entrance Requirements Committee ("EUSERC"). All metered pedestals or any other above ground equipment shall be located a minimum of 3' from the edge of any existing joint utility trench. The owner or permittee is responsible for providing and paying for their own power. Any service pedestal with backup generation provisions must be disconnected from the utility service prior to operating any backup generation so that it does not back feed onto the utility system when in use. Any permanently installed backup generation will require a

break-before-make automatic transfer switch.

3. Traffic Safety. All facilities shall be designed and located in such a manner as to avoid adverse impacts on traffic safety including sight distance requirements, traffic control and sign visibility, Americans with Disabilities Act (“ADA”) requirements, and minimum road clearances.

4. Blending Methods. All facilities shall have subdued colors and non-reflective materials that blend with the materials and colors of the surrounding area and structures.

5. Equipment. It is the city’s preference that antenna elements be flush mounted or top mounted, to the extent feasible. All antenna mounts shall be designed so as not to preclude possible future co-location by the same or other operators or carriers.

6. New Poles in the Public Right-of-Way. If new poles are proposed in the public right-of-way the following requirements shall apply:

a. Such new poles shall be designed to resemble existing poles in the public right-of-way near that location, including size, height, color, materials and style, with the exception of any existing pole designs that are scheduled to be removed and not replaced.

b. Except for eligible facilities, the maximum height of any antenna shall not exceed ten (10) feet above the average height of any nearby poles.

c. Such new poles shall be located at least twenty-five (25) feet from any existing pole to the extent feasible.

d. Such new poles shall be located to the extent feasible in an area where there is an existing natural or other feature that obscures the view of the pole. The applicant shall further

employ concealment techniques to blend the pole with said features including but not limited to the addition of vegetation if appropriate.

e. Except for eligible facilities, a new pole justification analysis shall be submitted to demonstrate why existing infrastructure cannot be utilized and demonstrating the new pole is the least intrusive means possible including a demonstration that the new pole is designed to be the minimum functional height and width required to support the proposed facility.

f. All new poles and structures shall meet the minimum clearances to electric and other utility facilities per California Public Utilities Commission General Orders 95 and 128, as may be revised or superseded.

g. The owner must provide an engineered study demonstrating the minimum safe working distance from owner's active equipment. In addition, the minimum safe working distance must be clearly posted on the equipment. The owner shall also provide a method and procedure of disabling that same equipment if work closer than the minimum safe working distance is required.

h. All new poles shall be located such that there will be a minimum of 3' of native soil between the edge of any existing joint utility trench and the edge of the new pole or base.

i. All cables, including, but not limited to, electrical and utility cables, shall be run within the interior of the pole and shall be camouflaged or hidden to the fullest extent feasible. For all wooden poles wherein interior installation is infeasible, conduit and cables attached to the exterior of poles shall be mounted flush thereto and painted to match the pole.

7. Space. It is the city's preference that each facility shall be designed to occupy the least amount of space in the public right-of-way that is technically feasible.

8. Wind Loads. Each facility shall be properly engineered to withstand wind loads as required by this code or any duly adopted or incorporated code. An evaluation of high wind load capacity shall include the impact of modification of an existing facility.

9. Obstructions. Each component part of a facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, incommode the public's use of the public right-of-way, or safety hazards to pedestrians and motorists and in compliance with Sections 19.95.030(C)(3) and (C)(4) (Zoning Ordinance Definitions) so as not to obstruct the clear vision triangle.

10. Public Facilities. A facility shall not be located within any portion of the public right-of-way interfering with access to a fire hydrant, fire station, police station, fire escape, water valve, underground and pad mount utility vaults and structures, valve housing structure, bus stop, transportation facility, or any other public health or safety facility.

11. Screening. All ground-mounted facilities, pole-mounted equipment, or walls, fences, landscaping or other screening methods shall be installed at least eighteen (18) inches from the face of curb.

12. Accessory Equipment. Not including the electric meter, it is the city's preference that all accessory equipment be located underground if feasible.

a. If accessory equipment will be ground-mounted, such accessory equipment shall:

- (i) be enclosed within a structure; (ii) be located in adjacent landscape corridors if feasible; (iii) not exceed a height of five (5) feet and a total footprint of fifteen (15) square feet; and (iv) be fully screened and/or camouflaged, including the use of landscaping, architectural treatment, or acceptable alternate screening. Required electrical meter cabinets shall be screened and/or

camouflaged and located in adjacent landscape corridors if feasible. Screening of the metered service pedestal shall meet the minimum clear working space requirements of Roseville Electric's Specifications for Commercial Construction, as amended from time to time.

b. If feasible, above-ground accessory equipment shall not be installed directly in front of a residence. In locations where homes are only along one side of a street, it is city's preference that such above-ground accessory equipment be installed along the side of the street with no homes.

13. Landscaping. Except for eligible facilities and where appropriate, each facility shall be installed so as to maintain and enhance existing landscaping on the site, including trees, foliage and shrubs. Additional landscaping shall be planted, irrigated and maintained at applicant's expense where such landscaping is deemed necessary by the city to provide screening or to conceal the facility.

14. Signage. No facility shall bear any signs or advertising devices other than certification, warning or other signage required by law or permitted by the city.

15. Lighting.

a. No facility may be illuminated unless specifically required by the FAA or other government agency. Beacon lights are not permitted unless required by the FAA or other government agency.

b. Legally required lightning arresters and beacons shall be included when calculating the height of facilities such as towers, lattice towers and monopoles.

c. Any required lighting shall be shielded to eliminate, to the maximum extent possible, impacts on the surrounding neighborhoods.

d. Unless otherwise required under FAA or FCC regulations, applicants may install only timed or motion-sensitive light controllers and lights, and must install such lights so as to avoid illumination impacts to adjacent properties to the maximum extent feasible. The city may, in its discretion, exempt an applicant from the foregoing requirement when the applicant demonstrates a substantial public safety need.

e. The applicant shall submit a lighting study which shall be prepared by a qualified lighting professional to evaluate potential impacts to adjacent properties. Should no lighting be proposed, no lighting study shall be required.

16. Noise.

a. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 7:00 p.m. and 7:00 a.m.

b. At no time shall equipment noise from any facility exceed the exterior noise levels set forth in Chapter 9.24 (Noise Regulation).

17. Security. Each facility shall be designed to be resistant to, and minimize opportunities for, unauthorized access, climbing, vandalism, graffiti and other conditions that would result in hazardous situations, visual blight or attractive nuisances. The director may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when, because of their location and/or accessibility, a facility has the potential to become an attractive nuisance. Additionally, no lethal devices or elements or electric fences shall be installed as a security device.

18. Timeframe to Construct. The installation and construction approved by a wireless telecommunication facility permit shall begin within one (1) year after its approval or it will expire without further action by the city.

B. Conditions of Approval. In addition to compliance with the design and development standards outlined in this section, all facilities shall be subject to the following conditions of approval (approval may be by operation of law), as well as any modification of these conditions or additional conditions of approval deemed necessary by the director:

1. The permittee shall submit an as-built drawing within ninety (90) calendar days after installation of the facility. As-builts shall be in an electronic format acceptable to the city which can be linked to the city's GIS.

2. The permittee shall submit and maintain current at all times basic contact and site information on a form to be supplied by the city. The permittee shall notify the city of any changes to the information submitted within thirty (30) calendar days of any change, including change of the name or legal status of the owner or operator. This information shall include, but is not limited to, the following:

a. Identity, including the name, address and 24-hour local or toll free contact phone number of the permittee, the owner, the operator, and the agent or person responsible for the maintenance of the facility.

b. The legal status of the owner of the wireless telecommunications facility.

3. The permittee shall notify the city in writing at least ninety (90) calendar days prior to any transfer or assignment of the permit. The written notice required in this section must include:

- a. The transferee's legal name;
- b. The transferee's full contact information; and
- c. A statement signed by the transferee that the transferee shall accept all permit terms and conditions.

The director may require the transferor and/or the transferee to submit any materials or documentation necessary to determine that the proposed transfer complies with the existing permit and all its conditions of approval, if any. Such materials or documentation may include, but shall not be limited to: federal, state and/or local approvals, licenses, certificates or franchise agreements; statements; photographs; site plans and/or as-built drawings; and/or an analysis by a qualified radio frequency engineer demonstrating compliance with all applicable regulations and standards of the FCC. Noncompliance with the permit and all its conditions of approval, if any, or failure to submit the materials required by the director shall be a cause for the city to revoke the applicable permits pursuant to and following the procedure set on in Section 13.30.150 (Removal and Restoration—Permit Expiration, Revocation or Abandonment).

4. At all times, all required notices and/or signs shall be posted on the site as required by the FCC, California Public Utilities Commission, any applicable licenses or laws, and as approved by the city. The location and dimensions of a sign bearing the emergency contact name and telephone number shall be posted pursuant to the approved plans.

5. Permittee shall pay for and provide a performance bond or other form of security approved by the city attorney's office, which shall be in effect until the facilities are fully and completely removed and the site reasonably returned to its original condition, to cover permittee's obligations under these conditions of approval and this code. The security instrument

coverage shall include, but not be limited to, removal of the facility. The amount of the security instrument shall be calculated by the applicant in its submittal documents in an amount rationally related to the obligations covered by the bond and shall be specified in the conditions of approval. Before issuance of any building permit, permittee must submit said security instrument.

6. If a nearby property owner or tenant registers a noise complaint, the city shall forward the same to the permittee. Said complaint shall be reviewed and evaluated by the permittee. The permittee shall have fourteen (14) calendar days to file a written response regarding the complaint which shall include any applicable remedial measures. If the city determines the complaint is valid and the permittee has not taken any steps to minimize the noise, the city may hire a consultant to study, examine and evaluate the noise complaint and the permittee shall pay the fee for the consultant. The matter shall be reviewed by the director. If the director determines sound proofing or other sound attenuation measures should be required to bring the project into compliance with the code, the director may impose conditions on the facility to achieve said objective pursuant to Section 13.30.070(B)(8). In addition, violations of the city's noise ordinance may result in the enforcement proceedings, penalties, and remedies authorized by Chapters 2.50 and 2.52 of the Roseville Municipal Code.

7. A condition setting forth the permit expiration date in accordance with Section 13.30.130 (Permit Term and Renewals) shall be included in the conditions of approval.

8. The wireless telecommunications facility shall be subject to such conditions, changes or limitations as are from time to time deemed necessary by the director for the purpose of: (a) protecting the public health, safety, and welfare; (b) preventing interference with

pedestrian and vehicular traffic; and/or (c) preventing damage to the public right-of-way or any adjacent property. The city may modify the permit to reflect such conditions, changes or limitations by following the same notice requirements as are applicable to the underlying permit for similarly located facilities, except the permittee shall be given notice by personal service or by registered or certified mail at the last address provided to the city by the permittee.

9. The permittee shall not transfer the permit to any person prior to the completion of the construction of the facility covered by the permit, unless and until the transferee of the permit has submitted the security instrument required by Section 13.30.070(B)(5).

10. The permittee shall not move, alter, temporarily relocate, change, or interfere with any existing structure, improvement or property without the prior consent of the owner of that structure, improvement or property. No structure, improvement or property owned by the city shall be moved to accommodate a wireless telecommunications facility unless the city determines that such movement will not adversely affect the city or any surrounding businesses or residents, and the permittee pays all costs and expenses related to the relocation of the city's structure, improvement or property. Prior to commencement of any work pursuant to an encroachment permit issued for any facility within the public right-of-way, the permittee shall provide the city with documentation establishing to the city's satisfaction that the permittee has the legal right to use or interfere with any other structure, improvement or property within the public right-of-way to be affected by applicant's facilities.

11. To the fullest extent allowed by law and except for those matters caused by the city's sole negligence or willful misconduct, the permittee shall assume full liability for any damages or injuries caused to any property or person by the facility which resulted from or arose out of permittee's willful misconduct or negligent act.

12. The permittee shall repair, at its sole cost and expense, any damage including, but not limited to subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to city streets, sidewalks, walks, curbs, gutters, landscaping, irrigation, parkways, street lights, traffic signals, improvements of any kind or nature, or utility poles, lines and systems, underground utility line and systems, or sewer systems and sewer lines that result from any activities performed in connection with the installation and/or maintenance of a wireless telecommunications facility in the public right-of-way. The permittee shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. Such time period for correction shall be based on the facts and circumstances, danger to the community and severity of the disrepair. Should the permittee not make said correction within the time period allotted, the city shall cause such repair to be completed at permittee's sole cost and expense.

13. No facility shall be permitted to be installed in the drip line of any tree in the public right-of-way or in the minimum street light clear area of any publicly owned street light per Section 10 of Roseville Electric's Specifications for Commercial Construction, as amended from time to time.

14. Insurance. The permittee shall obtain, pay for and maintain, in full force and effect until the facility approved by the permit is removed in its entirety from the public right-of-way, an insurance policy or policies of commercial general liability insurance, with minimum limits of \$2,000,000 for each occurrence and \$4,000,000 in the aggregate, that fully protects the city from claims and suits for bodily injury and property damage. Alternatively, the permittee may self-insure under these same terms. The insurance must name the city and its elected and appointed council members, boards, commissions, officers, officials, agents, employees, and

volunteers as additional named insureds, be issued by an insurer admitted in the State of California with a rating of at least a A:VII in the latest edition of A.M. Best's Insurance Guide, and include an endorsement providing that the policies cannot be canceled or reduced except with thirty (30) calendar days prior written notice to the city, except for cancellation due to nonpayment of premium. The insurance provided by permittee shall be primary to any coverage available to the city, and any insurance or self-insurance maintained by the city and its elected and appointed council members, boards, commissions, officers, officials, agents, employees, and volunteers shall be excess of permittee's insurance and shall not contribute with it. The policies of insurance required by this permit shall include provisions for waiver of subrogation. In accepting the benefits of this permit, permittee hereby waives all rights of subrogation against the city and its elected and appointed council members, boards, commissions, officers, officials, agents, employees, and volunteers. The insurance must afford coverage for the permittee's and the wireless provider's use, operation and activity, representatives, agents, and employees, as determined by the city's risk manager. Before issuance of any building permit for the facility, the permittee shall furnish to the city's risk manager certificates of insurance and endorsements, in the form satisfactory to the city attorney or the risk manager, evidencing the coverage required by the city.

15. To the fullest extent allowed by law and except for those matters caused by the city's sole negligence or willful misconduct, permittee shall defend, indemnify, protect and hold harmless city, its elected and appointed council members, boards, commissions, officers, officials, agents, employees, and volunteers from and against any and all claims, actions, or proceedings against the city, and its elected and appointed council members, boards, commissions, officers, officials, agents, employees, and volunteers to attack, set aside, void or

annul, an approval of the city, planning commission or city council concerning this permit and the project. Such indemnification shall include damages of any type, judgments, awards, penalties, fines, defensive costs, or expenses, including, but not limited to, interest, reasonable attorneys' fees and expert witness fees, or liability of any kind related to or arising from such claim, action, or proceeding. The city shall promptly notify the permittee of any claim, action, or proceeding. Nothing contained herein shall prohibit city from participating in a defense of any claim, action or proceeding.

16. Additionally, to the fullest extent permitted by law, the permittee, and every permittee and person in a shared permit, jointly and severally, shall defend, indemnify, protect and hold the city and its elected and appointed council members, boards, commissions, officers, officials, agents, employees, and volunteers harmless from and against all claims, suits, demands, actions, losses, liabilities, judgments, settlements, costs (including, but not limited to, attorney's fees, interest and expert witness fees), or damages claimed by third parties against the city for any injury claim, and for property damage sustained by any person, arising out of or resulting from operation of the wireless telecommunications facility, or to any work done by or use of the public right-of-way by the permittee, owner or operator of the wireless telecommunications facility, or their agents, excepting only liability arising out of the sole negligence or willful misconduct of the city and its elected and appointed council members, boards, commissions, officers, officials, agents, employees, and volunteers.

17. Removal of Meter Cabinets. Should Roseville Electric not require the use of an above ground meter cabinet, the permittee shall at its sole cost and expense remove the meter cabinet and any related foundation within ninety (90) calendar days of electrical services being

offered and reasonably restore the area to its prior condition. An extension by Roseville Electric may be granted if circumstances arise outside of the control of the permittee.

18. Relocation. The permittee shall modify, remove, or relocate its facility, or portion thereof, without cost or expense to city, if and when made necessary by: (a) any public improvement project, including, but not limited to, the construction, maintenance, or operation of any underground or above ground facilities including but not limited to traffic signals, sewers, storm drains, conduits, gas, water, electric or other utility systems, or pipes owned by the city or any other public agency; (b) any abandonment of any street, sidewalk or other public facility; (c) any change of grade, alignment or width of any street, sidewalk or other public facility; or (d) a determination by the director or the public works director that the wireless telecommunications facility has become incompatible with public health, safety or welfare or the public's use of the public right-of-way. Such modification, removal, or relocation of the facility shall be completed within ninety (90) calendar days of notification by city unless exigencies dictate a shorter period for removal or relocation. Modification or relocation of the facility shall require submittal, review and approval of a modified permit pursuant to the code including applicable notice requirements. In the event the facility is not modified, removed, or relocated within said period of time, city may cause the same to be done at the sole cost and expense of permittee. Further, due to exigent circumstances including those of immediate or imminent threat to the public's health and safety, the city may modify, remove, or relocate wireless telecommunications facilities without prior notice to permittee provided permittee is notified within a reasonable period thereafter.

19. Permittee shall agree in writing that the permittee is aware of, and agrees to abide by, all conditions of approval imposed by the wireless telecommunications facility permit within

thirty (30) calendar days of permit issuance. The permit shall be void and of no force or effect unless such written consent is received by the city within said 30-day period.

C. Other Permits Required. In addition to any permit that may be required under this chapter, the applicant must obtain all other required prior permits or other approvals from other city departments, or state or federal agencies, including but not limited to building and encroachment permits. Any permit granted under this chapter is subject to the conditions and/or requirements of other required prior permits or other approvals from other city departments, state or federal agencies.

13.30.080 Findings.

No permit shall be granted for a wireless telecommunications facility unless all of the following findings are made by the director:

- A. All notices required for the proposed installation have been given.
- B. The proposed facility has been designed and located in compliance with all applicable provisions of this chapter.
- C. If applicable, the applicant has demonstrated its inability to locate on existing infrastructure.
- D. The applicant has provided sufficient evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law.
- E. The applicant has demonstrated the proposed installation is supported by factual evidence and a meaningful comparative analysis to show that all alternative locations in the

public right-of-way and designs identified in the application review process were technically infeasible or not available.

F. All applicable fees have been paid.

G. The applicant has obtained any approvals that may be required under the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.) to construct, install, and maintain the proposed wireless telecommunications facility.

13.30.090 Nonexclusive grant.

No permit or approval granted under this chapter shall confer any exclusive right, privilege, license or franchise to occupy or use the public right-of-way of the city for any purpose whatsoever. Further, no approval shall be construed as any warranty of title.

13.30.100 Temporary wireless telecommunications facilities in the public right-of-way.

A COW or other temporary wireless telecommunications facility shall be permitted for the duration of an emergency declared by the city or at the discretion of the director.

13.30.110 Operation and maintenance standards.

All wireless telecommunications facilities must comply at all times with the following operation and maintenance standards:

A. Unless otherwise provided herein, all necessary repairs and maintenance shall be completed by the permittee, owner, operator or any designated maintenance agent within forty-eight (48) hours:

1. After discovery of the need by the permittee, owner, operator or any designated maintenance agent; or

2. After permittee, owner, operator or any designated maintenance agent receives notification from the city.

B. Each permittee of a wireless telecommunications facility shall provide the director with the name, address and 24-hour local or toll free contact phone number of the permittee, the owner, the operator and the agent responsible for the maintenance of the facility ("contact information"). Contact information shall be updated within seven (7) calendar days of any change.

C. All facilities, including, but not limited to, telecommunication towers, poles, accessory equipment, lighting, fences, walls, shields, cabinets, artificial foliage or camouflage, and the facility site shall be maintained by the permittee, owner, or operator in good condition, including ensuring the facilities are reasonably free of:

1. General dirt and grease;
2. Chipped, faded, peeling, and cracked paint;
3. Rust and corrosion;
4. Cracks, dents, and discoloration;
5. Missing, discolored or damaged artificial foliage or other camouflage;

6. Graffiti, bills, stickers, advertisements, litter, and debris;
7. Broken and misshapen structural parts;
8. Exposed wires;
9. Missing pull box or hand hole lids or covers; and
10. Any damage from any cause including, but not limited to, vandalism.

D. All trees, foliage or other landscaping elements approved as part of the facility shall be maintained by the permittee, owner, or operator in good condition at all times, and the permittee, owner and operator of the facility shall be responsible for replacing any damaged, dead or decayed landscaping. No amendment to any approved landscaping plan may be made until it is submitted to and approved by the director.

E. The permittee shall replace its facilities, after obtaining all required permits, if maintenance or repair is not sufficient to return the facility to the condition it was in at the time of installation.

F. Each facility shall be operated and maintained to comply with all conditions of approval. Each permittee, owner, or operator of a facility shall routinely inspect each site to ensure compliance with the same and the standards set forth in this chapter.

G. Any damage to city owned utility, traffic signal or street light poles that is repaired or replaced by the city will be at the owner's expense.

H. Any damage to city owned equipment that is repaired or replaced by the city will be at the owner's expense.

I. The permittee, owner, operator, or their agents, must have in their possession at all times a city approved traffic control plan for any maintenance or repair work staged within the vehicle travel way, bicycle lanes, or sidewalks.

13.30.120 No dangerous condition or obstructions allowed.

No person shall install, use or maintain any facility which in whole or in part rests upon, in or over any public right-of-way, when such installation, use or maintenance violates the ADA or endangers or is reasonably likely to endanger the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such facility unreasonably interferes with or unreasonably impedes the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects permitted at or near said location.

13.30.130 Permit term and renewals.

A. Initial Term of Permit. Unless Government Code Section 65964, as may be amended, authorizes the city to issue a permit with a shorter term, a permit for any wireless telecommunications facility shall be valid for a period of ten (10) years, unless pursuant to another provision of this code it lapses sooner or is revoked.

B. Renewals. At the end of the initial ten (10) year term set forth in subsection A above, the director may renew a wireless telecommunications facility permit for an additional ten (10) year term provided that permittee is in compliance with the provisions of this chapter and further provided that permittee does not seek modifications to the permit. A wireless telecommunications facility permit that has been renewed once under this subsection may not be renewed for a second time. Instead, permittee may file a new application for a wireless telecommunications facility permit for the permitted wireless telecommunications facility at the same location.

C. Modifications. Permittees seeking modifications to expiring permits must file a new application for a wireless telecommunications facility permit for the permitted wireless telecommunications facility at the same location.

D. Applications. Applications for renewals or new permits must be filed within one hundred and eighty (180) calendar days prior to expiration. Such applications shall comply with the city's current code requirements for wireless telecommunications facilities and will be processed in accordance with the procedures set forth in this chapter.

13.30.140 Cessation of use or abandonment.

A. A wireless telecommunications facility is considered abandoned and shall be promptly removed as provided herein if it ceases to provide wireless telecommunications services for ninety (90) or more consecutive calendar days unless the permittee has obtained prior written approval from the director which shall not be unreasonably denied. If there are two

(2) or more users of a single facility, then this provision shall not become effective until all users cease using the facility.

B. The operator of a facility shall notify the city in writing of its intent to abandon or cease use of a permitted site or a nonconforming site (including unpermitted sites) within ten (10) calendar days of ceasing or abandoning use. Notwithstanding any other provision herein, the operator of the facility shall provide written notice to the director of any discontinuation of operations of thirty (30) calendar days or more.

C. Failure to inform the director of cessation or discontinuation of operations of any existing facility as required by this section shall constitute a violation of any approvals and be grounds for:

1. Litigation;
2. Revocation or modification of the permit;
3. Acting on any bond or other assurance required by this chapter or conditions of approval of the permit;
4. Removal of the facilities by the city in accordance with the procedures established under this code for abatement of a public nuisance at the owner's expense; and/or
5. Any other remedies permitted under this code or state or federal law.

13.30.150 Removal and restoration—Permit expiration, revocation or abandonment.

A. Upon the expiration date of the permit, including any extensions, earlier termination or revocation of the permit or abandonment of the facility, the permittee, owner or

operator shall remove its wireless telecommunications facility and restore the site to its natural condition except for retaining the landscaping improvements and any other improvements at the discretion of the city. Removal shall be in accordance with proper health and safety requirements and all ordinances, rules, and regulations of the city. The facility shall be removed from the property, at no cost or expense to the city.

B. Failure of the permittee, owner or operator to promptly remove its facility and restore the property to a condition satisfactory to the director within ninety (90) calendar days after expiration, earlier termination or revocation of the permit, or abandonment of the facility, shall be a violation of this code. Upon a showing of good cause, an extension may be granted by the director where circumstances are beyond the control of the permittee after expiration.

Further failure to abide by the timeline provided in this section shall be grounds for:

1. Prosecution;
2. Acting on any security instrument required by this chapter or conditions of approval of permit;
3. Removal of the facilities by the city in accordance with the procedures established under this code for abatement of a public nuisance at the owner's expense; and/or
4. Any other remedies permitted under this code or state or federal law.

C. Summary Removal. In the event the director or public works director determines that the condition or placement of a wireless telecommunications facility located in the public right-of-way constitutes a dangerous condition, obstruction of the public right-of-way, or an imminent threat to public safety, or determines other exigent circumstances require immediate corrective action (collectively, "exigent circumstances"), the director or public works director

may cause the facility to be removed summarily and immediately without advance notice or a hearing. Written notice of the removal shall include the basis for the removal and shall be served upon the permittee and person who owns the facility within seven (7) calendar days of removal and all property removed shall be preserved for the owner's pick-up as feasible. If the owner cannot be identified following reasonable effort or if the owner fails to pick-up the property within sixty (60) calendar days, the facility shall be treated as abandoned property and disposed of at the city's discretion without compensation to the owner.

D. Removal of Facilities by City. In the event the city removes a facility in accordance with nuisance abatement procedures or summary removal, any such removal shall be without any liability to the city for any damage to such facility that may result from reasonable efforts of removal. In addition to the procedures for recovering costs of nuisance abatement, the city may collect such costs from the performance bond posted and to the extent such costs exceed the amount of the performance bond, collect those excess costs in accordance with this code. Unless otherwise provided herein, the city has no obligation to store such facility. Neither the permittee, owner nor operator shall have any claim if the city destroys any such facility not timely removed by the permittee, owner or operator after notice, or removed by the city due to exigent circumstances.

13.30.160 Exceptions.

A. The city council recognizes that federal law prohibits a permit denial when it would effectively prohibit the provision of personal wireless services and the applicant proposes the least intrusive means to provide such services. The city council finds that, due to wide

variation among wireless facilities, technical service objectives and changed circumstances over time, a limited exemption for proposals in which strict compliance with this chapter would effectively prohibit personal wireless services serves the public interest. The city council further finds that circumstances in which an effective prohibition may occur are extremely difficult to discern, and that specified findings to guide the analysis promotes clarity and the city's legitimate interest in well-planned wireless facilities deployment. Therefore, in the event that any applicant asserts that strict compliance with any provision in this chapter, as applied to a specific proposed personal wireless services facility, would effectively prohibit the provision of personal wireless services, the director may grant an exception from strict compliance subject to the provisions in this section.

B. Required Findings. The director shall not grant any exception unless the applicant demonstrates all the following:

1. The proposed wireless facility qualifies as a "personal wireless services facility" as defined in United States Code, Title 47, Section 332(c)(7)(C)(ii);
2. There is a "significant gap" in service coverage as that term is defined by federal law;
3. The applicant has provided the city with a clearly defined potential site search area; and
4. The applicant has provided the city with a meaningful comparative analysis that demonstrates the lack of available and technologically feasible alternative facilities or site locations.

C. Scope. The director shall limit its exception to the extent to which the applicant demonstrates such exception is necessary to reasonably achieve its reasonable technical service objectives. The director may adopt conditions of approval as reasonably necessary to promote the purposes in this chapter and protect the public health, safety and welfare.

D. Independent Consultant. The city shall have the right to hire, at the applicant's reasonable expense, an independent consultant to evaluate issues raised by the exception and to submit recommendations and evidence in response to the application.

13.30.170 Location preferences.

Wireless telecommunications facilities located within the public right-of-way of local streets as identified in the general plan, if within a residential zone, are the least-preferred location.

13.30.180 Effect on other ordinances.

Compliance with the provisions of this chapter shall not relieve a person from complying with any other applicable provision of this code. In the event of a conflict between any provision of this chapter and other sections of this code, this chapter shall control.

13.30.190 State or federal law.

A. In the event it is determined by the city that state or federal law prohibits discretionary permitting requirements for certain wireless telecommunications facilities, such requirements shall be deemed severable and all remaining regulations shall remain in full force and effect. For those facilities, a ministerial permit shall be required prior to installation or modification of a wireless telecommunications facility, and all provisions of this chapter shall be applicable to any such facility with the exception that the required permit shall be reviewed and administered as a ministerial permit by the director rather than as a discretionary permit. Any conditions of approval set forth in this chapter or deemed necessary by the director shall be imposed and administered as reasonable time, place and manner rules.

B. If subsequent to the city's determination pursuant to subsection A above, the city determines that the law has changed and that discretionary permitting is permissible, all discretionary permitting requirements shall be reinstated.

C. All installations permitted pursuant to this chapter shall comply with all federal and state laws including but not limited to the ADA.

13.30.200 Nonconforming wireless telecommunications facilities in the public right-of-way.

A. Nonconforming wireless telecommunications facilities are those facilities that do not conform to this chapter.

B. Nonconforming wireless telecommunications facilities shall, within ten (10) years from the date such facility becomes nonconforming, be brought into conformity with all

requirements of this chapter; provided, however, that should the owner desire to expand or modify the facility, intensify the use, or make some other change in a conditional use, the owner shall comply with all applicable provisions of this code at such time, to the extent the city can require such compliance under federal and state law.

C. An aggrieved person may file an appeal to the city council of any decision of the director made pursuant to this section. In the event of an appeal alleging that the ten (10) year amortization period is not reasonable as applied to a particular property, the city council may consider the amount of investment or original cost, present actual or depreciated value, dates of construction, amortization for tax purposes, salvage value, remaining useful life, the length and remaining term of the lease under which it is maintained (if any), and the harm to the public if the structure remains standing beyond the prescribed amortization period, and set an amortization period accordingly for the specific property.

D. This section shall not apply to applications for eligible facilities.

13.30.210 Severability.

The provisions of this chapter are hereby declared to be severable. If any provision, clause, word, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

SECTION 2. Section 19.34.010 of Chapter 19.34 of Title 19 of the Roseville Municipal Code is hereby amended to read as follows:

19.34.010 Purpose.

This chapter establishes standards for the placement of telecommunication facilities on private property in all zoning districts and on public property not otherwise governed by Chapter 13.30 (Wireless Telecommunications Facilities in the Public Right-of-Way). It is the intent of this chapter to minimize the adverse impacts of such equipment and structures on neighborhoods and surrounding developments by limiting the height, number, and location of such devices.

SECTION 3. This ordinance shall be effective at the expiration of thirty (30) days from the date of adoption.

SECTION 4. The City Clerk is hereby directed to cause this ordinance to be published in full at least once within fourteen (14) days after it is adopted in a newspaper of general circulation in the City, or shall within fourteen (14) days after its adoption cause this ordinance to be posted in full in at least three (3) public places in the City and enter in the Ordinance Book a certificate stating the time and place of said publication by posting.

PASSED AND ADOPTED by the Council of the City of Roseville this ____ day of _____, 20__, by the following vote on roll call:

AYES COUNCILMEMBERS:

NOES COUNCILMEMBERS:

ABSENT COUNCILMEMBERS:

MAYOR

ATTEST:

City Clerk