

**ORDINANCE NO. 19-2019**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE FINDING NO FURTHER ENVIRONMENTAL REVIEW IS REQUIRED PURSUANT TO STATE CEQA GUIDELINES SECTION 15183, 15301, AND 15303 FOR THE CINGULAR WIRELESS PCS CODE AMENDMENT (EG-18-006) AND APPROVING AMENDMENTS TO ELK GROVE MUNICIPAL CODE TITLE 23 (ZONING)**

**WHEREAS**, New Cingular Wireless PCS, LLC (by AT&T Mobility) (the “Applicant”) seeks an amendment to Title 23 (Zoning) of the Elk Grove Municipal Code (“EGMC”) concerning small cell wireless facilities and approval of a master license agreement (the “MLA”) for such small cell wireless facilities, as generally described at Exhibit A (collectively, the “Project”); and

**WHEREAS**, the Planning Commission held a duly-noticed public hearing on July 18, 2019 as required by law, to consider all information presented by staff, interested persons, and the Applicant concerning the Project; and

**WHEREAS**, the Planning Commission voted 4-0 to recommend that the City Council approve the Project; and

**WHEREAS**, the City Council held a duly-noticed public hearing on August 28, 2019, as required by law, to consider all information presented by staff, interested persons, and the Applicant concerning the Project.

**NOW, THEREFORE**, the City Council of the City of Elk Grove does hereby ordain as follows:

Section 1: Purpose

The purpose of this Ordinance is to facilitate the deployment of small cell communications facilities throughout the City.

Section 2: Findings

This Ordinance is adopted based upon the following findings:

**California Environmental Quality Act (CEQA)**

Finding: No further environmental review is required under the California Environmental Quality Act pursuant to State CEQA Guidelines Sections 15183, 15301, and 15303.

Evidence: CEQA requires analysis of agency approvals of discretionary “projects.” A “project,” under CEQA, is defined as “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment” (State CEQA Guidelines Section 15378). The proposed Project is a project under CEQA.

Staff has analyzed the proposed Zoning Code Text Amendment and MLA and has determined that no further environmental review is necessary pursuant to State CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning), Section 15301 (CEQA exemption for minor alteration to existing facilities), and Section 15303 (CEQA exemption for new construction or

conversion of small structure). The proposed Project consists of amendments to the text of the EGMC to facilitate the deployment of small cell antennas and associated equipment throughout the City, along with an MLA that addresses the processing of permits individual small cell facilities; their operation and maintenance; and their location, design and technical specifications.

Chapter 23.27 of the EGMC currently defines wireless telecommunications facilities and specifies the zoning districts where these wireless facilities are allowed, as well as the permit processes to which these facilities are subject. The proposed amendments define “Wireless Telecommunications Facilities, Small Cell” which are a specific subset of those wireless facilities that are currently allowed but fall within particular size criteria. Wireless Communications Facilities are allowed in all zoning districts throughout the City. Small cell facilities will also be allowed in all zoning districts; however, the proposed EGMC text amendments prescribe entitlements that differ from the traditional, large scale facilities. These amendments and the associated MLA are consistent with General Plan policies related to community infrastructure and development density. An EIR was certified in conjunction with the approval of the General Plan (SCH# 2017062058). The EGMC text amendments and the MLA will not create a significant new impact inconsistent with the General Plan EIR. Pursuant to CEQA Guidelines Section 15183, no further CEQA review is required for the approval of the proposed EGMC text amendments and MLA.

Approval of the EGMC text amendments and the small cell wireless facilities that would be approved by the MLA, are also exempt from CEQA under CEQA Guidelines Sections 15301 and 15303. Section 15301 exempts from CEQA minor alteration to existing public or private structures. Section 15303 exempts from CEQA the construction of small facilities, including the installation of small new equipment and facilities. Here, the EGMC text amendments and the MLA authorize the installation of facilities at various sites within the City. The new facilities are to be installed on existing City facilities such as streetlight and/or traffic signal poles, and the new facilities will be less than 28 cubic feet, with the specifically proposed facilities being much less than half the size of the existing poles. Therefore, the approval of the proposed EGMC text amendments and MLA are exempt from CEQA review pursuant to CEQA Guidelines Section 15301 and 15303.

## **General Plan Consistency**

**Finding:** The proposed amendments to the Elk Grove Municipal Code are consistent with the General Plan goals, policies, and implementation programs.

**Evidence:** The proposed EGMC text amendments and associated MLA are consistent with the General Plan. The Project will streamline the installation of small cell facilities on existing infrastructure within the public right-of-way which is consistent with General Plan policies related to community infrastructure, specifically, goals related to maximizing the efficiency of infrastructure improvements and encouraging advanced technologies.

### Section 3: Action

The City Council hereby approves and adopts the EGMC text amendments as shown in Exhibit B, incorporated herein by this reference.

### Section 4: No Mandatory Duty of Care.

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

### Section 5: Severability

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

### Section 6: Savings Clause

The provisions of this ordinance shall not affect or impair an act done or right vested or approved or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take effect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall remain in full force and affect to all intents and purposes as if such ordinance or part thereof so repealed had remained in force. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred prior to the time when any such ordinance or part thereof shall be repealed or altered by said Code shall be discharged or affected by such repeal or alteration; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted and proceeded with in all respects as if such prior ordinance or part thereof had not been repealed or altered.

### Section 7: Effective Date and Publication

This ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to GC 36933(c)(1).

**ORDINANCE:**       **19-2019**  
**INTRODUCED:**     August 28, 2019  
**ADOPTED:**  
**EFFECTIVE:**

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STEVE LY, MAYOR of the  
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

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JASON LINDGREN, CITY CLERK

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JONATHAN P. HOBBS,  
CITY ATTORNEY

Date signed: \_\_\_\_\_

## **EXHIBIT A – Project Description**

The proposed Project consists of a Zoning Code Text Amendment to amend Chapters 23.26, 23.27 and 23.94 of the Elk Grove Municipal Code (EGMC) to facilitate the deployment of small cell communications facilities throughout the City. The Project also includes a Master License Agreement for Small Cell Wireless Communications Facilities between the City of Elk Grove and New Cingular Wireless PCS, LLC.

**EXHIBIT B**  
**Zoning Code Amendments**

**Elk Grove Municipal Code to be amended as follows.**

*New text is underlined. Deleted text is shown as ~~strikeout~~.*

**Amend 23.26.050 Description of land use classifications as follows.**

T. "T" Allowed Use Descriptions.

~~1. "Telecommunications facility" means a facility designed and/or used for the purpose of transmitting, receiving, or relaying voice and/or data signals from various wireless communication devices, including a transmission tower, antenna, and/or other facility designed or used for that purpose. Amateur radio transmission facilities, facilities operated exclusively as part of a public safety network, and facilities used exclusively for the transmission of television and/or radio broadcasts are not "telecommunications facilities." Additional definitions can be found in EGMC Chapter 23.94.~~

1. "Theaters and auditoriums" means indoor facilities for public assembly and group entertainment, other than sporting events, including civic theaters and facilities for "live" theater and concerts, exhibition and convention halls, motion picture theaters, public and semi-public auditoriums, and similar public assembly uses. Does not include outdoor theaters, concert and similar entertainment facilities, and indoor and outdoor facilities for sporting events (see "outdoor commercial recreation").

2. "Thrift store" means a retail establishment selling secondhand goods donated by members of the public.

3. "Transit facilities" means maintenance and service centers for the vehicles operated in a mass transportation system. Includes buses, taxis, railways, etc.

4. "Transit stations and terminals" means passenger stations for vehicular and rail mass transit systems; also terminal facilities providing maintenance and service for the vehicles operated in the transit system. Includes buses, taxis, railways, etc.

5. "Transitional housing" means buildings configured as rental housing developments but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six (6) months from the beginning of the assistance.

W. "W" Allowed Use Descriptions.

1. "Wholesaling and distribution" means establishments engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm, or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. Includes such establishments as agents, merchandise or commodity brokers, and

commission merchants, assemblers, buyers and associations engaged in the cooperative marketing of farm products, merchant wholesalers, and stores primarily selling electrical, plumbing, heating and air conditioning supplies and equipment.

2. “Wineries, distilleries, and brewery” means manufacturing facilities where raw materials (e.g., grapes, hops, barley) are processed and fermented into wine, beer, and other alcoholic drinks. May include tasting and accessory retail sales of products produced on site. Processing of the products, without fermentation, is considered “agricultural products processing” as defined in this section.

3. “Wireless Communications Facility” means a facility designed and/or used for the purpose of transmitting, receiving, or relaying voice and/or data signals from various wireless communication devices, including a transmission tower, antenna, and/or other facility designed or used for that purpose. Amateur radio transmission facilities, facilities operated exclusively as part of a public safety network, and facilities used exclusively for the transmission of television and/or radio broadcasts are not “wireless communications facilities.” Additional definitions can be found in EGMC Chapter 23.94.

4. “Wireless Communications Facility, Small Cell” means any small cell antennas and other wireless communications equipment, including facilities that operate on unlicensed frequencies and FCC-approved frequencies in the bands authorized for commercial wireless communication services by the FCC pursuant to FCC licenses issued to Licensee, and all associated equipment, meeting the following size criteria: (i) the total volume of all small cell antennas on a single facility or property shall not exceed six (6) cubic feet; (ii) any individual piece of associated equipment on a single facility or property shall not exceed nine (9) cubic feet in volume; and (iii) the cumulative total of all associated equipment from all wireless communications providers, including antennas, for a single facility or property shall not exceed twenty-eight (28) cubic feet in volume.

[Amend Table 23.27-1 as follows]

Allowed Uses and Required Entitlements for Base Zoning Districts																										
Land Use/Zoning District	Zoning Districts																									Specific Use Regulations
	Agricultural					Residential					Commercial					Mixed Use		Office		Industrial			Public/Quasi-Public			
	AG-80	AG-20	AR-5/10	AR-2	AR-1	RD-1/2/3	RD-4/5/6	RD-7	RD-10/15	RD-20/25/30	LC	GC	SC	AC	C-O	VCMU	RMU	BP	MP	LI	LI/PX	HI	PR	PS	O	
<b>Residential Uses</b>																										
Telecommunication Facility Wireless Communication Facility	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	P	P	P	CUP	CUP	CUP	EGMC Chapter <a href="#">23.94</a>
Wireless Communication Facility, Small Cell <sup>1</sup>	CUP <sup>2</sup>	CUP <sup>2</sup>	MUP	MUP	MUP	MUP	MUP	MUP	MUP	MUP	CUP <sup>21</sup>	CUP <sup>21</sup>	CUP <sup>21</sup>	CUP <sup>21</sup>	CUP <sup>21</sup>	CUP <sup>8</sup>	CUP <sup>8</sup>	CUP <sup>10</sup>	CUP <sup>10</sup>	P	P	P	MUP <sup>4</sup>	CUP/ MUP <sup>4</sup>	CUP/ MUP <sup>4</sup>	

Notes to Table 23.27-1

**Notes that pertain to all zoning districts concerning any Small Cell Wireless Communication Facility:**

1. Notwithstanding any other provision of this Title, any small cell wireless facility located at or within any school shall require an MUP, unless the school is in a zoning district requiring a CUP, in which case a CUP shall be required.

**Notes that pertain to the agricultural zoning districts:**

7. Small cell wireless communications facilities consistent with an agreement between the applicant and the City pursuant to Section 23.94.040 shall be a permitted use.

**Notes that pertain to the commercial zoning districts:**

21. Small cell wireless communications facilities consistent with an agreement between the applicant and the City pursuant to Section 23.94.040 shall be a permitted use.

**Notes pertaining to the mixed-use zoning districts:**

6. Small cell wireless communications facilities consistent with an agreement between the applicant and the City pursuant to Section 23.94.040 shall be a permitted use.

**Notes pertaining to the office zoning districts:**

10. Small cell wireless communications facilities consistent with an agreement between the applicant and the City pursuant to Section 23.94.040 shall be a permitted use.

**Notes that pertain to the public/quasi-public zoning districts:**

4. Small cell wireless communications facilities consistent with an agreement between the applicant and the City pursuant to Section 23.94.040 shall be a permitted use, provided, however, that any small cell wireless facility located within a public park shall require an MUP.



## **Amend Chapter 23.94 as follows**

### **23.94.010 Purpose and intent.**

The purpose of this chapter is to regulate the installation of antennas and other wireless communications facilities consistent with Federal law. The City acknowledges the community benefit associated with the provision of wireless communication service and potential public benefit from leasing of publicly owned properties. It is also recognized that unrestricted installations are contrary to the City's efforts to promote safety and aesthetic considerations. It is not the intent of this section to unreasonably limit the reception or transmission of signals or to add excessive permit costs. Rather, it is the intent of this chapter to permit antennas and wireless communications facilities where they can be installed without creating adverse safety and aesthetic impacts on abutting and nearby properties and the overall community. [Ord. 8-2011 §39(A), eff. 6-24-2011]

### **23.94.020 Definitions.**

Terms unique to this chapter are listed in EGMC Chapter 23.100 (General Definitions). [Ord. 8-2011 §39(B), eff. 6-24-2011]

### **23.94.030 Permit requirements by zoning district.**

#### **A. Permit Requirements.**

1. New Facilities. ~~Permit Required.~~ In an attempt to protect scenic, historic, natural, or cultural resources of the City; to assure land use compatibility with properties adjacent to such facilities; to minimize negative visual, noise and aesthetic impacts; and to protect the general safety, welfare, and quality of life of the community, unless exempt from permit requirements pursuant to EGMC Section 23.94.040, Exemptions, and except as set forth herein or at EGMC Section 23.94.040, Small Cell Wireless Communications Facilities, all wireless communications facilities in non-industrial zoning districts shall require a conditional use permit or a minor conditional use permit pursuant to EGMC Section 23.16.070, Conditional use permit and minor conditional use permit, ~~except for co-location facilities that have been granted a valid conditional use permit from the designated approving authority. Such co-locations shall not increase the height of the tower as previously approved, nor shall they include any new equipment beyond the physical enclosure(s) of the prior approval(s). Additionally, improvements to existing wireless facilities that deviate from the prior conditional use permit approval or result in new visual or noise impacts as determined by the Development Services Director shall require amendments to the conditional use permit.~~ Development of the facility may be phased without being required to obtain additional conditional use permit(s) for each antenna or service located on the structure; provided, that the maximum height of the structure(s), the location of the structure(s), and design of the structure(s) are consistent with the approved conditional use permit.

2. Colocations. Any colocation of any wireless communications facility on a tower or base station at a site for which a conditional use permit or minor conditional use permit has previously been issued shall require a minor conditional use permit approved by the Zoning Administrator. The Zoning Administrator shall not deny, and shall approve, any request for colocation at an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

B. Permit Processing. Permits shall be processed in accordance with the applicable provisions of Division II of this title.

C. Conditions. The designated approving authority may impose conditions on wireless communications facility permits applications to ensure compliance with all provisions and purposes of this chapter.

D. Findings for Approval. The approving authority may approve or conditionally approve a conditional use permit or minor conditional use permit for a wireless communications facility, where such permit is required, only upon making the following written findings, in addition to the required findings for conditional use permits as provided in EGMC Section 23.16.070, Conditional use permit, based on substantial evidence in the record.

1. All of the following findings are required for the approval of a conditional use permit for any wireless communications facility:

a. The establishment or expansion of the facility demonstrates a reasonable attempt by the applicant to minimize stand-alone facilities.

b. All applicable development standards in EGMC Section 23.94.050 have been met; or, if the application includes a request for an exception to those standards, then the approving body finds that lack of compliance with the development standards would not create adverse visual, noise, or aesthetic impacts to adjacent property.

2. Findings for the establishment of a wireless communications facility that is not co-located with other existing or proposed facilities or a new freestanding pole or tower (at least one (1) finding required):

a. Co-location is not reasonably feasible;

b. Co-location would have greater adverse effects on views, noise or aesthetics as compared with a stand-alone installation; or

c. Co-location is not permitted by the property owner.

E. Findings for Denial. Findings to deny any permit for a wireless communications facility as regulated herein shall be done in writing and supported by substantial evidence contained in the written record. Denial shall not be based on the environmental effects of radio frequency emissions that comply with the Federal Communications Commission emission regulations. [Ord. 24-2015 §11 (Exh. I), eff. 2-12-2016; Ord. 8-2011 §39(C), eff. 6-24-2011]

### **23.94.035 Small Cell Wireless Communications Facilities**

Any small cell wireless communications facility, as defined in Section 23.26.050, shall require a permit as required by Table 23.27-1 of the EGMC. To the extent provided by Table 23.27-1, a small cell wireless communications facility use shall be a permitted use if such use is consistent with an agreement between the applicant and the City, approved by the Elk Grove City Council, and such installation and operation of the small cell wireless communications facility or facilities is in conformance with the agreement. To the extent there is a conflict between the provisions of the agreement for a small cell wireless communications facility or facilities and this chapter, the terms of the agreement shall prevail.

### **23.94.040 Exemptions.**

The following wireless communications facilities are exempt from the requirements of this chapter as specified below and are subject to compliance with other provisions of this title:

A. A wireless communications facility shall be exempt from the provisions of this section if and to the extent that a permit issued by the California Public Utilities Commission (CPUC) or the rules and regulations of the Federal Communications Commission (FCC) specifically provide that the antenna is exempt from local regulation.

B. Satellite earth station (SES) antennas which are two (2) meters (6.5616 feet) or less in diameter or in diagonal measurement, located in any nonresidential zoning district. In order to avoid the creation of an attractive public nuisance, reduce accidental tripping hazards and maximize stability of the structure, such antennas shall be placed whenever possible on top of buildings and as far away as possible from the edges of rooftops.

C. Parabolic antennas, direct broadcast satellite (DBS) antennas and multipoint distribution service (MDS) antennas which are one (1) meter (3.2808 feet) or less in diameter or diagonal measurement and Television Broadcast Service (TVBS) antennas, so long as said antennas are located entirely on private property and are not located within the required front yard setback area. This locational requirement is necessary to ensure that such antenna installations do not become attractive nuisances and/or result in accidental tripping hazards if located adjacent to a street or other public right-of-way.

D. Amateur radio antenna structures provide a valuable and essential telecommunication service during periods of natural disasters and other emergency conditions and are therefore exempt from permit provisions of this chapter in compliance with the following standards:

1. Height Limits. In residential zoning districts the height limit is forty-five (45' 0") feet and in nonresidential zoning districts the height limit is sixty (60' 0") feet. However, amateur radio antennas in any district may extend to a maximum height of seventy-five (75' 0") feet; provided, that the tower is equipped with a lowering device (motorized and/or mechanical) capable of lowering the antenna to the maximum permitted height when not in operation.

2. Location Parameters. All antenna structures shall be located outside of required front and street side yard areas. Antenna structures shall also be set back a minimum distance of five (5' 0") feet from interior property lines. If any portion of the antenna overhangs any property line, a design review permit is required to obtain the authorized signature of all affected property owners on the required application form.

3. Tower Safety. All antennas shall be located within an enclosed fenced area or have a minimum five (5' 0") foot high tower shield at the tower base to prevent climbing. All active elements of antennas shall have a minimum vertical clearance of eight (8' 0") feet.

4. Minor modifications (emergency or routine), provided there is little or no change in the visual appearance as determined by the Development Services Director. [Ord. 24-2015 §11 (Exh. I), eff. 2-12-2016; Ord. 26-2006 §3, eff. 8-11-2006]

### **23.94.050 Development standards.**

A. General Development Standards. Unless otherwise exempt pursuant to EGMC Section 23.94.040, Exemptions, or as otherwise provided in an agreement approved by the Elk Grove City Council pursuant to EGMC Section 23.94.035, Small Cell Wireless Communications Facilities, the following general development standards shall apply to all wireless communications facilities:

1. All wireless communications facilities shall comply with all applicable requirements of the current uniform codes as adopted by the City and shall be consistent with the General Plan and this title, as well as other standards and guidelines adopted by the City.
2. All wireless communications facilities shall be designed, screened and/or camouflaged from the view of surrounding properties and the public view to the greatest extent possible in one (1) or more of the following ways:
  - a. Co-located with existing facilities or structures so as not to create substantial visual, noise, or aesthetic impacts. To facilitate co-location when deemed appropriate, conditions of approval for conditional use permits shall require all service providers to cooperate in the siting of equipment and antennas to accommodate the maximum number of operators at a given site when found to be feasible and aesthetically desirable;
  - b. Sited within areas with substantial screening by existing vegetation;
  - c. Designed to appear as natural features found in the immediate area, such as trees or rocks, so as to be unnoticeable (camouflaged facilities); or
  - d. Screened with additional trees and other native or adapted vegetation which shall be planted and maintained around the wireless communications facility, in the vicinity of the project site, and along access roads, where such vegetation is appropriate and deemed necessary to screen the facilities. Such landscaping, including irrigation, shall be installed and maintained by the applicant, as long as the permit is in effect.
3. All wireless communications facilities, including on-site generators, shall be designed, located, and operated to have little to no noise impact on the surrounding area or neighborhood, including interference from adverse noise and aesthetic impacts, and at a minimum shall be subject to the City-adopted noise standards contained in EGMC Chapter 6.32 and the General Plan. Failure to comply with the City's adopted noise standard after written notice and opportunity to cure have been given shall be grounds for the City to conduct a revocation hearing regarding the permit granted pursuant to this section.

4. All ~~conditional use~~ permit applications for wireless communications facilities shall include a description of services proposed and documentation certifying applicable licenses or other approvals required by the Federal Communications Commission to provide services proposed in connection with the application.

5. All ~~conditional use~~ permit applications for wireless communications facilities shall include a map and narrative description of all telecommunication sites existing, proposed or planned by the applicant in the City and within a one (1) mile radius of the City border. Such applications shall also include an analysis of all reasonable and technically feasible alternative locations and/or facilities (including co-locations) which could provide the proposed communication service.

6. In a residential zoning district, the following development standards shall apply, unless the applicant can demonstrate with substantial evidence satisfactory to the approving authority that such siting limitation will materially inhibit personal wireless service as to a particular small cell wireless communication facility.

a. No small cell wireless communication facility shall be placed within five-hundred (500' 0") feet of another small cell wireless communications facility.

b. No small cell wireless communication facility shall be located immediately adjacent to, nor immediately across the street from, a front yard of any residential dwelling.

c. The cumulative total of all associated equipment from all wireless communications providers, including antennas, for a single facility or property shall not exceed twenty-eight (28) cubic feet in volume.

~~6.7.~~ At least ten (10' 0") feet of horizontal clearance shall be maintained between any part of the antenna and any power lines unless the antenna is installed to be an integral part of a utility tower or facility.

~~7.8.~~ Development Standards for Antennas (Excluding Amateur Radio Antennas). Unless otherwise exempt pursuant to EGMC Section 23.94.040, Exemptions, the following development standards shall apply to receive-only antennas (ground- and building-mounted), parabolic antennas, and satellite earth stations as defined in this section:

a. Maximum Number. One (1) wireless facility per parcel, unless the applicant can demonstrate the service need for additional antenna.

b. Antenna Location. Parabolic antenna and satellite earth stations shall be ground-mounted in residential zoning districts. In all nonresidential zoning districts, the preference is for building-mounted antennas. No antenna shall be located in the required front or street side yard of any parcel unless entirely screened from pedestrian view of the abutting street rights-of-way (excluding alleys). In all zoning districts, ground-mounted antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their function and all portions of the structure/antenna shall be set back a minimum of five (5' 0") feet from any property line.

c. Height Limit. The height limit for ground-mounted antennas is six (6' 0") feet. However, the height may be increased to a maximum of twelve (12' 0") feet if the setback distance from all property lines is at least equal to the height of the antenna and if the structure is screened in accordance with subsection (A)(7)(d) of this section, Screening. Building-mounted antennas shall not extend above the roofline, parapet wall, or other roof screen or project beyond a maximum of eighteen (18") inches from the face of the building or other support structure.

d. Screening. Ground-mounted antennas shall be screened with a fence, wall or dense landscaping so that the antenna is not visible from the public right-of-way and to minimize the visual impact on abutting properties. Building-mounted antennas shall be screened as follows:

i. Wall-mounted equipment shall be flush-mounted and painted or finished to match the building with concealed cables.

ii. Roof-mounted equipment shall be screened from view of public rights-of-way by locating the antenna below the roofline, parapet wall, or other roof screen and by locating the antenna as far away as physically feasible and aesthetically desirable from the edge of the building.

e. Color. Antennas shall have subdued colors and nonreflective materials which blend with the materials and colors of the surrounding area or building.

B. Development Standards for Amateur Radio Antennas. As part of a minor design review, amateur radio antennas as defined in EGMC Chapter 23.100 may exceed the height limit and/or amend the setback provisions of the exempt amateur radio antenna structures (EGMC Section 23.94.040, Exemptions) only when said regulation will result in unreasonable limitations on, or prevent, reception or transmission of signals. The designated approving authority may issue the design review permit subject to any conditions necessary or appropriate to minimize the safety or aesthetic impacts of antenna installations, provided the conditions do not unreasonably prevent or limit transmission or reception of signals.

C. Development Standards for Towers. The following development standards shall apply to towers (including co-location facilities) as defined in EGMC Section 23.94.020, Definitions:

1. Site Design. All facilities (including related equipment) shall be designed to minimize the visual impact to the greatest extent feasible, considering technological requirements, by means of placement, screening, and camouflage, to be compatible with existing architectural elements, landscape elements, and other site characteristics. The applicant shall use the smallest and least visible antennas possible to accomplish the owner/operator's coverage objective. A visual impact analysis is required to demonstrate how the proposed facility will appear from public rights-of-way (including public trails).

2. Safety Design. All facilities shall be designed so as to be resistant to and minimize opportunities for unauthorized access, climbing, vandalism, graffiti, and other conditions which would result in hazardous conditions, visual blight, or attractive nuisances.

3. Location. Towers shall not be located in any required front or street side yard in any zoning district. The setback distance from any abutting street right-of-way, residential property line, or public trail shall be equal to the height of the facility (tower and related equipment). Otherwise, the minimum setback distance from all other property lines shall be at least equal to twenty (20%) percent of the height of the tower. Existing towers may be allowed to increase the height without requiring the tower to be relocated as part of the conditional use permit approval, provided the overall maximum height of the tower does not exceed the height limit listed in subsection (C)(4) of this section, unless an exception is approved by the designated approving authority.

4. Height Limit. The height limit for towers shall be as listed in Table 23.94-1 based on the underlying zoning district of the site. Exceptions to the height limit may be granted when the designated approving authority finds that reasonable alternatives do not exist to provide the necessary service. There is no height limit specified for co-locations on existing structures, provided facilities are screened from view of abutting street rights-of-way or camouflaged by matching the color(s) and/or material(s) of the structure to which it is attached.

**Table 23.94-1  
Height Limit for Wireless Towers**

Zoning District	Height Limit
AG, AR, RD, PR, PS, OS, C-O, <del>RM, RMU, VCMU</del>	55 ft.
LC, GC, SC, AC, BP	65 ft.
MP, LI, <u>LI/FX</u> , HI	80 ft.

5. Lighting. Towers and related equipment shall be unlit except as provided below:

- a. A manually operated or motion-detector-controlled light above the equipment shed door may be provided, except that the light shall remain off except when personnel are present at night and shall be shielded or directed downward to the greatest extent possible to ensure that light shall not spill over onto abutting properties, especially residential zoning districts or uses; and
- b. Tower lighting required by FAA regulation.

6. Landscape. Where appropriate, wireless facilities shall be landscaped so as to maintain and enhance the aesthetic quality of the community and generally screen the ground equipment from public view. The perimeter of the facility, as well as any portion of the leasable area directly adjacent to a public right-of-way, a residential use, or a public trail shall be landscaped with trees, foliage, and shrubs. Trees shall

be fast-growing evergreen species, twenty-four (24") inch box in size. Shrubs shall be a minimum fifteen (15) gallon size covering a minimum planter area depth of five (5' 0") feet around the facility. Trees and shrubs shall be planted no further apart on center than the mature diameter of the proposed species.

7. Design/Finish. The tower and related equipment shall have subdued colors and nonreflective materials that blend with the colors and materials of surrounding areas.

8. Advertising. The tower and related equipment shall not bear any signs or advertising devices other than certification, warning or other required seals or signs.

9. Parking. The off-street parking for wireless communications facilities shall be determined by the designated approving authority in conjunction with required development permits. All required parking shall be provided in accordance with EGMC Chapter 23.58 EGMC, Parking. [Ord. 31-2014 §3 (Exh. A), eff. 2-13-2015; Ord. 27-2013 §15, eff. 2-7-2014; Ord. 8-2011 §39(D), eff. 6-24-2011]

#### **23.94.060 Operation and maintenance standards.**

A. Noise. All wireless communications facilities shall comply with EGMC Chapter 6.32, Noise Control, at all times. Back-up generators shall only be operated during power outages and for testing and maintenance purposes.

~~B. Nonionizing Electromagnetic Radiation (NIER) Exposure. No wireless communications facility shall be sited or operated in such a manner that it poses, either by itself or in combination with other such facilities, a potential threat to public health. To this end, no facility or combination of facilities shall produce, at any time, power densities in any inhabited area that exceed the FCC's maximum permissible exposure (MPE) limits for electric and magnetic field strength and power density for transmitters or any more restrictive standard subsequently adopted or promulgated by the City, County, State, or the Federal government. [Ord. 8-2011 §39(E), eff. 6-24-2011; Ord. 26-2006 §3, eff. 8-11-2006]~~

#### **23.94.070 Removal provisions.**

In the event one or more antennas, towers, or related equipment are not operated for the provision of wireless telecommunication services for a continuous period of three (3) months or more, such antenna, tower, and/or related equipment shall be deemed abandoned. The owner of same shall remove all such items within thirty (30) days following the mailing of written notice that removal is required. If two (2) or more providers of wireless telecommunication services use the antenna support structure or related equipment, the period of nonuse under this section shall be measured from the cessation of operation at the location by all such providers. Failure to remove shall constitute a public nuisance and shall be enforced as such. [Ord. 26-2006 §3, eff. 8-11-2006]



**23.94.080 Transfer of operation.**

Any carrier/service provider authorized by the City to operate a specific wireless communications facility may assign the operation of the facility to another carrier licensed by the FCC for that radio frequency; provided, that such transfer is made known to the Development Services Director in writing prior to the transfer and all conditions of approval for the subject installation are carried out by the new carrier/service provider. However, the carrier/service provider may, without written notification, transfer operations of the facility to its general partner or any party controlling, controlled by or under common control with the carrier/service provider. [Ord. 24-2015 §11 (Exh. I), eff. 2-12-2016; Ord. 26-2006 §3, eff. 8-11-2006]

**23.94.090 Effects of development.**

The City shall not be liable if development within the City, after installation of the antenna, impairs antenna reception. [Ord. 26-2006 §3, eff. 8-11-2006]