

ARTICLE 13

ANTENNA AND TELECOMMUNICATIONS FACILITIES ORDINANCE

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ARTICLE 13

ANTENNA AND TELECOMMUNICATIONS FACILITIES ORDINANCE

SEC. 10-13.000 TITLE. This article shall be known and may be cited as the Telecommunications Antenna and Facilities Ordinance of the City of Hayward.

SEC. 10-13.010 PURPOSE. This article supplements the requirements of Article 1, Chapter 10, of the Hayward Municipal Code, the Zoning Ordinance, by establishing standards for the appropriate siting and change in location of any telecommunications antenna and a related facility, including but not limited to antennas for wireless telecommunications facilities and amateur radio installations. These standards are adopted to promote the following objectives:

- a. Protect against the potentially adverse effects of telecommunications antenna and facility installation;
- b. Protect against visual blight which may result from unregulated installation of antennas and other telecommunications facilities;
- c. Protect the environmental resources of Hayward;
- d. Insure that a competitive and broad range of telecommunications services and high quality telecommunications infrastructure are provided; and
- e. Create and preserve telecommunications facilities that will serve as an important and effective part of Hayward's emergency response network.

SEC. 10-13.020 IMPLEMENTING REGULATIONS AND DEFINITIONS . The City Manager or his or her designee is authorized to issue regulations which are consistent with and supplement the requirements of this article. Such regulations may include but are not limited to definitions of terms used in this article. Such regulations shall be incorporated by reference as an Appendix (A) to this Article 10-13, after they are approved by the City Manager or his or her designee.

SEC. 10-13.030 GENERAL REQUIREMENTS. The following requirements shall apply to the siting of any telecommunications antenna or related facility in the City of Hayward:

- a. Consistency with the General Plan and any other officially adopted land use plan, policy and guideline of the City of Hayward, including but not limited to requirements of the Hayward Zoning Ordinance.
- b. Consistency with the requirements of any other governmental agency with jurisdiction over the installation of a telecommunications antenna or related facility.
- c. Any telecommunications facilities antenna located within the Air Terminal subdistrict shall comply with Federal Aviation Administration regulations and permit requirements.
- d. Any applicable easements or similar restrictions on the subject property, including

adopted Planned Development conditions.

- e. The antenna or telecommunications facilities involved must be accessory to the primary use of a property (not the sole use of an otherwise vacant parcel), except where located in an area zoned as an Industrial or Agricultural District.
- f. The combined radiation levels produced by all the antennas and related telecommunications facilities present on the parcel shall not exceed the radio frequency emission standards adopted by the Federal Communications Commission.
- g. All telecommunications carriers and providers engaged in the business of transmitting, supplying, or furnishing of telecommunications originating or terminating in the City of Hayward shall register with the City pursuant to section 10-13.040 of this article.

SEC. 10-13.040 REGISTRATION BY TELECOMMUNICATIONS CARRIERS AND PROVIDERS.

- a. Registration Required. All telecommunications carriers and providers that offer or provide any telecommunications services for a fee directly to the public, either within the City of Hayward or outside the corporate limits from telecommunications facilities within the City, and any commercial business operating television or radio transmission antennas, shall register with the City pursuant to this article on forms to be provided by the Director of Community and Economic Development/Planning Director. The registration of all carriers applies to those businesses currently operating within the City as well as those who will require future siting of new antennas in the City. A revised registration statement shall also be filed no later than 30 days before the abandonment, removal, or change in location of any telecommunications antenna or related facility. Each registrant is required to inform the City, within 30 days of any material change of any information set forth in the registration statement.
- b. Purpose. The purpose of these registration requirements is to provide the City with accurate and current information concerning the wireless telecommunications carriers and providers who offer or provide wireless telecommunications services within the City, or who own or operate telecommunications facilities with the City and assist in enforcement of this article's requirements.
- c. Contents. The registration statement shall contain the following information and such other information which the Director of Community and Economic Development/Planning Director may reasonably require:
 - (1) The registrant's identity and registered status, and those of any affiliates, if the registration pertains to a co-located site.
 - (2) The name, address, and telephone number of the officer, agent, or employee responsible for the registration statement.
 - (3) A map and narrative description of registrant's existing and proposed telecommunications facilities within the City of Hayward.
 - (4) A description of the telecommunications services that the registrant intends to

offer or provide, or is currently offering or providing, to persons, firms, businesses, or institutions within the City.

- (5) Information sufficient to determine that the registrant has applied for and received any certificate of authority required by the California Public Utility Commission.
- (6) Information sufficient to determine that the registrant has applied for and received any construction permit, operating license, or other approvals required by the Federal Communications Commission (FCC).

SEC. 10-13.050 EXEMPT TELECOMMUNICATIONS ANTENNA AND RELATED FACILITIES

- a. Exempt Telecommunications Antenna and Related Facilities. The following telecommunications antenna and telecommunications facilities are exempt from the discretionary review requirements of this article if such proposed antenna or other related facility complies with section 10-13.030 and the minimum setback and height requirements set forth in subdivision b. of this section. In addition, the Director of Community and Economic Development/Planning Director may require the owner of the proposed telecommunications antenna or related facility, to verify compliance with the requirements of this article.
 - (1) A single building-mounted, receive-only radio and/or television antenna (excluding any parabolic antenna), for the sole use of the tenant occupying a residential parcel or occupant of a commercial or industrial parcel on which the radio or television antenna is located; with an antenna height not exceeding 15 feet above the structure, including any mast.
 - (2) A single ground- or building-mounted receive only radio or television satellite dish antenna including Direct Broadcast System (DBS) or Digital Satellite System (DSS) antenna, which does not exceed 36 inches in diameter, for the sole use of the occupant(s) of a residential, commercial, or industrial parcel on which the satellite dish is located; provided the height of said dish does not exceed the height of the roof ridge line of a structure on which it is to be installed or is screened from view from the public right-of-way.
 - (3) All citizens band radio antenna or antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service which legally existed as of the effective date of this ordinance.
 - (4) A mobile telecommunications facility operating on a temporary basis at various locations to provide public information coverage of news events.
 - (5) Hand held devices such as cell phones, business-band mobile radios, walkie-talkies, cordless telephones, garage door openers, and similar devices as determined by the Director of Community and Economic Development/ Planning Director.
 - (6) Government-owned and -operated antennas, if the height does not exceed 60 feet.

b. Requirements for Exempt Facilities. Exempt telecommunications antenna and related facilities listed above may be installed, erected, maintained, and/or operated in any residential zoning district (including Planned Development, Mobile Home Park, and Agricultural Districts), and any commercial and industrial zoning district, so long as all the following conditions are met:

- (1) The antenna use involved shall be accessory to the primary use of the property if the primary use of the property is not an approved telecommunications facility.
- (2) Each exempt antenna shall be designed to blend into the surrounding environment to the greatest extent feasible and include appropriate public safety measures.
- (3) In a residential zone, no more than one support structure for a citizen band antenna or licensed amateur radio operator antenna and/or satellite dish 36 inches or less in diameter, is allowed on the parcel.
- (4) The antenna shall comply with the applicable setback requirements, including those set forth in the Zoning Ordinance.

SEC. 10-13.060 MINIMUM PERMIT APPLICATION REQUIREMENTS. In addition to the requirements of section 10-13.030, the following minimum criteria apply to any telecommunications facility classified as a Class 1, Class 2, or a Class 3 facility by this article, unless waived by the Director of Community and Economic Development/Planning Director:

- a. Provision of information required for an application to install or relocate a telecommunications facility, which may include, but shall not be limited to the following:
 - (1) Completed supplemental project information form, a specific maximum request gross cross-sectional area or silhouette of the facility, service area maps, network maps, alternative site analysis, visual impact demonstrations including mock-ups and/or photo-montages, visual impact analysis, electromagnetic radiation exposure studies, title reports, easements, or other instruments showing legal access, information regarding security measures, and facility design alternatives to the proposal.
 - (2) A list of other telecommunications facilities on which the registrant's telecommunications antenna and related facility could be co-located.
 - (3) A master plan for all related facilities within the city limits of Hayward and within one-quarter mile radius.
 - (4) The Director of Community and Economic Development/Planning Director may release an applicant from any otherwise required information upon a finding that, in the specific case involved, said information is not necessary to process or make a decision on the application being submitted.
- b. The Director of Community and Economic Development/Planning Director may also require the telecommunications facility provider to fund the cost of an independent expert to review any technical materials submitted including, but not limited to those

required by this article in those cases where a technical demonstration of unavoidable need or unavailability of alternatives is appropriate. The applicant shall pay all the costs of said review, including any administrative costs incurred by the City. Any proprietary information disclosed to the City or the expert hired shall remain confidential and shall be kept confidential from any third party to the extent allowed by law.

SEC. 10-13.070 CLASS 1 FACILITIES: TELECOMMUNICATIONS SITE REVIEW APPLICATION REQUIRED.

- a. A Telecommunications Site Review (sometimes "TSR") application must be approved by the Director of Community and Economic Development/Planning Director before the installation of any Class 1 facility described in this section, unless such requirement is waived. The findings required for approval of a TSR application are set forth in subdivision b. of this section. All procedures for a Site Plan Review contained in the Zoning Ordinance shall apply except for the findings required to approve a Site Plan Review. In addition, any necessary building permit shall also be issued before the erection or change in location of a Class 1 facility, unless such requirement is waived by the Director of Community and Economic Development/Planning Director.
 - (1) A single building-mounted, receive-only radio and/or television antenna (excluding any parabolic antenna), for the sole use of the tenant occupying a residential parcel or occupant of a commercial or industrial parcel on which the radio or television antenna is located; with an antenna height greater than 15 feet above the structure but less than 35 feet, including any mast.
 - (2) A ground- or building-mounted receive-only radio or television satellite dish antenna which exceeds 36 inches in diameter but is not larger than 8 feet in diameter, provided the height of said dish does not exceed the height of the roof ridge line of a structure on which it is to be installed or is screened from view from the public right-of-way.
 - (3) A ground-mounted telecommunications facility satellite dish antenna which exceeds 8 feet in diameter located in the Industrial District, and utilized for public and/or quasi-public uses where the satellite dish antenna is found to be compatible with the existing industrial use of the property; provided the height of said dish is screened from view from the public right-of-way.
 - (4) Government-owned and -operated antennas where the height exceeds 60 feet.
 - (5) One or more building-mounted telecommunications facility antenna found to be unobtrusive or undetectable by way of design and/or placement on the building.
 - (6) A telecommunications facility located in the Industrial District less than 65 feet in height and set back a minimum of 300 feet from a residential zoned property, and utilized for public and/or quasi-public uses where the facility is found to be compatible with the existing industrial uses of the property.
 - (7) A telecommunications facility mounted on an existing monopole or tower support structure located in any zoning district, and utilized for public and/or

quasi-public uses where the facility is found to be compatible with the existing land uses on and adjacent to the property.

- (8) A telecommunications facility located in the Air Terminal-Industrial District not greater than 50 feet in height, in compliance with the applicable sections of this article, and utilized for public and/or quasi-public uses where the facility is found to be compatible with the existing industrial uses on or adjacent to the property.

b. Findings for Approval of a Telecommunications Site Review Application. In addition to the requirements of this article, a TSR application may be approved only if all of the following additional findings are made:

- (1) The proposed Class 1 facility will be operated in a manner determined to be acceptable and compatible with surrounding structures and uses.
- (2) The proposed Class 1 facility takes into consideration physical and environmental constraints.
- (3) The development complies with the intent of this article and other applicable City of Hayward policies.

c. Referral of Certain Class 1 Facility Telecommunications Site Review Applications to the Planning Commission. The Director of Community and Economic Development/Planning Director may refer a TSR application filed for a telecommunications antenna or related facility to the Planning Commission as an application for a Use Permit if the public interest would be furthered by having the Planning Commission review such application, or if any proposed Class 1 facility fails to meet one or more of the applicable standards for a Class 1 facility.

SEC. 10-13.080 CLASS 2 FACILITIES: ADMINISTRATIVE USE PERMIT

REQUIRED.

a. An administrative use permit (sometimes "AUP") must be approved by the Director of Community and Economic Development/Planning Director in accordance with the requirements of this article, the procedures set forth in the Zoning Ordinance, and any necessary building permit issued before the installation, erection, or change in location of any antenna or telecommunications facility described in this section as a Class 2 facility, unless any such requirement is waived.

- (1) A telecommunications facility in the Industrial District greater than 65 feet but not exceeding 80 feet in height and set back a minimum of 300 feet from a residential zoned property utilized for public and/or quasi-public uses where it is found to be compatible with the existing industrial uses of the property.
- (2) A telecommunications facility located in the Air Terminal-Industrial District greater than 50 feet in height in compliance utilized for public and/or quasi-public uses where it is found to be compatible with the existing industrial uses of the property.
- (3) Any telecommunications facility designed in a stealth structure which is greater than 15 feet above the existing roof ridge line located within a

residential area, including Planned Development and Agricultural districts.

- (4) A telecommunications facility located in any commercial district which does not exceed 40 feet utilized for public and/or quasi-public uses where it is found to be compatible with the existing commercial uses on the property and with adjacent land uses.
 - (5) Any ground-mounted telecommunications facilities located in any residential district (including Planned Development Districts) utilized for public and/or quasi-public uses where it is found to be compatible with the existing residential uses on the property and with adjacent land uses.
 - (6) A building-or tower-mounted citizens band radio antenna or antenna operated by federally licensed amateur radio operator as part of the Amateur Radio Service, including any mast, if the overall height (post and antenna) measured from grade is greater than 35 feet but does not exceed 65 feet.
- b. Findings for Approval of an Administrative Use Permit Application. In addition to the other requirements of this article, an Administrative Use Permit may be approved only if the Administrative Use Permit findings required by section 10-1.3125 are made.
- c. Referral of Certain Class 2 Facility Administrative Use Permit Applications to the Planning Commission. The Director of Community and Economic Development/ Planning Director may refer an AUP application filed for a telecommunications antenna or related facility to the Planning Commission as an application for a Use Permit if the public interest would be furthered by having the Planning Commission review such application, or any proposed Class 2 facility fails to meet one or more of the applicable standards for a Class 2 facility.

SEC. 10-13.090 CLASS 3 FACILITIES: USE PERMIT REQUIRED.

- a. A Use Permit (sometimes "UP") must be approved by the Planning Commission in accordance with the requirements of this article and the procedures set forth in the Zoning Ordinance and any necessary building permit also approved before the installation, erection, or change in location of the antennas and telecommunications facilities hereafter described as Class 3 facilities, unless such requirements is waived by the Planning Commission.
- (1) A telecommunications antenna mounted on a monopole or tower and related facilities located in the Industrial District greater than 80 feet in height and set back a minimum of 400 feet from a residential zoned property utilized for public and/or quasi-public uses.
 - (2) An antenna mounted on either monopole or tower support structures and related facilities greater than 40 feet in height located in any commercial or Agricultural districts utilized for public and/or quasi-public uses.
 - (3) A building- or tower-mounted citizens band radio antenna or antenna operated by federally licensed amateur radio operator as part of the Amateur Radio Service, including any mast, if the overall height (post and antenna) measured

from grade is greater than 65 feet.

(4) Any radio or television broadcast antenna located in the Industrial District and set back at least 3,000 feet from any residential district (including Planned Development and Mobile Home Park Districts).

b. Findings for Approval of Use Permit Application. In addition to the other requirements of this article, a Use Permit may be approved only if the UP findings required by section 10-1.3225 are made.

SEC. 10-13.100 ADMINISTRATIVE USE PERMIT OR USE PERMIT
REQUIRED FOR ANY EXCEPTION FROM REQUIREMENTS.

a. Exceptions to the requirements specified within this article may be granted by the Planning Commission's approval of a Use Permit, based on the findings required for a Use Permit and the additional finding that failure to adhere to the standard under consideration in the specific instance will not increase the visibility of the facility or decrease public safety. A minor exception, as determined by the Director of Community and Economic Development/Planning Director, may be granted through issuance of an administrative use permit.

b. In addition to the other requirements of this article, the following additional requirements may apply to the approval of a Use Permit for an exception:

(1) An exception to any fire safety related requirement may only be granted upon written concurrence by the Fire Chief.

(2) An exception from tower setback requirements may be approved under any of the following circumstances:

(a) The facility is proposed to be co-located onto an existing, legally-established telecommunications tower; and

(b) Overall, the reduced setback enables further mitigation of adverse visual and other environmental impacts than would otherwise be possible.

SEC. 10-13.110 RESERVED

SEC. 10-13.120 CO-LOCATION AND MULTIPLE-USER
TELECOMMUNICATIONS FACILITY REQUIREMENTS.

a. Each telecommunications carrier applicant shall provide a letter to the Director of Community and Economic Development/Planning Director stating willingness to allow other carriers to co-locate on their facilities wherever feasible or a written explanation why the subject facility is not a candidate for co-location.

b. Whenever possible, telecommunications facilities should be located on existing buildings, existing poles, or other existing support structures.

c. Approval of the project is subject to the decision-making body making a finding that the proposed site results in fewer or less severe environmental impacts than any

feasible alternative site. The City may require independent verification of this analysis at the applicant's expense. When requested by the Director of Community and Economic Development/Planning Director, the applicant shall prepare or cause to be prepared an analysis of all reasonable, technically feasible, alternative locations and/or facilities which would provide the proposed telecommunications service. The intention of the alternatives analysis is to present alternative strategies which would minimize the number or size and adverse environmental impacts of facilities necessary to provide the needed services to the City and surrounding rural and urban areas. The analysis shall address the potential for co-location at an existing or a new site and the potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for selection of the proposed site in view of the relative merits of any of the feasible alternatives.

- d. All co-located and multiple-user telecommunications facilities shall be designed to promote facility and site sharing. To this end, telecommunications towers and necessary appurtenances, including but not limited to parking areas, access roads, utilities, and equipment buildings shall be shared by site users when in the determination of the Director of Community and Economic Development/ Planning Director or Planning Commission, as appropriate, this will minimize overall visual impact to the community.
- e. In order to avoid an antenna array group which may be undesirable or have detrimental effects, a maximum of three sets of antennas from three different telecommunications carriers shall be placed on any single monopole, unless technological advances in the design of the antennas make them minimally visually obtrusive.
- f. Although co-location is encouraged, there may be cases where separate facilities may have less adverse visual impacts, and therefore preferred over a single co-located facility. The Director of Community and Economic Development/ Planning Director shall retain the authority to make such a determination.

SEC. 10-13.130 ELECTROMAGNETIC RADIATION EMISSION

REQUIREMENTS.

- a. General Requirements. No telecommunications antenna or related 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 that end, any telecommunications antenna and related facilities operating alone or in conjunction with other telecommunications facilities shall not generate electromagnetic frequency (EMF) radiation in excess of the standards for permissible human exposure to EMF as adopted by the California Public Utility Commission (CPUC) General Order 159, the Federal Communications Act of 1996, and/or including any other standards adopted by the FCC that may come henceforth be adopted or amended.
- b. Data to Accompany Permit Application. A Radio Frequency Radiation (RFR) Report from a licensed Radio Frequency Engineer of said compliance shall be provided by the carrier which documents the proposed facility's anticipated RFR levels at the time any application required by this article is submitted to the Director of Community and Economic Development/ Planning Director.
- c. Cumulative EMR Emission Data. In addition, all broadcast radio and television

facilities and wireless telecommunications facilities where three or more telecommunications facilities carriers are co-located on the same structure or on a parcel or on a separate parcel of land within 200 feet of another telecommunications facilities antenna shall prepare and submit an annual RFR monitoring report. The report shall address the cumulative field measurements of radio frequency emissions of all antennas installed at the subject site or location. The report shall quantify the radio frequency emissions and compare the results with either the most current American National Standards Institute (ANSI) standards, or other standards adopted by the FCC or CPUC. Said report shall be subject to review and approval by the Director of Community and Economic Development/Planning Director for consistency with the accepted standards. If the City finds that the wireless telecommunications facilities service providers do not meet these standards, the service providers shall be required to bring the entire site into compliance with said standards, or be subject to review before the Planning Commission at a public hearing where the operation permit may be modified or revoked.

SEC. 10-13.140 RESERVED

SEC. 10-13.150 NOTICE OF PERMIT PROCEEDINGS. Notice of the filing of a permit application required by this article shall be given pursuant to section 10-1.2820. In addition to such public notice, a notice of consideration or a public hearing or notice of decision, as appropriate, of a Telecommunications Site Review, Administrative Use Permit or Use Permit regarding the establishment or modification of a telecommunications facility shall be provided by mail to the operators of all telecommunications facilities registered with the City of Hayward pursuant to section 10-13.040, with a facility located within one mile of the subject parcel.

SEC. 10-13.160 APPEAL AND REVIEW PROCESS. Any person who disagrees with a ruling or interpretation of the Director of Community and Economic Development/Planning Director regarding the application of the requirements of this article or action taken by the Planning Commission may appeal the matter in accordance with the provisions of the Zoning Ordinance and this section. For the purposes of this section, a ruling is a discretionary action on a permit application, and an interpretation refers to a determination regarding the application of any requirement imposed by this article.

- a. An appeal from a ruling or interpretation regarding a Telecommunications Site Review application shall follow the requirements of section 10-1.3045.
- b. An appeal from a ruling or interpretation regarding an Administrative Use Permit application shall follow the requirements of section 10-1.3145.
- c. An appeal from a ruling or interpretation regarding a Use Permit application shall follow the requirements of section 10-1.3245.
- d. On the filing of a timely appeal, the Planning Director shall transmit the application to the Planning Commission for consideration, or to the City Council in the case of an appeal from the Planning Commission's decision.
- e. Notwithstanding this section, an individual may file for an exception from the provisions of this article pursuant to section 10-13.120.

SEC. 10-13.170 ADMINISTRATIVE REFERRAL. When there is a question regarding the interpretation of this article, or its application to any specific case or situation, the

Director of Community and Economic Development/Planning Director may refer said question to the Planning Commission, according to the role and responsibilities of said Commission specified in article 2-3.

SEC. 10-13.180 PERMIT FINDINGS. All decisions granting or denying a permit required by this article shall be made in writing, based on the findings required by section 10-13.070 in the case of a Telecommunications Site Review application, or by the Zoning Ordinance for an Administrative Use Permit or Use Permit application.

SEC. 10-13.190 EFFECTIVE DATE OF PERMIT DECISIONS. The decision of the Director of Community and Economic Development/Planning Director or the Planning Commission or the City Council shall take effect in accordance with the provisions of section 10-1.2825.

SEC. 10-13.200 RIGHTS GRANTED. No approval granted under this article shall convey any right, title or interest in the public rights-of-way, but shall be deemed approved only to use and occupy the public rights-of-way for the limited purposes and term stated in the approval. Further, no approval shall be construed as any warranty of title.

SEC 10-13.210 MODIFICATION OR REVOCATION OF PERMITS; LAPSE OF PERMITS.

- a. Lapse of Approval. The approval of any Telecommunications Site Review, Administrative Use Permit, or Use Permit authorizing installation or change in location of a telecommunications antenna or related facility shall become void pursuant to section 10-1.3255, or other applicable provision of the Zoning Ordinance
- b. Permit Modification or Revocation. A Telecommunications Site Review, Administrative Use Permit, or Use Permit authorizing the installation or change in location of a telecommunications antenna or related facility may be modified or revoked pursuant to section 10-1.3260, or other applicable provision of the Zoning Ordinance
- c. Expiration or Abandonment of Permit. A Telecommunications Site Review, Administrative Use Permit or Use Permit shall automatically become null and void without notice or hearing upon the occurrence of any of the following events: termination or expiration of the lease or rental agreement pertaining to the property on which the telecommunications antenna and related facility is located, or abandonment or continuous cessation of use for more than 12 months.
- d. Removal of Improvements. Unless a new permit is issued within 180 days thereafter, all improvements installed including their foundations shall be removed from the property and the site restored to its natural pre-construction state within 180 days of permit expiration, revocation or abandonment. Any access road installed shall also be removed and the ground returned to its natural condition unless the property owner establishes to the satisfaction of the Director of Community and Economic Development/Planning Director that these sections of road are necessary to serve some other allowed use of the property that is permitted or is currently present or to provide access to adjoining parcels.

SEC. 10-13.220 REMOVAL OF TELECOMMUNICATIONS FACILITIES.

- a. The applicant shall provide notification to the Director of Community and Economic

Development/Planning Director upon cessation of operations on the site. The applicant shall remove all obsolete or unused facilities from the site within six months of termination of its lease, cessation of operations, or expiration of its permit, subject to the determination of the Director of Community and Economic Development/Planning Director that the use of the site has ceased for a period of six months. Should the owner fail to effect such removal, the property owner shall be responsible for the removal of the equipment.

- b. A new permit shall be required if the site is to be used again for the same purpose as permitted under the original permit, if a consecutive period of six months has lapsed since cessation of operations.
- c. Any FCC licensed telecommunications carrier that is buying, leasing, or considering a transfer of ownership of an already approved facility shall submit a letter of notification of intent to the Director of Community and Economic Development/Planning Director.

SEC. 10-13.230 SEVERABILITY. If any section, subsection, sentence, clause or phrase or word of this ordinance is for any reason held to be unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Hayward hereby declares that it would have passed and adopted this ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional.

ANTENNA & TELECOMMUNICATIONS FACILITIES ORDINANCE

APPENDIX "B"

DEFINITIONS

SEC. 10-13.B DEFINITIONS. For the purpose of this article, the following words and phrases shall have the meaning respectively ascribed to them in this section:

- a. "Amateur (HAM) Antenna" means an antenna operated by a person holding a written authorization from the Federal Communications Commission to be the control operator of an amateur station.
- b. "Antenna" means any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves when such system is either external to or attached to the exterior of a structure. Antennas shall include devices having active elements extending in any direction, and directional beam-type array having elements carried by and disposed from a generally horizontal boom that may be mounted upon and rotated through a vertical mast or tower interconnecting the boom and antenna support, all of which elements are deemed to be a part of the antenna. Antennas shall include cellular on wheels (COWs) and cellular on light trucks (COLTs) facilities; as well as dispatch carriers for Specialized Mobile Radio (SMR) services and Enhanced SMR (ESMR).
 - (1) "Antenna - Building-Mounted" means any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building, tank, tower, building-mounted mast less than 10 feet tall above the roof ridge line and 6 inches in diameter, or structure other than a telecommunications tower.
 - (2) "Antenna - Directional" (also known as a "panel" antenna) transmits and/or receives radio frequency signals in a directional pattern of less than 360 degrees.
 - (3) "Antenna - Facade-Mounted" means an antenna that is directly attached or affixed to any facade of a building or other structure. Also known as a building-mounted antenna.
 - (4) "Antenna - Ground-Mounted" means an antenna with its support structure or base placed directly on the ground, the total height of which does not exceed 14 feet, including the height of the antennas.
 - (5) "Antenna - Omni-directional" (also known as stick, whip, or pipe antennas) means any antenna which transmits and/or receives radio frequency signals in a 360-degree horizontal pattern and a compressed vertical plane. For the purpose of this article, omni-directional antennas have diameters between 2 and 6 inches, and measures between 1 and 18 feet in height.

"Antenna - Panel" (see "Antenna - Directional")

- (6) "Antenna - Parabolic" (also known as a satellite dish antenna) means any device incorporating a reflective surface that is solid, open mesh, or bar-configured that is shallow dish, cone, horn, bowl, or cornucopia shaped and is used to transmit and/or receive electromagnetic or radio frequency communication/signals in a specific directional pattern. This definition include, but is not limited to satellite earth stations, TVROs, and satellite microwave antennas.
- (7) "Antenna - Portable" means any device used to transmit and/or receive electromagnetic or radio frequency communication/signals in a specific directional pattern, located on a portable or moveable base designed to be placed either for temporary or long-term use at a given site.
- (8) "Antenna - Roof-Mounted" means an antenna directly attached or affixed to the roof, generally free-standing, of an existing building or structure other than a telecommunications tower.
- (9) "Antenna - Vertical" means a vertical type antenna without horizontal cross-sections greater than one-half inch in diameter.

"Antenna - Whip" (see "Antenna - Omni-directional")

- c. "Antenna Array" means a structure attached to a telecommunications tower that supports a telecommunications antenna or antennas.
- d. "Antenna Array Group" means more than two sets of antennas by different service providers placed on a monopole, tower, building, or other support structure or on multiple poles, towers, buildings, or other support structures on the same parcel of land or on different parcels where the antennas are located within 200 feet from each other (also known as an antenna farm).
- e. "Co-location" means a wireless telecommunications facility comprising a single telecommunications tower, monopole, or building supporting antennas owned or used by more than one telecommunications carrier. Co-location shall also include the location of wireless telecommunications facilities with other facilities such as water tanks, light standards, and other utility facilities and structures (see also Telecommunications Facility).
- f. "Commercial Use" means a use that involves the exchange of cash, goods, or services, barter, forgiveness of indebtedness, or any other remuneration in exchange for goods, services, lodging, meals, entertainment in any form, or the right to occupy space over any period of time.
- g. "Direct Broadcast Satellite Service" (DBS) is a system in which signals are transmitted directly from a satellite to a small home receiving dish which does not exceed 18 inches in diameter. The system is commonly marketed as Digital Satellite System (DSS). DBS or DSS competes with cable television.

- h. "Electromagnetic Radiation or EMR" means a type of non-ionizing electromagnetic radiation (radio frequency within the electromagnetic spectrum) which our bodies ordinarily cannot detect, including radio and TV signals and microwaves. Other forms of this radiation include ordinary light, which we can see, and infrared radiation, which we sense as heat.
- i. "Equipment building, shelter, or cabinet" means a cabinet or building at a facility site used to house equipment which supports a telecommunication system.

"Ham Amateur Antenna" (see "Amateur [HAM] Antenna")
- j. "Inhabited Area" means any residence, any other structure regularly occupied by people, or any outdoor area used by people on a regular basis.
- k. "Lattice Tower" means a self supporting support structure, erected on the ground, which consists of metal cross-strips or bars to support antennas and related equipment.
- l. "Maximum Credible Earthquake" means the maximum earthquake predicted to affect a given location based on the known lengths of the active faults in the vicinity.
- m. "Monopole" is a wireless communication facility which consists of a single-pole structure or spire, erected on the ground to support wireless communication antennas and appurtenances.
- n. "Public service use or facility" means a use operated or used by a public body or public utility in connection with any of the following services: water, waste water management, public education, parks and recreation, fire and police protection, solid waste management, transportation, or utilities.
- o. "Public-Right-of-Way" means and includes all public streets and utility easements, now and hereafter owned by the City, but only to the extent of the City's right, title, interest, or authority to grant a license to occupy and use such streets and easements for telecommunications facilities.
- p. "Quasi-Public Use" means a use serving the public at large, and operated by a private entity under a franchise or other similar governmental authorization, designed to promote the interests of the general public or operated by a recognized civic organization for the benefit of the general public.
- q. "Readily Visible" means an object that stands out as a prominent feature of the landscape.
- r. "Related Equipment" means all equipment ancillary to the transmission and reception of voice and data via radio frequencies. Such equipment may include but is not limited to cable, conduit, and connectors.

"Roof Ridge line" (see "Structure or Roof Ridge line")
- s. "Satellite Earth Station" means a telecommunications facility consisting of more than a single satellite dish smaller than 10 feet in diameter that transmits to and/or receives

signals from an orbiting satellite.

- t. "Silhouette" means a representation of the outline of the towers and antenna associated with a telecommunications facility, as seen from an elevation perspective.
- u. "Stealth Facility" means any communications facility which is designed to blend into the surrounding environment, and is visually unobtrusive. Examples of stealth facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted and treated as architectural elements to blend with the existing building. Also known as concealed telecommunications facilities.
- v. "Stealth Pole" means a monopole that is disguised or camouflaged using existing vegetation, as a flag pole, public art, light pole, clock tower, etc. A slim pole with antennas that are flush with the structure is not considered a stealth pole. The Director of Community and Economic Development/Planning Director shall make the determination of what constitutes a stealth pole.
- w. "Structure or Roof Ridge line" means the line along the top of a roof or top of a structure, if the structure has no raised roof.
- x. "Telecommunications Facility" means a wireless facility that transmits and/or receives electromagnetic signals. It includes antennas, microwave dishes, horns, and other types equipment for the transmission or receipt of such signals, telecommunications towers, or similar structures supporting said equipment, equipment buildings, parking area, and other accessory development.
- y. "Telecommunications Tower" means a structure more than 10 feet tall, built primarily to support one or more telecommunications antennas.

ANTENNA & TELECOMMUNICATIONS FACILITIES ORDINANCE

APPENDIX “C”

GENERAL REQUIREMENTS, DESIGN GUIDELINES, OTHER REGULATIONS

SEC. 10-13.C1 GENERAL REQUIREMENTS. The following requirements shall be met for any Telecommunications Facility in any zoning district:

- a. A telecommunications antenna and related facilities shall not be situated between the primary building on the parcel and any public or private street adjoining the parcel. Where the property has frontage on more than one street or access way, the Director of Community and Economic Development/Planning Director or approval authority may approve facilities between the primary structure and the lesser street or access way but not within a required yard setback area or within 20 feet of the street right-of-way. Equipment shelters, cabinets, or other support structures shall be screened from view.
- b. The antenna and related facility or support structure shall not be located within any required yard setbacks specified in the zoning district in which the antenna is to be located and in no case closer than 20 feet to any front property line in any district and no closer than 5 feet to a side or rear property line where the parcel abuts a residential district unless a greater setback is specified elsewhere within this chapter;
- c. None of the guy wires employed shall be anchored within the area in front of the building on the parcel and the public right-of-way;
- d. Satellite dish and parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their function;
- e. The height of the facility shall include the height of any structure upon which it is placed, unless otherwise defined with this article;
- f. All utility lines to the facility from public or private streets shall be under grounded;
- g. All wireless telecommunications facilities shall provide, when deemed necessary by the Director of Community and Economic Development/Planning Director or Planning Commission, sufficient anti-climbing and security measures into the facility as needed to reduce potential for unauthorized access, vandalism, or injury. The design of any fencing shall be subject to staff or Planning Commission review and approval.
- h. All telecommunications facilities shall be unlit except when personnel are actually present at night and when tower lighting is required under FAA regulation; and
- i. Any telecommunications facility located in the hill area, except exempt antennas as listed in section 10-13.060, shall be served by the minimum roads and parking areas necessary. Access roads shall meet the width and structural requirements of the Fire

Chief and Director of Public Works.

SEC. 10-13.C2 DESIGN CRITERIA. The following design criteria shall apply to all antennas and telecommunications facilities as specified within this Chapter:

a. Design Criteria for Satellite Antennas.

(1) Residential Districts

- (i) No satellite dish antennas shall be placed within the required front yard, side street yard or within five feet of any side or rear property line of any lot within a residential district.
- (ii) All satellite dish antennas shall have a maximum diameter of eight feet.
- (iii) All ground-mounted satellite dish antennas shall have a maximum height of seven feet.
- (iv) All ground-mounted satellite dish antennas shall be screened from all public and private streets and neighboring properties to the maximum extent permitted by the regulations of the Zoning Ordinance.
- (v) When a satellite dish antenna is attached to a residence, it shall not exceed three feet in diameter and in no case shall it be higher than the structure ridge line of the building on which it is mounted and shall be located at the rear of the structure. A larger satellite dish may be roof-mounted if the antenna can be screened from view from the public right-of-way and the screening material is compatible and consistent with the materials, color, and architectural character of the dwelling.
- (vi) Transmitting satellite dish antennas shall not be allowed in conjunction with residential land uses; however, transmitting satellite dish antennas operated by federally licensed amateur radio operators shall be exempt from this provision.
- (vii) A building permit and compliance with all applicable provisions of the Uniform Building Code shall be required, when so designated, prior to the installation of any satellite dish antenna.
- (viii) Exceptions to location may be made by the Director of Community and Economic Development/Planning Director if it can be shown that substantial reception would be lost if satellite antennas are located in prohibited areas. In no case, however, shall a ground-mounted antenna be allowed within the front yard or side street yard setbacks.

(2) Commercial and Industrial Districts

- (i) Satellite dish antennas shall not be placed within the required front yard or side street yard or within five feet of any side or rear property

line where the parcel abuts a residential district (including residential Planned Development and Mobile Home Park Districts) of any lot in any commercial or Industrial zoning districts.

- (ii) Satellite dish antennas located in commercial, Industrial or the Air Terminal-Industrial districts shall not be placed between a building and any right-of-way unless totally screened from view. Ground-mounted antennas shall be screen from public view by being located at the rear of a building. Antennas shall not exceed a diameter of eight feet and a height of seven feet in a commercial district and shall not exceed twelve feet in diameter or twelve feet high in the Industrial District unless approved otherwise by the Director of Community and Economic Development/Planning Director.
 - (iii) In a commercial or industrial district, roof-mounted satellite dish antennas shall be located at the rear of the structure or the area that provides the greatest possible screening from the public right(s)-of-way and shall not extend over four feet above the height the highest part of the roof.
 - (iv) Exceptions to location may be made by the Director of Community and Economic Development/Planning Director if it can be shown that substantial reception would be lost if satellite antennas are located in prohibited areas.
 - (v) All solid (non-mesh) satellite dish antennas that are not screened from view shall be painted a color similar to the dominant color at the location where the satellite dish antenna is installed. If no dominant color can be determined, the satellite dish antenna shall be painted beige or other approved color determined by the Director of Community and Economic Development/Planning Director.
 - (vi) Satellite dish antennas shall not have on them any added type of signs or logos except those provided by the manufacture or those required for warning or certification seals or stamps.
- (3) Existing Antennas. This section shall not apply to any satellite dish antenna or any licensed amateur radio station antenna lawfully installed prior to the effective date of this ordinance. Such antennas shall be allowed to remain as originally installed and shall not be considered nonconforming structures, but any relocation or increase in the size or height thereof shall be subject to the provisions of this section. Any person claiming an exemption shall have the burden of proving that the antenna was lawfully installed prior to the applicable date specified herein.

b. Design Criteria for Roof-Mounted Telecommunications Facilities.

- (1) Roof-mounted telecommunications facilities shall be allowed in all zoning districts. Roof-mounted facilities shall not be located on sites zoned and used for residential purposes less than one-half acre.

- (2) Roof-mounted telecommunications facilities antennas shall not be allowed on single-family residential dwellings. However, roof-mounted antennas that incorporate appropriate stealth techniques may be allowed on multi-family structures or on other non-residential buildings within residential districts.
- (3) Roof-mounted telecommunications facilities antennas shall not be allowed when they are placed in direct line of sight of significant view corridors or where they affect scenic vistas, unless such facilities incorporate appropriate stealth techniques.
- (4) The height of roof-mounted antennas including the support structure, shall generally not exceed 10 feet above the parapet line of the existing building on which they are placed. Antennas that require additional height shall be subject to an administrative use permit and may be required to provide additional screening as determined appropriate by the approving authority.
- (5) All roof-mounted antennas shall be located in an area of the roof where the visual impact is minimized from the street or from where there would be the greatest visual impact.
- (6) All roof-mounted facilities that are visible shall be painted a non-reflective matte finish, using an appropriate color that blends with the backdrop. The final choice of colors shall be determined by the Director of Community and Economic Development/Planning Director on-site on a case-by-case basis.
- (7) Wherever possible, equipment facilities shall be located within the building. Equipment cabinets or shelters located outside the primary use shall be placed as close to the building as possible and away from required yard setback areas or required project group open space areas.
- (8) Equipment cabinets, if located on the rooftop of buildings, shall be so located as to be minimize visibility from public rights-of-way. If any portion of the equipment cabinet is visible, it shall be subject to the same screening requirements as other roof top mechanical equipment.

c. Design Criteria for Facade-Mounted Telecommunications Facilities.

- (1) Facade-mounted telecommunications facilities shall be allowed in all zoning districts. Facade-mounted facilities shall not be located on sites zoned and used for residential purposes less than one-half acre.
- (2) Facade-mounted telecommunications facilities antennas on structures less than four stories shall be camouflaged by incorporating the antennas as part of a design element of the building or shall be hidden behind a stealth wall panel or other element. Any added design element should be consistent throughout the building and should add visual interest to the structure. When antennas are used as a design element, dummy elements may be required to be installed in order to retain the architectural continuity of the building. Facade-mounted antennas on building four or more stories in height shall be placed in such a manner to lessen their visual impact by painting and texturing them to match the building.

- (3) Antennas and the associated mountings shall generally not project beyond a maximum of 18 inches from the face of the building.
- (4) Wherever possible, equipment facilities shall be located within the building. Equipment cabinets or shelters located outside the primary use shall be placed as close to the building as possible and away from required yard setback areas or project open space areas.
- (5) Equipment cabinets, if located on the rooftop of buildings, shall be so located as to be minimize visibility from public rights-of-way. If any portion of the equipment cabinet is visible, it shall be subject to the same screening requirements as other roof top mechanical equipment.

d. Design Criteria for Ground-Mounted Telecommunications Facilities.

- (1) Ground-mounted antennas may be allowed in any zoning district and subject to an Administrative Use Permit. When located within a residential district or residential Planned Development District, ground-mounted antennas shall be subject to approval of a conditional Use Permit.
- (2) Ground-mounted telecommunications facilities shall be prohibited on or above the ridge line of any hill.
- (3) Ground-mounted telecommunications facilities antennas shall be no taller than 14 feet, including the height of the antennas.
- (4) Ground-mounted telecommunications facilities located in the hill area shall comply with the City of Hayward Hillside Design and Urban/Wildland Interface Guidelines.
- (5) Ground-mounted telecommunications facilities antennas shall be setback at least 20 feet, measured horizontally, from any side or rear property line of any adjacent lot designated for residential use and used as residential.
- (6) Ground-mounted telecommunications facilities by different carriers shall generally not be allowed within 500 feet of one another, unless the Director of Community and Economic Development/Planning Director determines that co-location on the same property or at a closer spacing would lessen the cumulative visual impact in the area.
- (7) In order to reduce any potential visual impacts and improve the appearance of "antenna array groups" in the hill area, no more than twelve antennas shall be allowed per carrier. The Director of Community and Economic Development/Planning Director may allow additional antennas and/or restrict the number of carriers on a parcel depending upon site capacity.
- (8) All proposed ground-mounted telecommunications facilities shall be located within easy reach of existing access roads to the extent feasible. In undeveloped hillside areas, telecommunications facilities carriers or providers shall work with subdividers or developers to provide integrated antenna sites

that will require the least amount of grading and road extension possible.

- (9) In the hill area east of Mission Boulevard, all associated equipment shelters or cabinets for ground-mounted telecommunications facilities shall be limited to a maximum height of three feet above the existing grade, unless other techniques are adopted to ensure minimal visual impact by use existing contours and level differences to maintain the three-foot height limit. On a case-by-case basis, the Director of Community and Economic Development/ Planning Director may allow taller exposed structures if the design of the shelter is architecturally compatible with other immediately adjacent structures and if it can be found that the exposed structure would not impact the visual quality of the area.

e. Design Criteria for Monopoles.

- (1) Monopoles and their antenna array may not be located within any required yard setback area specified in the zoning district in which the antenna is to be located and in no case closer than 20 feet to any front property line in any district and no closer than 5 feet to a side or rear property line where the parcel abuts a residential district except within the Industrial District where monopoles shall be setback a minimum of 300 feet from an adjacent residential zoned parcel or mobile home park;
- (2) The smallest available and least visible antennas that provide the coverage objective shall be used when mounted on monopoles. The number of antennas shall represent the minimum number required to complete the telecommunications network.
- (3) Monopoles shall not be located within the residential areas of the City unless they have been designed as stealth facilities and blend in with existing structures.
- (4) Monopoles proposed as the sole or primary use of the property shall not be allowed except within the Industrial or Agricultural Districts. Monopoles should be designed as an accessory use on a property. Where feasible and aesthetically desirable, facilities are encouraged to co-locate with other facilities such as water tanks, light standards, and other utilities where the co-location is found to minimize the overall visual impact.
- (5) Co-location of telecommunications facilities on a single pole or support structure is encouraged. The use of monopoles for a single user shall be discouraged. Approval of a monopole for a single user will be conditioned to require the applicant's cooperation with other communications companies in co-locating additional antennas on the monopole/structure and the applicant may be required to design a pole or tower facility that will accommodate more than one carrier. This exercise of good faith in the co-location of facilities is encouraged to the extent that such shared use does not give rise to a substantial technical level- or quality-of-service impairment of the permitted use (as opposed to a competitive conflict or financial burden).
- (6) Freestanding monopoles shall be located and designed to minimize visual

impacts. Monopoles in areas where adverse visual impacts cannot be avoided (as in some commercial areas) shall incorporate "stealth" techniques to camouflage them as a pieces of art/sculpture, flag poles, light poles, or other interesting visual forms that would not be considered an adverse visual impact.

- (7) Free-standing monopoles shall generally not be allowed within 1000 feet of each other, except in the Industrial District or except when the adverse visual impacts are not significant.
- (8) Minor modifications to the communications equipment design, location, elevations, and other elements of the above exhibit may be allowed, subject to the approval of the Director of Community and Economic Development/ Planning Director, if such modifications are in keeping with the architectural statement and layout design of the original approval.
- (9) Monopoles that are developed as a primary use, where allowed, shall be converted to roof-, facade- or ground-mounted facilities with the development of the site when physically and technically possible.

f. Basic Tower, Building Design, and Public Safety. To this end all the following measures shall be implemented:

- (1) Telecommunications towers shall be constructed out of metal or other non-flammable material, unless specifically conditioned by the City to be otherwise.
- (2) Satellite dishes located in non-Industrial District zones other than microwave dishes and DBS and DSS antennas shall be of mesh construction, except where technical evidence is acceptable to the Director of Community and Economic Development/Planning Director or Planning Commission, as appropriate, is submitted showing that this is infeasible.
- (3) Telecommunications support facilities (i.e., vaults, equipment rooms, utilities, and equipment enclosures) shall be constructed out of non-reflective materials (visible exterior surfaces only) and shall be located within a building, placed partially underground in sensitive areas (e.g. hill area) or sited in a manner to lessen its visual impact.
- (4) Telecommunications equipment or storage facilities shall be no taller than one story (14 feet) in height and shall be treated to look like a building or facility typically found in the area. The design, color and materials shall be consistent with the primary use on the property and shall consider the design of other structures in the immediate area.
- (5) The equipment cabinets/structures shall be placed in areas so they are least visible from public rights-of-way, and have minimal visual impacts. Any visible portion of the equipment cabinet shall be screened, where necessary, using appropriate techniques (i.e. landscaping, berms, decorative walls, etc.)
- (6) All buildings, poles, towers, antenna supports, antennas, and other

components of each telecommunications site shall be initially painted and thereafter repainted as necessary with a non-reflective matte finish, using an appropriate color that blends with the backdrop. The color selected shall be determined by the Director of Community and Economic Development/ Planning Director on site on a case-by-case basis.

- (7) The City shall have the authority to require special design of the telecommunications facilities where findings of particular sensitivity are made (e.g. proximity to historic or aesthetically significant structures, views and/or community features).
- (8) All security fencing/walls, if used, shall be designed to be graffiti-resistant. The applicant shall be responsible for graffiti-free maintenance of all telecommunications facilities, and shall remove any graffiti within seven days of occurrence of City notification.
- (9) The applicant shall provide signage as required by the permitting authority, including phone numbers of the utility provider for use in case of an emergency for monopole, towers, and ground-mounted antennas. The signs shall be posted at the communications equipment/structure.

g. Other Regulations. The following regulations shall apply to all antennas and telecommunications facilities as specified within this Chapter:

- (1) Critical Disaster Response Facilities. All radio, television, and voice communication facilities providing service to government or the general public shall be designed to survive a natural disaster without interruption in operation. To this end all the following measures shall be implemented:
 - (i) Non-flammable exterior wall and roof covering shall be used in the construction of all buildings;
 - (ii) Openings in all buildings shall be protected against penetration by fire and windblown embers;
 - (iii) The telecommunications tower when fully loaded with antennas, transmitters, other equipment, and camouflaging shall be designed to withstand the forces expected during the "maximum credible earthquake." All equipment mounting racks and equipment used shall be anchored in such a manner that such a quake will not tip them over, throw the equipment off its shelves, or otherwise act to damage it;
 - (iv) All connections between various components of the facility and with necessary power and telephone lines shall be protected against damage by fire, flooding, and earthquake; and
 - (v) Measures shall be taken to keep the facility in operation in the event of disaster.
- (2) Height Determination. The height of a telecommunications tower shall be measured from the natural undisturbed ground surface below the center of the

base of said tower to the top of the tower itself or, if higher, to the tip of the highest antenna or piece of equipment attached thereto. In the case of building-mounted towers the height of the tower includes the height of the portion of the building on which it is mounted. In the case of "crank-up" or other similar towers whose height can be adjusted, the height of the tower shall be the maximum height to which it is capable of being raised.

- (3) Visual. All telecommunications facilities, except exempt antennas as listed in Section 10-13.050, shall be designed to blend into the surrounding environment to the greatest extent feasible. To this end all the following measures shall be implemented:
- (i) All proposed telecommunications facilities shall be located so as to minimize their visibility.
 - (ii) The order of preference for telecommunications facility mountings, based on their potential adverse impacts, is facade mounts, roof mounts, ground mounts, and free standing monopoles. In order to use any mounting, the applicant will be required to specify why mounting types with a less adverse visual impact cannot be used.
 - (iii) Applicants are encouraged to consider providing architectural treatments and using "stealth techniques" to reduce potential visual impacts for all telecommunications facilities, and especially for those proposed in areas easily visible from a major traffic corridor, commercial center, or in a residential district.
 - (iv) In addition to the photo simulations showing before and after scenarios, applicants may be required to do additional visual analysis, including sectional drawings showing height of proposed facility as viewed from public rights-of-way.
 - (v) Applicants may be required to construct a partial scale "mock-up" of a proposed facility using materials and colors that resemble the actual facility for proposed ground mounted facilities and if required, roof-mounted facilities, if the Director of Community and Economic Development/Planning Director deems it necessary.
 - (vi) All buildings, poles, towers, antenna supports, antennas, and other components of each telecommunications site shall be initially painted and thereafter repainted as necessary with a non-reflective matte finish, using an appropriate color that blends with the backdrop. The color selected shall be determined by the Director of Community and Economic Development/Planning Director on site on a case-by-case basis.
 - (vii) Landscaping shall be used as screening wherever appropriate to reduce the visual impacts of wireless telecommunications services. Any proposed landscaping shall be visually compatible with existing vegetation in the vicinity. Landscaping shall be subject to review and approval of the City's Landscape Architect.

(viii) The equipment cabinets/structures, if located where visible from a public right-of-way, shall be treated architecturally to match any existing building or topography on the site.

(4) Vegetation Protection and Facility Screening. All telecommunications facilities shall be installed in such a manner so as to maintain and enhance existing vegetation and to install suitable landscaping to screen the facility, where necessary. To this end all the following measures shall be implemented for all telecommunications facilities, except antennas as listed in section 10-13.050.

(i) When required by the Director of Community and Economic Development/ Planning Director, applications for wireless telecommunications facilities shall be accompanied by a landscape plan that shows existing vegetation, indicates any vegetation proposed for removal or trimming, and identifies proposed plantings by type, size, and location. Existing vegetation shall be identified on the landscape plan with indication of species type, diameter of trees four inches or greater [measured at four and one-half feet high], and whether it is to be retained or removed or trimmed with project development. The emphasis of the landscape plan should be to visually screen the proposed facility and stabilize soils on sloping sites. Introduced vegetation shall be native, drought tolerant species, compatible with the predominant natural setting of the project area unless non-native material is found to be more appropriate by the City Landscape Architect.

(ii) Existing trees and other screening vegetation in the vicinity of the facility and along the access roads and power/telecommunications line routes involved shall be protected from damage, both during the construction period and thereafter. To this end, the following measures shall be implemented:

a. On a case-by-case basis and when required by the City Landscape Architect, a Tree Protection Plan shall be submitted with the building permit or improvement plan. This plan shall be prepared by a certified arborist and give specific measures to protect trees during project construction.

b. Grading, cutting/filling, and the storage/parking of equipment/ vehicles shall be prohibited in landscape areas to be protected and the drip line of any trees required to be preserved. Such areas shall be fenced to the satisfaction of the City Landscape Architect, as appropriate. Trash, debris, or spoils shall not be placed within these fences nor shall the fences henceforth be opened or moved until the project is complete and authorization is granted by the City Landscape Architect.

c. All underground lines shall be routed such that a minimum amount of damage is done to tree root systems.

- (iii) All vegetation disturbed during project construction shall be replanted with compatible vegetation and soils disturbed by development shall be reseeded to control erosion.
- (iv) No vegetation shall be removed subsequent to project completion except to comply with local fire safety regulations or to prevent safety hazards to people and property.
- (v) Where appropriate, the carrier may be required to enter into a landscape performance and maintenance agreement with the City of Hayward to ensure the installation and establishment of required landscaping. The duration of any required landscape maintenance agreement shall be for a minimum period of no less than one year.
- (vi) Any existing trees or significant vegetation on the facilities site or along the affected access area that die shall be replaced with native or other approved landscape material.
- (vii) The applicant shall be required to provide proof of availability of required irrigation facilities for all landscaping used for screening the telecommunications facilities, especially in the hill area, prior to approval.
- (viii) No actions shall be taken subsequent to project completion with respect to the vegetation present that would increase the visibility of the facility itself or the access road and power/ telecommunications lines serving it.

(5) Fire Prevention.

- (i) All telecommunications facilities shall be designed and operated in such a manner so as to minimize the risk of igniting a fire or intensifying one that otherwise occurs. To this end all of the following measures shall be implemented for all telecommunications facilities, when determined necessary by the Fire Chief, except exempt antennas as listed in section 10-13.050.
 - a. At least one-hour fire resistant interior surfaces shall be used in the construction of all buildings;
 - b. Monitored automatic fire extinguishing systems approved by the Fire Chief shall be installed in all equipment buildings and enclosures;
 - c. Rapid entry (KNOX) systems shall be installed as required by the Fire Chief;
 - d. Type and location of vegetation and other materials within ten feet of the facility and all new structures, including telecommunications towers, shall have review of fire safety

purposes by the Fire Chief. Requirements established by the Fire Chief shall be followed; and

- e. All tree trimmings and trash generated by construction of the facility shall be removed from the property and properly disposed of prior to building permit finalization or commencement of operation, whichever comes first.
 - (ii) Demonstration of compliance with requirements of this section shall be evidenced by a certificate signed by the Fire Chief on the building plans submitted when so required.
- (6) Environmental Resource Protection. All telecommunications facilities shall be sited so as to minimize the effect on environmental resources. To that end the following measures shall be implemented for all telecommunications facilities, except exempt antennas as listed in section 10-13.030.
- (i) No telecommunications facility or related improvements including but not limited to access roads and power lines shall be sited so as to create a significant threat to the health or survival of rare, threatened, or endangered plant or animal species;
 - (ii) No telecommunications facility or related improvements shall be sited such that their construction will damage an archaeological site or have an adverse effect on the historic character of a historic feature or site;
 - (iii) The facility shall comply with all applicable City regulations and standards pertaining to applicable City Floodplain, Storm Drainage and Erosion Control regulations.
 - (iv) Potential adverse visual impacts which might result from project related grading or road construction shall be minimized;
 - (v) Potential adverse visual impacts upon nearby public use areas such as parks or trails shall be minimized; and
 - (vi) Drainage, erosion, and sediment controls shall be required as necessary to abate soil erosion and sedimentation of waterways. Structures and roads on slopes of 20 percent or greater shall be avoided. Erosion control measures shall be incorporated for any proposed facility which involves grading or construction near a waterway or on lands with slopes over 20 percent. Natural vegetation and topography shall be retained to the extent feasible.
- (7) Noise and Traffic. All telecommunications facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to the residents of nearby homes and the users of nearby recreational areas such as public parks and trails. Noise and traffic reduction shall be accomplished through the following measures:
- (i) The construction and operation of wireless telecommunications

facilities shall be in compliance with the noise exposure standards of the Hayward Municipal Code.

- (ii) Normal testing and maintenance activities shall occur between the hours of 8:00 a.m. and 5:00 p.m., weekdays (Monday through Friday, non-holiday) excluding emergency repairs. Normal testing and maintenance activities which do not involve the use or operation of telecommunications and maintenance equipment that is audible from residences and other nearby sensitive receptors may occur at all other times.
- (iii) Backup generators shall only be operated during power outages, emergency occurrences, or for testing and maintenance in accordance with item (2) above. If the facility is located within 100 feet of a residential dwelling unit, noise attenuation measures shall be included to reduce noise levels to an exterior noise level of at least a Ldn of 60 dB at the property line and an interior noise level of a Ldn of 45 dB.
- (iv) Traffic resulting from the operation and maintenance of a telecommunications facility must be kept to a minimum. Conditions of project approval shall specify a maximum number of trips on a case-by-case basis based upon the carrier's maintenance and testing schedule and the location of the facility when in close proximity to residential units.
- (v) When requested by the Director of Community and Economic Development/Planning Director, applications for telecommunications facilities shall include a copy of a title report or other legal instrument demonstrating legal access to the proposed facilities site.