

ATTACHMENT

For Item

#6

Wednesday,
August 7, 2019

PUBLIC COMMUNICATION RECEIVED BY THE
CLERK OF THE BOARD

DISTRIBUTED 08/05/19

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From: Kit Calafato <asbpinto@aol.com>
Sent: Friday, August 02, 2019 6:19 PM
To: FGG-DL, LSDOCS
Subject: 5G Cell Towers
Attachments: 5G.jpg

Please add the attached to the Group of signatures for the Moratorium on NOT allowing the untested 5G Cell Towers to progress without proper testing as to their safety.

Thank you,
Kit Calafato
Del Mar, CA
858-755-8033
asbpinto@aol.com

From: Liona S <liona92078@cox.net>
Sent: Friday, August 02, 2019 8:01 PM
To: FGG-DL, LSDOCS
Subject: stop 5g unsafe for health of those living in San Diego.

Dear San Diego County Board of Supervisors:

1. We are asking for a moratorium because the citizens of San Diego County are unaware that the ordinance you are about to pass on August 7th will allow untested 5G cell towers in front of their homes as early as next week. These 5G cell towers emit radiation that has never been tested for health or safety for plants, animals or humans. We need to wait for the 9th and 10th Circuit Court cases brought by other cities to be decided before cell towers are put in place. The courts could turn back the FCC directive that stripped local control from municipalities in the first place.
2. The FCC directive strips San Diego County of nearly all aspects of local control. This is wrong and we believe San Diego County should fight in court to protect our local rights to decide crucial issues that impact our lives - especially the future well-being of our children.
3. Our homes comprise the greatest portion of our assets. We know that before 5G there was a consensus among most realtors and appraisers that a cell tower in front of a home devalued the home by at least 20%. We are concerned that a 5G cell site in front of a home may render the home unmarketable. 5G is a different animal. In all previous generations of wireless – 2G, 3G, 4G – the telecom industry promised the technology would not cause cancer because it did not heat tissue. They are not saying that with 5G, because 5G does heat tissue. 5G will exceed the safety limits now in place by the FCC because it heats tissue, and thermal protection was the only protection offered by previous FCC “safety standards”. As soon as the public realizes this, no one will want to buy a house with a 5G tower in front of it.
4. The Board of Supervisors must not fail to protect San Diego County citizens. Right now these 5G small cells can be installed with telecom submitting a ministerial permit (just a rubberstamp by the County on a piece of paper with no hearing and no appeal) with no consideration for our opinions, our safety, our health, our property values and our privacy. Our privacy is being lost to 5G with the collection of data at every level of our lives. There are no restrictions on who collects this data and who the second, third and fourth party buyers will be. This mass data collection is a breach of privacy that should demand a moratorium instantly.
5. We want 1000 foot setbacks for the following: schools, daycare centers, churches with daycare centers, all hospitals, “quiet zone” laboratories for RF testing of public safety equipment, and fire stations. We want a minimum of 100 foot setbacks from our homes. We would prefer 500 feet as four other cities in California have done in their ordinances. We find zero setbacks from our homes suggested by County staff completely unacceptable. Our intention is not to defy the FCC directive which states an effective ban in residential areas is prohibited if setbacks create such an effect. However, we choose to protect our real estate values over the telecommunication industry’s convenience and profit, and demand setbacks 1 that protect our residences. We are willing to sit at the table and work with industry to come up with alternate locations for towers.
6. We propose wireless free conservation areas/parks to be set aside by San Diego County to protect wildlife and to protect the migratory path of birds. We are aware the FCC “safety standards” do not protect bees, birds, and animals. Because wildlife is unprotected, and because it is known through thousands of peer reviewed studies that EMFs (wireless radiation) jeopardize the ecosystem as a whole, we would like to create quiet zones without wireless so that animals do not lose their protected habitat. We need to protect certain airways for migratory birds and other

wildlife just as the Board of Supervisors has voted to protect hundreds of thousands of acres of land in San Diego County.

7. Require a certificate of completion from each telecommunications applicant. Because the law allows for additional telecommunications equipment to be added to each pole, and because this equipment may be in the form of microphones, cameras, surveillance technology, Homeland Security and other carriers with their own small cells, a certificate of completion tells the County and tells us as homeowners when the job is completed and advises us if additional technology is being added subsequent to the initial installation. All additional equipment should require a separate permit.

8. There has not been a single study done by the FCC, the EPA, or the FDA showing 5G is safe, yet 5G cell antennas are going to spring up outside our children's bedroom windows.

We refuse to be part of a human experiment that benefits the needs of industry and fails to protect our basic human rights. Our profound concern is heightened for the following reasons:

1) We do not trust the federal government to look out for our health and public safety;

2) We do not trust the FCC "safety standards" to be protective because the World Health Organization's cancer committee, IARC, classified everything on the RF – EMF spectrum a 2b "possible human" carcinogen at levels below the FCC "safety" standard, putting RF in the same category as DDT and diesel fumes;

3) The FCC has never looked at the non-thermal effects of RF radiation [cancer, Alzheimer's, neurodegenerative diseases, ADHD, birth defects, infertility, disabling headaches, sleep disruption, vertigo]. The FCC only protects us from the effects of heat which includes shocks, burns, and heatstroke;

4) The chairman of the FCC, Ajit Pai, is the former lead attorney for Verizon and may have a conflict of interest. Therefore, we are looking to our representatives in San Diego County to protect us.

9. Because there are no studies proving that 5G is safe, San Diego County should establish a hotline to take complaints from the more than 500,000 residents who live in the County and additional residents who work and come to the County for medical and recreational reasons. This hotline should be staffed by an individual who has training in radiation sickness, known in Medicare and Medicaid billing as "Exposure to radiofrequency, Sequela".

These complaints should be tabulated and conveyed monthly to the California Department of Public Health, the EPA, the FDA, and the FCC. Respectfully & Gratefully, [See next page for signatures] 2 Signature page for:
URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING THE 5G WIRELESS ORDINANCE

Name Liona Shareing

Liona Shareing

Address: 650 south Rancho Santa Fe Road, Spc. 125 Sah Marcos Ca 92078

Date August 3 2019

Email Address :InnerHarmony@cox.net.

From: Neil Minton <neilminton@aol.com>
Sent: Saturday, August 03, 2019 9:11 PM
To: FGG-DL, LSDOCS
Subject: 5G WIRELESS ORDINANCE MORATORIUM
Attachments: 5G.pdf

Please find a signed form petitioning for a moratorium for proper health and safety assessment prior to implementation of this technology.

Thank you

Sincerely

Neil Minton

**URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING
THE 5G WIRELESS ORDINANCE**

Dear San Diego County Board of Supervisors:

1. **We are asking for a moratorium because the citizens of San Diego County are unaware that the ordinance you are about to pass on August 7th will allow untested 5G cell towers in front of their homes as early as next week.** These 5G cell towers emit radiation that has never been tested for health or safety for plants, animals or humans. We need to wait for the 9th and 10th Circuit Court cases brought by other cities to be decided before cell towers are put in place. The courts could turn back the FCC directive that stripped local control from municipalities in the first place.
2. **The FCC directive strips San Diego County of nearly all aspects of local control.** This is wrong and we believe San Diego County should fight in court to protect our local rights to decide crucial issues that impact our lives - especially the future well-being of our children.
3. **Our homes comprise the greatest portion of our assets.** We know that before 5G there was a consensus among most realtors and appraisers that a cell tower in front of a home devalued the home by at least 20%. We are concerned that a 5G cell site in front of a home may render the home unmarketable. 5G is a different animal. In all previous generations of wireless - 2G, 3G, 4G - the telecom industry promised the technology would not cause cancer because it did not heat tissue. They are not saying that with 5G, because 5G *does* heat tissue. 5G will exceed the safety limits now in place by the FCC because it heats tissue, and thermal protection was the only protection offered by previous FCC "safety standards". As soon as the public realizes this, no one will want to buy a house with a 5G tower in front of it.
4. **The Board of Supervisors *must not fail* to protect San Diego County citizens.** Right now these 5G small cells can be installed with telecom submitting a ministerial permit (just a rubberstamp by the County on a piece of paper with no hearing and no appeal) with no consideration for our opinions, our safety, our health, our property values and our privacy. Our privacy is being lost to 5G with the collection of data at every level of our lives. There are no restrictions on who collects this data and who the second, third and fourth party buyers will be. **This mass data collection is a breach of privacy that should demand a moratorium instantly.**
5. **We want 1000 foot setbacks for the following: schools, daycare centers, churches with daycare centers, all hospitals, "quiet zone" laboratories for RF testing of public safety equipment, and fire stations.** We want a minimum of 100 foot setbacks from our homes. We would prefer 500 feet as four other cities in California have done in their ordinances. We find zero setbacks from our homes suggested by County staff *completely unacceptable*. Our intention is not to defy the FCC directive which states an effective ban in residential areas is prohibited if setbacks create such an effect. However, we choose to protect our real estate values over the telecommunication industry's convenience and profit, and demand setbacks that protect our residences. We are willing to sit at the table and work with industry to come up with alternate locations for towers.
6. **We propose wireless free conservation areas/parks to be set aside by San Diego County to protect wildlife and to protect the migratory path of birds.** We are aware the FCC "safety standards" do not protect bees, birds, and animals. Because wildlife is unprotected, and because it is known through thousands of peer reviewed studies that EMF's (wireless radiation) jeopardize the ecosystem as a whole, we would like to create quiet zones without wireless so that animals do not lose their protected habitat. We need to protect certain airways for migratory birds and other wildlife just as the Board of Supervisors has voted to protect hundreds of thousands of acres of land in San Diego County.

7. **Require a certificate of completion from each telecommunications applicant.** Because the law allows for additional telecommunications equipment to be added to each pole, and because this equipment may be in the form of microphones, cameras, surveillance technology, Homeland Security and other carriers with their own small cells, a certificate of completion tells the County and tells us as homeowners when the job is completed and advises us if additional technology is being added subsequent to the initial installation. All additional equipment should require a separate permit.

8. **There has not been a single study done by the FCC, the EPA, or the FDA showing 5G is safe,** yet 5G cell antennas are going to spring up outside our children's bedroom windows. We refuse to be part of a human experiment that benefits the needs of industry and fails to protect our basic human rights. Our profound concern is heightened for the following reasons: 1) We do not trust the federal government to look out for our health and public safety; 2) We do not trust the FCC "safety standards" to be protective because the World Health Organization's cancer committee, IARC, classified everything on the RF - EMF spectrum a 2b "possible human" carcinogen at levels *below* the FCC "safety" standard, putting RF in the same category as DDT and diesel fumes; 3) The FCC has never looked at the non-thermal effects of RF radiation [cancer, Alzheimer's, neurodegenerative diseases, ADHD, birth defects, infertility, disabling headaches, sleep disruption, vertigo]. The FCC only protects us from the effects of heat which includes shocks, burns, and heatstroke; 4) The chairman of the FCC, Ajit Pai, is the former lead attorney for Verizon and may have a conflict of interest. Therefore, we are looking to our representatives in San Diego County to protect us.

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Respectfully & Gratefully, [See next page for signatures]

Signature page for: **URGENT MESSAGE FROM YOUR CONSTITUENTS
REGARDING
THE 5G WIRELESS ORDINANCE**

Name [Sign & Print]: NEIL MINTON N. A. MINTON

Address: 7317 SIETE LEGUAS # 9380, RANCHO SANDE FE 92067

Date: 8/3/19

Email Address (optional): NEILMINTON@AOL.COM

Name of Your Supervisor (if you know):

Please: 1) print, 2) sign your name (& print) & address, 3) scan and 4) email to the following: lsdcps@sdccounty.ca.gov. Please send before noon on Monday, August 5. If you have difficulty scanning and emailing to the County offices, please call either Susan Foster at 858-756-3532 or Holly Manion at 858-395-5287 and we will make arrangements to have your signed message picked up and delivered to our Supervisors. Thank you so much!

;

From: Donna Tisdale <tisdale.donna@gmail.com>
Sent: Sunday, August 04, 2019 11:14 AM
To: Jacob, Dianne; Wilson, Adam
Cc: FGG-DL, LSDOCS
Subject: Aug 7 agenda # 6-Small Cell 5G
Attachments: 5G-urgent message-Tisdale 8-4-19.pdf

Please find the attached comment letter on Small Cell 5G wireless facilities POD-19-003. Similar to industrial wind turbines, small cell facilities and their unsafe levels of radiation are being forced into neighborhoods and too close to sensitive receptors, without due diligence and in the face of peer-reviewed science-based evidence warning against such installations. Industry bias and lobbying. Intense industry efforts to reduce protective setbacks is blatant and self-serving.

Please take a few minutes to review the Electromagnetic Radiation Safety website of **Joel M. Moskowitz, Ph.D.**, Director, Center for Family and Community Health, School of Public Health, University of California, Berkeley. Dr. Moskowitz has been posting news and updated studies on a regular basis to help keep the public informed of related health effects.

Regards,
Donna Tisdale
PO Box 1275
Boulevard, CA 91905

URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING THE 5G WIRELESS ORDINANCE

Dear San Diego County Board of Supervisors:

- 1. We are asking for a moratorium because the citizens of San Diego County are unaware that the ordinance you are about to pass on August 7th will allow untested 5G cell towers in front of their homes as early as next week.** These 5G cell towers emit radiation that has never been tested for health or safety for plants, animals or humans. We need to wait for the 9th and 10th Circuit Court cases brought by other cities to be decided before cell towers are put in place. The courts could turn back the FCC directive that stripped local control from municipalities in the first place.
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- 4. The Board of Supervisors must not fail to protect San Diego County citizens.** Right now these 5G small cells can be installed with telecom submitting a ministerial permit (just a rubberstamp by the County on a piece of paper with no hearing and no appeal) with no consideration for our opinions, our safety, our health, our property values and our privacy. Our privacy is being lost to 5G with the collection of data at every level of our lives. There are no restrictions on who collects this data and who the second, third and fourth party buyers will be. **This mass data collection is a breach of privacy that should demand a moratorium instantly.**
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Respectfully & Gratefully, [See next page for signatures]

Signature page for: **URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING
THE 5G WIRELESS ORDINANCE**

Name [Sign & Print]: *Donna Tisdale* DONNA TISDALE

Address: PO Bx 1275, BOULEVARD, CA. 91905

Date: 8-4-19

Email Address
(optional): tisdale.donna@gmail.com

Name of Your Supervisor (if you know):
DIANNE JACOB

Please: **1) print, 2) sign your name (& print) & address, 3) scan and 4) email to the following:**
lsdocs@sdcountry.ca.gov. **Please send before noon on Monday, August 5.**

From: Mary Jo Troyer <maryjo.troyer@gmail.com>
Sent: Sunday, August 04, 2019 12:50 PM
To: FGG-DL, LSDOCS
Subject: Page 1 of 2
Attachments: Doc Aug 04, 2019, 1247.pdf

Dear San Diego County Board of Supervisors: 1. We are asking for a moratorium because the citizens of San Diego County are unaware that the ordinance you are about to pass on August 7th will allow untested 5G cell towers in front of their homes as early as next week. These 5G cell towers emit radiation that has never been tested for health or safety for plants, animals or humans. We need to wait for the 9th and 10th Circuit Court cases brought by other cities to be decided before cell towers are put in place. The courts could turn back the FCC directive that stripped local control from municipalities in the first place. 2. The FCC directive strips San Diego County of nearly all aspects of local control. This is wrong and we believe San Diego County should fight in court to protect our local rights to decide crucial issues that impact our lives - especially the future well-being of our children. 3. Our homes comprise the greatest portion of our assets. 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We find zero setbacks from our homes suggested by County staff completely unacceptable. Our intention is not to defy the FCC directive which states an effective ban in residential areas is prohibited if setbacks create such an effect. However, we choose to protect our real estate values over the telecommunication industry's convenience and profit, and demand setbacks that protect our residences. We are willing to sit at the table and work with industry to come up with alternate locations for towers. 6. We propose wireless free conservation areas/parks to be set aside by San Diego County to protect wildlife and to protect the migratory path of birds. We are aware the FCC "safety standards" do not protect bees, birds, and animals. 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Our profound concern is heightened for the following reasons: 1) We do not trust the federal government to look out for our health and public safety; 2) We do not trust the FCC "safety standards" to be protective because the World Health Organization's cancer committee, IARC, classified everything on the RF - EMF spectrum a 2b "possible human" carcinogen at levels below the FCC "safety" standard, putting RF in the same category as DDT and diesel fumes; 3) The FCC has never looked at the non-thermal effects of RF radiation [cancer, Alzheimer's, neurodegenerative diseases, ADHD, birth defects, infertility, disabling headaches, sleep disruption, vertigo]. The FCC only protects us from the effects of heat which includes shocks, burns, and heatstroke; 4) The chairman of the FCC, Ajit Pai, is the former lead attorney for Verizon and may have a conflict of interest. Therefore, we are looking to our representatives in San Diego County to protect us. 9. Because there are no studies proving

From: Mary Jo Troyer <maryjo.troyer@gmail.com>
Sent: Sunday, August 04, 2019 12:51 PM
To: FGG-DL, LSDOCS
Subject: Page 2 of 2
Attachments: Doc Aug 04, 2019, 1248.pdf

that 5G is safe, San Diego County should establish a hotline to take complaints from the more than 500,000 residents who live in the County and additional residents who work and come to the County for medical and recreational reasons. This hotline should be staffed by an individual who has training in radiation sickness, known in Medicare and Medicaid billing as "Exposure to radiofrequency, Sequela". These complaints should be tabulated and conveyed monthly to the California Department of Public Health, the EPA, the FDA, and the FCC. Respectfully & Gratefully, [See next page for signatures] 2 Signature page for: URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING THE 5G WIRELESS ORDINANCE Name [Sign & Print]:

962 Mira Lago Way Address:
San Marcos CA 92078

Date: 8-4-19 Mary Jo Troyer @ gmail . com Email Address

(optional): _____ Name of Your Supervisor (if you

know): Mary Jo Troyer MARY JO TROYER Please: 1) print, 2) sign your name (& print) & address, 3) scan and 4) email to the following: lsdocs@sdcounty.ca.gov. Please send before noon on Monday, August 5.

From: Nick or Mary La Forte <laforte@usa.com>
Sent: Sunday, August 04, 2019 2:21 PM
To: FGG-DL, LSDOCS
Subject: 5G Wireless Ordinance
Attachments: 2019 5G Wireless Ordinance pg 1.jpg; 2019 5G Wireless Ordinance pg 2.jpg

From: Vickie Dowling <vickiedowling@ymail.com>
Sent: Sunday, August 04, 2019 2:34 PM
To: FGG-DL, LSDOCS
Subject: 5G Wireless Ordinance
Attachments: 5G Wireless Ordinance.pdf

Please see completed signature page.

*Dr. Vickie L. Dowling, PsyD
Licensed Clinical Psychologist*

Note: This email message is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message.

Fw: 5G petition

From: GEORGIEV MARY-JO (perrisnow@yahoo.com)
To: nancyauger58@gmail.com; vickiedowling@ymail.com
Date: Saturday, August 3, 2019, 08:31 AM PDT

From our Neighborhood Nextdoor community:

Kathleen Desforges,
URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING THE 5G WIRELESS ORDINANCE
Please contact her if you need help or any questions.
From Holly Manion - hollymanion@gmail.com
858-395-5287

Dear San Diego County Board of Supervisors:

1. We are asking for a moratorium because the citizens of San Diego County are unaware that the ordinance you are about to pass on August 7th will allow untested 5G cell towers in front of their homes as early as next week. These 5G cell towers emit radiation that has never been tested for health or safety for plants, animals or humans. We need to wait for the 9th and 10th Circuit Court cases brought by other cities to be decided before cell towers are put in place. The courts could turn back the FCC directive that stripped local control from municipalities in the first place.
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 8. There has not been a single study done by the FCC, the EPA, or the FDA showing 5G is safe, yet 5G cell antennas are going to spring up outside our children's bedroom windows. We refuse to be part of a human experiment that benefits the needs of industry and fails to protect our basic human rights. Our profound concern is heightened for the following reasons: 1) We do not trust the federal government to look out for our health and public safety; 2) We do not trust the FCC "safety standards" to be protective because the World Health Organization's cancer committee, IARC, classified everything on the RF - EMF spectrum a 2b "possible human" carcinogen at levels below the FCC "safety" standard, putting RF in the same category as DDT and diesel fumes; 3) The FCC has never looked at the non-thermal effects of RF radiation [cancer, Alzheimer's, neurodegenerative diseases, ADHD, birth defects, infertility, disabling headaches, sleep disruption, vertigo]. The FCC only protects us from the effects of heat which includes shocks, burns, and heatstroke; 4) The chairman of the FCC, Ajit Pai, is the former lead attorney for Verizon and may have a conflict of interest. Therefore, we are looking to our representatives in San Diego County to protect us.
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- Respectfully & Gratefully, [See next page for signatures] 2

Signature page for: URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING THE 5G WIRELESS ORDINANCE

Name (Sign & Print): Vickie Dowling Vickie Dowling
Address: 3515 Las Vegas Dr, Coronado CA 92054
Date: 8/1/19
Email Address (optional):
Name of Your Supervisor (if you know):
Please: 1) print, 2) sign your name (& print) & address, 3) scan and 4) email to the following: lsdocs@sdcounty.ca.gov. Please send before noon on Monday, August 5

Sent from Yahoo Mail on Android

From: Potter, Andrew
Sent: Sunday, August 04, 2019 3:14 PM
To: FGG-DL, LSDOCS
Subject: Fwd: 5G Wireless Ordinance
Attachments: 5G Towers.pdf; ATT00001.htm

Begin forwarded message:

From: "Joanne M. Katz" <katzjm@hotmail.com>
Date: August 4, 2019 at 2:51:40 PM PDT
To: "lsdocs@sdcounty.ca.gov." <lsdocs@sdcounty.ca.gov.>
Cc: "Jim.Desmond@sdcounty.ca.gov" <Jim.Desmond@sdcounty.ca.gov>
Subject: Re: 5G Wireless Ordinance

Dear Supervisor Desmond and all members of the San Diego County Board of Supervisors:

Please consider the information and petitions in the document I have attached. I ask you to responsibly protect the San Diego citizens you represent.

Sincerely,

Joanne M. Katz
katzjm@hotmail.com

URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING THE 5G WIRELESS ORDINANCE

Dear San Diego County Board of Supervisors:

1. **We are asking for a moratorium because the citizens of San Diego County are unaware that the ordinance you are about to pass on August 7th will allow untested 5G cell towers in front of their homes as early as next week.** These 5G cell towers emit radiation that has never been tested for health or safety for plants, animals or humans. We need to wait for the 9th and 10th Circuit Court cases brought by other cities to be decided before cell towers are put in place. The courts could turn back the FCC directive that stripped local control from municipalities in the first place.
2. **The FCC directive strips San Diego County of nearly all aspects of local control.** This is wrong and we believe San Diego County should fight in court to protect our local rights to decide crucial issues that impact our lives - especially the future well-being of our children.
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4. **The Board of Supervisors *must not fail* to protect San Diego County citizens.** Right now these 5G small cells can be installed with telecom submitting a ministerial permit (just a rubberstamp by the County on a piece of paper with no hearing and no appeal) with no consideration for our opinions, our safety, our health, our property values and our privacy. Our privacy is being lost to 5G with the collection of data at every level of our lives. There are no restrictions on who collects this data and who the second, third and fourth party buyers will be. **This mass data collection is a breach of privacy that should demand a moratorium instantly.**
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Respectfully & Gratefully,

Joanne M. Katz JOANNE M. KATZ
15921 Avenida Calma
Rancho Santa Fe, CA 92091

04 Aug 2019

SD County Supervisor Jim Desmond

From: royalviewranch@aol.com
Sent: Sunday, August 04, 2019 4:56 PM
To: FGG-DL, LSDOCS
Subject: G cell ordinance comments
Attachments: 5G K Binns Scan.pdf

Please see attached. Karen Binns

URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING THE 5G WIRELESS ORDINANCE

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Respectfully & Gratefully, [See next page for signatures]

Signature page for: URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING
THE 5G WIRELESS ORDINANCE

Name [Sign & Print]: Karen Binns / Karen Binns

Address: 2637 Deer Springs PL., San Marcos,

Date: 8/4/19 CA
92069

Email Address
(optional): royalviewranch@aol.com

Name of Your Supervisor (if you know):

Sup. Desmond

Please: 1) print, 2) sign your name (& print) & address, 3) scan and 4) email to the following:
docs@sdcounty.ca.gov. Please send before noon on Monday, August 5.

From: royalviewranch@aol.com
Sent: Sunday, August 04, 2019 4:58 PM
To: FGG-DL, LSDOCS
Subject: 5 G cell comments
Attachments: 5G A Binns Scan.pdf

Please see the attached letter. Allen Binns

URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING THE 5G WIRELESS ORDINANCE

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Respectfully & Gratefully, [See next page for signatures]

Signature page for: URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING
THE 5G WIRELESS ORDINANCE

Name [Sign & Print]:

Allen F. Binns / Allen F Binns

Address:

2637 Deer Springs Pl., San Marcos, CA

Date:

8/4/19 92069

Email Address

(optional):

Name of Your Supervisor (if you know):

Sup Jim Desmond

Please: 1) print, 2) sign your name (& print) & address, 3) scan and 4) email to the following:
lsdoes@sdcountry.ca.gov. Please send before noon on Monday, August 5.

From: kevin mabbutt <mabbuttkr@icloud.com>
Sent: Sunday, August 04, 2019 5:40 PM
To: FGG-DL, LSDOCS
Subject: 5G signature page
Attachments: Doc Aug 04, 2019, 1736.pdf

Sent from my iPhone

Signature page for: **URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING
THE 5G WIRELESS ORDINANCE**

Name [Sign & Print]: Lisa Mabbutt Lisa Mabbutt

Address: 15463 El Camino Real, P.O. Box 3883, Rancho Santa Fe
92067

Date: Aug 2, 2019

Email Address (optional): _____

Name of Your Supervisor (if you know):

Please: **1) print, 2) sign your name (& print) & address, 3) scan and 4) email** to the following:
lsdocs@sdcountry.ca.gov. Please send before noon on Monday, August 5.

From: kevin mabbutt <mabbuttkr@icloud.com>
Sent: Sunday, August 04, 2019 5:41 PM
To: FGG-DL, LSDOCS
Subject: 5G signature page
Attachments: Doc Aug 04, 2019, 1740.pdf

Sent from my iPhone

Signature page for: **URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING
THE 5G WIRELESS ORDINANCE**

Name [Sign & Print]: Jessica Mabbutt Jessica mabbutt

Address: 15463 El Camino Real, PO BOX 3883, Rancho Santa Fe, 92067

Date: August 2nd, 2019

Email Address
(optional): _____

Name of Your Supervisor (if you know):

Please: **1) print, 2) sign your name (& print) & address, 3) scan and 4) email to the following:**
lsdocs@sdcountry.ca.gov. Please send before noon on Monday, August 5.

From: kevin mabbutt <mabbuttkr@icloud.com>
Sent: Sunday, August 04, 2019 5:42 PM
To: FGG-DL, LSDOCS
Subject: 5G signature page
Attachments: Doc Aug 04, 2019, 1741.pdf

Sent from my iPhone

Signature page for: URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING
THE 5G WIRELESS ORDINANCE

Name [Sign & Print]: KEVIN R. MABBUTT

Address: 15463 EL CAMINO REAL RANCHO SANTA FE PO BOX 3883
RSF CAL
92067

Date: AUGUST 3rd 2019

Email Address (optional): MABBUTTKR@AOL.COM

Name of Your Supervisor (if you know):

Please: 1) print, 2) sign your name (& print) & address, 3) scan and 4) email to the following:
lsdocs@sdcountry.ca.gov. Please send before noon on Monday, August 5.

From: Jean <jjean525@yahoo.com>
Sent: Sunday, August 04, 2019 8:12 PM
To: FGG-DL, LSDOCS
Subject: 5G Wireless Ordinance
Attachments: SDC Board S.pdf; SCD Board S II.pdf

Letter Attached - Thank you

URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING THE 5G WIRELESS ORDINANCE

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Respectfully & Gratefully,

Thomas R. Stickel
Jean Stickel
THOMAS R. STICKEL
MECHANICAL ENGINEER, PE
JEAN STICKEL

Address: 881 Windridge Circle, San Marcos, CA

Date: 8/4/19

From: Michael Schwaebe <mjschwaebe@gmail.com>
Sent: Sunday, August 04, 2019 9:30 PM
To: FGG-DL, LSDOCS; Cox, Greg; Jacob, Dianne; Gaspar, Kristin; Fletcher, Nathan (BOS);
Desmond, Jim
Cc: [Michael Schwaebe
Subject: Perception of Harm, Wireless Ordinance POD 17-004 5G and Small Cell Antennas
Attachments: Hercules 5-9-19 FINAL -RCR-2-Title 10 Chapter 16 Telecommunications Ordinance.docx;
MJS Perception of Harm Letter to Board of Supervisors.docx

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215 Andrew Ave.
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August 4, 2019

Subject: Perception of Harm, Wireless Ordinance POD 17-004 5G and Small Cell Antennas

Dear Kristin Gaspar and San Diego County Board of Supervisors

My residence is in Encinitas CA. I am writing this letter to the County Supervisors because I believe that Encinitas and other cities within San Diego will be adopting the SD County Ordinance.

I have the perception of harm from 5G and small cell microwave antennas in my front yard. I am afraid that the antennas will cause physical harm and financial harm. I know by personal experience and review of more than 50 years of science that the evidence is conclusive that microwaves at levels less than the FCC limits cause physical harm. The financial harm is the devaluation of real property because other people have the perception of harm also and won't want to live in my home with an antenna there. I ask the following:

1. Please protect us from the placement of antennas near our residences. Require a minimum of 100' setback from 5G and small cell antennas to residential property lines (as was ordered by the planning commissioners).
2. Make the construction of 5G and small cell antennas as rigorous as other telecom antennas, require compliance testing to FCC OET 65 and require the following:
 - i) Administrative or higher level permit
 - ii) Noticing of all the occupants within 500 feet
 - iii) Supporting structure must meet ANSI TIA 222 class III pole requirements certified by an independent third-party
 - iv) Prohibit new supporting structures in residential areas unless all other remedies have been exhausted
 - v) Application processing fees including consultants are to be borne by the applicants
3. Give the county the power to disapprove an application for any of the reasons stated here:
 - i) Conflict with safety and safety-related codes and requirements;
 - ii) The facility would not conform to the County's policy of concealment;
 - iii) Conflict with the character of a neighborhood or district;
 - iv) The use or construction of facilities is contrary to an already stated purpose of a specific zoning or land use designation;
 - v) The placement and location of facilities would create an unacceptable safety or financial risk to residents or the safety of the general public, employees and agents of the City or employees of the service provider or other service providers, or the reasonable probability of such;

vi) The placement and location of a facility would result in a conflict with, compromise in or change in the nature or character of the adjacent surrounding area.

4. Make the San Diego County wireless ordinance tough for our protection. Use the example of the city of Hercules that was written by a telecom company at this link (Hercules draft for small cells attached):

<https://www.codepublishing.com/CA/Hercules/#!/Hercules10/Hercules1016.html#10-16>

Please consider that the purpose of this ordinance is to protect citizens in San Diego County. It is not to provide convenience to telecommunication companies or license to put antennas anywhere they want.

Michael Schwaebe

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TITLE 10

Chapter 16. Wireless Telecommunications Facilities Ordinance.

Section 10-16.101 Purpose and Legislative Intent

The Telecommunications Act of 1996 affirmed the City of Hercules' authority concerning the placement, construction and Modification of Wireless Telecommunications Facilities. This ordinance provides for the safe and efficient integration of facilities Necessary for the provision of advanced wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless services to the public, government agencies and first responders, with the intention of furthering the public safety and general welfare.

The City of Hercules finds that Wireless Telecommunications Facilities (Facilities) may pose significant concerns to the health, safety, public welfare, character and environment of the City and its inhabitants. The City also recognizes that facilitating the development of wireless service technology can be an economic development asset to the City and of significant benefit to the City and its residents. In order to assure that the placement, construction or Modification of a Facility is consistent with the City's land use policies, the City is adopting a single, comprehensive, Wireless Telecommunications Facility application and permitting process. The intent of this Ordinance is to minimize the physical impact of Wireless Telecommunications Facilities on the community, protect the character of the community to the extent reasonably possible, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the City of Hercules.

Section 10-16.102 Severability

- a) If any word, phrase, sentence, part, section, subsection, or other portion of this Ordinance or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed Application thereof, shall be severable, and the remaining provisions of this Ordinance, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.
- b) Any Special Use Permit issued pursuant to this Ordinance shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the City.

Section 10-16.103 Location of Wireless Telecommunications Facilities

- a) New Towers or other support structures shall be prohibited in Residential Districts, and Historic Districts , unless the Applicant provides clear and convincing evidence demonstrating that i) a new Tower as proposed is Necessary to the exclusions of any alternative or reasonable combination of alternatives; ii) that the intended area cannot be served from outside the District without a new Tower or other support structure;

- iii) that no existing or previously approved Facility can reasonably be used for antenna placement; and iv) that not to permit a new Tower or other support structure would result in a significant gap in service.
- b) Applicants shall locate, site and erect all Facilities and associated equipment in accordance with the following priorities, in the following order:
- 1) On City-owned properties or facilities without increasing the height of the Tower or support structure.
 - 2) On other existing structures without increasing the height of the Tower or support structure.
 - 3) On City-owned properties or facilities
 - 4) On existing structures without exceeding the maximum permitted height under this Ordinance.
 - 5) On properties in areas zoned for Business use.
 - 6) On properties in areas zoned for Open Space but not extending higher than 100' below any ridgelines.
 - 7) On properties in designated Historic Districts.
 - 8) On properties in areas zoned for Residential use.
- c) If the proposed site is not proposed for the highest priority listed above, a detailed narrative and technical explanation consisting of clear and convincing technical evidence must be provided to document the Need to use any lower siting priority.
- d) The person seeking such an exception must satisfactorily demonstrate the reason(s) why a Special Use Permit or Administrative Special Use Permit should be granted for the proposed site as opposed to a site(s) higher in the priority list.
- e) Notwithstanding the priorities set forth in the preceding Section 10-16.103 (b) above, the City may approve any site located within an area in the above list of priorities, provided that the City finds that the proposed site is in the best interest of the health, safety and welfare of the City and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood. Conversely, the City may direct that the proposed location be changed to another location that is more in keeping with the goals of this Ordinance and the public interest as determined by the City and that serves the intent of the Applicant.

Section 10-16.104 Exclusions

The following shall be exempt from this Ordinance:

- a) Any facilities expressly exempt from the City's siting, building and permitting authority.
- b) Any wireless reception or transmission devices expressly exempted under the Telecommunications Act of 1996.
- c) Facilities, except towers, used exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial Telecommunications less than 35' in height above the ground.
- d) Non-Commercial Facilities used exclusively for providing unlicensed spread spectrum technologies where i) there is no charge for the use of the wireless service; ii) the facility does not require a new Tower or increase the height of the structure being attached to; and iii) the service is not intended to be useable more than one-hundred feet (100') from the Antenna(s).

Section 10-16.105 Exceptions and Existing Facilities Prior to the Adoption of this Ordinance

- a) If constructed as required by the original permit, any properly permitted Facility that exists on the effective date of this Ordinance shall be allowed to continue as it presently exists for the term of the original permit, provided that i) it exists and is operating as originally permitted; and ii) that any Modification of the Facility has been properly permitted.
- b) Any Modification not properly previously permitted prior to the adoption of this Ordinance must be permitted under this Ordinance.
- c) Any new Modification of a Facility and any Modification of equipment associated with the Facility, must be permitted under this Ordinance and will require the entire Facility and any new or Modified installation to comply with this Ordinance, except that any tower or other support structure properly permitted prior to the adoption of this Ordinance shall have the height grandfathered and may remain at the originally permitted height.
- d) Any Repair and Maintenance of a Wireless Facility that does not i) increase the height of the structure, ii) alter the profile, iii) change the RF emissions levels, iv) increase the footprint of the Facility or v) otherwise exceed the conditions of the Conditional or Special Use Permit, does not require an application for a new Special Use Permit, but may require a building permit. In no instance shall any additional construction or Modification be considered to be Repair or Maintenance.

Section 10-16.106 Administrative Use Permit Applicability for Modifications that Qualify as Eligible Facilities

- a) Modifications for towers shall be allowed, provided that cumulatively they would not exceed the maximum allowable height as set forth in this Section, or individually extend more than ten feet (10') feet beyond the extremities of the tower in any direction.
- b) Modifications for support structures other than towers permitted prior to the adoption of this Ordinance shall be allowed, provided that individually they do not extend more than ten feet (10') beyond the edge of the structure in any direction
- c) To comply with the concealment intent in regards to minimizing the visual impact, all Modifications shall comply with and not exceed the size parameters and limitations set forth in this Ordinance.

Section 10-16.107 Special Use Permit Applicability

A Special Use Permit Applicability shall be required for the following types of structures and activities and shall comply with the requirements set forth in this Ordinance:

1. A New Tower or Support Structure; or
2. A Substantial Modification or subsequent to the adoption of this Ordinance any modification that would increase the height, width, profile, structural loading on the support structure beyond the definition of Eligible Facility; or increase the size of the compound beyond the maximum allowed under this Ordinance, or does not conform with the concealment policy for towers and Wireless Facilities set forth in this Ordinance Section 10-16.108 (25) (including but not limited to height, size of the profile, color and camouflage and the distance or size of extensions beyond the tower or other support structure). To protect and maintain the integrity and effect of the concealment policy, any lateral Modifications that would extend more than ten feet (10') from the lateral extremity of a tower or the width of the tower at the height of attachment, or more than three feet (3') from the edge of a non-tower support structure would be subject to a Special Use Permit; or
3. A Facility permitted after the adoption of this Ordinance that involves construction or excavation or deployment outside the Compound (i.e outside the current boundaries of the site); or
4. Proposes more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets; or, for towers in the public rights-of-way and base stations if the Modification involves the installation of any new equipment cabinets on or below the ground if there are no pre-existing ground or below ground cabinets associated with the structure, or that involves the installation of ground or below ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure; or
5. Facilities that do not comply with conditions associated with the siting approval of the original support structure and/or base station equipment, provided however that this limitation does not apply to any Modification that is non-compliant only in a manner that would not exceed the threshold for an Eligible facility as defined in FCC Report and Order 14-153.

Section 10-16.108 General Policies for All Applications under this Ordinance

In order to ensure that the placement, construction and Modification of a Facility does not endanger or jeopardize the health, safety, public welfare, environmental features, or change the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this Ordinance, the City hereby adopts an overall policy and related procedures with respect to the submittal, review, approval and issuance of permits or Administratively granted authority for Wireless Facilities for the express purpose of achieving these outcomes. The following are general policy actions are intended to accomplish these goals:

General Application Process

1. Implementing an Application process and requirements; Establishing procedures for examining and analyzing the contents of an Application and issuing a Special Use Permit or Administrative Special Use Permit that is both fair and consistent with this section;
2. Promoting, and requiring wherever possible, the sharing and/or co-location of support structures among service providers;

3. Requiring Administrative Special Use Permit for any Modification of an Eligible Facility.
4. Requiring a Special Use Permit for any new tower or other support structure or any co-location or Modification of a Facility that is not an Eligible Facility pursuant to the FCC's Report and Order 14-153 dated October 17, 2014;
5. There shall be no Towers or other support structures permitted or built on speculation, such meaning without a carrier or other wireless provider proving the need for such as required in this Section and committing in writing to attach to and provide service from the Tower or other new structure immediately upon construction.
6. No work of any kind on a Facility shall be started until the Application is reviewed and approved by the Commission or appropriate Administrative entity and the Special Use Permit, or Administrative Special Use Permit if applicable, has been issued and all other applicable permits have been issued.
7. The Planning Department is the officially designated agency or body of the City to whom applications for an Administrative Special Use Permit or a Special Use Permit for a Facility must be made. The City at its discretion may hire an outside consultant to accept, review, analyze, evaluate and make recommendations to staff and present the findings to the Planning Department or Planning Commission (Commission) who is authorized to make decisions with respect to granting or not granting or revoking an Administrative Special Use Permit or Special Use Permits applied for under this Ordinance respectively. The Commission shall possess the right to appeal Planning Department Decisions while the City Council shall possess the sole right to hear appeals on all Special Use Permits following the procedure outlined in Chapter 44 of the City Zoning Ordinance.
8. Pre-application meeting: There shall be a pre-application meeting for all intended applications. The pre-application meeting may be held either on site or telephonically as deemed appropriate. The purpose of the pre-application meeting will be to address i) issues that will help to expedite the application review and permitting process; and ii) identify and address certain issues or concerns the City or the Applicant may have.
9. Site Visit: If there has not been a prior site visit for the requested facility within the previous six (6) months a site visit shall be conducted. Costs of the City's consultant to prepare for and attend the pre-application meeting will be borne by the applicant and paid for out of a deposit fee set forth in the City's Master Fee Schedule, which shall have been paid to the City prior to any site visit or pre-application meeting.
10. An Application may not be filed until both a site visit, when required, a pre-Application meeting are held, and any required applicable community outreach meeting has been conducted and a story pole has been erected as required, and all fees and deposits have been delivered to the City Planning Department.
11. Applicant(s) of Record: The owner(s) of the support structure to which antennas or related equipment are to be attached must be an official Applicant of Record. Notwithstanding the preceding, for a new tower or other new support structure or for a Substantial Modification the technical Need for a new Facility must be documented and substantiated by clear and convincing technical evidence showing a particular carrier's or other user-of-the-Facility's technical Need for what is requested. Notwithstanding the preceding, to avoid any conflict of interest as relates to City-owned facilities, the City is not permitted to be an Applicant or a party to an Application by a private commercial entity.

12. The Applicant must provide clear and convincing documentation to substantiate that it has the legal right to proceed as proposed on the site in the form of an executed copy of the lease with the landowner or a signed letter of agency granting authorization (which shall not constitute approval of proposed work). If the applicant owns the site, a copy of the ownership record is required.
13. An Application shall be signed on behalf of the Applicant(s) by the person(s) vested with the authority to bind and commit the Applicant and attesting to the truth, completeness and accuracy of the information presented.
14. Owner Permission: An Applicant intending to co-locate on an existing Facility shall be required to provide written documentation of the intent of the existing Facility owner and Property Owner to allow the intended use by the Applicant.
15. Properly Completed Application: All Applicants shall closely follow the instructions for preparing an Application. Not closely following the instructions without permission to deviate from such shall result in the Application being deemed incomplete and a tolling of the otherwise required 30 day notification period of an incomplete Application until the receipt of a complete and properly completed Application.
16. Amended Application: Unless expressly and boldly stated in the front of the Application at the time of its submittal that the Application is not complete, it shall be assumed that the Applicant reviewed the Application for compliance and intended the Application to be complete, and therefore any subsequently submitted information intended to correct any deficiencies shall be deemed an amendment to the Application.
17. Any and all representations made by the Applicant or that are made in support of the Application during the Application process, whether written or oral, shall be deemed to be on the record and shall be deemed to have been intended to be relied upon in good faith by the City. Any oral representation shall be treated as if it were made in writing.
18. To establish a clear and specific date certain by which to measure the time allowed the City for the review for completeness of an Application, as well as the date by which action must be taken, an Application must be filed as a single submittal and not in separately subsequently provided submittals. No Application shall be allowed to be filed in pieces or in a piecemeal fashion or manner over any given amount of time, unless permission to do so is expressly both requested and granted in writing.
19. To prevent confusion and any loss of the City's rights under the FCC's 'Shot Clock' rule pursuant to the FCC Report and Order 14-153 as reference to the date an Application was officially filed and the start of the Shot Clock regarding the limited time allowed to determine if an Application is complete, at the time of the initial filing of an Application, it must contain a cover letter stating i) whether the Application is filed as an 'Eligible Facility' Application including the justification for such, or a 'Substantial Modification', or involves a new support structure; and ii) a statement that the Application contains all of the information required under Section 10.16 of the City's Code for that type of Application, and be signed by a person with first-hand personal knowledge of such.
20. All Applications shall include written commitment statements that:
 - i) the applicant's Facility shall at all times without exception be maintained in a safe manner, and in compliance with all conditions of the Special Use Permit, as well as all applicable and permissible local codes, ordinances, and regulations and all applicable City, State and Federal Laws, rules, and regulations, unless specifically granted relief by the Commission or City Council in writing;

- ii) the construction of the Facility is legally permissible, including, but not limited to the fact that the Applicant is licensed to do business in the State.
21. Number of Applications: An Applicant shall submit to the City the number of completed Applications determined to be needed at the pre-application meeting as well as computerized copies of such. If Commission action is required, applications will not be transmitted to the Commission for consideration until the application is deemed complete by City staff and a recommended action report is prepared for the Commission's consideration.

Design Intent, Siting and Applicable Building and Safety Codes

22. Minimizing the Visual Impact: For reasons of concealment, , all proposed facilities and Modifications to Facilities shall be designed to so as to minimize the physical and visual impact on the community, including but not limited to the use of stealth or camouflaging siting techniques, so as to make the Facility substantially invisible, or as nearly so as is reasonably possible.
23. Least Intrusive Option: As a matter of concealment, requiring that the facility shall be the least visually intrusive among those options available, given the facts and circumstances.
24. Profile: So as to be the least visually intrusive reasonably possible given the facts and circumstances involved and create the smallest profile reasonably possible under the facts and circumstances and thereby have the least adverse visual effect and be substantially invisible, all antennas attached to a Tower or other structure shall be flush mounted or as near to flush mounted as is possible, unless it can be proven that such would prohibit or serve to prohibit the provision of service or be technologically impracticable,.
25. Concealment and Harmony with Surroundings: A tower or other support structure and any and all accessory or associated structures and equipment shall maximize the use of building materials, colors and textures designed to harmonize with the natural surroundings so as to make the Facility substantially invisible. This shall include the utilization of stealth or camouflage techniques or other concealment methods such as but not limited to abiding by the established or maximum permitted height.
26. Required Use of Existing Structures: Unless such is proven to be technologically impracticable, the City requires the co-location of new antenna arrays on existing structures, as opposed to the construction of a new support structure, or for applications submitted subsequent to the adoption of this Ordinance to increase the height, footprint or profile of a Facility beyond the maximum permitted height, width or overall profile. In instances involving a Substantial Modification, or for a new Facility subsequent to the adoption of this Ordinance, the Applicant shall submit a comprehensive report inventorying all existing structures fifty feet (50') or more in height within one-half (1/2) mile of the location of any proposed new Facility.
Co-located equipment shall consist only of the minimum Antenna array technologically Needed to provide service primarily and essentially within the City, to the extent practicable, unless good cause is shown in the form of clear and convincing evidence.
27. Modifications of a tower: So as not to defeat the concealment intent of the maximum permitted height of towers or other support structures, Modifications, singly or cumulatively on a single structure, shall not exceed the height allowed under the original permit by more than ten feet (10'), nor shall any lateral Modification extend more than ten feet (10') from the lateral extremity of a tower, nor more than three feet (3') from the edge of a non-tower support structure.

28. The existence of a lease or an option to lease shall not be deemed justification for not complying with the siting priorities set forth in this Ordinance. An Applicant may not bypass sites of higher priority because the site proposed is under lease or an option to lease. If a site other than the number 1 priority is proposed, the applicant must provide clear and convincing technical evidence as to why co-location is technically impracticable or clear and convincing relevant information as to why it would be commercially impracticable. Build-to-Suit agreements between carriers and a proposed Tower owner shall not be a valid basis for any claim of exemption, exception or waiver from compliance with this Ordinance.
29. Utilities: All utilities at a Facility site shall be installed underground and in compliance with all Laws, ordinances, rules and regulations of the City, including specifically, but not limited to applicable electrical codes.
30. Vehicular Access: At a Facility needing vehicular access, an access road, parking and turn around space for emergency vehicles shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance, grade change and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion. If the current access road or turn around space is deemed in disrepair or in need of remedial work to make it serviceable and safe and in compliance with any applicable regulations as determined at a site visit, the Application shall contain a commitment to remedy or restore the road or turn around space so that it is serviceable and safe and in compliance with applicable regulations, and may include the installation of gravel, asphalt or other road building materials as determined by the City Engineer or their designee.
31. Compliance with Applicable codes: All work at a Facility shall be done in strict compliance with all versions or editions of the latest applicable building, technical, safety and safety-related codes adopted by the City, State, or United States, including but not limited to the most recent edition of the TIA ANSI Code, National Electrical Safety Code, the National Electrical Code and the Occupational and Safety and Health Administration (OSHA) regulations, recommended practices of the National Association of Tower Erectors and accepted and responsible workmanlike industry practices. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use. In the event of a conflict between or among any of the preceding, the more stringent shall apply.
32. Certification: Where a certification is called for, such certification shall bear the signature and seal of a Professional Engineer licensed in the State of California.
33. Permits and Licenses: A holder of a Special Use Permit or Administrative Special Use Permit granted under this Ordinance shall obtain, at its own expense, all permits and licenses required by applicable law, ordinance, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the City or other governmental entity or agency having jurisdiction over the applicant.
34. Compliance: All Facilities, must at all times comply with all applicable local, State and federal laws, rules and regulations, including but not limited to applicable safety rules, regulations and standards.
35. DAS and Small Cell nodes that are owned or operated by a commercial carrier and are part of a commercial wireless system, or when activated are capable of being used for

commercial purposes by the general public, are expressly included in the context of this Ordinance, regardless of the location or whether the facility is located inside or outside a structure or building.

Other policies

36. To provide an opportunity for those reasonably expected to be affected to understand what is proposed and its impact, and to have input to the Applicant, at the City's option given the facts and circumstances involved, for any i) new support structure, ii) any Substantial Modification or iii) any Modification that would increase the height of the Facility by five feet (5') or more or increase the size of the profile by two feet (2') or more horizontally, a Community Outreach Meeting may be required to be held between the Applicant, the residents in the area of the proposed site or work and the City. At least two (2) weeks prior to the date of the meeting written notice of the meeting and its purpose shall be provided to all residents located within one thousand five hundred feet (1,500') of the site. The meeting shall be held on a weeknight no earlier than 7:00 PM and no later than 8:00 PM. All costs related to the meeting shall be borne solely by the Applicant, including but not limited to the cost of written notification.
37. The owner of a Tower or other support structure, and his/her successors in interest, shall negotiate in good faith for the shared use of the Facility for co-location by other Wireless Service Providers, and shall:
 - a. Respond within 60 days to a request for information from a potential shared-use Applicant;
 - b. Negotiate in good faith concerning future requests for shared use of the new Wireless Telecommunications Facility by other Telecommunications providers;
 - c. Allow shared use of the new Wireless Telecommunications Facility if another Telecommunications provider agrees in writing to pay reasonable charges.
 - d. Understand that failure to abide by the conditions outlined above may be grounds for revocation of the Special Use Permit.
38. Denial of a non-Eligible Facility application: The City may, for just reason and cause, deny an application for anything that does not meet the requirements stated herein or which is otherwise not complete.

Section 10-16.109 Processing Fees to be Borne by Applicant

- a) The City may hire a consultant to assist the City in reviewing and evaluating Applications.
- b) The total amount of the funds needed as set forth in the City's Master Fee Schedule, as may be modified from time to time, may vary with the scope and complexity of the Application, the completeness of the Application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or Modification.
- c) Preliminary informational discussion totaling less than one hour cumulatively, shall be allowed to provide initial information. However, to prevent the taxpayers from having to bear the cost related to the issue of permitting and regulating Wireless Telecommunications Facilities, an Applicant shall place with the City a deposit as set forth in the City's Master Fee Schedule which shall be maintained in an escrow account for that application. The deposit is intended to cover all reasonable costs of any

consultant with 20% overhead charge and City staff time plus 20% overhead in connection with the review of any Application or the permitting, inspection, construction or Modification requested and an Pre-Application submittal review or evaluation requested by the Applicant and any lease negotiations. The payment of the deposit fee with the City shall precede site visit and any work being done that is related to an intended Application or lease.

- d) If at any time during the review process this escrow account has a balance less than \$2,500.00, Applicant shall immediately, upon notification by the City, replenish said escrow account so that it has a balance of at least \$2,500.00 or such other amount as determined to be needed given the anticipated amount of work remaining on the Application. Such additional funds must be deposited with the City before any further action or consideration is taken on the Application. In the event that the amount held in the escrow account is more than the amount of the actual billing or invoicing at the time of the grant of the Certificate of Completion, the remaining balance shall be promptly refunded to the Applicant upon request.
- e) If an Application is Amended at any time prior to the grant of the permit or authorization required under this Ordinance, the City reserves the right to require a separate and additional payment for review and analysis equal to, but not exceeding, the cost created for the City by the Amendment of the Application. Such amount shall be paid to the City prior to the issuance of the Special Use Permit or Administrative Special Use Permit.
- f) The City will maintain an accounting for the expenditure of all such funds. The City's consultant/expert shall invoice the City for all time expended for its services in reviewing the Application including the on-site inspections of the construction and Modification once permitted, plus out-of-pocket expenses. Billing of consultant time will have a 20% administration charge added. Additionally, any City staff time with 20% overhead plus any hard costs such as publications, mailing, and copies shall also be tabulated and added to the total billable costs.
- g) The total amount of the funds needed as set forth in the City's Master Fee Schedule may vary with the scope and complexity and/or the completeness of the Application or the amount of time spent responding to an Applicant's questions as regards the requirements of this Ordinance or other applicable law, rule or regulation.

Section 10-16.110 Application Requirements for an Administrative Special Use Permit

Application requirements shall include but not be limited to the following items and receive Administrative approval by the City Planning Department, or City Manager designee, for the construction or installation of qualifying improvements prior to seeking the issuance of a Building Permit.

Ownership and Management

1. The Name, address, phone number and e-mail address of the person preparing the Application;
2. The Name, address, and phone number of the property owner and the Applicant, including the legal name of the Applicant. If the owner of the structure is different than the applicant, the name and all necessary contact information shall be provided;

3. The Postal address and tax map parcel number of the property;
4. A copy of the FCC license applicable for the intended use(s) of the Wireless Telecommunications Facilities, including all FCC licensed frequency bands for the location;
5. The Applicant shall disclose in writing any agreement in existence prior to submission of the Application that would limit or preclude the ability of the Applicant to share space on the new Tower;

Zoning and Planning

6. The Zoning District or designation in which the property is situated;
7. The size of the property footprint on which the structure to be built or attached to is located, stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines;
8. The location, size and height of all existing and proposed structures, enclosures and cabinets on the property on which the structure is located and that are related to the subject of the Application;
9. A site plan to scale showing the footprint of the support structure and the type, location and dimensions of access drives, landscaping and buffers, fencing, distances between property lines and adjacent structures and any other requirements of site plans;
10. Elevation drawings showing the profile or the vertical rendition of the Facility and identifying all existing and proposed attachments and all related fixtures, structures, appurtenances and apparatus, including the height above the existing grade, materials, colors and lighting;
11. The azimuth, size and center line height location of all proposed and existing antennas on the supporting structure;
12. The type and design of the Facility, the number of antenna arrays proposed to be accommodated and the basis for the calculations of the Facility's capacity to accommodate the required number of antenna arrays for which the structure must be designed;
13. All applications shall contain proof of a Performance Security and Liability Insurance and a letter of Indemnification, in conformity with City provisions listed in this Ordinance.

Design, visibility and aesthetics

14. Profile and Concealment: So as to be the least visually intrusive reasonably possible given the facts and circumstances involved, and create the smallest profile reasonably possible under the facts and circumstances, all antennas attached to a Tower or other structure shall be mounted inside the structure, or if such is not physically or technologically possible then flush mounted or as near to flush mounted as is possible, unless it can be proven that such would prohibit or serve to prohibit the provision of service or be Technologically Impracticable.
15. No Tower or support structure constructed after the effective date of this Ordinance shall be tall enough to require lighting. In the event lighting is legally required on a given Facility, the Applicant shall provide a detailed plan for lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations.
16. After the adoption of this Ordinance, the maximum permitted width or profile of a new tower, including any attachments, shall not exceed ten feet (10'), absent clear and convincing technical evidence documenting the Need for a larger profile.

17. Flush Mounting: All new or replacement antennas, shall be flush-mounted or as close to flush-mounted on the support structure as possible, unless it can be demonstrated by clear and convincing technical evidence that such has the effect of prohibiting the provision of service to the intended service area, alone or in combination with another site(s), or unless the Applicant can prove that it is technologically impracticable.
18. Placement on Building Facade: If attached to a building, all antennas shall be mounted on the facade of the building and camouflaged so as to match the color and, if possible, the texture of the building, or in a manner so as to make the antennas and cabling as visually innocuous and undetectable as is possible given the facts and circumstances involved.
19. As a matter of concealment, all Applications for a proposed Facility applicable to this Ordinance shall contain clear and convincing evidence that the Facility is sited and designed so as to create the least visual intrusiveness reasonably possible to the greatest number of people, given the facts and circumstances involved, and thereby will have the least adverse visual effect on the environment and its character, on existing vegetation, and be substantially invisible to the community in the area of the Facility. The City expressly reserves the right to require the use of Stealth or Camouflage siting and deployment techniques, including but not limited to DAS (Distributive Antenna System) and Small Cell nodes or the functional equivalent of such to achieve this goal and such shall be subject to approval by the Commission, unless such can be shown to be either commercially or technologically impracticable.
20. Facility Finish/Color: Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Ordinance.
21. Lighting: In the event lighting is legally unavoidable and is required, the Applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations. For any Facility for which lighting is required under the FAA's regulations, or that for any reason has lights attached, all such lighting shall be affixed with technology that enables the light to be seen as intended from the air, but that prevents the ground scatter effect so that it is not able to be seen from the ground to a height of at least 12 degrees vertical for a distance of at least 1 mile in a level terrain situation. Such device must be compliant with or not in conflict with FAA regulations. A physical shield may be used, as long as the light is able to be seen from the air, as intended by the FAA.
22. As of the effective date of this Ordinance, in the event a Tower that is lighted is Modified, at the time of the Modification, for purposes of concealment the City may require that the Tower be retrofitted so as to comply with the lighting requirements of this Ordinance.
23. The Applicant shall provide a description in writing and a visual rendering demonstrating how it shall effectively screen from view the bottom fifteen feet (15') of the Facility and all related equipment and structures associated with the Facility.
24. The Applicant shall furnish a Visual Impact Assessment, which shall include:
 - a. a computer generated "Zone of Visibility Map" at a minimum of one mile radius from the proposed structure shall be provided to illustrate locations from which the proposed installation may be seen, with and without foliage;
 - b. Pictorial representations (photo simulations) of "before and after" views from key viewpoints inside of the City as may be appropriate and required, including but

not limited to state highways and other major roads, state and local parks, other public lands, historic districts, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided concerning the appropriate key viewpoints at the pre-application meeting. In addition to photographic simulations to scale showing the visual impact, the applicant shall provide a map showing the locations of where the pictures were taken and the distance(s) of each location from the proposed structure;

Safety

25. The age of the Facility in years, including the date of the grant of the original permit;
26. A description of the type of Tower, e.g. guyed, self-supporting lattice or monopole;
27. The make, model, type and manufacturer of the Tower and the structural design analysis and report, including the calculations, certified by a Professional Engineer licensed in the State and proving the Facility's capability to safely accommodate the facilities of the Applicant without change or Modification;
28. If a Modification of a Facility is needed whereby the height, profile or size of the Facility is increased, or construction is needed outside the compound or property, a detailed narrative explaining what changes are needed and why they are needed;
29. A copy of the foundation design, including a geotechnical sub-surface soils investigation report and foundation design recommendation for the Tower or other structure;
30. If Modifying an existing Tower or other support structure, an ANSI TIA 222 Report regarding the current physical condition of the Facility and its components done within the previous six (6) months. If such report has not been done within the previous six (6) months, one shall be done and submitted as part of the Application. No Building Permit shall be issued for any Wireless Facility or related equipment where the structure being attached to is in need of remediation to comply with the requirements of this Ordinance and other adopted standards of the City, unless and until all remediation work that is deemed needed has been completed or a schedule for the remediation work has been approved by the City Planning Department;
31. The Applicant shall provide certified documentation in the form of a structural analysis, including any assumptions and calculations proving that the proposed Facility modifications will meet all local, state and federal structural requirements for loads, including wind and ice loads and including, but not limited to all applicable ANSI (American National Standards Institute) TIA 222 guidelines. In the event of a conflict the more stringent shall apply.
32. A cumulative RF Emissions study and report accounting for all RF emitting equipment at the Facility, including a description of the methodology used, any assumptions made and showing the calculations;
33. In certain instances the City may deem it appropriate to have an on-site RF survey of the facility done after the construction or Modification and activation of the Facility. Such survey shall be done under the observation and direction of the City or its designee, and an un-redacted copy of the survey results provided, along with all calculations, prior to issuance of a Certificate of Compliance;
34. A signed statement that the Applicant will expeditiously remedy any physical or RF interference with other wireless devices or services.

35. A written copy of an analysis completed by a qualified individual or organization to determine if the proposed Wireless Telecommunications Facility is in compliance with Federal Aviation Administration Regulation Part 77 and if it requires lighting. Unless already lighted, this requirement shall also be for any Facility where the application proposes to increase the height of the Facility. If this analysis determines that an FAA determination is required, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided with the application.

Section 10-16.111 Application Requirements for a Special Use Permit

The process for permitting and the information required under this Ordinance shall be the same as in the preceding Section 10-16.110 “Application Requirements for an Administrative Special Use Permit”, except the following additional items shall also be required prior to a decision being made by the Planning Commission at a public hearing prior to seeking the issuance of a Building Permit for any construction or installation of a new Facility or major modification project.

Proof of Technical Need

1. For a new tower or other new support Structure the Applicant shall be required to submit clear and convincing evidence that a new Tower or support structure is the only type of structure within one-half (1/2) mile of the proposed Tower or support structure that will enable the provision of Wireless Services primarily within the City.
2. Documentation that the Facility is Necessary for that carrier to provide service in the community and that co-location on an existing Structure is not feasible.
3. Documentation that co-location on an existing structure is not reasonably feasible if co-location is technically or Commercially Impracticable or the owner of the Structure is unwilling to enter into a contract for such use. Sufficient documentation in the form of clear and convincing evidence to support such claims shall be submitted with an Application to determine whether co-location on existing structures is reasonably feasible and to document the need for a specific stated height, and that less height will serve to prohibit or have the effect of prohibiting the provision of service.

Design of Towers (type, height, setback and fall zones)

4. To enable a new tower or other new support structure to be extended in height at a future date, if Needed, the Wireless Telecommunications Facility shall be structurally designed to accommodate at least four (4) Antenna Arrays, with each array to be flush mounted unless clear and convincing technical evidence demonstrates the impracticability of flush mounting.
5. All new Towers shall be of the monopole type. No new Towers of a lattice or guyed type shall be permitted, unless relief is otherwise expressly requested and granted based on the provision of clear and convincing technical evidence.
6. The maximum permitted total height of a new tower or support structure shall be thirty-five (35') above pre-construction ground level, unless it can be shown by clear and convincing technical evidence that such height would prohibit or have the effect of prohibiting the provision of service in the intended service area within the City. The maximum permitted height is expressly not an as-of-right height, but rather the maximum permitted height absent clear and convincing technical evidence of the technological

- Need for a greater height, and should take into consideration the ability to co locate other carriers in the future.
7. As the City has made the policy decision that more Facilities of a shorter height is in the public interest, as opposed to fewer taller Facilities, spacing or the distance between Facilities shall be such that the service may be provided without exceeding the maximum permitted height.
 8. The Applicant for a new Tower shall submit clear and convincing technical evidence by a carrier or wireless service provider justifying the total height of the proposed Facility and the Need for such to the exclusion of all reasonable alternatives. Evidence in the form of propagation studies must include all modeling data and assumptions used to produce the studies at the requested height and at a height ten feet (10') lower to show that any lower height would have the effect of prohibiting the provision of service and should take into consideration the ability to co locate other carriers in the future.
 9. The City reserves the right to require a Drive Test to be conducted under the supervision of the City or its designee as evidence of the technical Need for what is requested.
 10. With respect to the overall designed strength of a tower, but not with respect to height, Towers shall be structurally designed to accommodate a minimum of four (4) carriers using substantially similar equipment to that used by the first carrier attaching to a tower and that can be increased in height if Needed for technical reasons.
 11. **Setback and Fall Zone:** All proposed Towers and any new proposed support structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: i) a distance equal to the height of the proposed Tower or support structure plus ten percent (10%) of the height of the Tower or other structure, otherwise known as the Fall Zone; or the existing setback requirement of the underlying zoning district, whichever is greater. Any Accessory structure shall be located within the fenced compound area as approved in the Special Use Permit and so as to comply with the applicable minimum setback requirements for the property on which it is situated. The Fall Zone shall be measured from the nearest edge of the Tower to the nearest portion of the right-of-way of any public road or thoroughfare and any occupied building or domicile, as well as any property boundary lines. At the discretion of the Commission, the preceding may not apply to support structures located in the public-rights-of-way so long as required minimum distances to adjacent buildings are complied with.
 12. The nearest portion of any access road leading to a Facility shall be no less than ten (10) feet from the nearest property line.
 13. There shall be no development or human occupation of habitable buildings within the Setback area or Fall Zone.
 14. *Community Outreach*
 15. In the case of a new Tower, in order to better inform the public, the applicant shall place a "story pole" at least two weeks prior to holding a "community outreach meeting(s)" which has been noticed by 1st class mail two weeks prior to the meeting. Story pole shall be in place at least through the community outreach meeting.
 - a. The Applicant shall arrange to raise upon a temporary mast, a minimum of a ten (10) foot in length brightly colored flags/balloons at the maximum height of the proposed new Tower in the same vertical and horizontal dimensions as the proposed antennae.

- b. A two foot (2') by four foot (4') sign shall be erected so as to be clearly visible from the road nearest the proposed site and shall be easily readable from the road by a person with 20/20 vision. Such sign shall be placed off, but as near to, the public right-of-way as is possible and contain the times and date(s) of the initial community outreach meeting and contact information.
- c. At least fourteen (14) calendar days in advance of mailing for City approval, the Applicant shall provide a one page draft copy of a public outreach notice to the City and its consultant, if applicable, to include the date the story pole will be in place and the date, time, place of the community outreach meeting and description and elevation of the proposed project.
- d. The Applicant shall mail the above approved notices by first-class mail to all property owners and residents located within one-thousand five hundred feet (1,500) of the nearest property line of the subject property of the proposed construction of the Tower and Wireless Facility (with a certified /reproducible copy of the mailing labels being provided to the City) at least fourteen (14) days, but no more than twenty one (21) days, prior to the public outreach meeting. The Applicant shall bear all costs associated with said notification.
- e. A report with before and superimposed after photo simulations from various locations of the story pole and to-scale superimposed photo simulations of the proposed facility when completed shall be provided as part of the Application.

Section 10-16.112 Streamlined Process - Requirements for an Application to Co-locate on an Existing Properly Permitted Telecommunications Facility or Existing Building Structure within the Parameters of an Approved Special Use Permit, but not including the First Attachment

- a) The process for permitting and the information required under this Ordinance shall be the same as in the preceding Section 10-16.111 "Application Requirements for an Administrative Special Use Permit", for an Application qualifying for the Streamlined process.
- b) An application to increase the parameters of an approved Wireless Telecommunications Facility as it relates to height, profile, number of co-locations or footprint shall not qualify for Streamlined treatment under this Ordinance.
- c) Small Cell Sites: An Application proposing the use of Small Cell technology in the public rights-of-way that does not increase the height of an existing structure being attached to by more than four feet (4') shall be entitled to the Streamlined Process. If increasing the height of a building by between four feet (4') and eight feet (8') the application may also be reviewed under the Streamlined Process, provided the applicant will install an RF translucent false facade or parapet that matches the style, color and texture of the building.
- d) Attachments to Buildings: To preserve and protect the nature and character of the area and enable the site to be substantially invisible, for any attachment to a building or other structure with a facade, the antennas shall be mounted on the facade without increasing the height of the building or other structure, unless it can be proven that such will prohibit or have the effect of prohibiting the provision of service, and all such attachments and

exteriorly encased or exposed cabling shall match as closely as possible the color and texture of the structure.

- e) Attachments to Water Tanks: If attaching to a water tank, in order to maintain the current profile and height, mounting on the top of the tank or the use of a corral shall only be permitted if the Applicant can prove that to locate elsewhere on the tank with less visual effect will prohibit or have the effect of prohibiting the provision of service or will create a safety hazard.
- f) The Applicant shall provide a certification by a Professional Engineer licensed in the State, along with documentation in the form of a structural analysis, including calculations, that prove that the support structure and its foundation as proposed to be utilized are designed and were constructed to meet all City, State, Federal and TIA ANSI 222 structural requirements for loads, including wind and ice loads.

Section 10-16.113 Small Cell and Small Wireless Facilities

- A. Any variance from the regulations contained in this Section shall be subject to a test of i) technological impracticability; ii) commercial impracticability; or iii) both, in relation to the area intended to be served by the proposed Facility; and iv) any situation that would result in non-compliance with any safety or safety-related law, rule or regulation.
- B. Small Wireless Facilities to be located on an existing support structure that do not involve a new Support Structure or Substantial Modification of an existing Facility shall qualify for an Administrative application review and permitting process.
- C. An application for a Substantial Modification/co-location or new support structure shall not qualify for Administrative review and permitting under this Ordinance.
- D. Batched Applications: An Applicant, or its agent of record, may submit Applications for multiple facilities or locations with the following conditions that are intended in order to assure compliance with the FCC's 'Shot Clock' requirements:
 - a. No single batched submittal shall contain more than five (5) Applications;
 - b. There must be a minimum of seven days between submittals of batched Applications;
 - c. No more than 4 batched Applications shall be accepted in any thirty (30) consecutive day period.
 - d. The individual locations or sites within a batched application are severable and may be treated and permitted individually.
- E. The information required to be provided in an Application under this Section is as follows.

- 1) The name, address, phone number and e-mail address of the person preparing the application;
- 2) The name, address, and phone number of the property owner and the Applicant, including the legal name of the Applicant. If the owner of the structure is different than the Applicant, the name and all necessary contact information shall be provided for both parties.
- 3) The nearest postal address and tax map parcel number of the subject property.
- 4) The zoning district or designation in which the subject property is situated.
- 5) For all new Facilities, a list of the specific frequency bands to be initially activated immediately upon completion of construction.
- 6) For all new Facilities, a separate list of all frequencies licensed for the carrier, but not intended to be initially activated.
- 7) A copy of the FCC licenses applicable for all the frequency bands licensed to the carrier to provide service in the City.
- 8) Transmission and maximum effective radiated power of the antenna(s).
- 9) Written commitment statements that:
 - a) the Applicant's Facility shall at all times without exception be maintained in a safe manner, and in compliance with all conditions of the Special Use Permit, as well as all applicable and permissible local codes, ordinances, and regulations and all applicable City, State and Federal Laws, rules, and regulations, unless specifically granted relief by the Council in writing;
 - b) the construction of the Facility is legally permissible, including, but not limited to the fact that the Applicant is licensed to do business in the State.
 - c) the Applicant commits to fully and completely indemnify the City for and from the Applicant's use of the City's Right-of-Way.
- 10) A general description of the proposed scope of work and the specific purpose(s) of the Small Wireless Facility. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with emphasis on those matters likely to be affected or impacted by the work proposed. The description shall include at a minimum the type of equipment, number of antennas, height to top of antenna(s), statement of compliance with FCC requirements, and description and/or depiction of concealment elements.

- 11) Certified detailed construction drawings and site plan, including but not limited to the following information:
- a) If not to be located in the public rights-of-way, the location of the nearest residential structure and any unoccupied but habitable structure.
 - b) If not to be located in the public rights-of-way, the the location, size and height of all existing and proposed structures on the property that are more than 6' in height and are not buildings.
 - c) If not to be located in the public rights-of-way, the The location of enclosures and cabinets on the property on which the structure is or will be located that are related to the subject of the application.
 - d) a site plan to-scale, showing the footprint of the support structure and the type, location and dimensions of
 - 1) all boundaries;
 - 2) access drives;
 - 3) landscaping and buffers;
 - 4) fencing;
 - 5) underground utilities of any kind; and
 - 6) any easements.
 - e) elevation drawings showing the profile or the vertical rendition of the Support Structure for the Facility, and identifying all existing and proposed attachments and all related fixtures, structures, appurtenances and apparatus, including the height above the existing grade and lighting.
 - f) proposed electrical and grounding plans for the Facility.
- 12) The azimuth, size, top of antenna height and location of all proposed and existing antennas on the support structure, including the height of the top of any equipment affixed to the top of the support structure.
- 13) The type of support structure to be used and a structural analysis and report, including the calculations, certified by a Professional Engineer licensed in the State and proving the structure's capability to safely accommodate the facilities of the Applicant.
- 14) An ANSI/TIA-222 Maintenance and Conditions Assessment report regarding the physical condition of any existing structure to be used or modified, using the most recently officially adopted version of ANSI/TIA-222. The report shall contain tolerances including but not limited to guy tensions if applicable, plumb, twist, slip splices, and take-up devices.

- 15) No Authorization shall be issued for any structure where the structure being attached to is in need of safety-related remediation to comply with the requirements of this Ordinance and other adopted standards of the City, unless and until all remediation work that is deemed needed has been completed or a schedule for the remediation work has been approved by the City.
- 16) An RF emissions report, with calculations, showing full compliance with all requirements and practices set forth by the latest edition of the Federal Communications Commission (FCC) OET Bulletin 65 and OSHA's regulations regarding RF emissions.
- 17) In certain instances, the City may deem it appropriate to have on-site RF compliance testing of the Facility done after the construction or modification of the Facility to determine compliance with OET 65 regarding RF emissions and/or OSHA's regulations regarding RF emissions. The testing shall be done under the observation and direction of the City or its designee, and an un-redacted copy of the survey results, along with all calculations, shall be provided prior to the issuance of a Certificate of Compliance.
- 18) A signed statement of commitment that the Applicant will expeditiously remedy any physical or RF-related issues, including interference with other Wireless devices or services.

F. Construction in the Public Rights-of-Way

- a. All construction and maintenance shall at all times comply with applicable portions of all federal, State and local safety and safety-related codes, rules and regulations, as well as the City's right-of-way use and occupancy regulations.
- b. No equipment or work associated with a Small Wireless Facility shall interfere with, endanger, hamper, impede or incommode access to any utility or any other Facility in the public right-of-way.
- c. No Wireless Facility, nor any work associated with such, shall interfere with, endanger, hamper or impede the usual and customary use of the public right-of-way or any vehicular or pedestrian way.
- d. All work and installations on utility poles or light poles shall fully comply with the California Public Utilities Commission general orders, including but not limited to General Order 95, as may be revised or superseded.
- e. Attachment to Existing Structures:

- a) Utility Poles: The maximum height of the top of any antenna shall not exceed ten percent (10%) of the existing height of the utility pole to be attached to immediately prior to attachment.
- b) No portion of the antenna or wireless equipment on a utility pole shall be less than twenty-four (24) feet above any drivable road surface.
- c) Light Poles: The maximum height of the top of any antenna shall not exceed ten percent (10%) of the existing height of the light pole to be attached to immediately prior to attachment.
- d) No utility or light pole shall ever exceed the lesser of fifty feet (50') or the maximum permitted height for the zoning district in which it is located.
- e) Any portion of the antenna or equipment mounted on a utility or light pole shall be no less than ten (10) feet above the ground and if attached to a light pole no less than sixteen and one-half (16.5) feet above any drivable road surface.
- f) Except for the electric meter, all accessory equipment not directly attached to the antennas shall be installed underground in a weatherproof vault(s).
- g) All construction and maintenance shall at all times comply with all applicable portions of all federal, State and local safety and safety-related codes.
- h) New and Replacement Poles: Primarily but not exclusively for aesthetic reasons, the City reserves the right to in certain instances and at Applicant's cost require a new pole, or a replacement pole if a new pole is needed to accommodate Wireless Equipment. The new or replacement pole shall be a hollow metal or non-corrodable functionally equivalent structure that is in keeping with the nature and character of the surrounding area or neighborhood.
- i) Aesthetics/Appearance:
 - 1) Antenna Size: All Small Cell or DAS Antennas and equipment attached to and directly associated with the antenna(s), excluding cabling, shall cumulatively not exceed three cubic feet (3 cu.ft.) in volume, nor be larger than two feet (2') in height.

- 2) Lateral Extension: If permitted to be mounted externally, no Wireless Antenna or other pole-mounted equipment shall extend laterally beyond the diameter of the structure as measured at the point of attachment;
 - 3) Point of Attachment of Antennas: If permitted to be mounted externally, the point of attachment of any antennas shall not be more than three inches (3") from the pole or other support structure, and the space between the structure and the attachment point of the antenna shall be concealed with a weather-proof material the same color as the structure or the antenna;
 - 5) Color: Antennas shall be of a color that as closely as is reasonably possible matches that of the support structure.
- B) Placement of Electronic Equipment: All electronic equipment not attached to the antenna(s) shall be placed underground in a weather-proof vault or contained in the base of the support structure.
 - C) All accessory equipment not directly attached to the Wireless antennas shall be installed underground in waterproof vaults.
 - D) All transmission or distribution cable or fiber shall be installed underground.

f. New Structures:

1. Any variance or relief from the following standards must be requested in writing, including a written justification demonstrating sufficient reason for the variance or relief to be granted.
2. Any relief or variance granted may contain one (1) or more conditions;
3. New support structures shall, at the Administrator's option, be hollow metal or made of a non-conductive, non-corrodable material of sufficient interior diameter to accommodate inside it the antenna(s) and all cabling or wiring attached to the antenna, and shall be of a color in harmony with the surrounding area or neighborhood that is acceptable to the Administrator;
4. Height: No support structure, regardless of the type of structure, may i) be taller than the immediately adjacent utility poles or public lighting structures; or ii) the lesser of the maximum permitted height for the zoning district in which it is located or fifty feet (50') in total height, including any attachments of any kind associated with the Wireless Facility;

5. Not recognizable: A Small Wireless Facility shall not be easily recognizable as a Wireless Facility by a layperson;
6. Placement of antenna(s): All antennas, cabling and equipment directly associated with the antennas shall be contained inside the new support structure;
7. No antenna shall be mounted on the side of a utility or light pole, and any antenna that for justifiable reasons is not able to be contained inside the support structure shall be mounted so as to be the least visually intrusive reasonably possible given the facts and circumstances;
8. Lateral protrusion: No antenna or equipment directly associated with an antenna shall protrude laterally beyond the outer diameter of the support structure, unless relief is requested in writing and approved;
9. Accessory equipment: All accessory equipment not directly attached to the antennas shall be installed underground in a weatherproof vault;
 - j) Any new support structure shall be designed as a decorative structure and shall be in keeping with the nature and character of the surrounding area or neighborhood;
 - k) No antenna shall be larger than two feet (2') in height with no portion extending laterally beyond the diameter of the structure as measured at the at the point of attachment to the structure;
 - l) For any light pole that has an existing extending arm for the light fixture, unless mounted inside the pole or on the top of the pole, shall be mounted so as not to be easily distinguishable from the light fixture.
 - m) If externally mounted, the point of attachment to the top of a structure shall not be more than three inches (3") below the bottom of an antenna, and the space between the top of the structure and the attachment point of the antenna shall be concealed with a weather-proof material the same color as the structure or the antenna;
 - n) Antennas and any exposed element of such shall be of a color that as closely as is reasonably possible matches that of the support structure.
 - o) All equipment other than the antenna(s) shall be placed underground in a weatherproof vault or contained within the base if the support structure.
- g. A permit for any Wireless telecommunications Facility shall be valid for a period of ten (10) years, unless it lapses or expires sooner or is revoked.

- h. Pursuant to the preceding subsection (g), at the end of ten (10) years from the date of issuance, such permit shall automatically expire.
- i. A permittee may apply for a new permit within the one hundred and eighty (180) days prior to expiration. Said application and proposal shall comply with the City's then-current code requirements for Wireless telecommunications facilities.

G. Non-conforming Wireless Facilities in the public rights-of-way

- a. Non-conforming Wireless Facilities are those facilities that in one or more ways does not conform to this Ordinance.
- b. Non-conforming Wireless Facilities shall, within ten (10) years from the date such Facility becomes nonconforming, be brought into conformity with all requirements of this Ordinance; provided, however, that should the owner desire to expand or Modify the Facility, intensify the use, or make some other change in a conditional use, the owner shall comply with all applicable provisions of this Ordinance at such time, to the extent the City can require such compliance under federal and state law.
- c. An aggrieved person may file an appeal of any decision of the Administrator made pursuant to this section to the City Council. In the event of an appeal alleging that the ten (10) year amortization period is not reasonable as applied to a particular property, the City Council may consider i) the amount of investment or original cost; ii) present actual or depreciated value; iii) dates of construction; iv) amortization for tax purposes; v) salvage value vi) remaining useful life; vii) the length and remaining term of the lease under which it is maintained, if any; and viii) the harm to the public if the structure remains standing beyond the prescribed amortization period, and may set an amortization period accordingly for the specific property.”

H. Construction on Private property

- a. New Structures
 - 1. No new Tower, per se, of any kind that is built to accommodate a Small Wireless Facility may be built in a single or multi-family residentially zoned district or neighborhood, or within one-thousand feet (1,000') of the border of such a district or neighborhood. Notwithstanding anything to the contrary as regards compatible use designation, this requirement shall not be deemed in violation of any compatible use law, rule or regulation.
 - 2. Aesthetics/Appearance:

- 1) Height: The maximum allowed height for new support structures, but not an as-of-right height, shall be:
 - a) The lesser of i) the maximum height permitted for the zoning designation in which it is to be located; or ii) fifty feet (50') above existing pre-construction grade level on non-residential private property:
 - b) the lesser of fifty feet (50') above existing pre-construction grade level, or on residential property the lesser of the height of the nearest existing street light structure or thirty-five (35') above existing grade level.
- b. The support structure shall
 - a. be a hollow, non-wooden, non-corrodable structure of sufficient interior diameter to accommodate the antenna(s) and cabling or wiring inside it, and shall be of a color acceptable to the Administrator;
 - iii) not be more than three inches (3") below the bottom of an antenna that is attached to the top of the structure, and the space between the top of the structure and the attachment point of the antenna shall be concealed with a weather-proof material the same color as the structure or the antenna;
 - c. Antennas shall be no larger than two feet (2') in height with no portion extending laterally beyond the diameter of the structure at the top of the structure at the point of attachment;
- 4) Antennas shall be of a color that as closely as is reasonably possible matches that of the support structure.
- 5) All equipment other than the antenna(s) shall be placed underground in a weather-proof vault or contained in the base of the support structure.

Section 10-16.114 Procedural Requirements before Action on any Application Taken

- a) The City will undertake a review of an Application pursuant to this Article in a timely fashion, consistent with its responsibilities and applicable law, and shall act within the time required by applicable law.
- b) The City may refer any Application or part thereof to any advisory committee or consultant for a non-binding recommendation.

- c) Either after the public hearing, if a hearing is required, or after Administrative review as applicable, and after formally considering the Application, the City may i) approve; ii) approve with conditions; or iii) deny a Permit or Administrative Authorization. The decision shall be in writing and shall be supported by substantial evidence contained in a written record. Throughout the Application and permitting process, the burden of proof for compliance with this ordinance or the Need for something not allowed, shall always be upon the Applicant.
- d) All application approvals shall contain various written conditions of approval that are required i) prior to building permit issuance, ii) prior to final inspections / certificate of completion, and iii) post completion requirements such as but not limited to facility maintenance and all general policies of this Ordinance.
- e) If the City approves the Special Use Permit or Administrative Special Use Permit for the Facility, then a notice of decision shall be posted within a public area of City Hall and mailed to the Applicant within 10 working days of the City's action. The Special use Permit or Administrative Special Use Permit shall be effective ten (10) working days after the posting or mailing of the approval decision.
- f) If the City denies the Special Use Permit or Administrative Special Use Permit for the Facility or the Modification, then the Applicant shall be orally notified of such denial with specific reasons for such denial by the Planning Department or at the Commission Meeting depending on the reviewing body, and in writing within 30 calendar days of the decision, and shall set forth in writing the reason or reasons for the denial.
- g) Any discretionary decision may be appealed by the applicant or any person affected by a determination or decision. Discretionary decisions made by the Planning Department are appealable to the Planning Commission while Planning Commission decisions are appealable to City Council as outlined in the City of Hercules Zoning Ordinance Chapter 44.

Section 10-16.115 Procedural Requirements for a Granting a Special Use Permit

- a) In addition to the above listed Section 10-16.113 "Procedural Requirements before Action on any Application Taken" the following procedures shall apply where a Special Use Permit is requested
- b) The City shall schedule a public hearing(s) once it finds the Application is Complete (and that the applicant has held a community outreach meeting) and there are no issues of non-compliance with applicable law, rule or regulation. The City is not required to set a date if the Application is not complete or if there are unresolved issues of non-compliance. The City may, at any stage prior to issuing a Special Use Permit or Administrative Special Use Permit , require such additional information as it deems Necessary and is not prohibited from requiring as it relates to the issue of the siting, construction or Modification of or at a Wireless Facility.
- c) Required Findings: Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the City must make the following findings prior to approving a Special Use Permit, unless there is clear and convincing technical evidence that the requirements in the Ordinance are not possible to achieve or relief has

been requested and an exception is warranted based on the facts and environmental/technical circumstances involved:

- 1) The Facility does not conflict with safety and safety-related codes and requirements;
- 2) The Facility conforms to the City's policy of concealment;
- 3) The facility does not conflict with the historic nature or character of a neighborhood or district;
- 4) The use or construction of the Facility is not contrary to an already stated purpose of a specific zoning or land use designation;
- 5) The placement and location of the Facility does not create an unacceptable safety or financial risk to residents or the safety of the general public, employees and agents of the City or employees of the service provider or other service providers, or the reasonable probability of such;
- 6) The placement and location of a Facility does not result in a conflict with, compromise in or change in the nature or character of the adjacent surrounding area;
- 7) The facility does not conflict with the provisions of this Telecommunications Facilities Ordinance;

Section 10-16.116 Reasons for Denial

- a) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the City may disapprove an Application for any of the following reasons:
 - 1) Conflict with safety and safety-related codes and requirements;
 - 2) The Facility would not conform to the City's policy of concealment;
 - 3) Conflict with the historic nature or character of a neighborhood or district;
 - 4) The use or construction of Facilities is contrary to an already stated purpose of a specific zoning or land use designation;
 - 5) The placement and location of Facilities would create an unacceptable safety or financial risk to residents or the safety of the general public, employees and agents of the City or employees of the service provider or other service providers, or the reasonable probability of such;
 - 6) The placement and location of a Facility would result in a conflict with, compromise in or change in the nature or character of the adjacent surrounding area;
 - 7) Conflicts with the provisions of this Ordinance;

Section 10-16.117 Assignment and Transfer and Default and Revocation and Termination of Administrative Special Use Permits or Special Use Permits or for Wireless Telecommunications Facilities

The extent and parameters of a Special Use Permit or Administrative Special Use Permit for a Facility shall be as follows:

- a) A Special Use Permit or Administrative Special Use Permit shall not be assigned, transferred or conveyed without the express prior written notification to the City, such notice to be not fewer than thirty (30) business days prior to the intended assignment, transfer or conveyance.
- b) A transfer, assignment or other conveyance of the Special Use Permit or Administrative Special Use Permit shall require the written commitment of the new holder of the Special Use Permit or Administrative Special Use Permit to abide by all applicable laws, rules and regulations, including but not limited to this Ordinance.
- c) If a support structure or Facility is repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Ordinance or of the Special Use Permit or Administrative Special Use Permit, then the City shall notify the holder of the Special Use Permit or Administrative Special Use Permit in writing of such violation. A Permit or Administrative Special Use Permit holder found to be in violation may be considered in default and subject to fines as permitted under applicable State law, and if a violation is not corrected to the satisfaction of the City in a reasonable period of time the Special Use Permit or Administrative Special Use Permit shall be subject to revocation.
- d) Following notice and an opportunity to cure and if not cured, a Special Use Permit or Administrative Special Use Permit granted under this Ordinance may be revoked, canceled, or terminated for a violation of the conditions and provisions of the Special Use Permit or other applicable law, rule or regulation, and if warranted the payment of a fine(s) as shown in the Penalty provisions of this Ordinance.
- e) If not cured within the time frame set forth in the notice of violation, a hearing shall be held upon due prior notice to the Applicant citing the violation(s) and the date, time and place of the hearing, which shall be provided by registered mail to the last known address of the holder of the Special Use Permit and property owner of record.
- f) Following the original notice and an opportunity to cure as relates to a given Facility, subsequent or repeated violations of a substantially similar nature shall not require an opportunity to cure prior to the imposition of fines.

Section 10-16.118 Responsible Party(s)

The owner(s) of a Facility, including any support structure used to accommodate wireless Facilities and equipment, and the owner of the land upon which a Facility or support structure is located, shall at all times be jointly and severally responsible for: (1) the physical and safe condition of the Facility and all components on the site related to the Facility; (2) assuring that all activities of owners, users, or lessees occurring on the site, and all components on the site related to the Facility, are at all times in compliance with all applicable laws, ordinances, rules, regulations, orders, and permits related to the Facility; and (3) assuring the proper permitting as required by this Article and other City regulations by all owners of equipment, lessees and users of the Facility, including but not limited to any upgrades and/or Modifications of equipment. Said owner(s) shall monitor activities at the site to assure that the Facility is operated in compliance with this Ordinance, other City regulations, and any City issued Special, Administrative or Conditional Use Permits or Building Permits.

Section 10-16.119 Removal and Performance Security

- a) Support Structure Removal and Performance: The Applicant and the owner of record of any proposed new Tower or support structure shall, at its sole cost and expense, be required to execute and file with the City a bond or other form of security that is acceptable to the City as to the type of security and the form and manner of execution, in an amount of at least \$75,000.00 for a Tower or other support structure and with such sureties as are deemed adequate by the City to assure the faithful performance of the terms and conditions of this Ordinance and conditions of any Special Use Permit issued pursuant to this Ordinance. The full amount of the bond or security shall remain in full force and effect throughout the term of the Special Use Permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original Special Use Permit.
- b) Attachments Performance: The owner of any equipment attached to a support structure shall be required to execute and file with the City a bond or other form of security that is acceptable to the City as to the type of security and the form and manner of execution, in the amount of \$5,000.

Section 10-16.120 Liability Insurance

- a) A holder of a Special Use Permit for a Wireless Telecommunications Support Structure shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Special Use Permit in amounts as set forth below, or as modified from time to time by City Council usually in the form of a Resolution:
 - 1) Commercial General Liability covering personal injuries, death and property damage: \$2,000,000 per occurrence/\$4,000,000 aggregate; and
 - 2) Automobile Coverage: \$2,000,000.00 per occurrence/ \$4,000,000 aggregate; and
 - 3) A \$3,000,000 Umbrella coverage; and
 - 4) Workers Compensation and Disability: Statutory amounts.
- b) For a Facility located on City property, the Commercial General Liability insurance policy shall specifically name the City and its officers, City Council, employees, Commissions and Committee members, attorneys, agents and consultants as additional insureds.
- c) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best's rating of at least A.
- d) The insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least thirty (30) days prior written notice in advance of the cancellation of the insurance.
- e) Renewal or replacement policies or certificates shall be delivered to the City at least fifteen (15) days prior to the expiration of the insurance that such policies are to renew or replace.
- f) Before construction of a permitted Wireless Telecommunications Facility is initiated, but in no case later than fifteen (15) days prior to the grant of the Building Permit, the holder of the Special Use Permit or Administrative Special Use Permit shall deliver to the City a

copy of each of the policies or certificates representing the insurance in the required amounts.

- g) A Certificate of Insurance that states that it is for informational purposes only and does not confer rights upon the City shall not be deemed to comply with this Ordinance.

Section 10-16.121 Indemnification

- a) Any application for Wireless Telecommunication Facilities that is proposed to be located on City property shall contain a provision with respect to indemnification of the City. Such provision shall require the applicant, to the extent permitted by applicable law, to at all times defend, indemnify, protect, save, hold harmless and exempt the City and its officers, City Council, employees, Commissions and Committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising there from, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, Modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said Facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the City, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the City.
- b) Notwithstanding the requirements noted in subsection (1) of this section, an indemnification provision will not be required in those instances where the City itself applies for and secures a Special Use Permit for a Wireless Telecommunications Facility.

Section 10-16.122 Security

All Facilities shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

- a) All Facilities, including Antennas, Towers and other supporting structures, such as guy anchor points and guy wires, shall be made inaccessible to unauthorized individuals and shall be constructed or shielded in such a manner that they cannot be climbed or collided with; and
- b) Transmitters and Telecommunications control points shall be installed so that they are readily accessible only to persons authorized to operate or service them.

Section 10-16.123 Signage

Facilities shall contain a sign no larger than four (4) square feet and no smaller than two (2) square feet in order to provide adequate warning to persons in the immediate area of the presence of RF radiation. A sign of the same size is also to be installed bearing the name(s) of the tower owner(s) and operator(s)/carrier(s) of the Antenna(s), property owner name, as well as emergency phone number(s) for all such parties. The sign shall be on the equipment shelter or

cabinet of the Applicant and must be visible from the access point of the Facility and must identify the equipment owner of the shelter or cabinet. On Tower sites, an FCC registration sign, as applicable, is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.

Section 10-16.124 Reservation of Authority to Inspect Wireless Telecommunications Facilities

- a) In order to verify that the holder of a Special Use Permit for Facility and any and all lessees, renters, and/or licensees of Wireless Telecommunications Facilities, place and construct and operate such facilities in accordance with all applicable technical, safety, fire, building codes, zoning codes, laws, ordinances and regulations and conditions of any permit granted under this Ordinance, the City may inspect, or cause to have inspected by a third party, all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, Modification and maintenance of such facilities, including, but not limited to, Towers, Antennas and buildings or other structures constructed or located on the permitted site, including but not limited to electrical service, wiring and components. Refusal to allow or grant access to a City representative or its designee upon reasonable notice shall be deemed a violation of this ordinance.
- b) To assure the protection of the public health and safety, the City expressly reserves the right to require that an Applicant, a user of a Facility or the owner of the Facility verify compliance with the FCC's regulations regarding RF emissions pursuant to 10-16.128. Refusal to allow or grant access to a City representative or its designee upon reasonable notice shall be deemed a violation of this ordinance.

Section 10-16.125 Removal or Moving of Wireless Telecommunications Structures and Facilities

- a) If attached to an existing structure, unless the Planning Commission deems doing so to be in the public interest, it shall be impermissible for a wireless service provider's or carrier's facilities and equipment to be moved or relocated from one structure to another, or replaced by the construction of a new Facility, without proof that not to be relocated to or replaced by a Facility at another location would for technical reasons prohibit or serve to prohibit the provision of service in the service area served by the existing wireless facility.
- b) If the lease for the existing co-location expires and is not renewed, thereby forcing the facility to be moved, such move shall be allowed only upon i) the provision of convincing evidence satisfactory to the Planning Commission of the need to move or relocate the facility; and ii) convincing evidence satisfactory to the Planning Commission of the lack of impact on the neighborhood or area of intended new location. Cancellation or abandonment of a lease by a wireless service provider or carrier or other lessee, shall not be deemed a permissible reason for relocating.
- c) The owner of any Facility shall be required to provide a minimum of ninety (90) days written notice to the City Clerk, City Manager, Finance Director, Planning Director, and Mayor prior to abandoning any Facility.

- d) Under the following circumstances, the City may determine that the health, safety, and welfare interests of the City warrant and require the removal of Facilities.
- 1) A Facility has been abandoned (i.e. not used as a Wireless Telecommunications Facility) for a period exceeding ninety (90) consecutive days or a total of one hundred-eighty (180) non-consecutive days in any three hundred-sixty five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall be completed within 90 days of abandonment;
 - 2) A Support Structure or Facility falls into such a state of disrepair that it creates a health or safety hazard or is deemed an attractive nuisance or a visual blight;
 - 3) A Support Structure or Facility has been located, constructed, or Modified without first obtaining, or in a manner not authorized by the required Special Use Permit or Administrative Special Use Permit, and the Special Permit or Administrative Special Use Permit may be revoked.
 - 4) If the City makes a determination as noted in subsections (2) or (3) of this section, then the City shall notify the holder of the Permit or Administrative Special Use Permit for the Facility within forty-eight (48) hours that said Facility is to be brought into compliance and conformity within 30 days or be removed as listed below. (unless immediate health and safety risk exists).
 - 5) The holder of the Special Use Permit or Administrative Special Use Permit, or its successors or assigns, shall dismantle and remove such Facility and all associated structures and equipment from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or Commercial Impracticability. Restoration shall be completed within ninety (90) days of receipt of written notice from the City. However, if the owner of the property upon which the Facility is located wishes to retain any access roadway to the Facility, the owner may do so with the approval of the City.
 - 6) If a Facility has not been removed, or substantial progress has not been made to remove the Facility, within ninety (90) days after the permit holder has received notice, then the City may order officials or representatives of the City to remove the Facility at the sole expense of the owner or Special Use Permit holder.
 - 7) If the City removes, or causes Facilities to be removed, and the owner of the Facility does not claim and remove the material from the site to a lawful location within ten (10) days, then the City may take steps to declare the Facility abandoned, and sell it.
 - 8) Notwithstanding anything in this Ordinance to the contrary, the City may approve a temporary use permit/agreement for the Facility for no more than ninety (90) days duration, during which time a suitable plan for removal, conversion, or re-location of the affected Facility shall be developed by the holder of the Special Use Permit, subject to the approval of the City, and an agreement to such plan shall be executed by the holder of the Special Use Permit or Administrative Special Use Permit and the City. If such a plan is not developed, approved and executed within the ninety (90) day time period, then the City may take possession of and dispose of the affected Facility in the manner provided in this Ordinance and utilize the Performance and Removal Bond.

Section 10-16.126 Penalty

- a) In the event of a violation of this Ordinance, or any Special Use Permit or Administrative Special Use Permit or Building Permit issued pursuant to this Ordinance, the City may impose and collect, and the holder of the Special Use Permit or Administrative Special Use Permit shall pay to the City fines or penalties as established by the City and as allowed by State law.
- b) Notwithstanding anything in this Ordinance, the holder of the Special Use Permit or Administrative Special Use Permit for a Facility may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this Ordinance or any section of this Ordinance. An attempt to do so shall subject the holder of the Special Use Permit to termination and revocation of the Special Use Permit or Administrative Special Use Permit. Without limiting other remedies available to the City, the City may also seek injunctive relief to prevent the continued violation of this Ordinance.
- c) Any person who violates any provision of this Chapter is liable in a civil action brought by the City Attorney on behalf of the City in the amount of One Thousand Dollars (\$1,000) for each such violation. Any person violating this Section shall be regarded as committing a separate offense on each day that the violation occurs or continues. If two (2) or more persons are responsible for any violation of the provisions of this Chapter, they shall be jointly and severally liable for the civil penalty set forth in subsection (e)(1). Amounts recovered under this Section shall be deposited into a fund carried upon the financial records of the City which shall be used exclusively for the maintenance and/or removal of telecommunications facilities, including but not limited to equipment cabinets, in the City of Hercules.
- d) Criminal Penalties for Violation. A violation of any provision of this Chapter is an infraction punishable by (1) a fine not exceeding One Hundred Dollars (\$100) for the first violation; (2) a fine not exceeding Five Hundred Dollars (\$500) for a second violation within one (1) year; and (3) a fine not exceeding One Thousand Dollars (\$1,000) for each additional violation occurring within one (1) year as defined in Government Code Section 36900 (c). Any person violating this Section shall be regarded as committing a separate offense on each day that the violation occurs or continues. At the City Attorney's discretion, serious violations may be prosecuted as misdemeanors pursuant to Government Code Section 36900.
- e) Injunctions. In addition to all other actions and remedies, civil or penal, authorized by law, the City Attorney is authorized to file an action in court seeking injunctive relief to enjoin a violation of any provision of this Chapter or to prevent a threatened violation of any provision of this Chapter. The injunctive relief sought in any such action may be prohibitory, mandatory, or both. (Ord. 339 § 1 (part), 1997)

Section 10-16.127 Relief

- a) Any Applicant desiring relief, waiver or exemption from any aspect or requirement of this Ordinance shall address and identify such at the Pre-Application meeting. The relief or exemption must be contained in the submitted Application for either a Special Use Permit or Administrative Special Use Permit, or in the case of an existing or previously

granted Conditional Use Permit, or Special Use Permit or Administrative Special Use Permit, a request for Modification of the Facility and/or equipment. Such relief may be temporary or permanent, partial or complete.

- b) If relief waiver, or exemption for any item or issue is not requested at the Pre-Application meeting and is requested after the submittal of the Application, the City reserves the right to require a formal Amendment of the Application, including the payment of all fees and charges.
- c) The burden of proving the need for the requested relief, waiver or exemption shall be solely on the Applicant.
- d) The Applicant shall bear all costs of the City in considering the request and the relief, waiver or exemption.
- e) No relief, waiver or exemption shall be approved unless the Applicant demonstrates by clear and convincing evidence that, if granted, the relief, waiver or exemption will have no significant affect on the health, safety and welfare of the City, its residents and other service providers.

Section 10-16.128 Adherence to State and/or Federal Rules and Regulations

- a) To the extent that the holder of a Special Use Permit or Administrative Special Use Permit for a Wireless Telecommunications Facility has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the holder of such a Special Use Permit or Administrative Special Use Permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.
- b) To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a Special Use Permit or Administrative Special Use Permit for Wireless Telecommunications Facilities, then the holder of such a Special Use Permit or Administrative Special Use Permit shall conform the permitted Facility to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

Section 10-16.129 RF Emissions

- a) To assure the protection of the public health and safety, the City expressly reserves the right to require that an Applicant, a user of a Facility or the owner of the Facility verify compliance with the FCC's regulations regarding RF emissions, either for individually-owned equipment or cumulatively for all equipment at the site, as may be deemed appropriate from time to time, but no longer than every five years, and that all users of the facility cooperate with the party responsible for such verification.

- b) With respect to Support Structures other than Towers, if any section or portion of the structure or the entire site or within 100' of the boundaries of the site, is not in compliance with the FCC's regulations regarding RF radiation, that section or portion must be barricaded with a suitable barrier to discourage approaching into the area in excess of the FCC's regulations, and be marked off with brightly colored plastic chain or striped warning tape as appropriate, as well as placing RF Radiation warning signs as needed and appropriate to warn individuals of the potential danger.

Section 10-16.130 Conflict with Other Laws

Where this Ordinance differs or conflicts with other Laws, rules and regulations, unless the right to do so is preempted or prohibited by the City, State or federal government, this Ordinance shall apply.

Section 10-16.131 Definitions

For purposes of this Ordinance, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory, and not merely directory.

1. **"Accessory Facility or Structure"** means an accessory facility or structure serving or being used in conjunction with Wireless Telecommunications Facilities, and located on the same property or lot as the Wireless Telecommunications Facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.
2. **"Administrative Special Use Permit"** means the official document or permit (processed by City Staff or their assignees in writing) by which an applicant can carry out an "Eligible Facility" project and then apply for a building permit.
3. **"Amend", "Amendment" and "Amended"** mean and shall relate to any change, addition, correction, deletion, replacement or substitution, other than typographical changes of no effect.
4. **"Applicant"** means any Wireless service provider submitting an Application for a Special Use Permit for Wireless Telecommunications Facilities.
5. **"Application"** means all Necessary and *required* documentation that an Applicant submits in order to receive a Special Use Permit or a Building Permit for Wireless Telecommunications Facilities.
6. **"Antenna"** means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals with a single transmit and a single receive connection. It is expressly not multiple antennas, even if such are contained in a single housing or radome.
7. **"Antenna Array"** is a set of individual **antennas** used for transmitting and/or receiving radio waves, connected together in such a way that their individual currents are in a specified amplitude and phase relationship.
8. **"City"** means the City of Hercules, California.

9. **“City Council or Council”** means the City Council of the City of Hercules.
10. **“Co-location”** means the use of an approved telecommunication structure to support Antenna for the provision of multiple wireless services.
11. **“Commercial Impracticability”** or **“Commercially Impracticable”** means the inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone and for a single site, shall not deem a situation to be “commercially impracticable” and shall not render an act or the terms of an agreement “commercially impracticable”.
12. **“Commission”** means the Planning Commission of the City of Hercules.
13. **“Complete” Application** means an Application that contains all necessary and required information and/or data necessary to enable an informed decision to be made with respect to an Application and that all information is true, accurate and correct, and all deposits have been paid to the City
14. **“Concealment”** means a physical design or treatment that minimizes adverse aesthetic and visual impacts on the view from land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of a Wireless Telecommunications Facility, which shall mean the least visually and physically intrusive facility, so as to make it substantially invisible, and that is not technologically or commercially impracticable under the facts and circumstances.
15. **“DAS”** or **“Distributive Access System”** means a technology using antenna combining technology allowing for multiple carriers or Wireless Service Providers to use the same set of antennas, cabling or fiber optics.
16. **“Drive Test”** means measuring and assessing the coverage, capacity and signal strength or quality of service of a wireless service provider(s) using a mobile vehicle outfitted with drive testing measurement equipment.
17. **Eligible Facility** means an existing properly permitted wireless tower or base station that involves collocation of new transmission equipment or the replacement of transmission equipment that does not constitute a Substantial modification.
18. **“FAA”** means the Federal Aviation Administration, or its duly designated and authorized successor agency.
19. **“FCC”** means the Federal Communications Council, or its duly designated and authorized successor agency.
20. **“Height”** means, when referring to a Tower or wireless support structure, the distance measured from the pre-existing grade level to the highest point on the Tower or structure, even if said highest point is an Antenna or lightening protection device.
21. **“Maintenance”** means plumbing, electrical or mechanical work that may require a building permit, but that does not constitute a Modification of the Facility.
22. **“Modification”** or **“Modify”** means, the addition, removal or change of any of the physical and/or visually discernable components or aspects of a Wireless Facility with effectively identical components of the same weight and size or less, including but not limited to antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, the color or materials of any visually discernable components, vehicular access, parking, and/or an upgrade or change-out of equipment for better or more modern equipment..

Modification and the type of Modification shall be defined as set forth in FCC Report and Order 14-153, as modified from time to time and incorporated herein by reference.

23. **“Necessary”** or **“Necessity”** or **“Need”** means what is technologically required for the equipment to function as designed by the manufacturer and that anything less will result in prohibiting or acting in a manner that prohibits the provision of service as intended and described in the narrative of the Application. Necessary does not mean what may be desired, preferred or to comply with voluntary chosen company policies, preferences or standards.
24. **“NIER”** means Non-Ionizing Electromagnetic Radiation.
25. **“Person”** means any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.
26. **“Facility”** See definition for ‘Wireless Telecommunications Facilities’.
27. **“Personal Wireless Services”** or **“PWS”** or **“Personal Telecommunications Service”** or **“PTS”** shall have the same meaning as defined and used in the 1996 Telecommunications Act.
28. **“Repairs and Maintenance”** means the replacement or repair of any components of a wireless facility when the replacement is effectively identical to the component being replaced or for any matters that involve a change without the addition, removal or change of any of the physical or visually discernable components or aspects of a properly permitted Wireless Facility that will change the visible appearance of the facility from that originally permitted.
29. **“Small Cell”** means a low-powered RF node, the antennas of which are significantly smaller than tradition ‘macro site’ antennas and have a significantly smaller service area, typically anywhere from 10 meters to one half (1/2) mile.
30. **“Special Use Permit”** means the official document or permit (usually in the form of a Planning Commission or City Council Resolution) by which an Applicant is allowed to file for a building permit to construct and use a Facility as granted or issued by the City, including for a Substantial Modification. Prior to the implementation of this Ordinance, a Conditional Use Permit process was utilized.
31. **“State”** means the State of California.
32. **“Structural Capability”** or **“Structural Capacity”**, notwithstanding anything to the contrary in any other standard, code, regulation or law, means up to and not exceeding a literal 100% of the designed loading and stress capability of the support structure.
33. **Substantial Modification** means a change or Modification that
 - a. increases the existing vertical height of the structure by the greater of (a) more than ten percent (10%) or (b) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet; or (c) existing the City’s maximum permitted height or
 - b. except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance within the City’s concealment requirements; or

- c. increases the square footage of the existing equipment compound by more than 2,500 square feet.
34. **“Telecommunications”** means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.
35. **“Telecommunications Site”** See definition for Wireless Telecommunications Facilities.
36. **“Telecommunications Structure”** means a structure (i.e. building, utility poles, street lights or other similar structure) used to support equipment used to provide wireless communications.
37. **“Temporary”** means not permanent in relation to all aspects and components of this Ordinance, something intended to, and that does, exist for fewer than ninety (90) days.
38. **“Tower”** means any structure designed primarily to support an antenna(s) for receiving and/or transmitting a wireless signal.
39. **“Wireless Telecommunications Facility or Facilities (WTF or WTFs)”** means and includes a **“Telecommunications Site”** and **“Personal Wireless Facility”**. It means a structure, facility or location designed, or intended to be used as, or used to support Antennas or other transmitting or receiving devices. This includes without limit, Towers of all types and kinds, and structures, including but not limited to buildings, church steeples, silos, water Towers, signs or other any other structure that is used or is proposed to be used as a support structure for Antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters and enclosures, cabinets and other structures associated with the Facility. It is a structure and facility, including a compound, intended for transmitting and/or receiving wireless communications, including but not limited to radio, television, cellular, SMR, paging, 911, Personal Communications Services (PCS), commercial satellite services, microwave services and any commercial wireless service, permitted by the FCC.

Michael Schwaebe
215 Andrew Ave.
Encinitas CA 92024

August 4, 2019

Subject: Perception of Harm, Wireless Ordinance POD 17-004 5G and Small Cell Antennas

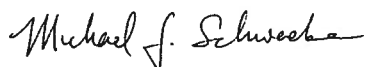
Dear Kristin Gaspar and San Diego County Board of Supervisors

My residence is in Encinitas CA. I am writing this letter to the County Supervisors because I believe that Encinitas and other cities within San Diego will be adopting the SD County Ordinance.

I have the perception of harm from 5G and small cell microwave antennas in my front yard. I am afraid that the antennas will cause physical harm and financial harm. I know by personal experience and review of more than 50 years of science that the evidence is conclusive that microwaves at levels less than the FCC limits cause physical harm. The financial harm is the devaluation of real property because other people have the perception of harm also and won't want to live in my home with an antenna there. I ask the following:

1. Please protect us from the placement of antennas near our residences. Require a minimum of 100' setback from 5G and small cell antennas to residential property lines (as was ordered by the planning commissioners).
2. Make the construction of 5G and small cell antennas as rigorous as other telecom antennas, require compliance testing to FCC OET 65 and require the following:
 - i) Administrative or higher level permit
 - ii) Noticing of all the occupants within 500 feet
 - iii) Supporting structure must meet ANSI TIA 222 class III pole requirements certified by an independent third-party
 - iv) Prohibit new supporting structures in residential areas unless all other remedies have been exhausted
 - v) Application processing fees including consultants are to be borne by the applicants
3. Give the county the power to disapprove an application for any of the reasons stated here:
 - i) Conflict with safety and safety-related codes and requirements;
 - ii) The facility would not conform to the County's policy of concealment;
 - iii) Conflict with the character of a neighborhood or district;
 - iv) The use or construction of facilities is contrary to an already stated purpose of a specific zoning or land use designation;
 - v) The placement and location of facilities would create an unacceptable safety or financial risk to residents or the safety of the general public, employees and agents of the City or employees of the service provider or other service providers, or the reasonable probability of such;
 - vi) The placement and location of a facility would result in a conflict with, compromise in or change in the nature or character of the adjacent surrounding area.
4. Make the San Diego County wireless ordinance tough for our protection. Use the example of the city of Hercules that was written by a telecom company at this link (Hercules draft for small cells attached):
<https://www.codepublishing.com/CA/Hercules/#!/Hercules10/Hercules1016.html#10-16>

Please consider that the purpose of this ordinance is to protect citizens San Diego County. It is not to provide convenience to telecommunication companies or license to put antennas anywhere they want.



Michael Schwaebe

From: Jeff Carmel <jjcarmel@cox.net>
Sent: Monday, August 05, 2019 7:29 AM
To: FGG-DL, LSDOCS
Subject: Urgent appeal re: 5G small cells
Attachments: urgent appeal.pdf

URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING THE 5G WIRELESS ORDINANCE

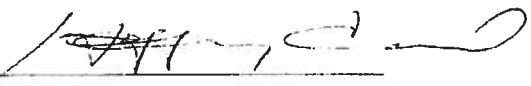
Dear San Diego County Board of Supervisors:

1. **We are asking for a moratorium because the citizens of San Diego County are unaware that the ordinance you are about to pass on August 7th will allow untested 5G cell towers in front of their homes as early as next week.** These 5G cell towers emit radiation that has never been tested for health or safety for plants, animals or humans. We need to wait for the 9th and 10th Circuit Court cases brought by other cities to be decided before cell towers are put in place. The courts could turn back the FCC directive that stripped local control from municipalities in the first place.
2. **The FCC directive strips San Diego County of nearly all aspects of local control.** This is wrong and we believe San Diego County should fight in court to protect our local rights to decide crucial issues that impact our lives - especially the future well-being of our children.
3. **Our homes comprise the greatest portion of our assets.** We know that before 5G there was a consensus among most realtors and appraisers that a cell tower in front of a home devalued the home by at least 20%. We are concerned that a 5G cell site in front of a home may render the home unmarketable. 5G is a different animal. In all previous generations of wireless – 2G, 3G, 4G – the telecom industry promised the technology would not cause cancer because it did not heat tissue. They are not saying that with 5G, because 5G *does* heat tissue. 5G will exceed the safety limits now in place by the FCC because it heats tissue, and thermal protection was the only protection offered by previous FCC “safety standards”. As soon as the public realizes this, no one will want to buy a house with a 5G tower in front of it.
4. **The Board of Supervisors *must not fail* to protect San Diego County citizens.** Right now these 5G small cells can be installed with telecom submitting a ministerial permit (just a rubberstamp by the County on a piece of paper with no hearing and no appeal) with no consideration for our opinions, our safety, our health, our property values and our privacy. Our privacy is being lost to 5G with the collection of data at every level of our lives. There are no restrictions on who collects this data and who the second, third and fourth party buyers will be. **This mass data collection is a breach of privacy that should demand a moratorium instantly.**
5. **We want 1000 foot setbacks for the following: schools, daycare centers, churches with daycare centers, all hospitals, “quiet zone” laboratories for RF testing of public safety equipment, and fire stations.** We want a minimum of 100 foot setbacks from our homes. We would prefer 500 feet as four other cities in California have done in their ordinances. We find zero setbacks from our homes suggested by County staff *completely unacceptable*. Our intention is not to defy the FCC directive which states an effective ban in residential areas is prohibited if setbacks create such an effect. However, we choose to protect our real estate values over the telecommunication industry’s convenience and profit, and demand setbacks that protect our residences. We are willing to sit at the table and work with industry to come up with alternate locations for towers.

6. **We propose wireless free conservation areas/parks to be set aside by San Diego County to protect wildlife and to protect the migratory path of birds.** We are aware the FCC “safety standards” do not protect bees, birds, and animals. Because wildlife is unprotected, and because it is known through thousands of peer reviewed studies that EMFs (wireless radiation) jeopardize the ecosystem as a whole, we would like to create quiet zones without wireless so that animals do not lose their protected habitat. We need to protect certain airways for migratory birds and other wildlife just as the Board of Supervisors has voted to protect hundreds of thousands of acres of land in San Diego County.
7. **Require a certificate of completion from each telecommunications applicant.** Because the law allows for additional telecommunications equipment to be added to each pole, and because this equipment may be in the form of microphones, cameras, surveillance technology, Homeland Security and other carriers with their own small cells, a certificate of completion tells the County and tells us as homeowners when the job is completed and advises us if additional technology is being added subsequent to the initial installation. All additional equipment should require a separate permit.
8. **There has not been a single study done by the FCC, the EPA, or the FDA showing 5G is safe,** yet 5G cell antennas are going to spring up outside our children’s bedroom windows. We refuse to be part of a human experiment that benefits the needs of industry and fails to protect our basic human rights. Our profound concern is heightened for the following reasons: 1) We do not trust the federal government to look out for our health and public safety; 2) We do not trust the FCC “safety standards” to be protective because the World Health Organization’s cancer committee, IARC, classified everything on the RF – EMF spectrum a 2b “possible human” carcinogen at levels *below* the FCC “safety” standard, putting RF in the same category as DDT and diesel fumes; 3) The FCC has never looked at the non-thermal effects of RF radiation [cancer, Alzheimer’s, neurodegenerative diseases, ADHD, birth defects, infertility, disabling headaches, sleep disruption, vertigo]. The FCC only protects us from the effects of heat which includes shocks, burns, and heatstroke; 4) The chairman of the FCC, Ajit Pai, is the former lead attorney for Verizon and may have a conflict of interest. Therefore, **we are looking to our representatives in San Diego County to protect us.**
9. **Because there are no studies proving that 5G is safe, San Diego County should establish a hotline to take complaints from the more than 500,000 residents who live in the County and additional residents who work and come to the County for medical and recreational reasons.** This hotline should be staffed by an individual who has training in radiation sickness, known in Medicare and Medicaid billing as “Exposure to radiofrequency, Sequela”. These complaints should be tabulated and conveyed monthly to the California Department of Public Health, the EPA, the FDA, and the FCC.

Respectfully & Gratefully, [See next page for signatures]

Signature page for: URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING
THE 5G WIRELESS ORDINANCE

Name: JEFFREY CARMEL / 

Address: 3577 AVENIDA FELIZ, #3546
RANCHO SANTA FE, CA 92067

Date: AUG. 5, 2019

Supervisor: JIM DESMONT

From: Mary Jo Troyer <maryjo.troyer@gmail.com>
Sent: Monday, August 05, 2019 7:46 AM
To: FGG-DL, LSDOCS
Subject: Jerry Troyer page 1 of 2
Attachments: Doc Aug 04, 2019, 1247.pdf

Dear San Diego County Board of Supervisors: 1. We are asking for a moratorium because the citizens of San Diego County are unaware that the ordinance you are about to pass on August 7th will allow untested 5G cell towers in front of their homes as early as next week. These 5G cell towers emit radiation that has never been tested for health or safety for plants, animals or humans. We need to wait for the 9th and 10th Circuit Court cases brought by other cities to be decided before cell towers are put in place. The courts could turn back the FCC directive that stripped local control from municipalities in the first place. 2. The FCC directive strips San Diego County of nearly all aspects of local control. This is wrong and we believe San Diego County should fight in court to protect our local rights to decide crucial issues that impact our lives - especially the future well-being of our children. 3. Our homes comprise the greatest portion of our assets. We know that before 5G there was a consensus among most realtors and appraisers that a cell tower in front of a home devalued the home by at least 20%. We are concerned that a 5G cell site in front of a home may render the home unmarketable. 5G is a different animal. In all previous generations of wireless - 2G, 3G, 4G - the telecom industry promised the technology would not cause cancer because it did not heat tissue. They are not saying that with 5G, because 5G does heat tissue. 5G will exceed the safety limits now in place by the FCC because it heats tissue, and thermal protection was the only protection offered by previous FCC "safety standards". As soon as the public realizes this, no one will want to buy a house with a 5G tower in front of it. 4. The Board of Supervisors must not fail to protect San Diego County citizens. Right now these 5G small cells can be installed with telecom submitting a ministerial permit (just a rubberstamp by the County on a piece of paper with no hearing and no appeal) with no consideration for our opinions, our safety, our health, our property values and our privacy. Our privacy is being lost to 5G with the collection of data at every level of our lives. There are no restrictions on who collects this data and who the second, third and fourth party buyers will be. This mass data collection is a breach of privacy that should demand a moratorium instantly. 5. We want 1000 foot setbacks for the following: schools, daycare centers, churches with daycare centers, all hospitals, "quiet zone" laboratories for RF testing of public safety equipment, and fire stations. We want a minimum of 100 foot setbacks from our homes. We would prefer 500 feet as four other cities in California have done in their ordinances. We find zero setbacks from our homes suggested by County staff completely unacceptable. Our intention is not to defy the FCC directive which states an effective ban in residential areas is prohibited if setbacks create such an effect. However, we choose to protect our real estate values over the telecommunication industry's convenience and profit, and demand setbacks 1 that protect our residences. We are willing to sit at the table and work with industry to come up with alternate locations for towers. 6. We propose wireless free conservation areas/parks to be set aside by San Diego County to protect wildlife and to protect the migratory path of birds. We are aware the FCC "safety standards" do not protect bees, birds, and animals. Because wildlife is unprotected, and because it is known through thousands of peer reviewed studies that EMFs (wireless radiation) jeopardize the ecosystem as a whole, we would like to create quiet zones without wireless so that animals do not lose their protected habitat. We need to protect certain airways for migratory birds and other wildlife just as the Board of Supervisors has voted to protect hundreds of thousands of acres of land in San Diego County. 7. Require a certificate of completion from each telecommunications applicant. Because the law allows for additional telecommunications equipment to be added to each pole, and because this equipment may be in the form of microphones, cameras, surveillance technology, Homeland Security and other carriers with their own small cells, a certificate of completion tells the County and tells us as homeowners when the job is completed and advises us if additional technology is being added subsequent to the initial installation. All additional equipment should require a separate permit. 8. There has not been a single study done by the FCC, the EPA, or the FDA showing 5G is safe, yet 5G cell antennas are going to spring up outside our children's bedroom windows. We refuse to be part of a human experiment that benefits the needs of industry and fails to protect our basic human rights. Our profound concern is heightened for the following reasons: 1) We do not trust the federal government to look out for our health and public safety; 2) We do not trust the FCC "safety standards" to be protective because the World Health Organization's cancer committee, IARC, classified everything on the RF - EMF spectrum a 2b "possible human" carcinogen at levels below the FCC "safety" standard, putting RF in the same category as DDT and diesel fumes; 3) The FCC has never looked at the non-thermal effects of RF radiation [cancer, Alzheimer's, neurodegenerative diseases, ADHD, birth defects, infertility, disabling headaches, sleep disruption, vertigo]. The FCC only protects us from the effects of heat which includes shocks, burns, and heatstroke; 4) The chairman of the FCC, Ajit Pai, is the former lead attorney for Verizon and may have a conflict of interest. Therefore, we are looking to our representatives in San Diego County to protect us. 9. Because there are no studies proving

From: Mary Jo Troyer <maryjo.troyer@gmail.com>
Sent: Monday, August 05, 2019 7:46 AM
To: FGG-DL, LSDOCS
Subject: Jerry Troyer page 2 of 2
Attachments: Doc Aug 05, 2019, 0744.pdf

that 5G is safe, San Diego County should establish a hotline to take complaints from the more than 500,000 residents who live in the County and additional residents who work and come to the County for medical and recreational reasons. This hotline should be staffed by an individual who has training in radiation sickness, known in Medicare and Medicaid billing as "Exposure to radiofrequency, Sequela". These complaints should be tabulated and conveyed monthly to the California Department of Public Health, the EPA, the FDA, and the FCC. Respectfully & Gratefully, [See next page for signatures] 2 Signature page for: URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING THE 5G WIRELESS ORDINANCE Name [Sign & Print]:

962 Mira Lago Way Address:
San Marcos CA 92078

Date: 08/04/19 jtega@ymail.com Email Address

(optional): _____ Name of Your Supervisor (if you know): Jerry Troyer Jerry Troyer Please: 1) print, 2) sign your name (& print) & address, 3) scan and 4) email to the following: lsdocs@sdcounty.ca.gov. Please send before noon on Monday, August 5.

From: Paul Gomez <paul.gomez@c2financialcorp.com>
Sent: Monday, August 05, 2019 8:33 AM
To: FGG-DL, LSDOCS
Subject: California is Fighting 50,000 New 5G Cell Towers Linked to Cancer Risk. Bills in THESE States Will Permit Their Installa...

<https://althealthworks.com/15057/california-is-fighting-50000-new-5g-cell-towers-due-to-cancer-risk-bills-in-these-states-will-permit-their-installation-in-your-backyardyelena/>

Get [Outlook for iOS](#)

From: Smith, Oliver <oliver.smith@philips.com>
Sent: Monday, August 05, 2019 8:36 AM
To: FGG-DL, LSDOCS
Subject: RE: Urgent Message BOS
Attachments: Urgent Message BOS.pdf

The information contained in this message may be confidential and legally protected under applicable law. The message is intended solely for the addressee(s). If you are not the intended recipient, you are hereby notified that any use, forwarding, dissemination, or reproduction of this message is strictly prohibited and may be unlawful. If you are not the intended recipient, please contact the sender by return e-mail and destroy all copies of the original message.

URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING THE 5G WIRELESS ORDINANCE

Dear San Diego County Board of Supervisors:

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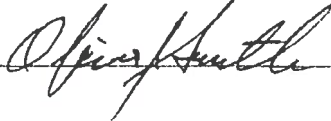
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Respectfully & Gratefully, [See next page for signatures]

Signature page for: **URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING
THE 5G WIRELESS ORDINANCE**

Name [Sign & Print]: Oliver Smth



Address:

28440 Sunset Rd, Valley Center, CA 92081

Date: 05Aug2019

Email Address

(optional): oliver.smith@philips.com

Name of Your Supervisor (if you know):

Jim Desmond

Please: 1) print, 2) sign your name (& print) & address, 3) scan and 4) email to the following:
lsdocs@sdcountry.ca.gov. Please send before noon on Monday, August 5.

From: Jacob, Dianne
Sent: Monday, August 05, 2019 9:01 AM
To: FGG-DL, LSDOCS
Subject: FW: URGENT MESSAGE TO SUPERVISORS REGARDING THE 5G WIRELESS ORDINANCE
Attachments: We the people of San Diego County 1.docx

From: Susan Foster <susan.foster04@gmail.com>
Sent: Sunday, August 04, 2019 10:43 PM
To: Susan Foster <susan.foster04@gmail.com>
Subject: URGENT MESSAGE TO SUPERVISORS REGARDING THE 5G WIRELESS ORDINANCE

On 8/1/2019 11:20 PM, Susan Foster wrote:

Dear Friends & Neighbors,

PLEASE SIGN ATTACHED LETTER ASAP & email either to me or to the Board of Supervisors!!!

A crucial 5G vote is to take place on August 7, 2019 at the San Diego County Board of Supervisors meeting. This is their final meeting on the ordinance that is required to "synchronize" with a land and power grabbing move by the FCC to take over county and city land across the country to install 5G "small cells" as close as a few feet away from your home. The way the ordinance came out of Zoning & Planning after many months of deliberation – and threats of lawsuits by AT&T and Verizon – is, in a word: horrible. The zoning staff was going to give a setback so that these towers were not right up against our property lines or our homes. But the industry pushed and threatened and so the zoning staff took away the setbacks. Right now these extremely powerful 5G cells will be going on top of our street lights and the beams will be going out in all directions, including beams capable of penetrating our walls and coming into our homes to deliver service but also to gather data.

There are other, better, safer ways to deliver service. This is the cheapest way the industry could do it, and we need to tell our supervisors that the way things are written now is unacceptable.

Gratefully, after last week's San Diego County Planning Commission meeting, the Commissioners gave us 100' setbacks from the homes, but they took away the 1000' setbacks from schools where our children/grandchildren will be in attendance all day. We would like the 1000' setback for schools, and we want *at least* 100 feet from our homes, and preferably more. The final say rests with the Board of Supervisors on August 7.

There are nine key points contained in this message to our supervisors. We refuse to accept an untested technology for which there has not been a single safety study done by the FCC, EPA, or the FDA. Not a single one.

Signature instructions are on the last page. If you have any trouble scanning this after you print and sign, feel free to call Holly Manion (858-395-5287) or myself, Susan Foster (858-756-3532). Please send this on to your friends. We need hundreds of letters to go to the supervisors before some of these changes can be made. For over a year the supervisors have heard from the telecommunications industry. Most people don't even know that the small cells are going to be rolled out. Some of you have seen unusual extensions going on some of the telephone poles in the area. These are small cells, and they will all be

turned on at a time of the industry's choosing. There is going to be a substantial increase in radiation over what we currently experience.

You may wish to look at the International Scientist Appeal On Electromagnetic Fields and Wireless Technology <https://www.saferemr.com/2019/07/international-scientist-appeal-on.html> for more information on the current science. The Bioinitiative Report is an excellent compilation of global science, both industry and independent: <https://bioinitiative.org/>.

Thank you so much,

Susan

SUSAN FOSTER

U.S. Adviser, Radiation Research Trust (UK)

Honorary Firefighter, San Diego Fire Department

Medical Writer

Rancho Santa Fe CA 92091

858 756-3532

susan.foster04@gmail.com

A reminder to please contact your supervisor, or all five of the supervisors if you possibly can. Thank you so much. It would be great to get these in on Monday, April 5, but absolutely by noon on Tuesday, August 6.

Thank you!

Susan Foster

URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING THE 5G WIRELESS ORDINANCE

Dear San Diego County Board of Supervisors:

1. **We are asking for a moratorium because the citizens of San Diego County are unaware that the ordinance you are about to pass on August 7th will allow untested 5G cell towers in front of their homes as early as next week.** These 5G cell towers emit radiation that has never been tested for health or safety for plants, animals or humans. We need to wait for the 9th and 10th Circuit Court cases brought by other cities to be decided before cell towers are put in place. The courts could turn back the FCC directive that stripped local control from municipalities in the first place.
2. **The FCC directive strips San Diego County of nearly all aspects of local control.** This is wrong and we believe San Diego County should fight in court to protect our local rights to decide crucial issues that impact our lives - especially the future well-being of our children.
3. **Our homes comprise the greatest portion of our assets.** We know that before 5G there was a consensus among most realtors and appraisers that a cell tower in front of a home devalued the home by at least 20%. We are concerned that a 5G cell site in front of a home may render the home unmarketable. 5G is a different animal. In all previous generations of wireless – 2G, 3G, 4G – the telecom industry promised the technology would not cause cancer because it did not heat tissue. They are not saying that with 5G, because 5G *does* heat tissue. 5G will exceed the safety limits now in place by the FCC because it heats tissue, and thermal protection was the only protection offered by previous FCC “safety standards”. As soon as the public realizes this, no one will want to buy a house with a 5G tower in front of it.
4. **The Board of Supervisors *must not fail* to protect San Diego County citizens.** Right now these 5G small cells can be installed with telecom submitting a ministerial permit (just a rubberstamp by the County on a piece of paper with no hearing and no appeal) with no consideration for our opinions, our safety, our health, our property values and our privacy. Our privacy is being lost to 5G with the collection of data at every level of our lives. There are no restrictions on who collects this data and who the second, third and fourth party buyers will be. **This mass data collection is a breach of privacy that should demand a moratorium instantly.**
5. **We want 1000 foot setbacks for the following: schools, daycare centers, churches with daycare centers, all hospitals, “quiet zone” laboratories for RF testing of public safety equipment, and fire stations.** We want a minimum of 100 foot setbacks from our homes. We would prefer 500 feet as four other cities in California have done in their ordinances. We find zero setbacks from our homes suggested by County staff *completely unacceptable*. Our intention is not to defy the FCC directive which states an effective ban in residential areas is prohibited if setbacks create such an effect. However, we choose to protect our real estate values over the telecommunication industry’s convenience and profit, and demand setbacks

that protect our residences. We are willing to sit at the table and work with industry to come up with alternate locations for towers.

6. **We propose wireless free conservation areas/parks to be set aside by San Diego County to protect wildlife and to protect the migratory path of birds.** We are aware the FCC “safety standards” do not protect bees, birds, and animals. Because wildlife is unprotected, and because it is known through thousands of peer reviewed studies that EMFs (wireless radiation) jeopardize the ecosystem as a whole, we would like to create quiet zones without wireless so that animals do not lose their protected habitat. We need to protect certain airways for migratory birds and other wildlife just as the Board of Supervisors has voted to protect hundreds of thousands of acres of land in San Diego County.
7. **Require a certificate of completion from each telecommunications applicant.** Because the law allows for additional telecommunications equipment to be added to each pole, and because this equipment may be in the form of microphones, cameras, surveillance technology, Homeland Security and other carriers with their own small cells, a certificate of completion tells the County and tells us as homeowners when the job is completed and advises us if additional technology is being added subsequent to the initial installation. All additional equipment should require a separate permit.
8. **There has not been a single study done by the FCC, the EPA, or the FDA showing 5G is safe,** yet 5G cell antennas are going to spring up outside our children’s bedroom windows. We refuse to be part of a human experiment that benefits the needs of industry and fails to protect our basic human rights. Our profound concern is heightened for the following reasons: 1) We do not trust the federal government to look out for our health and public safety; 2) We do not trust the FCC “safety standards” to be protective because the World Health Organization’s cancer committee, IARC, classified everything on the RF – EMF spectrum a 2b “possible human” carcinogen at levels *below* the FCC “safety” standard, putting RF in the same category as DDT and diesel fumes; 3) The FCC has never looked at the non-thermal effects of RF radiation [cancer, Alzheimer’s, neurodegenerative diseases, ADHD, birth defects, infertility, disabling headaches, sleep disruption, vertigo]. The FCC only protects us from the effects of heat which includes shocks, burns, and heatstroke; 4) The chairman of the FCC, Ajit Pai, is the former lead attorney for Verizon and may have a conflict of interest. Therefore, **we are looking to our representatives in San Diego County to protect us.**
9. **Because there are no studies proving that 5G is safe, San Diego County should establish a hotline to take complaints from the more than 500,000 residents who live in the County and additional residents who work and come to the County for medical and recreational reasons.** This hotline should be staffed by an individual who has training in radiation sickness, known in Medicare and Medicaid billing as “Exposure to radiofrequency, Sequela”. These complaints should be tabulated and conveyed monthly to the California Department of Public Health, the EPA, the FDA, and the FCC.

Respectfully & Gratefully, [*See next page for signatures*]

Signature page for: **URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING
THE 5G WIRELESS ORDINANCE**

Name [Sign & Print]: _____

Address: _____

Date: _____

Email Address
(optional): _____

Name of Your Supervisor (if you know):

Please send before noon on Tuesday August 6 to the following supervisors. You may select your own supervisor or send to all. Remember, Dianne Jacob is the Chairwoman.

Jim Desmond: jim.desmond@sdcountry.ca.gov

Dianne Jacob: dianne.jacob@sdcountry.ca.gov

Kristin Gaspar: kristin.gaspar@sdcountry.ca.gov

Nathan Fletcher: Nathan.Fletcher@sdcountry.ca.gov

Greg Cox: greg.cox@sdcountry.ca.gov

From: Jacob, Dianne
Sent: Monday, August 05, 2019 9:08 AM
To: FGG-DL, LSDOCS
Subject: FW: Small Cell Wireless Ordinance
Attachments: RDMA Ltr re Small Cell Wireless 1.pdf

From: Irwin Zalkin <irwin@zalkin.com>
Sent: Saturday, August 03, 2019 12:57 PM
To: Neal, Stephanie <Stephanie.Neal@sdcounty.ca.gov>; Desmond, Jim <Jim.Desmond@sdcounty.ca.gov>; Fletcher, Nathan (BOS) <Nathan.Fletcher@sdcounty.ca.gov>; Gaspar, Kristin <Kristin.Gaspar@sdcounty.ca.gov>; Jacob, Dianne <Dianne.Jacob@sdcounty.ca.gov>; Cox, Greg <Greg.Cox@sdcounty.ca.gov>; Lieberman, Tara <Tara.Lieberman@sdcounty.ca.gov>
Subject: Small Cell Wireless Ordinance

Dear San Diego County Council Members and Others

Please find attached a letter from the Rancho Del Mar Association on behalf of residents of several subdivisions with the community of San Diego County known as Rancho Del Mar addressing concerns on behalf of the community about pending decision with respect to the placement of Small Cell Wireless communication poles and other equipment in their neighborhood.

Sincerely,

Irwin Zalkin

Irwin Zalkin
The Zalkin Law Firm, P.C.
12555 High Bluff Drive, Suite 301
San Diego, CA 92130
(858) 259-3011 (800) 617-2622
www.zalkin.com



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RANCHO DEL MAR ASSOCIATION

2683 Via de la Calle G-327

Del Mar, CA 92014

hoa@rdm-hoa.org

August 3, 2019

Tara Lieberman & Stephanie Neal
Land Use / Environmental Planner, Advance Planning
5510 Overland Avenue, Suite 310 / Mail Stop – 0650
San Diego California 92123

Re: Small Cell Wireless Facilities Ordinance

Dear Tara Lieberman, Stephanie Neal, & San Diego County Supervisors:

The Trustees of the Rancho Del Mar Association (“RDMA”) represent residents of several subdivisions within the Rancho Del Mar Community of San Diego County.

The Trustees and our community members are deeply concerned about the new FCC directive making it possible for the telecommunications industry to place cell antennas anywhere in the County right-of-way. On behalf of our members the RDMA is voicing our strong objection to the FCC’s takeover of our County’s land as well as the lack of due process with respect to the rights of our members. We do not feel that the current County plan to update the zoning ordinance provides enough protection for communities such as ours (Rancho Del Mar). We live in a semi-rural neighborhood in a dark sky designated area. We do not have streetlights. The installation of metal poles to house the small cell 5G wireless equipment would be out of place in our neighborhood and would be inconsistent with our neighborhood character. Further, we are opposed to the cutting of trees in the neighborhood to accommodate the equipment. The installation of these cell towers would result in devaluation of our properties. We request that the County adopt a more stringent zoning requirement. We further request that neighborhood associations be fully informed before any projects are approved. Some suggestions of improvements to the zoning update include:

1. Cell towers are not to be in “Sensitive” areas. 1000-foot setbacks from sensitive areas as defined by the County are necessary.

2. 500-foot set back in residential areas. This is in addition to using priority placement schema. No placement of poles in front of a residence.
3. Pre application site inspection & survey required for each site application. There must be an on-site inspection prior to approval of the site by the County or agent representing the County. If application conflicts with a sensitive area, site inspector may suggest the tower relocate so coverage is the same but sensitive area is protected.
4. Setback must meet fall zone length or zoning setback requirements, whichever is greater. Fall zone length must exceed the height of the tower by 20% because the height of the tower may be increased by 10% the next year.
5. Require mandatory live RF compliance testing immediately after tower is installed and "on demand testing" by a third party paid for by carrier.
6. Height restriction 30 feet; next year [under 1903] tower may go 10% higher.
7. Payment, performance and removal bond paid up front.
8. Require a Certificate of Completion.
9. No cutting of trees to facilitate line of sight or initial placement. The general ambience of the community is to be preserved.
10. Under-grounding of equipment where possible; priority for undergrounding for areas without existing streetlight poles.
11. The ordinance shall comply with the Americans with Disabilities Act (this includes but is not limited to safe access to private, commercial and public buildings).
12. Noticing for the occupants and building owners of all residences, apartments, and businesses within 1000 feet of the proposed location.

Please consider adopting all the sections and verbiage of the "City of Hercules CA Wireless Telecommunications Facilities Ordinance (Chapter 16)" at the following link weaving in specific SD County requirements as deemed appropriate:

<https://www.codepublishing.com/CA/Hercules/#!/Hercules10/Hercules1016.html#10-16>

We suggest this because the Hercules Ordinance provides enforceable directions on the administration of Telecom applications and siting of antennas and reasonable restrictions for the Telcom companies.

Respectfully,


Irwin M. Zalkin
Trustee

From: Cox, Greg
Sent: Monday, August 05, 2019 9:30 AM
To: FGG-DL, LSDOCS
Subject: FW: Small Cell Wireless Ordinance
Attachments: Zalkin Ltr re Small Cell Wireless Ordinance.pdf.docx

From: Irwin Zalkin [mailto:irwin@zalkin.com]
Sent: Saturday, August 03, 2019 1:19 PM
To: Neal, Stephanie; Desmond, Jim; Fletcher, Nathan (BOS); Gaspar, Kristin; Jacob, Dianne; Cox, Greg; Lieberman, Tara
Subject: Small Cell Wireless Ordinance

Please see attached letter.

Thank you

Irwin Zalkin

IRWIN & GLORIA ZALKIN
4802 Vista De La Tierra
Del Mar, CA 92014
imzalkin@gmail.com

Tara Lieberman & Stephanie Neal
Land Use / Environmental Planner, Advance Planning
5510 Overland Avenue, Suite 310 / Mail Stop – 0650
San Diego California 92123

Re: Small Cell Wireless Facilities Ordinance

Dear Tara Lieberman, Stephanie Neal, & San Diego County Supervisors:

My wife and I are residents of the Rancho Del Mar Community of San Diego County.

We are deeply concerned about the new FCC directive making it possible for the telecommunications industry to place cell antennas anywhere in the County right-of-way. We would like to voice our strong objection to the FCC's takeover of our County's land as well as the lack of due process with respect to the rights of our members. We do not feel that the current County plan to update the zoning ordinance provides enough protection for communities such as ours (Rancho Del Mar). We live in a semi-rural neighborhood in a dark sky designated area. We do not have streetlights. The installation of metal poles to house the small cell 5G wireless equipment would be out of place in our neighborhood and would be inconsistent with our neighborhood character. Further, we are opposed to the cutting of trees in the neighborhood to accommodate the equipment. The installation of these cell towers would result in devaluation of our properties. We request that the County adopt a more stringent zoning requirement. We further request that neighborhood associations be fully informed before any projects are approved.

I am a trustee of the Rancho Del Mar Association and have already written all of you a letter by the RDMA with suggestions that we feel should be adopted before implementing any plan for installation of the small cell wireless poles and associated equipment. Please consider adopting all the sections and verbiage of the "City of Hercules CA Wireless

Telecommunications Facilities Ordinance (Chapter 16)” at the following link weaving in specific SD County requirements as deemed appropriate:
<https://www.codepublishing.com/CA/Hercules/#!/Hercules10/Hercules1016.html#10-16> We suggest this because the Hercules Ordinance provides enforceable directions on the administration of Telecom applications and siting of antennas and reasonable restrictions for the Telcom companies.

Respectfully,

Irwin Zalkin

Irwin M. Zalkin

From: Jacob, Dianne
Sent: Monday, August 05, 2019 9:09 AM
To: FGG-DL, LSDOCS
Subject: FW: <no subject>

From: Engler, Robert <rengler@ucsd.edu>
Sent: Saturday, August 03, 2019 10:50 AM
To: Jacob, Dianne <Dianne.Jacob@sdcounty.ca.gov>
Subject: <no subject>

Dianne Jacob
Land Use / Environmental Planner, Advance Planning
5510 Overland Avenue, Suite 310 / Mail Stop – 0650
San Diego California 92123

Re: Small Cell Wireless Facilities Ordinance

Dear Dianne Jacob & San Diego County Supervisors:

I am a resident and property owner in the unincorporated area of San Diego County (Rancho Del Mar area just north of Via de la Valle), part of the County District 5. I am deeply concerned about the new FCC directive making it possible for the telecommunications industry to place cell antennas anywhere in the County right-of-way. I am voicing my strong objection to the FCC's takeover of our County's land as well as due process with respect to our rights. We do not feel that the current County plan to update the zoning ordinance provides enough protection for communities such as ours (Rancho Del Mar). We live in a semi-rural neighborhood in a dark sky designated area. We do not have streetlights. The installation of metal poles to house the small cell 5G wireless equipment would be out of place in our neighborhood, and would be inconsistent with our neighborhood character. Further, we are opposed to the cutting of trees in the neighborhood to accommodate the equipment. The installation of these cell towers would result in devaluation of our properties. We request that the County adopt a more stringent zoning requirement. We further request that neighborhood associations be fully informed before any projects are approved. Some suggestions of improvements to the zoning update include:

1. Cell towers are not to be located in "Sensitive" areas. 1000 foot setbacks from sensitive areas as defined by the County are necessary.
2. 500 foot set back from residential. This is in addition to using priority placement schema. No placement of poles in front of a residence.
3. Pre application site inspection & survey required for each site application. There must be an on-site inspection prior to approval of the site by the County or agent representing the County. If application is in conflict with a sensitive area, site inspector may suggest the tower relocate so coverage is the same but sensitive area is protected.
4. Setback must meet fall zone length or zoning setback requirements, whichever is greater. Fall zone length must exceed the height of the tower by 20% because the height of the tower may be increased by 10% the next year.

5. Require mandatory live RF compliance testing immediately after tower is installed and “on demand testing” by a third party paid for by carrier.
6. Height restriction 30 feet; next year [under 1903] tower may go 10% higher.
7. Payment, performance and removal bond paid up front.
8. Require a Certificate of Completion.
9. No cutting of trees to facilitate line of sight or initial placement. The general ambience of the community is to be preserved.
10. Under-grounding of equipment where possible; priority for undergrounding for areas without existing street light poles.
11. The ordinance shall comply with the Americans with Disabilities Act (this includes but is not limited to safe access to private, commercial and public buildings).
12. Noticing for the occupants and building owners of all residences, apartments, and businesses within 1000 feet of the proposed location.

Please also consider adopting all of the sections and verbiage of the “City of Hercules CA Wireless Telecommunications Facilities Ordinance (Chapter 16)” at this link, weaving in specific SD County requirements as deemed appropriate. I suggest this because the Hercules Ordinance provides enforceable directions on the administration of Telecom applications and siting of antennas and reasonable restrictions for the Telecommunication companies who will be installing 5G cellular towers.

<https://www.codepublishing.com/CA/Hercules/#!/Hercules10/Hercules1016.html#10-16>

Respectfully,

Robert Engler, M.D.
Professor of Medicine, UCSD
14801 Vista del Oceano
Del Mar, CA 92014
Home Office: 858-794-7280
Cell: 858-232-3687
rengler@ucsd.edu

From: Jacob, Dianne
Sent: Monday, August 05, 2019 9:09 AM
To: FGG-DL, LSDOCS
Subject: FW: UPDATE OF SMALL CELL WIRELESS ZONING

From: Roger Cavanaugh <rogercavanaugh@gmail.com>
Sent: Saturday, August 03, 2019 10:50 AM
To: Cox, Greg <Greg.Cox@sdcounty.ca.gov>; Jacob, Dianne <Dianne.Jacob@sdcounty.ca.gov>; Gaspar, Kristin <Kristin.Gaspar@sdcounty.ca.gov>; Fletcher, Nathan (BOS) <Nathan.Fletcher@sdcounty.ca.gov>; Desmond, Jim <Jim.Desmond@sdcounty.ca.gov>
Subject: UPDATE OF SMALL CELL WIRELESS ZONING

From Roger Cavanaugh, Ph, D. 7835 Camino Noguera, San Diego CA 92122

email: rogercavanaugh@gmail.com tel 858 453 4439

Dear Supervisors,

I am a 37 year County resident and the Chair of a UCPG Subcommittee tasked with providing our Board members with information relevant to cell tower applications. I am not speaking here for the UCPG nor in any official capacity, simply as a relatively well informed citizen on wireless health and safety impacts because of volunteering to provide such information to planners and community members of University City..

I am concerned that the County undertake revisions to the small cell ordinance on this coming Wednesday the 7th that better protect the public welfare, especially that of vulnerable populations like children and pregnant women.

When Supervisor Fletcher was a candidate in a presentation before a University City community group he kindly agreed to meet with me and a local scientist to better inform himself on wireless health and safety. I would like to ask him to complete that conversation now by reading my comments below in preparation for considering modifications to the small cell wireless ordinance. And I would ask our other Supervisors to do the same since so much is likely at stake.

The coming of 5G presents an unprecedented and perhaps historic opportunity to integrate what looks to be a major and even transforming technology into our economy and politics while minimizing its negative impacts and respecting community interests, public health and safety, our democratic values, our privacy and security, our environmental and energy goals, and data based decision making. If the use of fossil fuels is any indication, planning and foresight, accountability and transparency as well as the public interest, have in the past taken a back seat to convenience and short term advantage. We as well as coming generations are and will continue to bear enormous environmental and financial costs from the resulting climate change and all it entails. We don't need to repeat the process with a new technology. **It's time to develop a consensus that is science based and focused on the long term public interest to make 5G both a smart and safe technology. If we abandon what science is telling us about how wireless impacts all living organisms it is not hard to imagine how distrust of public institutions and public officials will increase and contribute to the existing cynicism and partisanship that is crippling our national politics.**

What's a reasonable response to where we are now?

I believe that as people of good will, local communities and states can work cooperatively with wireless providers and public officials to balance safety, productivity and convenience. Here's a beginning:

1. Safety first; and safety and accountability are impossible without objective data. Place the responsibility on providers to pay for independent contractors to randomly measure the radiation output of 5G antennas and existing cell towers to see that they comply with FCC standards.
2. Create a City Wireless Safety unit to monitor safety compliance.
3. Public education to alert consumers to the safety hazards inherent in wireless technology.
4. Negotiate with wireless providers to set voluntary standards to buffer schools, playgrounds, hospitals and other sites where there are populations vulnerable to microwave radiation. Note that Verizon has posted information that 5G signals can travel 3,000ft or more, allowing for a less dense antenna network and flexibility in locating antennas
5. Encourage wired connections in schools and use fiber cables which do not create EMF as well as being more resistant to hacking, less vulnerable, and more reliable.
6. Create a County Masterplan that details each antenna location along with its radiation frequency and intensity, allowing also for community input on antenna locations before installation.
7. Prohibit colocation of antennas which would intensify radiation; and separate antennas from different providers.
8. Insist that existing trees, under aesthetic and climate priority, are not cut to allow for 5G small antennas.
9. For those hypersensitive to EMF, protect homes and right of ways under ADA provisions.
10. Require public notice with adequate time and details for any antenna installation.
11. Include adequate insurance by providers as part of the permitting process.
12. Lobby to update obsolete safety standards to take non-thermal effects of EMF and the needs of children and other vulnerable populations into account.

Your time and thoughtful consideration are appreciated.

Roger Cavanaugh

From: Jacob, Dianne
Sent: Monday, August 05, 2019 9:10 AM
To: FGG-DL, LSDOCS
Subject: FW: Zoning Ordinance Update for Small Cell Wireless Facilities

From: Daniel Gizzo <dpgizzo@gmail.com>
Sent: Friday, August 02, 2019 11:12 PM
To: Lieberman, Tara <Tara.Lieberman@sdcounty.ca.gov>; Neal, Stephanie <Stephanie.Neal@sdcounty.ca.gov>; Desmond, Jim <Jim.Desmond@sdcounty.ca.gov>; Fletcher, Nathan (BOS) <Nathan.Fletcher@sdcounty.ca.gov>; Gaspar, Kristin <Kristin.Gaspar@sdcounty.ca.gov>; Jacob, Dianne <Dianne.Jacob@sdcounty.ca.gov>; Cox, Greg <Greg.Cox@sdcounty.ca.gov>
Subject: Zoning Ordinance Update for Small Cell Wireless Facilities

Tara Lieberman & Stephanie Neal
Land Use / Environmental Planner, Advance Planning
5510 Overland Avenue, Suite 310 / Mail Stop – 0650
San Diego California 92123

Re: Small Cell Wireless Facilities Ordinance

Dear Tara Lieberman & San Diego County Supervisors:

I am a resident and property owner in the unincorporated area of San Diego County (Rancho Del Mar area just north of Via de la Valle), part of District 5 represented by Mr. Desmond. I am deeply concerned about the new FCC directive making it possible for the telecommunications industry to place cell antennas anywhere in the County right-of-way. I am voicing my strong objection to the FCC's takeover of our County's land as well as due process with respect to our rights. We do not feel that the current County plan to update the zoning ordinance does not provide enough protect for communities such as ours (Rancho Del Mar). We live in a semi-rural neighborhood in a dark sky designated area. We do not have streetlights. The installation of metal poles to house the small cell 5G wireless equipment would be out of place in our neighborhood, and would be inconsistent with our neighborhood character. Further, we are opposed to the cutting of trees in the neighborhood to accommodate the equipment. The installation of these cell towers would result in devaluation of our properties. We request that the County adopt a more stringent zoning requirement. We further request that neighborhood associations be fully informed before any projects are approved. Some suggestions of improvements to the zoning update include:

1. Cell towers are not to be located in "Sensitive" areas. 1000 foot setbacks from sensitive areas as defined by the County are necessary.
2. 500 foot set back from residential. This is in addition to using priority placement schema. No placement of poles in front of a residence.
3. Pre application site inspection & survey required for each site application. There must be an on-site inspection prior to approval of the site by the County or agent representing the County. If application is in conflict with a sensitive area, site inspector may suggest the tower relocate so coverage is the same but sensitive area is protected.

4. Setback must meet fall zone length or zoning setback requirements, whichever is greater. Fall zone length must exceed the height of the tower by 20% because the height of the tower may be increased by 10% the next year.
5. Require mandatory live RF compliance testing immediately after tower is installed and “on demand testing” by a third party paid for by carrier.
6. Height restriction 30 feet: next year [under 1903] tower may go 10% higher.
7. Payment, performance and removal bond paid up front.
8. Require a Certificate of Completion.
9. No cutting of trees to facilitate line of sight or initial placement. The general ambience of the community is to be preserved.
10. Under-grounding of equipment where possible; priority for undergrounding for areas without existing street light poles.
11. The ordinance shall comply with the Americans with Disabilities Act (this includes but is not limited to safe access to private, commercial and public buildings).
12. Noticing for the occupants and building owners of all residences, apartments, and businesses within 1000 feet of the proposed location.

Please consider adopting all of the sections and verbiage of the “City of Hercules CA Wireless Telecommunications Facilities Ordinance (Chapter 16)” at this link, weaving in specific SD County requirements as deemed appropriate. I suggest this because the Hercules Ordinance provides enforceable directions on the administration of Telecom applications and siting of antennas and reasonable restrictions for the Telecom companies.

<https://www.codepublishing.com/CA/Hercules/#!/Hercules10/Hercules1016.html#10-16>

Respectfully,

Dan & Monica Gizzo
4820 Rancho Viejo Dr
Del Mar, CA 92014

--
Dan Gizzo Jr
dpgizzo@gmail.com

From: Cox, Greg
Sent: Monday, August 05, 2019 9:16 AM
To: FGG-DL, LSDOCS
Subject: FW: Letter from Center for Electrosmog Prevention re: Small Cell Wireless Ordinance Decision pending 8.7.19

From: director@electrosmogprevention.org [mailto:director@electrosmogprevention.org]
Sent: Sunday, August 04, 2019 7:01 PM
To: Cox, Greg; Jacob, Dianne; Gaspar, Kristin; Fletcher, Nathan (BOS); Desmond, Jim
Cc: Bailey, Je'Rae
Subject: Letter from Center for Electrosmog Prevention re: Small Cell Wireless Ordinance Decision pending 8.7.19

Dear San Diego County Supervisors and County Planning Commissioners,

As Director of Center for Electrosmog Prevention, I have reviewed the wireless ordinance documents prepared by County Planning Staff entitled: "SMALL CELL WIRELESS FACILITIES – ZONING ORDINANCE UPDATE (POD-19- 003) (DISTRICTS: ALL)", dated Aug. 7, 2019, as well as both proposed ordinances. I found several inaccuracies, as well as the unsettling finding that County staff disagree on many important points with Planning Commissioners. The question can surely be asked, who is actually running the County? Another very important question is, who amongst you and the County staff is informed enough to make these life and death decisions, at any level?

And are we to allow people on the Board of Supervisors to vote who have conflicts of interest such as but not limited to those who worked recently for Qualcomm (a company heavily invested in 5G) such as Supervisor Fletcher, have taken telecom or wireless company campaign contributions, or have telecom clients or investments? Please recuse yourself if you have any of these or other conflicts of interest. I ask that Supervisor Fletcher recuse himself.

I do not think that you should be picking which ordinance is best, but taking actions and adopting policies and regulations that protect and benefit residents. The best of these is to issue a moratorium on permitting of small cells through an urgency ordinance. The lesser of these is to combine and improve ordinance language to yield the protections residents of San Diego County deserve and must have.

These two ordinance proposals unfortunately do not yet protect the public interests to the degree necessary, but seemingly, are focused mainly on the interests of the wireless industry - particularly the staff ordinance, with the exception of its requirements for the setback from schools.

Due to the strong risk that FCC guidelines may be routinely exceeded (due to allowing an infinite number of facilities in such close proximity) and the public exposed to such high levels of rf radiation that thermal injuries (burns and heating of tissue) will occur regularly on the public-right-of way and in our homes, close to these dangerous small cells, CEP takes the position that a moratorium is necessary. This is in addition to the well-documented, scientifically-proven, serious non-thermal health and safety threats to all biological beings from harmful and even lethal microwave and millimeter microwave radiation, with very close proximity to these 4G/5G small cells blanketing our communities with no escape for people, animals, wildlife, or insects, as outlined in both of these ordinances, CEP demands a moratorium on the installation of small cells and 5G in our County.

CEP requests and comments:

(1.) CEP REQUESTS ISSUANCE OF A MORATORIUM on permits pending investigations of safety concerns pertaining to FCC guidelines that seem impossible to follow, given the County's two very open-ended ordinances, especially in the absence of residential setbacks and a master plan, as staff have proposed, allowing virtually an infinite number of configurations of poles and variously powered small cells within close range of each other and in front of and in very close proximity to residences, businesses, schools, churches, parks, sportsfields, and other civic areas.

Definition in the "staff proposed" San Diego County Ordinance of a "Wireless Telecommunications Facility – Any facility that transmits and/or receives electromagnetic waves, including, but not limited to, antennas, dish antennas and other types of 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. Also known as a wireless communications facility."(p. 6, B-1-6)

"Small Cell Wireless Facility (SCW) – A wireless telecommunication facility and all related equipment, where the antenna is no more than three cubic feet in volume and all other related equipment on the structure is no more than 28 cubic feet in volume. This term also applies to any Micro Wireless Facility, meaning a wireless telecommunications facility where it is not larger in dimension than 36" in length, 18" in width and 12" in height, does not have an exterior antenna which is longer than 11 ½", and are installed directly onto existing overhead cables owned by telecommunications providers." (p. 5, Attachment B-1-5)

6992 SMALL CELL WIRELESS FACILITY APPLICATION REQUIREMENTS

Wireless Telecommunication Facility permit applications which meet the Small Cell Wireless Facility (SCW) definition ... (p.11, Attachment B-1-11)

So it would appear that facility means an entire structure, such as a cell tower or pole with small cells on it. *Not the measurement of each individual cell.* Therefore a small cell facility would mean the sum total of whatever is on the pole. That, at the very least, should mean that co-locations (more than one cell on a pole) cannot exceed FCC guidelines, nor can the combination of different poles located near each other.

Related questions NOT TO BE TRUSTED TO THE INDUSTRY AND UNKNOWN BY STAFF:

Please note that wireless providers should NOT be allowed to provide their own testing, that the County must do the testing by hiring experts unrelated to industry and the wireless providers can pay for it. We cannot have wireless companies monitoring themselves, pertaining to these and other rf emissions questions!

1. What if you have multiple co-located poles near each other, since there is no distance requirement between existing poles nor poles from *different or unique* wireless providers? Then what? Will these exceed FCC guidelines? Even if they don't, this is not safe according to current science.
2. What will the exposures be at the base of the pole? Will these exceed FCC guidelines? Even if they don't, this is not safe according to current science.
3. What will the exposures be at a second or third story, or multi-storied building especially those with a window near the pole, with zero setbacks or even 100 foot setbacks to the building or a school? What if someone walks closer to the "SCW facility"? Will these exceed FCC guidelines? Even if they don't, this is not safe according to current science.
4. What about the differences in power, cell-to-cell, and thus, intensity of emissions and exposures? Will some exceed FCC guidelines? Even if they don't, this is not safe according to current science.

5. What about the allowance by planning staff to let wireless companies change out the cells at will, once a permit is obtained, to other types of cells with potentially different levels of power or range, without new permits? Will some of these exceed FCC guidelines? Even if they don't, this is not safe according to current science.
6. What about the approvals for very intense, directional small cell antennas that focus *a concentrated beam* right at a house, such as one recently placed in Crest, aimed at a 4 year old's bedroom window and home, *happily* approved by the County Planning Department several months ago? Will these exceed FCC guidelines? Even if they don't, this is not safe according to current science.
7. How can County ensure independent measurement of 5G when many of these frequencies have never been used before and may not even be able to be measured, short of a very expensive spectrum analyzer? Are you prepared to make the wireless providers pay for regular checks on these small cells, from independent bau-biologists or EMF experts not associated with the industry?

I think ALL THOSE IMPORTANT UNKNOWNNS and the fact there is no safe way to deploy small cells and 5G are grounds for a moratorium within San Diego County for the issuance of any small cell facility, at the very least till Master Plans are gathered and these protections from thermal injuries including microwave burns, which we are entitled to by federal law are ensured. Also, that any small cells already installed be turned off during this period.

The weak ordinance language appearing in both proposed ordinances do not protect the public, now, or in the future, from risk of thermal burns. It would be irresponsible at the very least, to proceed without this knowledge from extensive, independent (non-industry, non-County-staff) analysis. Staff is simply not capable of doing so.

IN THE EVENT THAT THE BOARD OF SUPERVISORS DOES NOT ISSUE A MORATORIUM, CHOOSING RESPONSIBILITY FOR THE OUTCOME:

(2.) CEP requests requiring a Master Plan. The staff version eliminates the idea of a Master Plan for each applicant, necessary to control haphazard installations of infrastructure that can destroy the health & safety, beauty and aesthetics of our community. The Planning Commissioners, appointed to represent the community, and who are successful business members of the community, all agreed that a Master Plan was necessary. County staff do not recommend a Master Plan, finding many reasons that seem aimed to please the wireless companies that want to do as they wish on taxpayer land and at taxpayer expense. San Diego County is not to be given away to these wireless companies by County staff. Listen to your Commissioners.

VERY IMPORTANT - PLANNING COMMISSIONER ORDINANCE MASTER PLAN LANGUAGE MISREPRESENTS DECISION OF PC ON JULY 19TH.

Please note that the Master Plan approved by Commissioners was not a Master Plan for simply one small cell and others in its immediate vicinity, as written by staff into the alleged Planning Commissioner ordinance (see A-2-17)

"Scope of Work: Applicant shall submit a scope of work with sufficient detail to determine compliance with the requirements set forth below.

This shall include a Master Plan for each SCW to be installed within the vicinity of the proposed site."

Transcript from Planning Commission Hearing July 19, 2019:

Master Plan motion [discussed 2:42 on archived video] Motion seconded and voted on [2:43:41]

Douglas Barnhart, Vice Chairman, Speaking (Representing District 5, Supv. Jim Desmond):

"The way I see this is these companies are going to go into neighborhoods and I think we have a chance to plan this out - instead of the haphazard way that we do it now with tiers. So if you are going into these

neighborhoods, these are pretty established, the lighting is all there, I don't think we take these one at a time for approval, I think we master plan it; so if you want to go into a neighborhood with this 5G stuff on light posts, then we want to see the entire neighborhood plan and see what the "same" (?) plan is; if Verizon does that, if AT&T does that, then staff, you know what, you can overlay them and see what we have. We got a chance to have this proceed a bit more orderly than before."

This must be corrected and reposted publicly before Aug. 7th.

(3.) THE ENVIRONMENTAL STATEMENT IS ALARMINGLY FALSE. (P. 12-13) THERE IS OVERWHELMING SCIENTIFIC INFORMATION to indicate this type of plan is without precedent in the history of the world, and many thousands of independent scientists, researchers, experts, and physicians worldwide say this 5G PLAN WILL CAUSE EXCESSIVE HARM TO PEOPLE, PROPERTY, ANIMALS, INSECTS, PLANTS, AND THE ENVIRONMENT AS A WHOLE. It is also on record as having no safety testing for the plan itself. Independent millimeter wave studies, at least in the thousands, have shown very disturbing harm to living beings in the short term - including causing skin to feel as if it is on fire, and it enters the body to organs and bloodstream via sweat ducts, which act as antennas. The FCC guidelines do not protect insects, animals, or wildlife, which are even more susceptible to rf-radiation harm than we are. What will these frequencies do to all of us in the longterm? Small cells can catch fire and start fires. Poles can fall down in high winds, storms, or floods. This must be discussed and admitted, whether it drives siting or not.

(4.) Staff (and County Counsel) misrepresent federal laws. Tel Act of 1996 Sec. 704 (a)(7)(B)(iv) states: No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions. Yet Staff and Counsel state it reads "health effects". Health is not environmental effects. Safety is not environmental effects. Why is County Counsel and Staff constantly interpreting everything so telecom interests are favored? This is wrong and dysfunctional.

(5.) CEP Requests ADA language to be included in any County wireless ordinance adopted that provides a process for disabled individuals to request and receive accommodations well within the shot clock time period, and afterwards, as needed, to allow persons sensitive to rf radiation to have their needs met.

Inaccurate statement about Center for Electrosmog Prevention ADA input: Staff wrote "The Center [for Electrosmog Prevention] also requested accommodation through the Americans with Disabilities Act (ADA) by asserting discrimination against electrically sensitive people. Since the County of San Diego does not offer cellular phone programs or services, the ADA Act does not apply to approval of the Small Cell Wireless Ordinance." (p. 14) [emphasis added]

This is completely inaccurate and misleading, indicating the County staff did not understand or are misrepresenting the request for inclusion of a section in the ordinance to address the needs of rf-sensitive people, covered by the ADA and other applicable state and federal laws.

In reality, CEP asked for the ordinance to include a process whereby people with rf sensitivities to non-ionizing rf radiation at levels below FCC guidelines (which only apply to thermal heating of tissues), including but not limited to those with electromagnetic sensitivities (EMS - also known as EHS, ES, and Microwave Sickness) (of which there are an estimated, but growing, minimum number of 25,000 with EMS in the County's unincorporated area, which is 5% of the total population of 500,000 and could go as high as 20% which is 100,000 people), could apply for Title II ADA Accommodations Requests to limit exposure to the emissions from small cells in the vicinity of their homes or businesses. Others may have disabling medical conditions severely impacted by rf radiation, such as some individuals with pacemakers or metal implants; cancers; migraines; vertigo; ear pain; tinnitus; vision problems; mental health disorders such as depression and psychosis; ADD, ADHD, or behavior disorders; heart; and seizure conditions, to name but a few that

researchers, scientists, and doctors have found are susceptible. In fact, there is a set of medical codes used for many years by Medicare and insurance companies that recognizes harm from rf radiation and ongoing problems from exposures. This CEP request for an ADA accommodations process in the ordinance, to streamline "ADA accommodations requests", pertains to the County's approval of permits for small cell siting in the public right-of-way and being the owner of the pole and/or the landlord leasing space on public right-of-way and/or public land for SCW facilities, to wireless companies. It involves *access* to the public right-of-way and streets, as well as one's own home, property, and businesses, and the strong likelihood for incommoding these public areas, around the homes and communities of rf-sensitive people. The Planning Department staff continually came up with ever more obscure reasons for not placing this in the ordinance and the County staff have been highly resistant, thus far, to the idea of accommodating rf sensitive people pertaining to small cell siting, falsely claiming federal law does not allow it.

In the staff version of the ordinance, the ADA is mentions accessibility, seemingly implying that it may be referring to pedestrians (see 12 below) and (see 13, below) states that SCW's "shall be built' in compliance with the ADA, which does not seem at all to address needs of disabled people, and is hard to interpret.

"12. SCWs on new and related structures shall not impair pedestrian use of sidewalks or pathways, shall be designed and sited in compliance with all Americans with Disabilities Act (ADA) accessibility requirements, and shall not inhibit equestrian activities on designated public or private trail systems. (Attachment B-1)
13. All SCWs shall be built in compliance with the Americans with Disabilities Act (ADA)." (p. 12, B-1-12)

Title 47, the Telecommunications Act of 1996 Section 704, and the FCC guidelines it refers to, were never created to disenfranchise millions of disabled people sensitive to non-thermal effects of non-ionizing radiation, and as the FCC guidelines were specifically and deliberately written to exclude non-thermal effects, 23 years ago. CEP requests that the Americans with Disabilities Act and other anti-discrimination disability laws, whether they be state or federal, are part of this ordinance and fully applied, not ignored or claimed to be allegedly being supplanted by any other laws - providing means for any qualified disabled person to have a process whereby needed accommodations related to these small cells are granted within the shot clock period or thereafter. Further, that these requests may be made ahead of time, if desired, and kept on file in order to guide future issuance of permits for small cells in accordance with the ADA request, considering the short noticing and shot clock time periods. There is no language in the ADA forbidding such requests and accommodations, rather, *recent amendments to the ADA emphasize accommodating disabled people* so they may have equal access and live equally in an equal society, rather than putting up barriers to accommodations and access. It is obvious County staff need to be retrained on Title II of the ADA as they appear not to not understand the current laws and intent of these laws, which is very troubling when it is a matter of life, death, or severe disruption to one's access to public areas and even one's home in the case of the approval of permits for small cells. County Counsel does not seem to be aware that disabilities under the ADA are not preempted by any other law.

NOTICING TO ASSIST DISABLED INDIVIDUALS: CEP also requested that persons living within a mile be "noticed" as quickly as possible (not using up the first ten days of a permit period), so ADA requests for sensitive individuals may be submitted, processed, and granted well before the shot clock ends and/or installations begin to prevent small cells being placed where sensitive individuals may experience severe harm or even death. Staff made the decision, without consideration for the needs of disabled individuals, not to extend the noticing to one mile, and limited it to 500 feet. (p. 15, B-1-15)

(6.) Sustainable Environments not improved and will weaken the economy "Today's proposed action support the Strategic Initiative of Sustainable Environments/Thriving in the County of San Diego's 2019-2024 Strategic Plan by balancing the FCC direction, planning for infrastructure that improves the quality of the built environment and strengthens the local economy with community concerns about the deployment of this infrastructure in residential and scenic areas." (p. 16, B-1-16)

Actually, this action, particularly the staff version of an ordinance, does not address community concerns about safety and aesthetics, does not show at all how this will strengthen the local economy, and does not improve quality of built environment (see #7 below for destruction of aesthetics).

Puts the County at grave and significant risk for more health and safety issues, including fires, in addition to certain property value losses where these small cells are located in communities and near houses and businesses. These poles will fall down, top heavy with equipment that each weighs up to 90 lbs total, by admission of the industry reps at the County Planning Commission Hearing. Put two on a pole, and you have 180 lbs. Give it a high Santa Ana wind of 85 mph or so and you'll have a falling pole and likely a fire or deaths resulting, especially with no fall zone, with staff's recommendations of zero setbacks from residences. The staff version of the ordinance will cause more homelessness as people find their homes unlivable and unsellable, or when they can't live in a rental due to the small cells outside, and without funds to find a new apartment without them, they will take to the streets. I have met people in the city of San Diego already doing this for this reason. When people are ill they are not productive. When communities burn down, it is a setback for the economy and will be for the County when they have to foot the bill for that and other accidents due to poor decisions if they vote for the staff version of the ordinance. Don't count on indemnification resolving your problems if you adopt the staff version of this ordinance.

(7.) The staff version of the ordinance also will destroy the aesthetics of all communities, as it allows no rules for distances between small cells on existing poles, allows for multiple small cells on poles, with no limit on the number of companies who may install these, and thus will create an ugly forest of street poles loaded with equipment, nothing like the nice photos staff doctored up for you in their presentation. Both 4G small cells and 5G small cells are necessary for the technology to work. Thus each company will have to have their own pole. Think 5 companies, think 10 companies, think 20, think more - in the current time and years to come, all with their own or shared poles, with no rules for distances between. This is a big mistake.

(8.) Both versions cut the public out of the equation. Due to these permits being designated "ministerial" rather than "discretionary", the public will have no opportunity for input on the placement of small cell sites with or without a notice being sent, nor on the particular plan impacting their communities (especially in the absence of a plan). Staff has been thoroughly resistant to the idea that public input could be handled, rather they viewed it as disruptive to "their system" in place, and refused to consider a new fast-tracked system to accommodate public input, even though the public has a right to be heard on these important decisions, particularly as the siting impacts health and safety, property values, and those with disabilities and medical conditions.

(9.) Testing for emission levels of the SCW facility as per the ordinance is allowed to be provided by the wireless provider applicant. This is a conflict of interest and must not be allowed. The County must select companies to do the testing of the facility and the wireless applicant must pay for this.

From "the Staff" Ordinance, language pertaining to testing and FCC limits:

"All SCW installations shall be physically installed and aligned so as to ensure that FCC Limits for Maximum Permissible Exposure (MPE) for radiofrequencies(RF)are not exceeded, per 47 C.F.R. § 1.1310. " [link to that showing evidence that the general population exposure is only rated on 30 minute exposures, not continuous, and it is averaged, and does not take into consideration pulses and peak

values <https://www.law.cornell.edu/cfr/text/47/1.1310>]

and

"Small Cell Wireless Permit Application Contents All SCW application requirements listed below shall be evaluated and signed by one or more of the following, if applicable: Licensed Architect, Licensed Contractor, Licensed Engineer, and/or Licensed Surveyor:

and

“RF Emissions: Applicants shall submit a radiofrequency radiation study (prepared by a licensed engineer qualified to evaluate radiofrequency emissions) which estimates the proposed project's radiofrequency emissions, demonstrating compliance of the proposed facility with applicable FCC policies, standards, and guidelines for MPE to radiofrequency radiation emissions.”

and

“Prior to July 1 of every calendar year, each SCW provider shall submit documentation identifying the location of each SCW in the right-of-way of the unincorporated County. The documentation shall include SCWs that are approved, but not yet built, SCWs that are currently operating, and locations containing non-operating SCWs. As part of this annual report, an RF emissions report must be provided for all approved, built, and operating SCWs.”

(10.) Planned warning signage, suggested in staff's ordinance to be placed at 10 feet above street level and as small as 4"X 6", needs to be able to be read by those in wheelchairs or standing on the street, to understand these warnings, not on a ladder. The general public and people with sensitivities deserve to know what is on these signs AND the signs should inform them of the level of rf emissions and frequencies used pertaining to the entire facility (not one small cell). Warning signage for poles placed near enough to each other to additively approach FCC limits must also have warning signs for "safe distances" and perhaps barricades for a certain area below, as is seen at the base of some cell towers, to prevent thermal burns.

(11.) Staff incorrectly represents the reasons for the Center for Electrosmog Prevention's (CEP) request for a hotline. Reasons included safety concerns, noise, illness resulting from rf exposures, noise, potential exceeding of fcc guidelines, radiation burns from exposures, property value loss, pole getting ready to fall, fires starting, issues of any kind with poles. Thousands of poles will have many issues. A dedicated hotline has been requested. Note: no one ever wanted staff to provide referral to an appropriate agency. These have to do with county ordinance and siting issues, as functioning as "a landlord" to street poles owned by the County and those issued permits to on public rights-of-way. EXISTING STAFF RARELY OR DON'T ANSWER THEIR PHONES NOW AND DON'T RESPOND PROMPTLY, HOW CAN THEY HANDLE MORE CALLS WHEN THERE ARE TENS OF THOUSANDS OF THESE SMALL CELLS IN THE COUNTY? (p. 12)

Sincerely,

Susan Brinchman, Director

Center for Electrosmog Prevention, a 501c3 nonprofit

PO Box 655, La Mesa, CA, USA 91944-0655

www.electrosmogprevention.org

www.facebook.com/stop5gca

director@electrosmogprevention.org

“Never doubt that a small group of thoughtful, committed **citizens can change the world**; indeed, it's the only thing that ever has.” ~Margaret Mead.

Sent from my hard-wired computer: no wireless Internet connection (WiFi), no cordless mouse or keyboard, with no smart meters on the building. Pollution from those wireless devices will cause long term health problems. See the comprehensive report on health effects at www.Bioinitiative.org

From: Jacob, Dianne
Sent: Monday, August 05, 2019 9:22 AM
To: FGG-DL, LSDOCS
Subject: FW: 5G Wireless Ordinance
Attachments: 5G Letter.pdf

-----Original Message-----

From: Steve Schuette <sschuette2@gmail.com>
Sent: Monday, August 05, 2019 9:22 AM
To: Gaspar, Kristin <Kristin.Gaspar@sdcounty.ca.gov>
Cc: Jacob, Dianne <Dianne.Jacob@sdcounty.ca.gov>
Subject: 5G Wireless Ordinance

Please see attached letter.

Thank you for considering our requests,

Steve Schuette

URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING THE 5G WIRELESS ORDINANCE

Dear San Diego County Board of Supervisors:


1. **We are asking for a moratorium because the citizens of San Diego County are unaware that the ordinance you are about to pass on August 7th will allow untested 5G cell towers in front of their homes as early as next week.** These 5G cell towers emit radiation that has never been tested for health or safety for plants, animals or humans. We need to wait for the 9th and 10th Circuit Court cases brought by other cities to be decided before cell towers are put in place. The courts could turn back the FCC directive that stripped local control from municipalities in the first place.
2. **The FCC directive strips San Diego County of nearly all aspects of local control.** This is wrong and we believe San Diego County should fight in court to protect our local rights to decide crucial issues that impact our lives - especially the future well-being of our children.
3. **Our homes comprise the greatest portion of our assets.** We know that before 5G there was a consensus among most realtors and appraisers that a cell tower in front of a home devalued the home by at least 20%. We are concerned that a 5G cell site in front of a home may render the home unmarketable. 5G is a different animal. In all previous generations of wireless – 2G, 3G, 4G – the telecom industry promised the technology would not cause cancer because it did not heat tissue. They are not saying that with 5G, because 5G *does* heat tissue. 5G will exceed the safety limits now in place by the FCC because it heats tissue, and thermal protection was the only protection offered by previous FCC “safety standards”. As soon as the public realizes this, no one will want to buy a house with a 5G tower in front of it.
4. **The Board of Supervisors *must not fail* to protect San Diego County citizens.** Right now these 5G small cells can be installed with telecom submitting a ministerial permit (just a rubberstamp by the County on a piece of paper with no hearing and no appeal) with no consideration for our opinions, our safety, our health, our property values and our privacy. Our privacy is being lost to 5G with the collection of data at every level of our lives. There are no restrictions on who collects this data and who the second, third and fourth party buyers will be. **This mass data collection is a breach of privacy that should demand a moratorium instantly.**
5. **We want 1000 foot setbacks for the following: schools, daycare centers, churches with daycare centers, all hospitals, “quiet zone” laboratories for RF testing of public safety equipment, and fire stations.** We want a minimum of 100 foot setbacks from our homes. We would prefer 500 feet as four other cities in California have done in their ordinances. We find zero setbacks from our homes suggested by County staff *completely unacceptable*. Our intention is not to defy the FCC directive which states an effective ban in residential areas is prohibited if setbacks create such an effect. However, we choose to protect our real estate values over the telecommunication industry’s convenience and profit, and demand setbacks

that protect our residences. We are willing to sit at the table and work with industry to come up with alternate locations for towers.

6. **We propose wireless free conservation areas/parks to be set aside by San Diego County to protect wildlife and to protect the migratory path of birds.** We are aware the FCC "safety standards" do not protect bees, birds, and animals. Because wildlife is unprotected, and because it is known through thousands of peer reviewed studies that EMFs (wireless radiation) jeopardize the ecosystem as a whole, we would like to create quiet zones without wireless so that animals do not lose their protected habitat. We need to protect certain airways for migratory birds and other wildlife just as the Board of Supervisors has voted to protect hundreds of thousands of acres of land in San Diego County.
7. **Require a certificate of completion from each telecommunications applicant.** Because the law allows for additional telecommunications equipment to be added to each pole, and because this equipment may be in the form of microphones, cameras, surveillance technology, Homeland Security and other carriers with their own small cells, a certificate of completion tells the County and tells us as homeowners when the job is completed and advises us if additional technology is being added subsequent to the initial installation. All additional equipment should require a separate permit.
8. **There has not been a single study done by the FCC, the EPA, or the FDA showing 5G is safe,** yet 5G cell antennas are going to spring up outside our children's bedroom windows. We refuse to be part of a human experiment that benefits the needs of industry and fails to protect our basic human rights. Our profound concern is heightened for the following reasons: 1) We do not trust the federal government to look out for our health and public safety; 2) We do not trust the FCC "safety standards" to be protective because the World Health Organization's cancer committee, IARC, classified everything on the RF – EMF spectrum a 2b "possible human" carcinogen at levels *below* the FCC "safety" standard, putting RF in the same category as DDT and diesel fumes; 3) The FCC has never looked at the non-thermal effects of RF radiation [cancer, Alzheimer's, neurodegenerative diseases, ADHD, birth defects, infertility, disabling headaches, sleep disruption, vertigo]. The FCC only protects us from the effects of heat which includes shocks, burns, and heatstroke; 4) The chairman of the FCC, Ajit Pai, is the former lead attorney for Verizon and may have a conflict of interest. Therefore, **we are looking to our representatives in San Diego County to protect us.**
9. **Because there are no studies proving that 5G is safe, San Diego County should establish a hotline to take complaints from the more than 500,000 residents who live in the County and additional residents who work and come to the County for medical and recreational reasons.** This hotline should be staffed by an individual who has training in radiation sickness, known in Medicare and Medicaid billing as "Exposure to radiofrequency, Sequela". These complaints should be tabulated and conveyed monthly to the California Department of Public Health, the EPA, the FDA, and the FCC.

Respectfully & Gratefully, [See next page for signatures]

Signature page for: **URGENT MESSAGE FROM YOUR CONSTITUENTS REGARDING
THE 5G WIRELESS ORDINANCE**

Name [Sign & Print]: STEPHEN K. SCHUETTE 

Address: 1053 WOTAN DRIVE, ENCINITAS, CA 92024

Date: 8/5/2019

Email Address
(optional): SSCHUETTE2@GMAIL.COM

Name of Your Supervisor (if you know):
KRISTIN GASPAR

Please send before noon on Tuesday August 6 to the following supervisors. You may select your own supervisor or send to all. Remember, Dianne Jacob is the Chairwoman.

Jim Desmond: jim.desmond@sdcountry.ca.gov

Dianne Jacob: dianne.jacob@sdcountry.ca.gov

Kristin Gaspar: kristin.gaspar@sdcountry.ca.gov

Nathan Fletcher: Nathan.Fletcher@sdcountry.ca.gov

Greg Cox: greg.cox@sdcountry.ca.gov