

CC MEETING SEPTEMBER 2023
MODIFICATIONS DIRECTED BY PC AT AUGUST 23 MEETING

| ITEM | PC DIRECTION | REDLINED CHANGE |
|-------------------------|---|---|
| PC CHANGES TO ORDINANCE | | |
| Ord | Add full definitions of each of the five application types listed in the "Definitions" section. | <p>17.46.020 Definitions.</p> <p>A. Generally Applicable Definitions</p> <p>24. "Type I application" means an application type <u>that shall be limited to applications wherein an applicant seeks to place a new small wireless facility upon an existing structure and either (i) the structure is not an existing tower or base station (as defined for EFR purposes) or (ii) the structure is an existing tower or base station (as defined for EFR purposes) but the proposed facility does not qualify as an EFR. If the completed facility would still meet the physical limits and requirements to meet the definition of a small wireless facility after the installation of the new equipment, then the application to install such new equipment is a Type I application described in 17.46.050(A)(1)(a).</u></p> <p>25. "Type II application" means an application type <u>that shall be limited to applications wherein an applicant is seeking to place a new personal wireless service facility upon an existing structure which does not meet the definition of a small wireless facility or which will not meet the definition of a small wireless facility if and when the proposed new personal wireless service equipment is installed upon the existing facility and/or structure and either (i) the structure is not an existing tower or base station (as defined for EFR purposes) or (ii) the structure is an existing tower or base station (as defined for EFR purposes) but the proposed facility does not qualify as an EFR described in 17.46.050(A)(1)(b).</u></p> <p>26. "Type III application" means an application type <u>that shall be limited to applications seeking to install and/or construct a new small wireless facility that involves placement of a new or replacement structure described in 17.46.050(A)(1)(c).</u></p> <p>27. "Type IV application" means an application type <u>that shall include any applications for the installation of a new personal wireless service facility which does not meet the criteria for Type I, Type II, Type III or Type V applications described in 17.46.050(A)(1)(d).</u></p> <p>28. "Type V application" means an eligible facilities request or EFR <u>as defined by the FCC in 47 C.F.R. § 1.6100(b)(3), which is any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.</u></p> |

COMMENT MATRIX #3

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| Ord | Treat Residential and Limited Commercial (RC) like R-1 with respect to location rankings | <p>17.46.040 General Development Standards.</p> <p>B. Ranked Locations. Applicants must propose placement in locations with the least intrusive land use designation (i.e.: Zoning) technically feasible and potentially available. Applications proposing placement in Tier I or II must include a written justification as part of the application submittal, supported by factual and verifiable evidence, that shows no location in a Tier III land use tier is technically feasible and available. The following land use tiers are ranked from least compatible to most compatible:</p> <p><i>Tier I (Least Compatible):</i> Senior Citizen Facility (A-3), Multi-Family Residential (R-4), and Single-Family Residential (R-1), and Residential and Limited Commercial (RC).</p> <p><i>Tier II:</i> Improved Parklands (P-2), Natural Parklands and Preserves (P-1), and Theatrical (A-1).</p> <p><i>Tier III (Most Compatible):</i> Central Commercial (CC), Service Commercial (SC), and Community and Cultural (A-2), Residential and Limited Commercial (RC)</p> |
| Ord | Add some of the clarifying language from the Design Guidelines about the equipment also counting towards height into the ordinance itself | <p>17.46.040 General Development Standards.</p> <p>F. Design Standards</p> <p>1. General Requirements. This subsection establishes generally applicable design standards for all Type I, Type II, Type III and Type IV wireless facilities in all locations. The design of Type I, Type II, Type III and Type IV wireless facilities must also comply with applicable administrative guidelines adopted by the Planning Commission pursuant to subsection 17.46.040(B)(2), Chapter 17.58, and the City Council pursuant to subsection 17.58.020(E).</p> <p>b. Overall Height. On public and private parcels, wireless facilities may not exceed more than 10 feet above the maximum height allowed by this code for the underlying zoning district where the facility is proposed. In the public right-of-way, wireless facilities <u>on an existing pole</u> may not have an overall increase the height <u>that exceeds the height</u> of an the existing pole by more than 10 feet and wireless facilities that or involve a replacement pole or a new pole <u>may not have an overall height</u> that is more than 10 feet above the height of the replaced pole or existing poles in the vicinity <u>unless additional height necessary to comply with CPUC safety standards such as General Order 95.</u></p> |

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| Ord | Add a ban on visible alarms | <p>17.46.040 General Development Standards.</p> <p>F. Design Standards</p> <p>1. General Requirements. This subsection establishes generally applicable design standards for all Type I, Type II, Type III and Type IV wireless facilities in all locations. The design of Type I, Type II, Type III and Type IV wireless facilities must also comply with applicable administrative guidelines adopted by the Planning Commission pursuant to subsection 17.46.040(B)(2), Chapter 17.58, and the City Council pursuant to subsection 17.58.020(E).</p> <p>h. Security Measures. To prevent unauthorized access, theft, vandalism, attractive nuisance or other hazards, reasonable and appropriate security measures, such as fences, walls and anti-climbing devices, may be approved. Security measures shall be designed and implemented in a manner that enhances or contributes to the overall stealth, and the reviewing authority may condition approval on additional stealth elements to mitigate any aesthetic impacts, which may include, without limitation, additional landscape or hardscape features. Barbed wire, razor ribbon, electrified fences or any similar security measures are prohibited. Alarm systems shall not include any <u>visible alarms or</u> audible sirens or other sounds.</p> |
| Ord | Add no adverse impact to property values to findings for approval. | <p>17.46.080 Findings Required.</p> <p>A. Types I to IV Applications</p> <p>1. Required Findings for Approval. The reviewing authority may approve wireless facility applications only when the reviewing authority makes all the following findings:</p> <p>1. the proposed wireless facility will not result in adverse visual impacts <u>or have an adverse impact on property values</u> because it complies with all applicable development standards in Section 17.46.040 and the Administrative Detailed Wireless Facility Design Guidelines;</p> |

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| OTHER PC CHANGES | | |
| CL | For the significant gap showing, require probative evidence to take into account all existing and approved facilities | <div><input type="checkbox"/> 15.2.1 SIGNIFICANT GAP/LEAST INTRUSIVE MEANS CLAIM</div> <p>If an applicant asserts that: (i) an identified wireless provider suffers from a significant gap in its personal wireless services within the City, (ii) that the applicant’s proposed facility is the least intrusive means of remedying such gap in services, having considered alternatives and (iii) that under the circumstances pertaining to the application, a denial of the application would constitute an “effective prohibition” under Section 47 U.S.C. §332, then, the applicant shall be required to file the following information:</p> <p>If an applicant makes a significant gap/least intrusive means claim, then the applicant shall be required to submit <u>probative evidence taking into account all existing and approved facilities of the carrier serving the City, including the following</u>:</p> |
| CL | For other effective prohibition claims, do not refer to the materially inhibits explicitly | <div><input type="checkbox"/> 15.2.2 MATERIALLY INHIBITS OTHER EFFECTIVE PROHIBITION CLAIMS</div> <p>If an applicant asserts that (i) one or more City requirement(s) will have the effect of prohibiting wireless telecommunications services because it inhibits the provision of personal wireless services because, for example, it inhibits an identified wireless provider’s ability to densify a wireless network, introduce new services to a new or existing geographic area or otherwise improve existing service capabilities, or restricts the entry of a new wireless provider in providing personal wireless service in a particular area, and (ii) the inability to meet the identified service and performance goals materially inhibits effectively prohibits the wireless provider’s ability to compete in a fair and balanced legal and regulatory environment, and (iii) that under the circumstances pertaining to the application, a denial of the application would constitute an “effective prohibition” under Section 47 U.S.C. §332, then, the applicant shall be required to file the following information:</p> <p>If the materially inhibits other effective prohibition claim is based on a claim of the existence of a significant gap, the applicant shall provide the information in 15.2.1 above.</p> <p>If the materially inhibits other effective prohibition claim is based on grounds other than the existence of a significant gap, the applicant shall provide:</p> <div><input type="checkbox"/> a street-level map that shows the general geographic area of the service area(s) to be densified, to be improved, to receive</div> |

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| | | <p>new services through the proposed wireless facility (the “Service Area”);</p> <ul style="list-style-type: none"><input type="checkbox"/> full-color signal propagation maps in scale with the street level map that show current and predicted service coverage in the area for all active frequencies in RSRP (or other relevant signal level or quality indicator) and with a legend that describes the objective signal levels in dBm that correspond to any colors used to depict signal levels on such propagation maps. Graduations between signal levels shown on the map shall not exceed 3 dBm;<input type="checkbox"/> a written narrative that describes the new services and minimum service levels the applicant seeks to provide within the Service Area, the uses (commercial, residential, primary thoroughfare, highway, etc.) within the Service Area, and the manner in which those uses would be negatively affected if the Service Area were to remain unaddressed;<input type="checkbox"/> a statement as to whether the applicant conducted any drive test(s) and, if so, all drive test results and data (in .XLS or .CSV or similar format) together with a report that describes how and when the applicant conducted such test(s).<input type="checkbox"/> an explanation of how the inability to meet the identified service and performance goals due to a City denial on the basis of the City requirement effectively prohibitsmaterially inhibits the wireless provider’s ability to compete in a fair and balanced legal and regulatory environment. |
| COA | Allow for City to perform annual RF emissions test | <p>11. Compliance with Applicable Laws/RF Emissions Exposure Limits. The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law (“Laws”) applicable to the permittee, the subject property, the wireless facility or any use or activities in connection with the use authorized in this permit, including any Laws applicable to human exposure to RF emissions. This permit is not granting the permittee any rights to make any portion of the adjacent properties inaccessible to the general public or to hinder future lawful development of adjacent properties as a mitigation measure to ensure the wireless facility will comply with Laws applicable to human exposure to RF emissions, absent agreement from the adjacent land owner. The permittee understands that if site conditions change in the future due to lawful development on adjacent property, the permittee may need to modify or remove its wireless facility or obtain adjacent property owner consent to mitigation measures on the adjacent property if required to maintain compliance with any Laws applicable to human exposure to RF emissions. If the Director finds good cause to believe that the wireless facility is not in compliance with any Laws applicable to human exposure to RF emissions, the Director may require the permittee to submit a</p> |

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| | | written report, signed by an RF engineer under penalty of perjury, that: (1) the installation is operated in compliance with 47 U.S.C. § 324 (use of minimum power); and (2) the installation complies with all applicable FCC rules and regulations for human exposure to RF emissions and will not cause members of the general public to be exposed to RF levels that exceed the maximum permission exposure levels deemed safe by the FCC. <u>Further, the City or its contractors may perform an annual RF emissions exposure compliance test without notice to the permittee.</u> The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee’s obligations to maintain compliance with all Laws. |
| CONFORMING CHANGE TO WIRELESS APPLICATION FORM | | |
| APP | PC recommended ordinance had change to Section 17.46.050.B.3 to have City establish application submittal hours rather than application appointments due to shot clock concerns which requires a conforming modification to wireless application form | <p>All applications submitted under this chapter must be submitted to the City during the office hours specified for intake of applications submitted under this chapter as established by the Community Planning and Building Department and posted on the City’s webpage. Applicants may submit one application or multiple applications whenever feasible and not prejudicial to other applicants. Any application received in a different manner or outside those established intake hours, whether delivered in-person, by mail or through any other means, will not be considered duly filed whether the City retains the submitted materials or not</p> <p>INSTRUCTIONS:</p> <p>Applicants that wish to submit an application for a wireless facility must fill out this Application for Wireless Facility form and not the General Planning Application form. All applications must be submitted in person to the Community Planning and Building Department at a pre-scheduled appointment. <u>during the office hours specified for intake of wireless facility applications as established by the Community Planning and Building Department and posted on the City’s webpage.</u></p> <p>To schedule an appointment email: planning@ci.carmel.ca.us. For questions about the application requirements or process call: (831) 620-2010 or email: planning@ci.carmel.ca.us. Emails and calls will be responded to during normal City business hours.</p> |