CHAPTER 99: WIRELESS COMMUNICATIONS REGULATIONS

Section

99.01 Purpose and intent

99.02 Objectives

99.03 Applicability

99.04 Definitions

99.05 General requirements

99.06 Administrative review

99.07 Conditional use review

99.08 Abandonment of wireless communications facilities

99.09 Nonconforming towers or wireless communication facilities

99.10 Temporary wireless communications facilities

99.11 Architectural review

99.99 Penalty

§ 99.01 PURPOSE AND INTENT.

(A) The purpose of this chapter is to regulate the placement, construction, and modification of towers and wireless communications facilities to protect the health, safety and welfare of the public, while at the same time not unreasonably interfering with the development of a competitive wireless communications marketplace in the city.

(B) The city's intent is to encourage wireless communications service providers that seek to further the following city priorities:

(1) Co-locate on/with other existing towers/structures/facilities or locate on existing structures.

(2) Require new towers and other related structures to accommodate multiple users wherever practicable.

(3) Locate towers in the least obtrusive locations and manner using present and evolving technology.

(4) Minimize adverse health, safety, public welfare, and visual impacts through co-location, siting, design, and construction, while upholding the purposes and objectives of this chapter.

(Ord. 19-13, passed 3-25-13)

§ 99.02 OBJECTIVES.

The following are the city's objectives regarding wireless communication regulations:

(A) To comply with the Telecommunications Act of, as amended, including any subsequent rules and/or rule interpretations by appropriate state and federal agencies and/or courts.

(B) To work proactively with wireless communications providers to ensure rapid and reliable deployment of their

services/technologies, while minimizing negative effects on the city.

(C) To ensure that the location of towers and wireless communications facilities in the city provide appropriate wireless communication coverage consistent with these objectives.

(D) To allow, under certain conditions, appropriate city-owned property and structures to be used for wireless communications facilities.

(E) To minimize adverse visual impacts of towers and wireless communications facilities through careful design, siting, landscaping, and innovative camouflaging techniques.

(F) To promote and encourage shared use/co-location of towers and antenna support structures as a primary option rather than construction of additional single-use towers.

(G) To ensure towers and wireless communications facilities are soundly and carefully designed, constructed, modified, maintained, and removed when no longer in use.

(H) To ensure to the maximum extent practicable that towers and wireless communications facilities are compatible with surrounding and nearby land uses.

(I) To ensure to the maximum extent practicable that proposed towers and wireless communications facilities are placed in locations that are designed to preserve adjacent natural settings and in a manner consistent with existing and planned development patterns.

(Ord. 19-13, passed 3-25-13)

§ 99.03 APPLICABILITY.

(A) All towers, antenna support structures, and wireless communications facilities, any portions of which are located within the city, are subject to this chapter. Wireless communications facilities and antenna support structures shall be regulated and permitted pursuant to this chapter and shall not be interpreted, regulated, or permitted as essential services, public utilities, or private utilities.

(B) Except as provided in this chapter, any approved use of a nonconforming tower or antenna support structure on the effective date of this chapter shall be allowed to continue, even if in conflict with the terms of this chapter, but shall not be expanded, reconstructed, or modified unless in conformance with this chapter, as required in § 99.09.

(C) Should any provision of this chapter conflict with any other provision of the Code, the strictest provision shall prevail.

(D) This chapter and the various sections and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, section, clause, or word is adjudged unconstitutional or invalid for any reason, by any court of competent jurisdiction, the invalidity shall not affect the remaining portions or applications of this chapter which shall be given effect without the invalid portion or application, provided those remaining portions are not determined by the court to be invalid.

(Ord. 19-13, passed 3-25-13)

§ 99.04 DEFINITIONS.

(A) *General use of terms.*

(1) The terms, phrases, words, and their derivations used in this chapter shall have the meanings given in this section.

(2) When consistent with the context, words used in the present tense also include the future tense; words in the plural number include the singular number; and words in the singular number include the plural number.

(3) All terms used in the definition of any other term shall have their meaning as otherwise defined in this section.

(4) The words "shall" and "will" are mandatory and "may" is permissive.

(5) Words not defined shall be given their common and ordinary meaning.

(B) *Defined terms.*

ADMINISTRATIVE REVIEW TEAM or ***ART.*** Members of city staff listed in § 99.06 or their designated representatives, and others appointed by the City Manager as deemed necessary.

ALTERNATIVE TOWER STRUCTURE. Includes, but is not limited to man-made trees, clock towers, bell steeples, light poles, power poles, and similar alternative-design mounting structures or other buildings or structures that are intended to camouflage or conceal the presence of antennas, towers, and other wireless communications facilities.

ANTENNA. Any transmitting or receiving device used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies, wireless communications signals, or other communication signals.

ANTENNA SUPPORT STRUCTURE. Any building or structure other than a tower which can be used for the location of wireless communications facilities.

APPLICANT. Any person that applies for administrative review, conditional use review, certificate of zoning plan approval, or other permit or approval according to the requirements of this chapter.

APPLICATION. The materials and process by which an applicant submits a request as authorized by the property owner and indicates a desire to be granted approval of an antenna, tower, antenna support structure, or any other wireless communications facility under the provisions of this chapter. An application includes all written documentation, verbal statements, and representations, in whatever form or forum, made by an applicant to the city concerning the request, but shall not include materials submitted as part of a request for non-binding pre-application review.

ARCHITECTURAL REVIEW BOARD or ***ARB.*** The Architectural Review Board of the city, as created by § 153.172 of this Code of Ordinances.

ARCHITECTURAL REVIEW DISTRICT. The Architectural Review District of the city. The term may also be used to refer to Ohio Historic Inventory Properties as provided in § 153.170 of this Code of Ordinances, where appropriate.

BACKHAUL NETWORK. The infrastructure that connects a provider's wireless communications facility sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

BOARD OF ZONING APPEALS or ***BZA.*** The Board of Zoning Appeals for the city, as created by the Dublin City Charter, Article VII.

CABLE MICROCELL NETWORK or ***CMN.*** A wireless telecommunications facility characterized by small antennas and equipment cabinets, and typically located on a small diameter monopole; on an existing or replacement street light, power pole, sign, or other suitable structure; or on an existing building.

CELLULAR-ON-WHEELS or ***COW.*** A temporary mobile wireless communications facility that consists of a wireless antenna tower and associated equipment on a truck, trailer, or other mobile structure designed to be part of a wireless network.

CHIEF BUILDING OFFICIAL. The Chief Building Official of the city.

CITY. The City of Dublin, Ohio.

CITY ENGINEER. The City Engineer of the city.

CODE. The Code of Ordinances of the city.

CO-LOCATION. The use of, or ability to use, a wireless communications facility or support structure by more than one wireless communications provider or more than one wireless antenna array.

CONDITIONAL USE. A use allowed in a zoning district after approval of the Planning and Zoning Commission according to the provisions of § 153.236 of this Code of Ordinances.

COUNCIL. The City Council of the city.

DIRECTOR. The Director of Land Use and Long Range Planning of the city, or a designee.

DISTRIBUTED ANTENNA SYSTEM or ***DAS.*** A network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area or structure which also may or may not contain fiber optic transport and/or landline components.

DISTRICT or ***ZONING DISTRICT*** or ***ZONE DISTRICT.*** A portion of the city within which certain uses of land and/or buildings are permitted and under the regulations and requirements of Chapter 153 of this Code of Ordinances.

EMERGENCY. A reasonably unforeseen occurrence with a potential to endanger personal safety or health, or cause substantial damage to property, that calls for immediate action, mitigation, or abatement.

ENGINEER. Any engineer currently licensed by the State of Ohio.

EQUIPMENT SHELTER or ***EQUIPMENT CABINET.*** The structure in which the electronic receiving and relay equipment or other necessary equipment for a wireless communications facility is located.

FAA. The U.S. Federal Aviation Administration, and any legally appointed, designated, or elected agent or successor.

FCC. The U.S. Federal Communications Commission and any legally appointed, designated, or elected agent or successor.

HEIGHT or ***ABOVE GROUND LEVEL*** or ***AGL.*** When referring to a tower or other structure, the distance measured from the finished grade at the base of the tower or structure to the highest point on the tower or structure, including the base pad and any antenna, but not including lightning arrest devices.

MONOPOLE. A support structure constructed of a single, self supporting hollow metal tube securely anchored to a foundation.

MULTI-USE TOWER. A self supporting lattice, guyed, or monopole structure constructed from grade which supports more than one wireless communications facility.

NONCONFORMING TOWER. Any tower or antenna lawfully existing at the effective date of or amendment to this chapter which does not currently conform to the requirements of this chapter.

PERSON. Any individual, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not-for-profit.

PLANNING AND ZONING COMMISSION or ***PZC.*** The Planning and Zoning Commission for the city, as created by the City Charter, Article VII.

RECONSTRUCTED TOWER. A tower which is removed in whole or in part and replaced in whole or in part. For the purposes of this chapter, a reconstructed tower is a tower for which approvals have been granted in accordance with the provisions of this chapter. The term and its use shall not apply to nonconforming towers.

RECORD OF DETERMINATION. The official written record of action by the Administrative Review Team.

STEALTH. A wireless communications facility designed to appear as another natural or artificial object that exists in the surrounding environment or which is architecturally integrated into a building or other structure, and designed to be minimally obtrusive and to camouflage or conceal the presence of antennas or towers, at the determination of the required reviewing body.

TEMPORARY WIRELESS COMMUNICATIONS FACILITIES. A cellular-on-wheels unit; an antenna on a bucket truck, crane, crank-up tower, tower; or another wireless communications facility required to evaluate a site for a temporary placement of a wireless communications facility as permitted by this chapter or for providing communications during an emergency, special event, conference, or other situations for limited periods while the use of a permanent wireless communication facility is temporarily interrupted.

TOWER. Any structure designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio, and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, wireless communications towers, alternative tower structures, and the like. The term includes the structure and any necessary supports.

WIRELESS COMMUNICATIONS FACILITIES or ***WCF.*** Includes, but shall not be limited to, towers, poles, cables, wires, lines, wave guides, antennas, microwave dishes, and/or any other equipment or facilities associated with the transmission or reception of communications as regulated by the FCC (or other unregulated wireless communication facility). The term shall not include:

(a) Any satellite earth station antenna two meters or less in diameter or diagonal measurement located in a non-residential district. (§ 153.095(B)(3) and (4) shall be applicable.)

(b) Any satellite earth station antenna one meter or less in diameter or diagonal measurement that is designed to receive direct broadband satellite service, including direct-to-home satellite services, or to receive or transmit fixed wireless signals via satellite

regardless of zoning category. (§ 153.095(B) shall be applicable.)

(c) Any antenna that is one meter or less in diameter or diagonal measurement and is designed to receive video programming service via broadband video services (wireless cable) or to receive or transmit fixed wireless signals other than via satellite.

(d) Any antenna that is designed to receive local television broadcast signals and does not use a mast higher than 12 feet above the tallest point of the roof of the tallest principal or accessory structure, excluding chimneys, cupolas, or other architectural elements.

(e) Antennas used by amateur radio operators (§ 153.096(A) shall be applicable).

(f) Towers, structures, antennas, or other equipment used for the purposes of operating a public safety voice or data radio network or an outdoor early warning system within the city limits. This includes directional and omnidirectional antenna equipment, as well as microwave and point-to-point equipment.

(Ord. 19-13, passed 3-25-13)

§ 99.05 GENERAL REQUIREMENTS.

(A) Wireless communications facilities, where permitted, shall be subject to administrative review or conditional use review in the zoning districts specified in Chapter 153 of this Code of Ordinances, contingent upon meeting the requirements of this chapter and Chapter 153, and other applicable ordinances of the city. Certain facilities as specified in this chapter shall be subject to review by the Architectural Review Board in accordance with § 99.11.

(B) The following table summarizes the city's zoning districts and approval procedures applicable to the facilities regulated by this chapter.

(1) Administrative review: See § 99.06.

(2) Conditional use review: See § 99.07.

(3) Architectural Review Board: See § 99.11.

Zoning District	***Approval Procedures***			
	Co-Location[1]	***New Tower***	***Alternative Structure***[2]	***Temporary Facilities***
Rural and Residential	Administrative[4]	Not Permitted	Conditional Use[4]	See § 99.10
Commercial (except Suburban Office and Institutional and Neighborhood Commercial)	Administrative	Conditional Use	Administrative[3]	See § 99.10
Suburban Office and Institutional; Neighborhood Commercial	Administrative	Not Permitted	Administrative[3]	See § 99.10

Limited and General Industrial, Technology Flex	Administrative	Conditional Use	Administrative[3]	See § 99.10
OLR and Restricted Industrial	Administrative	Not Permitted	Administrative[3]	See § 99.10
Innovation Zone	Administrative	Conditional Use	Administrative[3]	See § 99.10
Bridge Street Corridor	Administrative	Conditional Use	Administrative[3]	See § 99.10
Planned Districts (except Planned Industrial Park)	Administrative	Not Permitted	Administrative or Conditional Use[5]	See § 99.10
Planned Industrial Park	Administrative	Conditional Use	Administrative[3]	See § 99.10
Architectural Review District	ARB Approval	Not Permitted	ARB Approval	See § 99.10

[1] Co-location on existing antenna support structures or towers.

[2] The intent of alternative tower structures is to camouflage the tower/antenna installation.

[3] If the Director determines that the essential criterion of footnote 2, above, has not been met, the application for administrative review and certificate of zoning plan approval shall be denied. The applicant may submit an application for conditional use review by the Planning and Zoning Commission. (See § 99.07)

[4] Co-location on properties in the Rural District or Residential zoning districts and owned by the City of Dublin, Washington Township, or Dublin City Schools shall be subject to administrative review. (See § 99.06)

[5] Applications involving a request to install an alternative structure on a property zoned PUD, Planned Unit Development District allowing residential uses shall be subject to conditional use review. (See § 99.07)

(C) *General requirements.* The following requirements shall apply to all wireless communications facilities in any zoning district. These requirements shall be in addition to the regulations of the specific zoning districts in § 99.05(B).

(1) *Application.* The following information must be submitted for all applications required by this chapter unless deemed unnecessary by the Director. An application is not considered complete until all materials required by this chapter have been submitted and accepted by the city in accordance with this chapter. If an application is determined to be incomplete, the Director shall promptly notify the applicant of the information necessary to complete the application. The Director or the ART may request additional information if deemed reasonably relevant to the consideration of the application.

(a) Completed application form and application fee.

(b) A scaled and dimensioned site plan (not less than one inch equals 50 feet) clearly indicating the following:

1. Location, type and height of the proposed wireless communications facility;

2. The existing or proposed lease area and parcel boundaries for the site;

3. On-site land uses and zoning, and adjacent land uses and zoning (including land in other municipalities);

4. Adjacent roadways and rights-of-way;

5. Any buildings within 100 feet of the property boundaries;

6. Proposed means of pedestrian and/or vehicular access as applicable to the type of facility;

7. The setback distance between the proposed wireless communications facility, equipment shelters and/or cabinets, and the nearest property line;

8. Elevation drawings of the proposed wireless communications facilities, including material specifications for all associated site improvements; and

9. Any other proposed improvements, including but not limited to structures, grading, tree removals and replacement, topography, parking, and other information necessary to determine compliance with this chapter.

(c) Legal description and/or property survey of the parent tract and leased parcel (if applicable).

(d) For all new towers and/or new alternative tower structures, or as otherwise required by the required reviewing body, the separation distance from other existing and planned wireless communications facilities shall be shown on a map, and shall include latitudinal and longitudinal location coordinates. The applicant shall also identify the type of construction of the existing wireless communications facilities and the owner/operators of the existing facilities, if known.

(e) A landscape plan showing proposed landscape materials and quantities, locations, installation sizes, and other information necessary to determine compliance with the landscape requirements of Chapter 153 of this Code of Ordinances.

(f) Location and method of screening structures, if any, including height, material, style, and color; and, if applicable, the method of camouflage and illumination. Specification sheets shall be required for all prefabricated site elements.

(g) A statement of compliance with the requirements of this chapter and all applicable federal, state or local laws, including those of the FCC and FAA.

(h) Twenty-four hour emergency contact information and contact information for the entities providing the backhaul network for the wireless communications facilities described in the application and other wireless communications sites owned or operated by the applicant in the municipality. Contact information for the tower owner, operator, and emergency contact shall be kept current and on file with the city at all times.

(i) For all new towers and/or new alternative tower structures, or as otherwise required by the required reviewing body, a statement by the applicant and/or a structural analysis sealed by an engineer affirming that the construction of the wireless communications facility will accommodate co-location of additional antennas for future users as applicable.

(j) For all new towers and/or new alternative tower structures, or as otherwise required by the required reviewing body, a statement from an engineer of the ability or inability to use existing towers, other structures, or alternative technology not requiring the use of towers or structures, to provide the services planned for the use of the proposed wireless communications facility.

(k) For all new towers and/or new alternative tower structures, or as otherwise required by the required reviewing body, an inventory of existing and approved towers, antennas, alternative tower structures, and antenna support structures that are either within the jurisdiction or within two miles of the border of the city, with latitudinal and longitudinal location coordinates. The city may share this information with other applicants under this chapter or other organizations seeking to locate towers or antennas within the jurisdiction of Dublin or other communities. However, the city is not, by sharing this information, in any way representing or warranting that the sites are available or suitable. The inventory of each tower and antenna shall include:

1. A map showing each location, by address and/or parcel identification number, including straight-line distances between each facility;

2. Facility height and design;

3. Facility owner(s)/operator(s); and

4. Co-location capability of each facility, including alternative tower structures and antenna support structures.

(2) *Application procedures.*

(a) Applications for all wireless communications facilities shall be submitted in accordance with §§ 99.06 or 99.07, as applicable.

(b) The applicant shall pay a non-refundable fee as established by the city.

(c) When practicable, application for approval of multiple towers and/or antenna sites by a single owner of towers and antennas shall be submitted as a single application or multiple applications submitted at the same time.

(d) *Historic Register/District.* Any application to locate a wireless communications facility on a building or structure that is listed on a federal or state historic register or within the Architectural Review District shall be subject to review by the Architectural Review Board in accordance with § 99.11, in addition to any other required review procedures.

(e) *Public property.* Approval by the City Manager shall be required for any applications involving structures to be located on property owned by the city.

(3) *Wireless communications facility support structures.* Towers, antennas, antenna support structures, and all other improvements associated with a wireless communications facility shall meet the following requirements:

(a) *Design.* All wireless communication facility support structures shall have a monopole, unipole, or similar non-lattice single vertical structure design and shall be further designed to accommodate at least two wireless communication arrays of antennas or panels, unless otherwise required by the required reviewing body. The applicant shall submit an affidavit by an engineer licensed in the State of Ohio attesting that these requirements are met.

(b) *Color and finish.* Towers, antennas, other wireless communications facility support structures, and supporting electrical and mechanical equipment shall either maintain a non-contrasting gray or similar color or have a galvanized steel finish unless otherwise required by the required reviewing body or any applicable standards of the FAA and/or the Ohio Department of Transportation. Alternative tower structures may maintain another color or finish if determined by the required reviewing body to be necessary to establish a stealth appearance and be aesthetically and architecturally compatible with the surrounding environment.

(c) *Compatible design.* The design of buildings and related structures for the wireless communications facility shall use materials, colors, textures, and screening so as to be aesthetically and architecturally compatible with the surrounding environment, as approved by the required reviewing body.

(d) *Antenna color.* If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as practicable, as determined by the required reviewing body.

(e) *Lighting.* Facilities shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting fixtures and installation must cause the least disturbance to views from surrounding properties. Alternative tower structures may be lighted if determined by the required reviewing body to be necessary to establish a stealth appearance and to be aesthetically and architecturally compatible with the surrounding environment.

(f) *Maximum height.* Wireless communications facilities shall meet the following height requirements:

1. In residential zoning districts, up to 80 feet;

2. In all other zoning districts, up to 120 feet, provided that the facility is designed to be co-locatable for more than one additional carrier. In no case shall a wireless communications facility, including antenna, exceed 120 feet, as measured from grade at the base of the tower, unless the required reviewing body determines that conditions present in the vicinity require a taller structure in order to function.

3. For wireless communications facilities locating on a structure or building, antenna shall not extend more than 20 feet above the highest point of the main roof deck or supporting structure if the antenna is located on a structure other than a roofed building.

4. Unless otherwise required herein, alternative tower structures may exceed 120 feet if determined by the required reviewing body to be necessary to establish a stealth or camouflaged appearance that is aesthetically and architecturally compatible with the surrounding environment.

5. Unless otherwise specified, maximum height exceeding the provisions of division (C)(3)(f)l-4 of this section shall require conditional use review under the provisions of § 99.07.

6. As an exception to division (C)(3)(f)l-5 of this section, users locating on a city water tank are exempt from the height

requirements of this chapter, but facilities shall be no taller than functionally necessary.

(g) *Co-location*. Unless physically or technically infeasible, all wireless communications facilities shall be constructed or reconstructed to accommodate two or more users.

1. In connection with any application for certificate of zoning plan approval, in order to encourage co-location, an existing tower meeting co-location requirements that is lower than the height permitted above may be reconstructed to meet the maximum heights permitted after receiving approval from the required reviewing body. Additionally, reconstructed towers may be required to be brought into conformance in whole or in part if the existing tower is determined by the Director to be nonconforming.

2. A wireless communications facility which is being rebuilt to accommodate the location of additional antennas may be relocated on the same site, after receiving approval from the required reviewing body, provided it meets the setback requirements of this chapter.

3. Co-location requirements may be waived if the required reviewing body determines that the fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs that would exceed new tower development are an example of what may be determined to be unreasonable. Satisfactory and substantial information must be submitted by the applicant demonstrating that the costs are unreasonable.

(4) *Site requirements*. Wireless communications facilities and associated site improvements shall be sited and developed in accordance with the following requirements:

(a) *Setback and siting requirements.*

1. The setback requirements shall be met for all elements of the wireless communications facility, supporting structure, and equipment.

2. A minimum setback of 100 feet from all property lines shall apply to new towers and/or alternative tower structures unless a greater setback for principal structures is required by the zoning district in which the tower is to be located. In determining the required setbacks and lot area, the entire site, including all lots or parcels used for the tower, supporting structures, and equipment, shall be considered, even though the antennas or towers may be located on leased portions within the prescribed lot area.

3. The required reviewing body may permit a reduced setback for alternative tower structures provided that the reduced setback is required for the function or purpose of that structure and not for the purposes of the tower/antenna location.

4. The required reviewing body may permit a reduced setback for all other wireless communications facilities if the location is required for the function of the tower or antenna and no other reasonable alternative location exists. Satisfactory and substantial information must be submitted by the applicant demonstrating that all other locations are unreasonable.

5. Refer to division (C)(5) of this section for regulations pertaining to the siting of equipment associated with wireless communications facilities.

(b) *Screening*. Screening shall comply with applicable requirements of Chapter 153 of this Code of Ordinances. Fencing or other materials used for screening of wireless communications facilities or associated equipment shall be at least one foot higher than the structure(s) it is intended to screen, but shall not exceed 12 feet.

(c) *Landscaping*. Buffer plantings shall be located on the site to screen adjacent properties and the base of the wireless communications facility and associated equipment from adjacent properties and rights-of-way in accordance with the landscape requirements of this chapter and Chapter 153 of this Code of Ordinances.

(d) *Sign*. One sign shall be posted in a visible location on the tower, alternative tower structure, fence, equipment shelter, or other associated equipment indicating the owner of the facility, and an emergency contact and phone number. The sign shall not exceed two square feet and shall be approved as part of the building permit or certificate of zoning plan approval. All other signs shall comply with the requirements of Chapter 153 of this Code of Ordinances.

(5) *Equipment shelters and cabinets.*

(a) *Design and screening.*

1. Equipment cabinets or structures used in association with antennas shall be designed and/or painted to minimize visual impact.

2. Evergreen plant material shall be used for screening and shall be planted to ensure that the equipment will be screened to its full height within three years of planting.

3. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, the required reviewing body may determine that natural growth around the property may be a sufficient buffer.

4. At the required reviewing body's determination, alternative screening materials may be used in cases where plant material is not appropriate.

(b) *Underground equipment shelters.* Underground equipment shelters will be required by the required reviewing body where equipment shelters are located on properties that are readily visible from adjacent streets and lots and where landscape screening is not effective.

(c) *Roof- and/or structure-mounted antennas.* The equipment cabinet or structure used in association with antennas shall comply with applicable building codes. Additionally, equipment shall be sited, designed, and/or painted to minimize visual impact and be screened so that it is not visible from ground level.

(d) *Utility- or light pole-mounted antennas.* The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:

1. In all zoning districts, the equipment cabinet or structure shall comply with all applicable setbacks required by the zoning district in which it is located.

2. If the proposed antenna mounted on a utility or light pole is located within an existing easement, the applicant shall obtain a separate easement encroachment agreement as required by the City Engineer.

(e) *Tower-mounted antennas.* As an exception to division (C)(5)(b) of this section, where the required reviewing body determines that underground equipment shelters are not feasible due to site conditions or other considerations, equipment shelters designed using materials permitted for principal structures within the zoning district shall be provided where applicable. The unmanned equipment structure shall not exceed the maximum height for principal structures and comply with setbacks required by the zoning district in which the shelter is located.

(6) *Code compliance and permit requirements.*

(a) *Construction permits.* The installation of any wireless communications facility shall require compliance with all applicable federal, state, and local regulations and the securing of all applicable zoning and building permits and inspections. All towers and wireless communications facilities require a certificate of zoning plan approval and applicable building permits prior to installation.

(b) *State or federal requirements.*

1. All wireless communications facilities shall meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas.

2. If state or federal standards and regulations are amended, the owners of the wireless communications facilities governed by this chapter shall bring any facilities into compliance with the revised standards and regulations within six months of the effective date of the standards and regulations, unless a different compliance schedule is mandated by the regulating agency. Failure to bring wireless communications facilities into compliance with any revised standards and regulations shall constitute grounds for removal at the owner's expense.

(c) *Building codes and safety standards.*

1. To ensure the structural integrity of towers, the owner of a tower and/or antenna support structure shall ensure that it is designed, constructed, and maintained in compliance with requirements contained in applicable state or local building codes and the applicable requirements for towers and antenna support structures that are published by the Electronics Industries Association, as amended from time to time.

2. If, upon inspection, the city concludes that a wireless communications facility fails to comply with any applicable codes and requirements and constitutes a danger to persons or property, after written notice to the owner, the owner shall have not more than 30 days to bring the facility into compliance with those requirements. Failure to bring the facility into compliance within the required time shall be grounds for removal at the owner's expense.

(d) *License to operate.* Owners and/or operators of wireless communications facilities shall maintain and submit copies of all approved franchises, certifications, licenses, and permits required by law for the design, construction, location, and operation of wireless communications facilities in Dublin. Evidence of renewal or extensions shall be promptly provided to the Director.

(e) *Certification*. Any information of an engineering nature required by this chapter, whether civil, mechanical, or electrical, shall be certified by a licensed engineer.

(Ord. 19-13, passed 3-25-13) Penalty, see § 99.99

§ 99.06 ADMINISTRATIVE REVIEW.

(A) *General provisions.*

(1) *Administrative Review Team (ART).*

(a) The purpose of the Administrative Review Team is to provide for review and approval authority for certain wireless communications facilities as required by this chapter. The Administrative Review Team is responsible for the comprehensive review of each application, and making recommendations to the Planning and Zoning Commission, Architectural Review Board, or Board of Zoning Appeals where required.

(b) The Administrative Review Team shall consist of the Director (Chair), City Engineer, Fire Chief, Economic Development Manager, Parks and Open Space Director, Police Chief, and Chief Building Official, or their representatives, and any other members appointed by the City Manager as deemed necessary, either as permanent or temporary members.

(c) The Administrative Review Team may use the services of other professionals, such as architectural, engineering, and other consultants as they deem necessary, to advise the ART on the application of the provisions of this chapter.

(2) An application for administrative review shall be made in accordance with the requirements of § 99.05(C)(l) and (C)(2).

(3) *Public reviews*. Where public reviews are required by this chapter, a written notice of the public meeting shall be sent to the applicant, property owner, and owners of parcels of land within 300 feet of the subject parcel(s), as listed on the County Auditor's current tax list, not less than ten days prior to the meeting. The notice shall, at a minimum, indicate the property that is the subject of the request, describe the nature of the request, the time, date, and location of the meeting at which the application will be considered, and indicate when and where written comments will be received concerning the request.

(4) *Time extensions.*

(a) Where the provisions of this chapter require that an action be taken by the city within a stated period of time, that time may be extended with the written consent of both the applicant and the Director prior to expiration of the required time period.

(b) If the applicant submits a revised application during any required review period, and the Director determines that the revised application differs substantially from the previous application, a new review period shall begin and additional meetings of the required reviewing body may be scheduled if deemed necessary by the Director.

(5) *Duration of approvals*. Approvals of requests for administrative review made in accordance with this chapter shall be valid for a period of one year. If an initial building permit for the approved facility has not been issued within that one year period, the applicant shall be required to submit a new request for administrative review, as applicable, pursuant to this chapter before obtaining a building permit.

(6) *Resubmission*. No application for administrative review which has been denied by the required reviewing body shall be resubmitted for a period of one year from the date of the decision, unless permitted by the Director after a demonstration by the applicant of a change of circumstances from the previous application that may reasonably result in a different decision.

(B) *Pre-application review.*

(1) *Purpose and applicability.*

(a) At the option of the applicant, a pre-application review may be scheduled prior to filing a formal application for administrative review. The pre-application review is not part of the formal application review process or the required review period. The purpose of the pre-application review is to provide non-binding feedback to applicants to assist in expediting the administrative review process. Any materials submitted to the city for the purposes of the pre-application review shall become part of the public record.

(b) Pre-application reviews do not result in a development decision or permit, and shall not obligate the city or the applicant to take any action on the proposal.

(2) *Pre-application review procedure.*

(a) A request for a pre-application review shall be made in accordance with the provisions of this division (B). As an exception to the application requirements listed in § 99.05(C)(1), potential applicants may submit conceptual information based on the amount of information known about the project at the time a request for pre-application review is made. The request shall include, at a minimum, ten copies of the following information:

1. A general description of the proposal including a description of conformance to this chapter;

2. A site plan generally demonstrating the nature of the proposed wireless communications facility and associated site improvements;

3. Conceptual facility elevations; and

4. Any other materials for which the potential applicant would like to receive feedback.

(b) The city shall notify the applicant in writing at least five days prior to the pre-application review.

(c) The Administrative Review Team and other applicable departments shall be promptly notified of the Administrative Review Team pre-application review. Prior to the meeting the Director shall distribute the submitted materials to the Administrative Review Team and other applicable city departments for input and recommendations.

(d) The Administrative Review Team shall review the submitted materials and provide non-binding input and recommendations. The ART shall complete its review of the application not more than 14 days from the date the request was submitted.

(e) A written summary of comments and suggestions made during the pre-application review shall be provided to the applicant not more than ten days after the pre-application review.

(C) *Administrative review.*

(1) *Purpose and applicability.*

(a) The purpose of the administrative review is to ensure that wireless communications facilities meet the applicable requirements of this chapter.

(b) Administrative review is required for all new wireless facilities, co-locations, and all modifications to existing facilities as required by § 99.05(B). Cable microcell networks and distributed antenna systems that do not require the use of towers shall also be subject to administrative review.

(c) Temporary wireless facilities shall meet all application and approval requirements of § 99.10.

(2) *Administrative review considerations.* The Administrative Review Team shall render a decision on an application for administrative review based on the following considerations:

(a) Antennas locating on an existing building or other antenna support structure other than a tower may be approved as a use accessory to any commercial, industrial, professional, office, institutional, or similar structure, provided:

1. The antenna is designed to be as unobtrusive as possible;

2. The antenna does not extend more than 20 feet above the highest point of the main roof deck or supporting structure if the antenna is located on a structure other than a roofed building; and

3. The antenna complies with the applicable provisions of § 99.05.

(b) Co-located antennas on existing or reconstructed towers may be approved provided the color and design of the antenna is consistent with the existing tower and is designed to be as unobtrusive as possible.

1. The Administrative Review Team shall approve co-located antennas on a tower in instances where proposed co-location does not substantially change the physical dimensions of the tower and meets the requirements of this chapter.

(c) Alternative tower structures may be approved in accordance with the following:

1. The required reviewing body may approve the location of an alternative tower structure provided the site meets the purpose, objectives and applicable requirements of this chapter.

2. The objective of administrative review for alternative tower structures is to encourage ingenuity and the use of innovative

methods to camouflage these facilities. If the application is denied by the Administrative Review Team following a finding that the proposed facilities have not been reasonably disguised or camouflaged, the applicant may file an application for conditional use review in accordance with § 99.07.

(d) Cable microcell network or distributed antenna systems using multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technologies/mechanisms may be approved provided that the use of towers is not required and all other applicable provisions of this chapter have been satisfied.

(3) *Decisions.*

(a) Any application required by this chapter to be reviewed under the provisions of this section shall be approved, approved with conditions, or denied by the Administrative Review Team based on the applicable review standards as provided in this chapter not more than 28 days from the receipt of a completed application. The Administrative Review Team shall state the reasons for their decisions in the minutes and provide a written record of the decision to the applicant not more than ten days after a recommendation or decision is made, unless otherwise provided in this chapter.

(b) Prior to reaching a decision, if the Administrative Review Team determines that an application does not meet the applicable review standards as provided in this chapter, but determines that the application could meet those criteria with modifications that could not be reasonably conditioned, the applicant may request that the application be tabled to provide the opportunity to make those modifications. If the request for tabling is granted, a new review period shall begin on the date the applicant submits a complete application with revised materials and shall be subject to the timeframe for rendering a decision as provided in division (C)(3)(a) of this section.

(c) Following the approval of an application for administrative review, the applicant may proceed with the process for obtaining a certificate of zoning plan approval and building permit, consistent with the approval as granted. All construction and development under any building permit shall comply with the approval, as applicable.

(4) *Certificate of zoning plan approval.* A certificate of zoning plan approval issued by the Director verifying compliance with all applicable zoning requirements is required prior to modification, extension, or alteration of wireless facilities.

(D) *Administrative departures.*

(1) *Purpose and applicability.* The intent of this division (D) is to provide an administrative process to allow minor deviations from the strict application of requirements of this chapter caused by unusual site or development conditions or other similar conditions that require reasonable adjustments, but remain consistent with the intent of this chapter. Examples include, but are not limited to, adjustments to wireless communications facility setbacks, landscaping and screening, or other similar features or elements.

(2) *Review procedure.*

(a) An application for administrative departure may be submitted with an application for administrative review, or at any time after an application has been submitted and before a decision or recommendation by the Administrative Review Team has been made. If an application for administrative departure is made after an application for administrative review has been filed, the Director may require that the time period for administrative review start over on the day the request for an ddministrative departure is received.

(b) An application for an administrative departure may be processed simultaneously with the application for administrative review to which it relates. The Administrative Review Team shall determine whether each requested administrative departure is approved, approved with conditions, or denied.

(c) Should the Administrative Review Team find that the request does not meet the criteria for an administrative departure, the applicant may file for a variance in accordance with § 153.231 of this Code of Ordinances, or submit a new application for administrative review.

(3) *Criteria for administrative departure approval.* The Administrative Review Team shall make its decision on an administrative departure based on the following criteria:

(a) The need for the administrative departure is caused by unique site conditions, conditions on surrounding properties, and is not being requested simply to reduce cost or as a matter of general convenience;

(b) The administrative departure does not have the effect of authorizing any wireless communications facility type that is not otherwise permitted in that zoning district;

(c) The administrative departure does not modify any numerical development standard by more than 10% of the requirement; and

(d) The administrative departure, if approved, will ensure that the wireless communications facility is of equal or greater development quality with respect to design, material, and other features than without the administrative departure.

(E) *Appeals*. The determination rendered by the Administrative Review Team may be appealed to the Board of Zoning Appeals within 20 days of the decision by any person aggrieved by the decision. The Appeal shall be filed with the city, specifying the grounds, in conformance with § 153.231 of this Code of Ordinances.

(1) An appeal shall stay all proceedings in furtherance of the action appealed from unless the Director certifies to the Board of Zoning Appeals, after notice of appeal has been filed, that, by reason of the facts stated in the record of determination, a stay would cause imminent peril to life or property. In this case, the proceedings shall not be stayed other than by a restraining order, which may be granted by a court of record.

(2) In deciding the appeal, the Board of Zoning Appeals shall determine, in conformance with § 153.231(F) of this Code of Ordinances, whether the decision was made using the proper requirements and standards of this chapter. The decision of the Board of Zoning Appeals is limited to the information that was available to the Administrative Review Team for the initial decision, including any materials included as part of the written record of the decision. Additional testimony is not appropriate.

(3) If the Board of Zoning Appeals determines that the Administrative Review Team made an improper decision the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make an order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the Administrative Review Team.

(4) The findings of the Board of Zoning Appeals shall be based on and supported by substantial evidence contained in a Board Order, which shall be forwarded to the applicant within ten days following the final determination.

(5) The decision of the Board of Zoning Appeals may be further appealed to City Council within ten days of the Board's decision.

(6) City Council must determine whether to hear the appeal, in its sole discretion by a motion passed by a majority vote, no later than 21 days following the Clerk of City Council's receipt of the written notice of appeal, unless an extended time is agreed upon by the City Manager and the applicant.

(7) City Council shall decide the appeal no later than 28 days following the date of Council's decision to hear the appeal, unless an extended time is otherwise agreed upon by the City Manager and the applicant. In considering the appeal, City Council may consider any evidence and may affirm, reverse, or otherwise modify the decision of the Board of Zoning Appeals or any other part of the application.

(F) *Concurrent application review.*

(1) Applications for building permits, electrical permits, other applicable permits, and certificates of zoning plan approval associated with the building permit application process may be submitted with the application for administrative review and may be processed and reviewed concurrently with the administrative review application if desired by the applicant.

(2) Review of the building permit applications and zoning approvals described in division (F)(1) of this section shall be subject to the statutory timing requirements that apply to building permit application reviews. Accordingly, the applicant should consider the nature and complexity of the request prior to submitting for concurrent review.

(3) Requests for certificates of zoning plan approval and building permits for wireless facilities cannot be approved for zoning compliance until an affirmative record of determination of the Administrative Review Team and all other zoning approvals are obtained and attached to the appropriate building permit documents.

(Ord. 19-13, passed 3-25-13)

§ 99.07 CONDITIONAL USE REVIEW.

(A) *Applications*. Applications for conditional use review for towers or antennas shall be reviewed by the Planning and Zoning Commission, as required by § 99.05, subject to the procedures and requirements of § 153.236 of this Code of Ordinances, except as modified in this section.

(B) *Conditional use review considerations*. In addition to any standards for consideration of applications for conditional use review pursuant to § 153.236 of this Code of Ordinances, the Planning and Zoning Commission shall consider the following factors in determining whether the application should be approved:

(1) Compliance with the requirements of this chapter;

(2) Height of the proposed tower or facility and its proximity to residential structures and residential districts;

(3) Nature of the potential for adverse effects on uses on adjacent and nearby properties;

(4) Relationship of surrounding topography to the view from nearby properties;

(5) Surrounding tree coverage and foliage and the ability to screen the facilities from the view of nearby properties;

(6) Design of the tower or facility, with particular regard to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

(7) Proposed ingress and egress for maintenance, safety, and prohibition of nuisances;

(8) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, with regard to the following:

(a) New towers shall be approved only when other preferable alternatives are not available. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Commission that no existing tower, structure, or alternative technology is available to fill the communication requirements.

(b) An applicant shall submit required information for review by the Planning and Zoning Commission related to the availability of suitable existing towers, other structures, or alternative technology. Evidence submitted to demonstrate that no existing tower, structure, or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

1. No existing towers or other suitable structures are located within the specific geographic limits meeting the applicant's engineering requirements.

2. Existing towers or structures either do not have sufficient height to meet the applicant's engineering requirements, or have insufficient structural strength to support the applicant's proposed antenna and related equipment.

3. The applicant's proposed antenna would cause frequency interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

4. The fees, costs, or contractual provisions required by the owner in order to share or to adapt for sharing an existing tower or structure, are unreasonable. Costs that would exceed new tower development is an example of what may be presumed to be unreasonable.

5. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

6. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a DAS or CMN using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable, but may be considered as a factor in the decision.

7. The applicant provides documentation that other tower owners were contacted in writing demonstrating the above considerations.

(C) In granting a conditional use, the Planning and Zoning Commission may impose conditions to the extent necessary to minimize any adverse effect of the proposed tower or antenna support structure on adjoining properties or to meet the review considerations of this section.

(D) The findings and decision of the Planning and Zoning Commission shall be based on and supported by substantial evidence contained in a written record and record of action which shall be forwarded to the applicant within ten days following the decision. The decision of the Planning and Zoning Commission shall be final.

(Ord. 19-13, passed 3-25-13)

§ 99.08 ABANDONMENT OF WIRELESS COMMUNICATIONS FACILITIES.

(A) *Abandonment.*

(1) All providers utilizing wireless communications facilities shall notify the city in writing of the location and date that any tower facility located in the city whose use will be discontinued. If the use of the facility is discontinued for 180 days without notice from the owner/operator or the owner of the property, the City Manager may declare the facility to be abandoned (this excludes any dormancy period between construction and the initial use of the facility). The facility's owner/operator and property owner will receive written notice from the city and be instructed to either reactivate the facility's use within 180 days, or dismantle and remove the facility.

(2) If reactivation or dismantling does not occur as described in division (A)(1) above, the city will either remove or cause the facility and associated structures to be removed and assess the costs to the owner/operator and property owner. In the case of a multi-use tower or wireless communications facility, this provision does not become effective until all users cease use of the tower or facility. However, the city may cause the abandoned portions of systems on the multi-use tower or facility to be removed in accordance with this provision.

(B) Before initiating action to remove the facility, the city must provide the owner of the tower or wireless communications facility and the property owner 90 days written notice and an opportunity to be heard before the Board of Zoning Appeals to appeal the decision. After this notice has been provided, or following a determination by the Board of Zoning Appeals that the tower or facility has been abandoned, the city may take whatever action that is lawful to order the removal or demolition of the tower or facility and all appurtenances.

(C) If the removal is appealed, a public hearing will be held before the Board of Zoning Appeals following the 90-day notice required in division (B) of this section. All interested parties shall be allowed an opportunity to be heard at the public hearing.

(D) After a public hearing is requested by the tower or wireless communications facility owner and held pursuant to division (C) of this section, the Board of Zoning Appeals may recommend that the City Manager order the removal or demolition of the tower. The city may require the tower or facility owner or former owner to pay for all expenses necessary to remove or demolish the tower or facility.

(Ord. 19-13, passed 3-25-13)

§ 99.09 NONCONFORMING TOWERS OR WIRELESS COMMUNICATION FACILITIES.

(A) *Conforming use.* Wireless communication facilities that are constructed in accordance with the provisions of this chapter shall be deemed conforming uses or structures, regardless of their date of construction. This shall be the case even when new facilities are added to a nonconforming installation, provided that any new facilities meet the requirements of this chapter.

(B) *Existing towers.* Towers already in existence shall be allowed to continue their use as they exist as of the date of the adoption or amendment of this chapter. Routine maintenance (including replacement with a new tower of like construction and height serving the same purpose) shall be permitted. A replacement tower must be constructed within 180 days of removal of the initial facility unless the owner demonstrates that meeting this requirement is not possible due to conditions not reasonably within their control. The Director may permit new construction and/or equipment replacement, other than routine maintenance on an existing tower, provided it complies with the requirements of this chapter and applicable requirements of Chapter 153 of this Code of Ordinances to the extent that existing conditions permit.

(C) *Damaged or destroyed nonconforming wireless communications facilities.* Notwithstanding this section, nonconforming wireless communications facilities that are damaged or destroyed by actions outside the owner's control may be rebuilt without having to first obtain administrative review or a conditional use approval. Any other permits applicable to construction or reconstruction must be obtained. The type, height, and location of the wireless communications facility shall be the same as the original approved facility and constructed in accordance with currently applicable building codes. Permits for construction shall be obtained within 180 days from the date the facility is damaged or destroyed, and reconstruction shall be started within six months from the time of damage and shall be continued until completed. If no permit for construction is obtained, or if an issued permit expires, the facility shall be deemed abandoned as specified in § 99.08.

(Ord. 19-13, passed 3-25-13)

§ 99.10 TEMPORARY WIRELESS COMMUNICATIONS FACILITIES.

(A) *General.* Temporary wireless communications facilities may be approved as provided for in this chapter to:

(1) Allow communications providers to administer limited frequency and modulation testing to evaluate system performance and

the need for additional wireless communications facility sites. Any approval shall not exceed 30 days.

(2) Allow communications providers to supplement communications coverage when a previously permitted wireless communications facility has become involuntarily non-operational through an accident or force majeure. Any approval shall not exceed 30 days.

(3) Address a substantial increase in the communications needs of the businesses, residents, and visitors of the city for a limited period of time in circumstances where an emergency has been declared by the city, state or federal government. The approval shall not extend beyond the time of the declared emergency.

(4) Address a substantial increase in the communications needs of the businesses, residents, and visitors of the city for a limited period of time in circumstances when large conferences or special events are held within the city limits. The approval shall not exceed 14 days.

(5) Allow providers to maintain uninterrupted wireless communication service through the use of temporary wireless facilities during extended periods of time due to substantial maintenance or capital projects undertaken or caused by the city. The approval shall not exceed the duration agreed to by the city and the affected wireless provider(s).

(6) Allow providers to maintain uninterrupted wireless communication service resulting from what the Director determines to be unforeseen circumstances and/or needs for temporary alternative wireless communication facilities. The approval shall not exceed the duration agreed to by the city and the affected wireless provider(s).

(7) The Director may permit one extension equal to the time periods permitted above, provided the extension is requested in writing prior to the expiration of the original approval period. Extensions may be granted provided the Director finds that the extension is reasonably necessary to resolve or accommodate the reasons for the original approval.

(B) *Application and approval.*

(1) Due to the emergency nature often associated with temporary wireless facilities, authority to locate a temporary wireless communications facility in the city will be subject to the approval of the Director after review by any other members of the Administrative Review Team that the Director deems necessary following receipt of a completed application for a temporary wireless communications facility.

(2) A temporary wireless communications facility may only be approved by the city for the limited purposes and time periods described in division (A) of this section.

(3) Except as authorized by the Director during declared emergencies, all approved temporary wireless communications facilities shall:

(a) Be limited in height by the requirements of the zoning district in which the site is located. The Director may permit a greater height if the height is required for the function of the temporary wireless communications facility and no other reasonable alternative exists.

(b) Be set back a minimum of 100 feet from any adjoining or adjacent property line, as measured from the nearest part of the facility and/or any associated equipment. The Director may permit a lesser setback if the location is required for the function of the temporary wireless communications facility and no other reasonable alternative location exists.

(c) Minimize the visual impact of ground equipment to adjoining or adjacent properties.

(d) Provide temporary screening as may be required by the Director, such as available natural land formations, plant materials, and natural foliage to effectively screen from view as much of the temporary wireless communications facility as reasonably possible.

(e) Only commence installation at the approved site 48 hours before actual site use may begin.

(f) Be completely removed from the approved site with all site restoration finalized and returned to previously existing conditions within 48 hours following the required termination deadline or extension.

(g) Not use an electric, gas, or other type of generator that causes or permits any noise to emanate from it in a manner, intensity, and/or duration to create unreasonable noise or sound audible from a distance of 50 feet, and causes inconvenience and annoyance to persons of ordinary sensibilities.

(h) Not be illuminated unless otherwise required by the FCC or the FAA.

(i) Be required to comply with the applicable provisions of § 99.05(C)(3) and all applicable federal, state or local laws.

(4) Applications for the location of a temporary wireless communications facility shall include the following, unless deemed unnecessary by the Director:

(a) A statement of authorization from the owner of the real property upon which the temporary wireless communications facility is proposed to be located that authorizes the location of the temporary wireless communications facility.

(b) A list of all property owners and registered homeowners associations and their addresses within 150 feet of the proposed temporary wireless communications facility site. The city may require the applicant to provide adjacent property owners with a descriptive notice of the proposed temporary wireless communications facility, site plan, and the anticipated dates of operation.

(c) A description of the proposed facility and all associated equipment, including structural design, proposed height, color, location, fencing and/or screening, and approximate setback from property lines.

(d) Typical elevations or photographs indicating the general appearance of the temporary facility.

(e) A site plan or aerial photo generally indicating the location and setbacks of the temporary facility.

(f) Any other information that the Director may deem reasonably necessary to adequately evaluate the request.

(Ord. 19-13, passed 3-25-13) Penalty, see § 99.99

§ 99.11 ARCHITECTURAL REVIEW.

(A) *Applications.* Applications requiring architectural review for wireless communication facilities shall be reviewed by the Architectural Review Board as required by § 99.05 subject to the procedures and requirements of §§ 153.066(F)(6) and 153.173 of this Code of Ordinances as applicable, except as modified in this section.

(B) *General review considerations.* The Board shall determine whether the request will be appropriate to the preservation of the historic and architectural character of the District or of the historic property pursuant to the criteria specified in this section. Every reasonable effort shall be made to ensure that the use of the property will involve minimal alteration of existing buildings, structures, or sites and its environment.

(C) *Architectural review criteria.* In addition to any standards for consideration of applications to the Architectural Review Board pursuant to §§ 153.066(F)(6) and 153.174 of this Code of Ordinances, the Board shall consider the following factors in determining whether the wireless communications facility application should be approved:

(1) Compliance with the requirements of § 99.05(C);

(2) Height of the proposed tower and its proximity to residential structures and residential districts within their jurisdiction;

(3) Nature of uses on adjacent and nearby properties;

(4) Design of the wireless communications facility, with particular regard to design characteristics that have the effect of eliminating visual obtrusiveness while demonstrating substantial consistency with the historical and architectural character of the area;

(5) Proposed ingress and egress;

(6) Ability to screen or eliminate from view all associated equipment and service structures from adjacent properties and public rights-of-way.

(7) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures. New facilities shall be approved only when other preferable alternatives are not available. No new facilities shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Architectural Review Board that no existing tower, structure, or alternative technology is reasonably available to fill the communication requirements.

(a) An applicant shall submit information to the Architectural Review Board related to the availability of suitable existing towers, other structures, or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

1. No existing towers or other suitable structures are located within the specific geographic limits which meet the applicant's engineering requirements.

2. Existing towers or structures either do not have sufficient height to meet the applicant's engineering requirements, or have

insufficient structural strength to support the applicant's proposed antenna and related equipment.

3. The applicant's proposed antenna would cause frequency interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

4. The fees, costs, or contractual provisions required by the owner in order to share or to adapt for sharing an existing tower or structure are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

5. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

6. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a distributed antenna system or cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable, but may be considered as a factor in the decision.

7. The applicant provides documentation that other tower owners were contacted in writing demonstrating the above considerations.

(D) The Architectural Review Board may impose conditions to the extent that it concludes that conditions are necessary to substantially camouflage the proposed structure and/or minimize any adverse effect of the tower on the historical nature of the site and/or adjoining properties, and/or to meet the review considerations of this chapter.

(E) The findings and decision of the Architectural Review Board shall be based on and supported by substantial evidence contained in a Board Order which shall be forwarded to the applicant within ten days following the decision. Any applicant aggrieved by a decision of the Board may appeal the decision to the Board of Zoning Appeals in accordance with the provisions of § 153.180 of this Code of Ordinances.

(Ord. 19-13, passed 3-25-13)

§ 99.99 PENALTY.

(A) In addition to any other penalties set forth in this chapter, any person or permittee violating any section in this chapter shall be guilty of a minor misdemeanor. Each day the violation continues shall be deemed a separate offense.

(B) Nothing herein shall prevent the city from taking any other lawful action, including civil actions at law or equity, including temporary restraining orders, preliminary injunctions and permanent injunctions, as is necessary to prevent or remedy any violations.

(Ord. 19-13, passed 3-25-13)