



1 5. On August 2, 2018, the FCC adopted a declaratory ruling that formally prohibited  
2 express and de facto moratoria for all telecommunications services and facilities under 47  
3 U.S.C. § 253(a).

4 6. On September 26, 2018, the FCC adopted a declaratory ruling and report and order  
5 (hereafter, the "FCC Ruling") that (i) creates a new regulatory classification for small  
6 wireless facilities, (ii) requires state and local governments to process applications for  
7 small wireless facilities within sixty (60) days or ninety (90) days, (iii) establishes a  
8 national standard for an effective prohibition, (iv) provides that a failure to act within the  
9 applicable timeframe presumptively constitutes an effective prohibition, and (v) limits the  
10 fees that can be charged for the facilities.

11 WHEREAS, in addition to the changes described above, new Federal laws and regulations  
12 that drastically alter local authority over WCFs are currently pending, including without limitation,  
13 the following;

14 1. On March 30, 2017, the FCC issued a Notice of Proposed Rulemaking (WT Docket No.  
15 17-79, WC Docket No. 17-84) and has acted on some of the noticed issues referenced  
16 above, but may also adopt other rulings and/or orders that further limit local authority  
17 over wireless facility deployment.

18 2. On June 28, 2018, United States Senator, John Thune introduced and referred to the  
19 Senate Committee on Commerce, Science and Transportation the "STREAMLINE Small  
20 Cell Deployment Act" (S. 3157) that, among other things, would apply specifically to  
21 small cell WCFs and require local governments to review applications based on the  
22 objective standards, shorten the 2009 Shot Clock timeframes, and provide a "deemed  
23 granted" remedy for failure to act within the applicable 2009 Shot Clock.

24 WHEREAS, given the rapid and significant changes in federal and state law, the prohibition  
25 of enacting moratoria to amend local policies in response to such changes and the significant adverse  
26 consequences for noncompliance with federal and state law, the City Council desires to add Chapter  
27 14.90 of the Chico Municipal Code, entitled "SMALL CELL WIRELESS FACILITIES" (the  
28 "Ordinance"), attached hereto and incorporated by this reference, to allow greater flexibility and

1 responsiveness to the new federal and state laws while still preserving the City's traditional authority  
2 over its municipal affairs; and

3 WHEREAS, the Chico City Council finds that this Ordinance is necessary for the  
4 preservation of the public welfare, health and safety of residents living within the City of Chico and  
5 find an urgency to approve said Ordinance.

6 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHICO:

7 SECTION 1. Findings.

8 The City Council of the City of Chico hereby determines and finds as follows:

9 A. The facts set forth in the above Recitals of this Ordinance are true and correct, and  
10 incorporated into this Ordinance as substantive findings.

11 B. This Ordinance is adopted as a measure pursuant to Art. VI, Sec. 612 of the Charter  
12 of the City of Chico for the immediate preservation of the public health, safety, and welfare, and is  
13 adopted and justified based on the following:

- 14 1. In recent years, wireless providers have approached the City of Chico, along with  
15 other local governments, for permits to install infrastructure for small cell facilities  
16 in the public rights-of-way to support the demand for wireless services.
- 17 2. The recent FCC Ruling's purpose is to remove as many regulatory barriers as  
18 possible to ensure that all communities across the country have access to wireless  
19 service.
- 20 3. The new aesthetic standards imposed by the FCC Ruling became effective April  
21 15, 2019, and require that cities publish these standards in advance. The City  
22 needs to have aesthetic standards in place before they can be implemented.  
23 Currently, telecommunication providers that submit applications for permits to  
24 install infrastructure for small cell facilities are not required to adhere to any  
25 aesthetic standards imposed by the City until an ordinance establishing such is  
26 adopted. Aesthetic standards are necessary for the deployment of small wireless  
27 facilities to address local concerns about traffic and pedestrian safety, land use  
28 conflicts and incompatibilities including excessive height of poles and towers;

1 creation of visual and aesthetic blights arising from excessive size, heights, noise  
2 or lack of camouflaging of wireless facilities including the associated pedestals,  
3 meters, equipment and power generators, and protection and preservation of public  
4 property, all of which may negatively impact the unique quality and character of  
5 the City and the public health, safety and welfare thereof.

6 4. Currently, multiple providers have inquired about submitting an applications for  
7 permits to install small cell facilities infrastructure.

8 SECTION 2. To address wireless telecommunication facilities located in the public right-  
9 of-way, the following new Chapter 14.90 “SMALL CELL WIRELESS FACILITIES” is added to  
10 Title 14 of the Chico Municipal Code as follows:

11 **Title 14, Chapter 14.90 Small Cell Wireless Facilities**

12 **14.90.010 – Purpose**

13 The purpose and intent of this chapter is to provide a uniform and comprehensive set of  
14 regulations and standards for the permitting, development, siting, installation, design, operation  
15 and maintenance of small wireless telecommunications facilities (“Small Cell Facilities” or  
16 “SWF”) in the City of Chico’s (“City”) public right-of-way (“PROW”). These regulations are  
17 intended to prescribe clear and reasonable criteria to assess and process applications in a  
18 consistent and expeditious manner, while reducing the impacts associated with wireless  
19 telecommunications facilities. The City recognizes the importance of Small Cell Facilities to  
20 provide high-quality communications service to the residents and businesses within the City, and  
21 the City also recognizes its obligation to comply with applicable federal and state laws. This  
22 chapter shall be constructed and applied in consistency with the provisions of state and federal  
23 laws, and the rules and regulations of the Federal Communications Commission (“FCC”) and the  
24 California Public Utilities Commission (“PUC”). In the event of any inconsistency between any  
25 such laws, rules and regulations and this chapter, the laws, rules and regulations shall control.

26 **14.90.020 – Definitions.**

27 A. Permittee – means any person or entity granted a wireless telecommunications facility permit  
28 pursuant to this chapter.

- 1 B. City – means the City of Chico.
- 2 C. Code – means the City of Chico Municipal Code.
- 3 D. Facility(ies) - means wireless telecommunications facility(ies) or “Small Cell Facilities” as  
4 defined below.
- 5 E. FCC – means the Federal Communications Commission.
- 6 F. FCC shot clock – means the presumptively reasonable time frame within which the City  
7 generally must act on a given application for a Small Cell Facilities permit, as defined by the  
8 FCC and as may be amended from time to time.
- 9 G. Public right-of-way (or PROW) – means a strip of land acquired by reservation, dedication,  
10 prescription, condemnation, or easement that allows for the passage of people and goods. The  
11 public right-of-way includes, but is not limited to, streets, curbs, gutters, sidewalks, roadway  
12 medians, and parking strips. The public right-of-way does not include lands owned,  
13 controlled or operated by the City for uses unrelated to streets or the passage of people and  
14 goods, such as, without limitation, parks, City hall and community center lands, City yards,  
15 and lands supporting reservoirs, water towers, police or fire facilities and non-publicly  
16 accessible utilities.
- 17 H. Public Works director (or “director”) – means the director of public works, or his/her  
18 designee.
- 19 I. Small cell – A low-powered antenna (node) that has a range of ten (10) meters to two  
20 kilometers. The nodes of a small cell may or may not be connected by fiber. Small, for  
21 purposes of small cell, refers to the area covered, not the size of the facility. Small cell  
22 includes, but is not limited to, devices generally known as microcells, picocells and  
23 femtocells.
- 24 J. Small Wireless Facility(ies) (or “SWF”) - as defined in 47 C.F.R. 1.6002(l) as amended or  
25 superseded, which defines the term as facilities that meet each of the following conditions:  
26 (1) The facilities—  
27 (i) Are mounted on structures 50 feet or less in height including their antennas as  
28 defined in 47 C.F.R. 1.1320(d); or

1 (ii) Are mounted on structures no more than 10 percent taller than other adjacent  
2 structures; or

3 (iii) Do not extend existing structures on which they are located to a height of more  
4 than 50 feet or by more than 10 percent, whichever is greater;

5 (2) Each antenna associated with the deployment, excluding associated antenna equipment  
6 (as defined in the definition of “antenna” in 47 C.F.R. 1.1320(d)), is no more than three cubic  
7 feet in volume;

8 (3) All other wireless equipment associated with the structure, including the wireless  
9 equipment associated with the antenna and any pre-existing associated equipment on the  
10 structure, is no more than 28 cubic feet in volume;

11 (4) The facilities do not require antenna structure registration under 47 C.F.R. Part 17;

12 (5) The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and

13 (6) The facilities do not result in human exposure to radiofrequency radiation in excess of the  
14 applicable safety standards specified in 47 C.F.R. Section 1.1307(b).

15 K. Minor Linear Encroachment Permit - 1-5 site locations submitted on a single application.  
16 Fees per the current adopted fee schedule on the date of permit application.

17 L. Major Linear Encroachment Permit – 6-10 site locations submitted on a single application.  
18 Fees per the current adopted fee schedule on the date of permit application.

19 M. Small Cell Site License – A license for each (City-owned) small cell site with annual renewal  
20 and fee per the renewal year’s adopted fee schedule.

21 N. “Wireless telecommunications facility” – means equipment and network components such as  
22 antennas, accessory equipment, support structures, and emergency power systems that are  
23 integral to providing wireless telecommunications services. (as defined in Gov. Code  
24 Section 65850.6). Exceptions: The term — “wireless telecommunications facility” does not  
25 apply to the following:

26 1. Government-owned and operated telecommunications facilities.

27 2. Emergency medical care provider-owned and operated telecommunications facilities.  
28



1 3. Mobile services providing public information coverage of news events of a temporary  
2 nature.

3 4. Any wireless telecommunications facilities exempted from this code by federal law or  
4 state law.

5 **14.90.030 - Applicability**

6 A. This chapter applies to the siting, construction or modification of any and all Small Cell  
7 Facilities proposed to be located in the PROW. Small Cell Facilities (or “SWF”) located in  
8 the PROW shall be governed by this Chapter 14.90 rather than the City’s Zoning Code.

9 B. Nothing in this chapter shall validate any existing illegal or unpermitted Small Cell Facilities.  
10 All existing SWFs shall comply with and receive a wireless encroachment permit, when  
11 applicable, to be considered legal and conforming.

12 C. Notwithstanding any other provision of this chapter as provided herein, all small wireless  
13 facilities are subject to a permit as provided in this chapter. This chapter may be amended by  
14 city council resolution.

15 D. This chapter does not apply to the following:

16 1. Amateur radio facilities;

17 2. OTARD antennas;

18 3. Facilities owned and operated by the City for its use or for public safety purposes;

19 4. Any entity legally entitled to an exemption pursuant to state or federal law or governing  
20 franchise agreement, excepting that to the extent such the terms of state or federal law, or  
21 franchise agreement, are preemptive of the terms of this chapter, then the terms of this  
22 chapter shall be severable to the extent of such preemption and all remaining regulations  
23 shall remain in full force and effect.

24 5. Installation of a cell on wheels or a similar structure for a temporary period in connection  
25 with an emergency or event at the discretion of the public works director, but no longer  
26 than required for the emergency or event, provided that installation does not involve  
27 excavation, movement, or removal of existing facilities.  
28

1 E. Except as otherwise provided by state or federal law, any use of the PROW authorized  
2 pursuant to this chapter will be subordinate to the City's use and use by the public.

3 **14.90.040 - Administration**

4 Unless otherwise directed by resolution, the public works director of the City shall be responsible  
5 for administering this chapter. As part of the administration of this chapter, the public works  
6 director may:

- 7 A. Interpret the provisions of this chapter;
- 8 B. Develop and implement standards governing the placement and modification of wireless  
9 telecommunications facilities consistent with the requirements of this chapter, including  
10 regulations governing collocation and resolution of conflicting applications for placement of  
11 wireless facilities;
- 12 C. Develop and implement acceptable design, location and development standards for wireless  
13 telecommunications facilities in the PROW, taking into account the zoning districts bounding  
14 the PROW;
- 15 D. Develop forms and procedures for submission of applications for placement or modification  
16 of wireless facilities, and proposed changes to any support structure consistent with this  
17 chapter;
- 18 E. Collect, as a condition of the completeness of any application, any fee established by this  
19 chapter;
- 20 F. Establish deadlines for submission of information related to an application, and extend or  
21 shorten deadlines where appropriate and consistent with federal laws and regulations;
- 22 G. Issue any notices of incompleteness, requests for information, or conduct or commission such  
23 studies as may be required to determine whether a permit should be issued;
- 24 H. Require, as part of, and as a condition of completeness of any application, that an applicant  
25 for a wireless encroachment permit send notice to members of the public that may be affected  
26 by the placement or modification of the wireless facility and proposed changes to any support  
27 structure;
- 28



- 1 I. Subject to appeal as provided herein, determine whether to approve, approve subject to  
2 conditions, or deny an application; and
- 3 J. Take such other steps as may be required to timely act upon applications for placement of  
4 wireless telecommunications facilities, including issuing written decisions and entering into  
5 agreements to mutually extend the time for action on an application.

6 **14.90.050 – Small Wireless Facilities Design and Development Guidelines.**

7 A. Small wireless facilities are subject to those design and development standards and  
8 conditions of approval set forth in this chapter.

9 B. Asset Availability. Mountings to support structures in the PROW are limited to Standard  
10 Steel Streetlight poles (CalTrans Standard Type) and Utility poles:

- 11 1. SL-15,  
12 2. SL-21,  
13 3. Non-standard pole types available by special approval only, or  
14 4. Utility poles with Public Utilities Commission approval only

15 C. The City Prohibits SWFs to be installed on the following support assets/structures:

- 16 1. Poles with existing electronic/communication devices,  
17 2. Traffic signal poles,  
18 3. Ornamental streetlight and pedestrian light poles, and  
19 4. The City has the right to withhold certain locations for its own use

20  
21 D. Asset Location.

- 22 1. Prior to submitting a permit application, it is strongly encouraged that the applicant  
23 submit to the City a list of the asset locations they intend to use for mounting SWFs.  
24 Applicant shall verify that each proposed asset in the field falls within the asset  
25 availability criteria outlined above before submitting it to Public Works for review.
- 26 2. Applicant shall comply with Cal OSHA Title 8, Section 2946 for separation from power  
27 lines.  
28

- 1 3. Applicants can submit up to ten (10) asset locations per week. The applicant must ensure  
2 prioritization of site location submittals.
- 3 4. The City shall have two (2) weeks or (10 working days) whichever is longer to review the  
4 proposed locations and confer with the applicant regarding the proposed locations prior to  
5 the submission of a permit application.
- 6 5. Asset locations can be reserved with a nonrefundable ten percent (10%) deposit of the  
7 encroachment permit due to the City upon the request for asset review submittal. Deposit  
8 shall be applied to the permit if the applicant chooses to proceed.
- 9 6. Reserved asset locations are held for up to four (4) weeks (20 working days) from written  
10 notification by City of availability to the applicant.

11 E. Design Requirements

- 12 1. All installations shall comply with City small wireless facilities policies, standard details  
13 and specifications, standard plans, adopted codes, and shall meet all relevant state and  
14 federal regulations and rules.
- 15 2. Small cell devices:
  - 16 a. Shall be installed on pole structures or underground; ground-level installation is not  
17 permitted except by special approval.
  - 18 b. Shall not cause any interference with the operation of City facilities, including signs,  
19 banners, festoon circuits, and miscellaneous lighting.
  - 20 c. A maximum of two (2) added equipment enclosures are allowed on a single pole,  
21 including antenna shroud, PG&E meter and disconnect switch.
  - 22 d. The dimensions of each equipment enclosure shall adhere to the installation  
23 preferences for accessory equipment as stated in the City's small wireless facilities  
24 policies. .
  - 25 e. Antenna shroud, if applicable, shall not interfere with the mast arm.
  - 26 f. Enclosures shall not impact existing signs or banners.
  - 27 g. Devices and associated equipment shall be UL listed and FCC certified.
  - 28 h. Devices shall not emit audible sounds beyond 55 decibels ("dB").

- i. Finish and color of device/enclosure shall match existing asset.
- j. Identification and warning labels shall be installed on all devices as required by codes and standards. At least one warning label shall face towards the street.

3. Poles

- a. Manufacturer's written approval for all pole modification is required. Modification shall not void manufacturer's warranty.
- b. Structural analysis including current and proposed equipment is required. Analysis shall be per latest California Building Code, and AASHTO LTS-6 Standard Specifications for Structural Supports for Highway Sign, Luminaires, and Traffic Signals.
  - i. Risk level 3
  - ii. Structural Analysis shall be performed by a California licensed civil/structural engineer and submitted to the City for review and approval.
- c. Poles showing signs of damage or corrosion as identified by City inspector must be replaced in kind.
- d. New foundation may be required when installing new street light pole.
- e. Minimum foundation shall be per City of Chico Standard details. A larger foundation may be approved if required per structural analysis.
- f. If applicant desires a stronger pole to support the devices, replacement pole shall:
  - i. Meet current City standards or be reviewed and approved by City.
  - ii. Pole height/mast arm: to be reviewed and approved by City.
  - iii. Foundation per current City of Chico Standards or larger as required by structural analysis.
  - iv. Luminaires on replacement pole shall be re-installed from existing pole, except as per 5.A.4 below.
  - v. Pole number labels, if incorrect or missing, shall be corrected.

F. Wiring

- 1. External conduit attachment to the pole is not permitted.

2. No visible wires, cables, or conduit.
3. Splicing is permitted after the street light fuse disconnect.

G. Electric Service

1. If sharing service with City facility, for each location, applicant shall:
  - a. Survey and document all loads connected to circuit involved, including any non-streetlight load. Circuit tracing shall be completed using proper circuit tracing equipment.
  - b. Conduct load analysis to evaluate loading level and voltage drop. Calculations shall be completed by an electrical engineer and submitted to the City for review and approval.
  - c. Reserve at minimum forty percent (40%) of circuit load capacity (not breaker rating) for City's use.
  - d. Replacement of light fixtures to LEDs is allowed to free up capacity in the circuit, replacement shall be reviewed and approved by the City's Department of Public Works.

H. Metering

1. Service metering arrangement shall be reviewed and accepted by City.
2. Applicant shall submit proof of approved service metering arrangements from PG&E (i.e. Absolving Service Agreement) to the City prior to acceptance.

I. Communication/Backhaul Service

1. Applicant shall secure their own communication/backhaul arrangements independent of City facilities. A separate Major Encroachment Permit for fiber optic installations will be required.

**14.90.060 – Small Wireless Facility Permit Processing Guidelines.**

A. Permit Application Submittal

1. Permit applications shall be bundled by type of work (e.g. pole replacement, non-pole replacement, festoon circuits, etc.) to help streamline permit review.

1 2. Streetlight locations that are on the same electrical service should be bundled into one (1)  
2 permit application.

3 3. Application Requirements and Contents

4 a. The applicant shall submit one (1) paper copy (unless noted otherwise) and one (1)  
5 electronic copy of any application, amendments, or supplements to a permit  
6 application, or responses to requests for information regarding a permit, in  
7 accordance with the provisions of this section. The electronic copy shall be in PDF  
8 format unless noted otherwise.

9 b. At a minimum, the content of the application shall include the following:

- 10 i. Application Checklist: With each item attached
- 11 ii. Payment of appropriate fees
- 12 iii. Minor Linear Encroachment Permit - 1-5 site locations submitted on a single  
13 application, Major Linear Encroachment Permit – 6-10 site locations  
14 submitted on a single application
- 15 iv. Approval letter from pole manufacturer for proposed pole modifications.
- 16 v. Three (3) copies of construction drawings (11” x 17”)
- 17 vi. One (1) copy of the structural analysis report, signed and stamped by a  
18 California licensed civil/structural engineer
- 19 vii. Supporting documentation used for structural analysis
- 20 viii. Voltage drop calculations in Excel format with formula included in the cells
- 21 ix. Photo simulation of streetlight pole before and after small cell installation
- 22 x. RF-EME Report
- 23 xi. Material specifications and manufacturer’s information for equipment to be  
24 installed
- 25 xii. Certificate of insurance documents
- 26 xiii. CPCN- Certification that applicant is a telephone corporation or a statement  
27 providing the basis for its claimed right to enter the PROW. If the applicant  
28

1 has a certificate of public convenience and necessity (CPCN) issued by the  
2 California Public Utilities Commission, it shall provide a copy of its CPCN.

3 xiv. Additional information may be required per the Director of Public Works.

- 4 c. A complete description of the proposed wireless telecommunications facility and any  
5 and all work that will be required to install or modify it, including, but not limited to,  
6 detail regarding proposed excavations, if any; detailed site plans showing the location  
7 of the wireless telecommunications facility, and dimensioned drawings with  
8 specifications for each element of the wireless facility, clearly describing the site and  
9 all structures and facilities at the site before and after installation or modification; and  
10 a dimensioned map identifying and describing the distance to the nearest residential  
11 dwelling unit and any historical structure within 500 feet of the facility. "Before" and  
12 "After" 360-degree photo simulations must also be provided.

13 4. Re-Submittals

- 14 a. At a minimum, the content of the re-submission of an application shall include the  
15 following:
- 16 i. Three (3) copies of construction drawings (11" x 17")
  - 17 ii. One (1) copy of the structural analysis report, signed and stamped by a  
18 California licensed civil/structural engineer
  - 19 iii. Responses to previous round of comments. For utilities and electrical review,  
20 the applicant shall provide their response to the comments electronically in  
21 Excel format. Otherwise, all responses to comments shall be provided  
22 pursuant to this chapter.

23 5. Submittals for Final Permit Approval

- 24 a. Two (2) copies of construction drawings (24" x 36")  
25 b. Responses to previous round of comments (refer to 4.a.iii)

26 B. Permit Fees Submitted with Application(s). Application fee(s) shall be required for all  
27 permit applications and the City shall impose an annual **Small Cell Site License** fee for each  
28 City-Owned location, as established by City Council resolution and in accordance with



1 California Government Code Section 50030. Notwithstanding the foregoing, no application  
2 fee shall be refundable, in whole or in part, to an applicant for a permit pursuant to this  
3 chapter.

4 C. Review Timeline. The City acknowledges and understands that it must comply with federal  
5 and state shot clocks which mandate time periods in which the City must approve or deny a  
6 proposed Small Cell Facilities permit application. City As such, the City encourages  
7 applicants to provide the City written notice of the expiration of any shot clock no later than  
8 twenty (20) days prior to the expiration.

9 D. Costs. Reasonable costs of City staff, consultant and attorney time (including that of the City  
10 attorney) pertaining to the review, and processing directly attributable to a permit pursuant to  
11 this chapter shall be reimbursable to the City. To this end, the public works and/or planning  
12 director, as applicable, may require applicants to enter a trust/deposit reimbursement  
13 agreement, in a form approved by the City attorney, or other established trust/deposit  
14 accounting mechanism for purposes of obtaining an applicant deposit from which the direct  
15 costs of City processing of an application may be drawn from. Permit application costs per  
16 current City of Chico Fee Schedule at date of application submittal.

17 E. Applications Deemed Withdrawn. To promote efficient review and timely decisions, any  
18 application governed under this chapter will be automatically deemed withdrawn by the  
19 applicant when the applicant fails to tender a substantive response to the City on any  
20 application within thirty (30) calendar days after the application is deemed incomplete in a  
21 written notice to the applicant. The public works director (as applicable) may, in his/her  
22 discretion, grant a written extension for up to an additional thirty (30) calendar days when the  
23 applicant submits a written request prior to the ninetieth (90<sup>th</sup>) day that shows good cause to  
24 grant the extension.

25 F. Waiver of Applications Superseded by Submission of New Project. If an applicant submits a  
26 Permit application, but substantially revises the proposed facility during the application  
27 process prior to any decision on such application, the substantially revised application shall  
28 be deemed a new application for all processing purposes, including federal shot clocks, and

1 the prior submittals deemed waived and superseded by the substantially revised application.  
2 For purposes of this subparagraph, “substantially revised” means that the project as initially-  
3 proposed has been alternately proposed for a location 300 feet or more from the original  
4 proposal or constitutes a substantial change, as determined by the City, in the dimensions or  
5 equipment that was proposed in the original Small Cell Facilities application.

6 G. Rejection for Incompleteness. Each permit application will be processed, and notices of  
7 incompleteness provided, in conformity with state, local, and federal law. A notice of  
8 incompleteness shall be provided within ten (10) calendar days after the application is  
9 submitted. In such event, the shot clock shall reset once the applicant submits the  
10 supplemental information requested by the City.

11 H. Construction Requirements

- 12 1. Once the permit is approved, the permittee must provide notice prior to construction:
  - 13 a. The written notices and a map showing the construction areas and including dates  
14 work will be performed shall be submitted to the Public Works Inspector listed on the  
15 first page of the permit.
- 16 2. Pole Replacement
  - 17 a. If the Public Works Inspector identifies damage or corrosion of the existing streetlight  
18 pole, the City will require revised plans and replacement of the pole and/or  
19 foundation.
- 20 3. Traffic Control
  - 21 a. Temporary traffic control plans shall be reviewed and approved by the Public Works  
22 Inspector prior to permit issuance and prior to start of construction.
- 23 4. The Public Works Inspector and Building Department Inspector shall conduct the  
24 following inspections to determine compliance, inspection request shall be submitted to  
25 the Public Works Department 48 hours prior to inspection:
  - 26 a. Electrical inspection
  - 27 b. Code inspection
  - 28 c. Traffic control inspection

1 d. Construction inspection

2 5. Preferred method of conduit installation shall be behind curb if applicable.

3 I. Records. At the completion of construction, permittee shall submit the following:

4 1. As-builts

5 2. Streetlight Datasheet (will be provided with approved permit package)

6 3. Photograph of pole with devices installed (digital file identified by pole number)

7 **14.90.070– Operation, License and Maintenance.**

8 All small cell wireless telecommunications facilities must comply at all times with the following  
9 operation, license and maintenance standards:

10 A. The permittee shall at all times maintain compliance with all applicable federal, state and  
11 local laws, regulations and other rules, including, without limitation, those applying to use of  
12 the PROW. The permittee shall ensure that all equipment and other improvements to be  
13 constructed and/or installed in connection with the approved permit are maintained in a  
14 manner that is not detrimental or injurious to the public health, safety, and general welfare  
15 and that the aesthetic appearance is continuously preserved, and substantially the same as  
16 shown in the approved plans at all times relevant to the permit.

17 B. Permittee shall obtain a license for each location and pay the appropriate fees established in  
18 the most current fee schedule.

19 C. Unless otherwise provided herein, all necessary repairs and restoration shall be completed by  
20 the permittee, owner, operator or any designated maintenance agent at its sole cost within  
21 forty-eight (48) hours:

22 1. After discovery of the need by the permittee, owner, operator or any designated  
23 maintenance agent; or

24 2. After permittee, owner, operator or any designated maintenance agent receives  
25 notification from the City.

26 D. Insurance. The permittee shall obtain and maintain throughout the term of the permit and  
27 subsequent small cell site license a type and amount of insurance as specified by City's risk  
28 management office. The relevant policy(ies) shall name the City, its elected/appointed

1 officials, commission members, officers, representatives, agents, and employees as additional  
2 insured. The permittee shall use its best efforts to provide thirty (30) days prior notice to the  
3 public works director of the cancellation or material modification of any applicable insurance  
4 policy.

5 E. Indemnities. The permittee and, if applicable, the owner of the property upon which the  
6 wireless facility is installed shall defend, indemnify and hold harmless the City, its agents,  
7 officers, officials, and employees from: (i) any and all damages, liabilities, injuries, losses,  
8 costs, and expenses, and from any and all claims, demands, law suits, writs of mandamus,  
9 and other actions or proceedings brought against the City or its agents, officers, officials, or  
10 employees to challenge, attack, seek to modify, set aside, void or annul the City's approval of  
11 the permit, and (ii) any and all damages, liabilities, injuries, losses, costs, and expenses, and  
12 any and all claims, demands, law suits, or causes of action and other actions or proceedings  
13 of any kind or form, whether for personal injury, death or property damage, arising out of or  
14 in connection with the activities or performance of the permittee or, if applicable, the private  
15 property owner or any of each one's agents, employees, licensees, contractors,  
16 subcontractors, or independent contractors. In the event the City becomes aware of any such  
17 actions or claims the City shall promptly notify the permittee and, if applicable, the private  
18 property owner and shall reasonably cooperate in the defense. The City shall have the right  
19 to approve, which approval shall not be unreasonably withheld, the legal counsel providing  
20 the City's defense, and the property owner and/or permittee (as applicable) shall reimburse  
21 the City for any costs and expenses directly and necessarily incurred by the City in the course  
22 of defending such claims.

23 F. Performance Bond. Prior to issuance of an encroachment permit, the permittee shall file with  
24 the City, and shall maintain in good standing throughout the term of the equipment  
25 occupancy, a performance bond or other surety or another form of security for the removal of  
26 the facility in the event that the use is abandoned, or the permit expires, or is revoked, or is  
27 otherwise terminated. The security shall be in the amount equal to one-hundred percent  
28 (100%) of the cost of removal of the facility as specified in the application for the permit or

1 as that amount may be modified by the public works director in in the permit based on the  
2 characteristics of the installation. The permittee shall reimburse the City for staff time  
3 associated with the processing and tracking of the bond, based on the hourly rate adopted by  
4 the City Council. Reimbursement shall be paid when the security is posted and during each  
5 administrative review.

6 G. Adverse Impacts on Adjacent Properties. Permittee shall undertake all reasonable efforts to  
7 avoid undue adverse impacts to adjacent properties and/or uses that may arise from the  
8 construction, operation, maintenance, modification, and removal of the facility. All facilities,  
9 including each piece of equipment, shall be located and placed in a manner so as to not  
10 interfere with the use of the PROW, impede the flow of vehicular or pedestrian traffic, impair  
11 the primary use and purpose of poles/signs/traffic signals or other infrastructure, interfere  
12 with outdoor dining areas or emergency facilities, or otherwise obstruct the accessibility of  
13 the PROW.

14 H. Contact Information. Each permittee of a wireless telecommunications facility shall provide  
15 the public works director with the name, address and twenty-four hour (24-hour) local or toll-  
16 free contact phone number of the permittee, the owner, the operator and the agent responsible  
17 for the maintenance of the facility (contact information). Contact information shall be  
18 updated within seven (7) days of any change.

19 I. All facilities, including, but not limited to, telecommunication towers, poles, accessory  
20 equipment, lighting, fences, walls, shields, cabinets, artificial foliage or camouflage, and the  
21 facility site shall be maintained in good condition, including ensuring the facilities are  
22 reasonably free of:

23 1. Subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to City  
24 streets, sidewalks, walks, curbs, gutters, trees, parkways, street lights, traffic signals,  
25 improvements of any kind or nature, or utility lines and systems, underground utility line  
26 and systems (water, sewer, storm drains, gas, oil, electrical, etc.) that result from any  
27 activities performed in connection with the installation and/or maintenance of a wireless  
28 facility in the public right-of-way;

- 1 2. General dirt and grease;
- 2 3. Chipped, faded, peeling, and cracked paint;
- 3 4. Rust and corrosion;
- 4 5. Cracks, dents, and discoloration;
- 5 6. Missing, discolored or damaged artificial foliage or other camouflage;
- 6 7. Graffiti, bills, stickers, advertisements, litter and debris. All graffiti on facilities must
- 7 be removed at the sole expense of the permittee within forty-eight (48) hours after
- 8 notification from the City;
- 9 8. Broken and misshapen structural parts; and
- 10 9. Any damage from any cause.

11 J. All trees, foliage or other landscaping elements approved as part of the facility shall be  
12 maintained in a neat, safe and good condition at all times, and the permittee, owner and  
13 operator of the facility shall be responsible for replacing any damaged, dead or decayed  
14 landscaping. No amendment to any approved landscaping plan may be made until it is  
15 submitted to and approved by the public works director.

16 K. Any changes in equipment shall require a new permit.

17 L. Each facility shall be operated and maintained to comply at all conditions of approval. The  
18 permittee, when directed by the City, must perform an inspection of the facility and submit a  
19 report to the public works director on the condition of the facility to include any identified  
20 concerns and corrective action taken. Additionally, as the City performs maintenance on  
21 City-owned infrastructure, additional maintenance concerns may be identified. These will be  
22 reported to the permittee. The City shall give the permittee thirty (30) days to correct the  
23 identified maintenance concerns after which the City reserves the right to take any action it  
24 deems necessary, which could include revocation of the permit or license. The burden is on  
25 the permittee to demonstrate that it complies with the requirements herein. Prior to issuance  
26 of a permit under this chapter, the owner of the facility shall sign an affidavit attesting to  
27 understanding the City's requirement for performance of annual inspections, reporting and  
28 license renewal.



1 M. All facilities permitted pursuant to this chapter shall comply with the Americans with  
2 Disabilities Act.

3 N. The permittee is responsible for obtaining power to the facility and for the cost of electrical  
4 usage.

5 O. Failure to comply with the City's adopted noise standard after written notice and reasonable  
6 opportunity to cure have been given shall be grounds for the City to revoke the permit or  
7 license.

8 P. Interference.

9 1. The permittee shall not move, alter, temporarily relocate, change, or interfere with any  
10 existing structure, improvement, or property without the prior consent of the owner of  
11 that structure, improvement, or property. No structure, improvement, or property owned  
12 by the City shall be moved to accommodate a permitted activity or encroachment, unless  
13 the City determines that such movement will not adversely affect the City or any  
14 surrounding businesses or residents, and the permittee pays all costs and expenses related  
15 to the relocation of the City's structure, improvement, or property. Prior to  
16 commencement of any work pursuant to an encroachment permit, the permittee shall  
17 provide the City with documentation establishing to the City's satisfaction that the  
18 permittee has the legal right to use or interfere with any other structure, improvement, or  
19 property within the PROW or City utility easement to be affected by the permittee's  
20 facilities.

21 2. The facility shall not damage or interfere in any way with City property, the City's  
22 operations or the operations of prior-existing, third-party installations. The City will  
23 reasonably cooperate with the permittee and/or carrier to carry out such activities as are  
24 necessary to correct the interference.

25 a. Signal Interference. The permittee shall correct any such interference within twenty-  
26 four (24) hours of written notification of the interference. Upon the expiration of the  
27 twenty-four-hour (24-hour) cure period and until the cause of the interference is  
28

1 eliminated, the permittee shall cease operation of any facility causing such  
2 interference until such interference is cured.

3 b. Physical Interference. The City shall give the permittee thirty (30) days to correct the  
4 interference after which the City reserves the right to take any action it deems  
5 necessary, which could include revocation of the permit.

6 3. The City at all times reserves the right to take any action it deems necessary, in its sole  
7 discretion, to repair, maintain, alter, or improve the sites. Such actions may temporarily  
8 interfere with the operation of the facility. The City will in all cases, other than  
9 emergencies, give the applicant thirty (30) days written notification of such planned,  
10 nonemergency actions. The City is not responsible for loss of use.

11 4. Radio Frequency Exposure Compliance. All facilities must comply with all standards  
12 and regulations of the FCC and any other state or federal government agency with the  
13 authority to regulate radio frequency exposure standards. After transmitter and antenna  
14 system optimization, but prior to unattended operations of the facility, the permittee or its  
15 representative must conduct on-site post-installation radio frequency emissions testing to  
16 demonstrate actual compliance with the FCC Office of Engineering and Technology  
17 Bulletin 65 Radio Frequency emissions safety rules for general population/uncontrolled  
18 radio frequency exposure in all sectors. For this testing, the transmitter shall be operating  
19 at maximum operating power, and the testing shall occur outwards to a distance where  
20 the radio frequency emissions no longer exceed the uncontrolled/general population limit.

21 a. Testing of any equipment shall take place on weekdays only, and only between the  
22 hours of 8:30 a.m. and 4:30 p.m., except that testing is prohibited on holidays that fall  
23 on a weekday. In addition, testing is prohibited on weekend days.

24 5. Records. The permittee must maintain complete and accurate copies of all permits and  
25 other regulatory approvals issued in connection with the facility, which includes without  
26 limitation this approval, the approved plans and photo simulations incorporated into this  
27 approval, all conditions associated with this approval and any ministerial permits or  
28 approvals issued in connection with this approval. In the event that the permittee does

1 not maintain such records as required in this condition or fails to produce true and  
2 complete copies of such records within a reasonable time after a written request from the  
3 City, any ambiguities or uncertainties that would be resolved through an inspection of the  
4 missing records will be construed against the permittee.

- 5 6. Attorney's Fees. In the event the City determines that it is necessary to take legal action  
6 to enforce any of these conditions, or to revoke a permit, and such legal action is taken,  
7 the permittee shall be required to pay any and all costs of such legal action, including  
8 reasonable attorney's fees, incurred by the City, even if the matter is not prosecuted to a  
9 final judgment or is amicably resolved, unless the City should otherwise agree with  
10 permittee to waive said fees or any part thereof. The foregoing shall not apply if the  
11 permittee prevails in the enforcement proceeding.

12 **14.90.080- No Dangerous Conditions or Obstructions Allowed.**

13 No person shall install, use or maintain any small cell wireless telecommunications facility that  
14 in whole or in part rests upon, in or over any PROW, when such installation, use or maintenance  
15 endangers or is reasonably likely to endanger the safety of persons or property, or when such site  
16 or location is used for public utility purposes, public transportation purposes or other  
17 governmental use, or when such facility unreasonably interferes with or unreasonably impedes  
18 the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the  
19 ingress into or egress from any residence or place of business, the use of poles, posts, traffic  
20 signs or signals, hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or  
21 other objects permitted at or near said location.

22 **14.90.090 – Non-Exclusive Grant.**

- 23 A. No permit or approval granted under this chapter shall confer any exclusive right, privilege,  
24 license or franchise to occupy or use the PROW of the City for any purpose whatsoever.  
25 Further, no approval shall be construed as a warranty of title.
- 26 B. No possessory interest is created by a wireless telecommunications facility permit. However,  
27 to the extent that a possessory interest is deemed created by a governmental entity with  
28 taxation authority, the permittee acknowledge that the City has given to the applicant notice

1 pursuant to California Revenue and Taxation Code Section 107.6, that the use or occupancy  
2 of any public property pursuant to a permit may create a possessory interest which may be  
3 subject to the payment of property taxes levied upon such interest. Wireless  
4 telecommunications facility operators shall be solely liable for, and shall pay and discharge  
5 prior to delinquency, any and all possessory interest taxes or other taxes, fees, and  
6 assessments levied against their right to possession, occupancy, or use of any public property  
7 pursuant to any right of possession, occupancy, or use created by the permit.

- 8 C. The permission granted by a permit shall not in any event constitute an easement on or an  
9 encumbrance against the PROW. No right, title, or interest (including franchise interest) in  
10 the PROW, or any part thereof, shall vest or accrue in permittee by reason of a wireless  
11 encroachment permit or the issuance of any other permit or exercise of any privilege given  
12 thereby.

13 **14.90.100 – Legal Nonconforming Wireless Telecommunications Facilities.**

- 14 A. Legal nonconforming wireless telecommunications facilities are those facilities that existed  
15 but did not conform to this chapter on the date this chapter became effective.
- 16 B. Legal nonconforming wireless telecommunications facilities shall, within ten (10) years from  
17 the date this chapter became effective, be brought into conformity with all requirements of  
18 this article; provided, however, that should the owner desire to expand or modify the facility,  
19 intensify the use, or make some other change in a conditional use, the owner shall comply  
20 with all applicable provisions of this code at such time, to the extent the City can require such  
21 compliance under federal and state law.
- 22 C. An aggrieved person may file an appeal to the City Council of any decision of the public  
23 works director or other deciding body made pursuant to this Section. In the event of an  
24 appeal alleging that the ten-year (10-year) amortization period is not reasonable as applied to  
25 a particular property, the City Council may consider the amount of investment or original  
26 cost, present actual or depreciated value, dates of construction, amortization for tax purposes,  
27 salvage value, remaining useful life, the length and remaining term of the lease under which  
28 it is maintained (if any), and the harm to the public if the structure remains standing beyond

1 the prescribed amortization period, and set an amortization period accordingly for the  
2 specific property.

3 **14.90.110 – Permit Term**

4 A. Permit Term. A permit for a Small Cell Facilities shall be valid for a period of ten (10) years,  
5 unless Government Code Section 65964 is amended to allow for a shorter period or the permit  
6 lapses or is revoked sooner pursuant to another provision of this Code. At the end of ten (10)  
7 years from the date of issuance, such permit shall automatically expire.

8 B. Renewal. A permittee may apply for a new permit within 180 days prior to expiration. Said  
9 application and proposal shall comply with the City’s current Code requirements for wireless  
10 telecommunications facilities.

11 **14.90.120 – Abandonment**

12 A. A wireless telecommunications facility is considered abandoned and shall be promptly  
13 removed as provided herein if it ceases to provide wireless telecommunications services for  
14 ninety (90) or more consecutive days unless the permittee has obtained prior written approval  
15 from the public works director which shall not be unreasonably denied. If there are two (2) or  
16 more users of a single facility, then this provision shall not become effective until all users  
17 cease using the facility.

18 B. The operator of a facility shall notify the public works director in writing of its intent to  
19 abandon or cease use of a permitted site or a nonconforming site (including unpermitted sites)  
20 within ten (10) days of ceasing or abandoning use. Notwithstanding any other provision  
21 herein, the operator of the facility shall provide written notice to the public works director of  
22 any discontinuation of operations of thirty (30) days or more.

23 C. Failure to inform the public works director of cessation or discontinuation of operations of  
24 any existing facility as required by this section shall constitute a violation of any approvals  
25 and be grounds for:

- 26 1. Litigation;
- 27 2. Revocation or modification of the permit;

- 1           3. Acting on any bond or other assurance required by this article or conditions of approval of  
2           the permit;
- 3           4. Removal of the facilities by the City in accordance with the procedures established under  
4           this code for abatement of a public nuisance at the owner's expense; and/or
- 5           5. Any other remedies permitted under this code or by law.

6           **14.90.130 – Removal and Restoration Upon Permit Expiration, Revocation or**  
7           **Abandonment**

8           A. Upon the expiration date of the permit, including any extensions, earlier termination or  
9           revocation of the Small Cell Facility permit or abandonment of the facility, the permittee,  
10          owner or operator shall remove its wireless telecommunications facility and restore the site to  
11          the condition it was in prior to the granting of the permit, except for retaining the landscaping  
12          improvements and any other improvements at the discretion of the City. Removal shall be in  
13          accordance with proper health and safety requirements and all ordinances, rules, and  
14          regulations of the City. Expired, terminated or revoked wireless telecommunications facility  
15          equipment shall be removed from the site at no cost or expense to the City.

16          B. Failure of the permittee, owner or operator to promptly remove its facility and restore the  
17          property within ninety (90) days after expiration, earlier termination or revocation of the  
18          Small Cell Facilities permit, or abandonment of the facility, shall be a violation of this Code.  
19          Upon a showing of good cause, an extension may be granted by the public works director  
20          where circumstances are beyond the control of the permittee after expiration. Further failure  
21          to abide by the timeline provided in this Section shall be grounds for:

- 22           1. Prosecution;
  - 23           2. Acting on any security instrument required by this chapter or conditions of approval of  
24           permit;
  - 25           3. Removal of the facilities by the City in accordance with the procedures established under  
26           this code for abatement of a public nuisance at the owner's expense; and/or
  - 27           4. Any other remedies permitted under this code or by law.
- 28



1 C. Removal – Exigent Circumstances. In the event the director of public works or City engineer  
2 determines that the condition or placement of a wireless telecommunications facility located  
3 in the PROW constitutes a dangerous condition, obstruction of the PROW, or an imminent  
4 threat to public safety, or determines other exigent circumstances require immediate  
5 corrective action (collectively, — “exigent circumstances”), such director or City engineer  
6 may cause the facility to be removed summarily and immediately without advance notice or a  
7 hearing. Written notice of the removal shall include the basis for the removal and shall be  
8 served upon the permittee and person who owns the facility within five business days of  
9 removal and all property removed shall be preserved for the owner’s pick-up as feasible. If  
10 the owner cannot be identified following reasonable effort or if the owner fails to pick-up the  
11 property within sixty (60) days, the facility shall be treated as abandoned property.

12 D. Removal of Facilities by City. In the event the City removes a wireless telecommunications  
13 facility in accordance with nuisance abatement procedures or summary removal, any such  
14 removal shall be without any liability to the City for any damage to such facility that may  
15 result from reasonable efforts of removal. In addition to the procedures for recovering costs of  
16 nuisance abatement, the City may collect such costs from the performance bond posted and to  
17 the extent such costs exceed the amount of the performance bond, collect those excess costs in  
18 accordance with this Code. Unless otherwise provided herein, the City has no obligation to  
19 store such facility. Neither the permittee, owner nor operator shall have any claim if the City  
20 destroys any such facility not timely removed by the permittee, owner or operator after notice,  
21 or removal by the City due to exigent circumstances.

22 **14.90.140 – Effect on Other Ordinances**

23 Compliance with the provisions of this chapter shall not relieve a person from complying with  
24 any other applicable provision of this Code. In the event of a conflict between any provision of  
25 this chapter and other sections of this Code, this chapter shall control.

26 **14.90.150 – State or Federal Law**

27 The implementation of this chapter and decisions on applications for placement of Small Cell  
28 Facilities in the PROW shall, at a minimum, ensure that the requirements of this chapter are

1 satisfied, unless it is determined that the applicant has established that denial of an application  
2 would, within the meaning of federal law, prohibit or effectively prohibit the provision of  
3 personal wireless services, or otherwise violate applicable laws or regulations. If that  
4 determination is made, the requirements of this Chapter may be waived, but only to the minimum  
5 extent required to avoid the prohibition or violation.

6 SECTION 3. Authority. This Ordinance is enacted pursuant to the City of Chico's general  
7 police powers, Article II of the Charter of the City of Chico, Article VI of the Charter of the City of  
8 Chico and Article XI of the California Constitution.

9 SECTION 4. This Ordinance is consistent with the City's General Plan, Municipal Code,  
10 and applicable federal and state law.

11 SECTION 5. This Ordinance will not be detrimental to the public interest, health, safety,  
12 convenience or welfare.

13 SECTION 6. CEQA. The City Council, on the basis of the whole record and exercising  
14 independent judgment, finds that this Ordinance is not subject to environmental review pursuant to  
15 Sections 15060(c)(2) and 15060(c)(3) of the State Guidelines for Implementation of the California  
16 Environmental Quality Act (CEQA). Sections 15060(c)(2) and 15060(c)(3) pertain to activities that  
17 will not result in a direct or reasonably foreseeable indirect change to the environment and that are  
18 not defined as a project under Section 15378.

19 SECTION 7. Amendment by Resolution. All requirements under this chapter for the  
20 deployment of small wireless facilities are subject to and may be amended by city council resolution  
21 from time to time.

22 SECTION 8. Severability. If any section, subsection, line, sentence, clause, phrase, or word  
23 of this Ordinance is for any reason held to be invalid or unconstitutional, either facially or as applied,  
24 by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the  
25 remaining portions of this Ordinance. The City Council of the City of Chico hereby declares that it  
26 would have passed this Ordinance, and each and every individual section, subsection, line, sentence,  
27 clause, phrase, or word without regard to any such decision.

1            SECTION 9. Effective Date. The Ordinance shall take effect immediately upon its  
2 adoption.

3            SECTION 10. Certification. The City Clerk shall certify to the passage and adoption of this  
4 Ordinance and shall cause the same to be published or posted in the manner required by law.

5            THE FOREGOING ORDINANCE was adopted by the City Council of the City of Chico at  
6 its meeting held on December 17, 2019, by the following vote:

7 AYES:                    Huber, Morgan, Reynolds, Schwab


8 NOES:                    Ory, Brown, Stone

9 ABSENT:                None


10 ABSTAINED:          None

11 DISQUALIFIED:        None

12  
13  
14 **ATTEST:**

15   
16 Deborah R. Presson, City Clerk

**APPROVE AS TO FORM:**

  
Vincent C. Ewing, City Attorney\*  
\*Pursuant to The Charter of the City of Chico,  
Section 906(E)