

ORDINANCE NO. 2017-44

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, AMENDING CHAPTER 21 OF THE PEORIA CITY CODE (1977 EDITION), BY AMENDING SECTION 21-202 DEFINITIONS, SECTION 21-813 WIRELESS COMMUNICATION FACILITIES, OF THE PEORIA CITY CODE; PROVIDING FOR SEPARABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Peoria, Maricopa County, Arizona, held a public hearing on September 21, 2017 to consider proposed amendments to the Peoria City code, after notice in the manner provided by law; and

WHEREAS, due and proper notice of such Public Hearing was given in the time, form, substance, and manner provided by law including publication of such in the Peoria Times on September 1, 2017; and

WHEREAS, the Planning and Zoning Commission of the City of Peoria, Arizona at its regularly convened meeting of September 21, 2017 voted to recommend to the Mayor and Council of the City of Peoria, Arizona, that amendments be made to the Peoria City Code (1977 edition) and Chapter 21 of the Peoria City Code; and

WHEREAS, the Mayor and Council of the City of Peoria, Arizona, have considered the recommendation of the Planning and Zoning Commission of the City of Peoria, Arizona, and deem it to be in the best interest of the public health, safety and welfare of the residents of the City of Peoria, Arizona to amend Section 21-202 Definitions, and Section 21-813 Wireless Communication Facilities, of Chapter 21 of the Peoria City Code (1977 edition):

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Peoria, Arizona as follows:

SECTION 1. of Chapter 21 of the Peoria City Code (1977 edition) shall be amended to read as indicated on Exhibits A-C.

SECTION 2. Effective Date. This Ordinance shall become effective on the date provided by law.

SECTION 3. SEPARABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria,
Maricopa County, Arizona this 7th day of November, 2017.

Cathy Caflat
Cathy Caflat, Mayor

November 3, 2017
Date Signed

ATTEST:

Rhonda Geriminsky
Rhonda Geriminsky, City Clerk



APPROVED AS TO FORM:

Steve Burg
Steve Burg, City Attorney

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Exhibit A (Case TA 17-01)

SECTION 21-202 DEFINITIONS

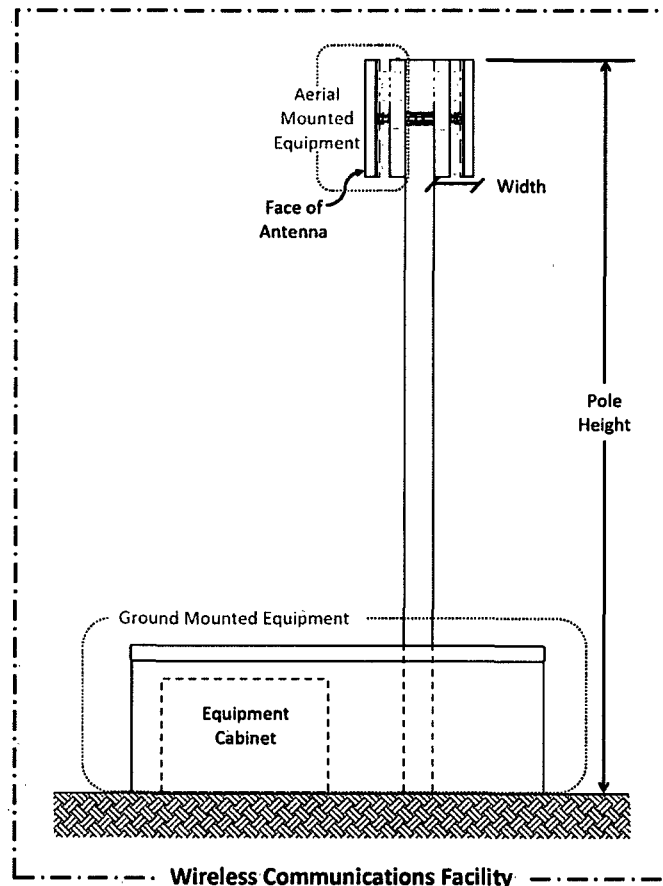
21-202 Definitions

~~Alternative tower structure~~ means man-made trees, clock towers, bell steeples, light poles and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers. *42

Wireless Communication Facility (WCF) means any structure or piece of equipment that is designed and constructed primarily for the purpose of sending or receiving wireless transmissions or supporting one or more antennas for telephone, radio, wireless data and similar communication purposes, including self-supporting lattice towers, ~~guyed towers~~, and monopole or similar towers.

The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, Alternate Design WCF, and similar facilities. The term also includes the structure and any support thereto. *12 *41

WCF Aerial Mounted Equipment means all above grade equipment that is associated with the wireless communication facility aside from ground mounted equipment and the pole or support structure anchoring the facility to the ground. This includes all appurtenances to the vertical structure of the wireless facility such as antennae, antenna arrays, microwave dishes, or similar equipment as well as materials mounted to vertical structures for co-location purposes. *41



WCF Alternate Design Wireless Communication Facility means the concealment or camouflage of a WCF that is in character with the surrounding area. Examples include, but are not limited to, a flagpole near a building, a spire at a place of worship, a palm tree in an area with mature palm trees, a pine tree in an area with mature pine trees or a saguaro cactus in an area with other mature saguaro cacti. *41

WCF Ground Mounted Equipment means all equipment associated with the wireless facility located at or near the base of the vertical structure. This shall include equipment cabinets, generators, and any associated screening walls for said equipment. *41

Exhibit B (Case TA 17-01)

SECTION 21-813 Wireless Communication Facilities

21-813 Wireless Communication Facilities *5

~~It is the intent of this Section to promote the use of appropriate wireless communication facilities while encouraging co-location and design techniques that minimize the impacts of such facilities on the community. The City of Peoria encourages providers to explore all co-location options, locations on existing municipal facilities or locations on existing vertical elements prior to the application for a new facility. The City further encourages applicants to explore all camouflaging and screening options available to reduce the visual and environmental impacts of such facilities to the community.~~

~~A wireless communication facility, as defined in Section 21-202, shall be a permitted principal or permitted conditional use in all zoning districts subject to the limitations herein contained in this Section and as otherwise set forth in the Peoria City Code.~~

~~A. General Requirements.~~

~~All wireless communication facilities (hereinafter referred to as facility) shall meet the following general requirements regardless of whether they are a permitted principal use or a permitted conditional use.~~

~~1. Inventory of Existing Sites~~

~~Each applicant for a facility shall provide to the City an inventory of its existing facilities or sites approved for facilities that are located either within the City of Peoria, City of Peoria planning area boundary or a county island within the City of Peoria. In addition to showing all existing and approved sites, inventories shall show all other wireless communications sites located within one mile of the proposed site, regardless of jurisdictional location. Each inventory shall include general information about the location, height, and design of each tower. The City may share such information with other applicants applying for administrative approvals or conditional use permits under this ordinance or other organizations seeking to locate antennas within the City; provided however, that the City is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.~~

~~2. State or Federal Requirements~~

~~All facilities must meet or exceed current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such~~

~~revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring facilities and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.~~

~~3. Building Code Safety Standards~~

~~To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.~~

~~4. Measurement~~

~~For the purpose of determining separation distances, distances from property lines or districts, and setback distances, distance shall be measured from the closest portion of the pole to the property line, district or pole in question. Tower setbacks and separation distances shall be calculated and applied to facilities located in the City of Peoria, irrespective of municipal and county jurisdictional boundaries. Minimum setbacks for equipment panels shall conform with the International Building Code.~~

~~5. Franchises or Licenses~~

~~Owners and/or operators of wireless facilities shall certify that all franchises or licenses required by law for the construction and/or operation of a wireless communication system in the City of Peoria have been obtained and shall file a copy of all required franchises or licenses with the City.~~

~~6. Pre-Existing Towers~~

~~Pre-existing towers shall be allowed to continue their usage as they presently exist. Routine maintenance (routine maintenance does not include replacement with a new tower of like construction and height) and construction related to the use of the pole for the purposes of adding additional carriers shall be permitted on such pre-existing towers. New construction, including replacement of an existing tower, other than routine maintenance on a pre-existing tower, shall comply with the requirements of this ordinance.~~

~~7. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas~~

~~Notwithstanding this ordinance, bona fide nonconforming towers or antennas that are damaged or destroyed shall not be rebuilt without first obtaining administrative approval or a conditional use permit and meeting the separation requirements specified in this ordinance. The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the~~

~~facility is damaged or destroyed. If no permit is obtained, or if said permit expires, the tower or antenna shall be deemed abandoned as specified in this ordinance.~~

~~8. Abandonment of Towers or Facilities~~

~~A facility shall be deemed abandoned when such facility is not in use for a period of twelve (12) consecutive months. The owner of the facility shall remove the same within ninety (90) days of receipt of notice from the City notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.~~

~~B. Permitted Principal Use~~

~~A wireless communication facility shall be a permitted principal use when the facility complies with the following minimum development standards:~~

- ~~1. The antennas or towers are located on: property owned or otherwise controlled by the City of Peoria, provided a license, lease or revocable permit authorizing such antenna or tower has been approved by the City Manager or his designee; property owned by a school district and approved by the appropriate school board or their designee (for purposes of this Section, school district shall not include private schools or charter schools); an existing wireless communications facility; existing utility poles; or are located on existing poles within the existing walls of an electrical substation owned, leased or otherwise controlled by a public utility;~~
- ~~2. The facility is developed as an Alternative Tower Structure and meets all other provisions of this Ordinance;~~
- ~~3. The maximum height of a facility, except for rooftop or wall mounted facilities, facilities co-locating on an existing wireless communications facility, facilities locating on existing utility poles, or facilities locating on existing vertical structures on school or municipal property, is sixty five (65) feet, provided however, if the facility is located within any residential district or within one hundred (100) feet of the property line of a residential use or district, the maximum height is fifty (50) feet;^{*7}~~
- ~~4. An installation co-locating on an existing wireless communications facility may not increase the overall pole height by more than fifteen (15) feet, and the antennas shall not exceed a maximum height of eighty (80) feet or sixty five (65) feet in any residential district. Installations co-locating on existing utility poles may increase the height of the pole by not more than fifteen (15) feet. Installations locating on existing vertical structures on school or municipal property shall follow the non-residential height requirements;^{*7}~~
- ~~5. The facility replacing an existing pole on school or park grounds does not increase the original pole circumference by more than a 2:1 ratio;~~

- ~~6. Facilities located within a residential zoning district shall not have antennas other than panel antennas and/or whip antennas. Such facilities shall be allowed a single microwave dish not in excess of twenty four (24) inches in diameter;~~
- ~~7. The pole shall be setback from all adjacent residential zoning districts or residential land use property lines a minimum of two hundred percent (200%) of the height of the tower or pole. The pole shall be setback from all non-residential zoning districts or non-residential property lines and all street property lines a minimum of one hundred and ten percent (110%) of the height of the tower or pole;~~
- ~~8. Facilities co-locating on utility poles, facilities within the right of way, or facilities located on school or City property, including supporting equipment and cabinets, shall not be required to meet the setbacks requirements set forth above;~~
- ~~9. The freestanding building or equipment structure contains four hundred and fifty (450) square feet or less of gross floor area and is twelve (12) feet or less in height, except when a facility utilizes co-location, the building or equipment structure may contain nine hundred (900) square feet or less of gross floor area. Where ground mounted cabinets are utilized, they shall not exceed eight (8) feet in height or an area greater than two hundred and fifty (250) square feet;~~
- ~~10. The facility is screened in conformance with Section 21-804.B.6, of this Section.~~
- ~~11. The rooftop or wall mounted facility is hidden from off-site views and shall be screened to the extent possible by screen walls and/or the building parapet;~~
- ~~12. The colors and texture of the facility shall be compatible with the surrounding environment as determined by the City, except as otherwise required by the FAA;~~
- ~~13. No commercial advertising or signage is allowed on site;~~
- ~~14. The facility has at least one (1) parking space designed to City standards. This requirement includes maneuvering areas and access drives. This requirement may be waived when sufficient hard surfaced parking exists;~~
- ~~15. The rooftop mounted facility is fifteen (15) feet or less in height as measured from the surrounding rooftop height to the top of all appurtenances;~~
- ~~16. The wall mounted antennae are eight (8) feet or less in height. Wall mounted facilities shall be mounted so as not to extend above the roof line of the building and shall not project more than twelve (12) inches from the building face;~~
- ~~17. The facility shall not be artificially lighted, unless required by the FAA or other applicable authority;~~
- ~~18. The facility is not located within the Hillside Development Overlay District or within thirteen hundred and twenty (1,320) feet of a City or state designated historical site; and,~~

- ~~19. The minimum separation between facilities, except for approved alternative tower structures, rooftop or wall mounted facilities, facilities located within the industrial zoning districts, and facilities located on existing vertical structures on school or municipal property, is one thousand three hundred and twenty (1,320) feet.⁶~~

~~C. Permitted Conditional Use~~

~~A wireless communication facility which does not meet the conditions specified above for Section 21-813.B, shall be a permitted conditional use and processed in accordance with Section 21-322 of this Ordinance. All permitted conditional uses shall meet the following minimum development standards:~~

- ~~1. The maximum height of the facility, except for rooftop or wall mounted facilities, facilities co-locating on an existing wireless communications facility, facilities locating on existing utility poles, or facilities located on existing vertical structures on school or municipal property, shall be eighty (80) feet, provided however, if the facility is located in any residential district or within seventy five (75) feet of the property line of a residential use or district, the maximum height shall be sixty five (65) feet;⁷~~
- ~~2. An installation co-locating on an existing facility shall not increase the overall pole height by more than fifteen (15) feet, and the antennas shall not exceed a maximum height of ninety five (95) feet or sixty five (65) feet in any residential district. Installations co-locating on existing utility poles may increase the height of the pole by not more than fifteen (15) feet. Installations locating on existing vertical structures on school or municipal property shall follow the non-residential height requirements;⁷~~
- ~~3. The facility replacing an existing pole on school or park grounds does not increase the original pole circumference by more than is necessary to accommodate the additional structural requirements;~~
- ~~4. Such facilities located within a residential zoning district shall not have antennas other than panel antennas and/or whip antennas. Such facilities shall be allowed a single microwave dish not in excess of twenty four (24) inches in diameter;~~
- ~~5. The pole shall be setback from all adjacent residential zoning district or residential land use property lines a minimum of one hundred and ten percent (110%) of the height of the tower or pole. The pole shall be setback from all non-residential zoning district or non-residential property lines a minimum of five (5) feet and shall be setback from all street property lines equal to or greater than the building setback for the district in which the pole is located;~~
- ~~6. Facilities co-locating on utility poles, facilities within the right of way, or facilities located on school or City property shall not be required to meet the setbacks requirements set forth above;~~
- ~~7. The facility shall be screened in conformance with Section 21-804 of this Ordinance.~~
- ~~8. A rooftop or wall mounted facility shall be hidden from off-site views and shall be screened to the extent possible by screen walls and/or the building parapet;~~

- ~~9. The colors and texture of the facility shall be compatible with the surrounding environment as determined by the City, except as otherwise required by the FAA;~~
- ~~10. No commercial advertising or signage shall be allowed on site;~~
- ~~11. A facility shall have at least one (1) parking space designed to City standards.~~
- ~~12. This requirement shall also include maneuvering areas and access drives. This requirement shall be waived when sufficient hard surfaced parking exists;~~
- ~~13. A rooftop mounted facility shall be twenty five (25) feet or less in height as measured from the surrounding rooftop height to the top of all appurtenances;~~
- ~~14. A wall mounted facility shall be twelve (12) feet or less in height. Wall mounted facilities shall be mounted so as not to extend above the roof line of the building and shall not project more than twelve (12) inches from the building face;~~
- ~~15. The facility shall not be artificially lighted, unless required by the FAA or other applicable authority;~~
- ~~16. A facility may not be allowed within the Hillside Development Overlay District or within thirteen hundred and twenty (1,320) feet of a City or state designated historical site; and,~~
- ~~17. The minimum separation between facilities, except for approved alternative tower structures, rooftop or wall mounted facilities, facilities located within the industrial zoning districts, and facilities locating on existing vertical structures on school or municipal property, shall be one thousand (1000) feet, unless otherwise approved by the City Council.¹⁷~~
- ~~18. The Applicant shall be provided the opportunity to execute a Waiver of Proposition 207 as to only the property leased or licensed by the Applicant. In addition to any other grounds the City may have, the City expressly reserves the right to recommend denial of such applications in the event the Applicant elects not to execute a Waiver of Proposition 207.³¹~~

Exhibit C

(Case TA 17-01)

SECTION 21-813

Wireless Communication Facilities

21-813 Wireless Communication Facilities *5 *44

- A. General Requirements. All Wireless Communication Facilities, hereinafter referred to as WCF shall meet each of the following general requirements.
1. WCFs must meet or exceed all current state and federal standards and regulations.
 2. WCFs shall be constructed, maintained, and modified in compliance with all adopted Peoria building codes.
 3. To ensure compliance with the National Environmental Policy Act (NEPA), a Finding of No Significant Impact (FONSI) issued by the FCC may be required for new WCFs and co-locations.
 4. A WCF shall be removed by the provider or the property owner within six (6) months of cessation of use, along with returning the area to its condition prior to the construction of the WCF.
 5. A WCF shall not be located within one thousand three hundred and twenty (1,320) feet of a City, State, or Nationally designated historical site.
 6. Commercial advertising or signage on the WCF or associated aerial or ground mounted equipment is prohibited.
 7. Artificial lighting of a WCF is prohibited, unless required by the Federal Aviation Administration (FAA) or Federal Communications Commission (FCC).
 8. WCFs located within a residential zoning district shall be allowed a single microwave dish not in excess of twenty-four (24) inches in diameter. WCF located within non-residential zoning districts shall be allowed a maximum of two (2) microwave dishes which shall not exceed forty-eight (48) inches in diameter per microwave dish unless otherwise approved through a Conditional Use Permit. Such dishes shall be appropriately integrated into concealment efforts to minimize the visual presence of the microwave equipment.

9. Screening of ground mounted equipment shall adhere to the rules and regulations set forth in accordance with the screening provisions found in Section 21-804.
10. Colors and materials of the WCF shall be compatible with the surrounding environment as determined by the City, except as otherwise required by the FAA;
11. One (1) parking space is required per WCF and shall be designed to meet City standards; this includes maneuvering and access.
12. A WCF shall not Alter the Mountain Top Ridge Line as defined in Section 21-711.
13. A WCF located in the right-of-way shall be exempt from the standards contained within this ordinance; however they must comply with all standards and practices established by the Engineering Director including but not limited to all applicable agreements and permits.
14. Co-locations on a utility pole not located in the right-of-way or co-locations located on a public/quasi-public property shall not be required to meet the setback requirements set forth in this section; provided that the ground equipment does not expand the perimeter of the utility facilities. Quasi-public property includes, but is not limited to:
 - a. Schools, to include private, public, charter;
 - b. College or University Campus;
 - c. Power substations; or,
 - d. Water pumping plants and storage tanks.

A. Development Standards

1. Permitted Principal Use

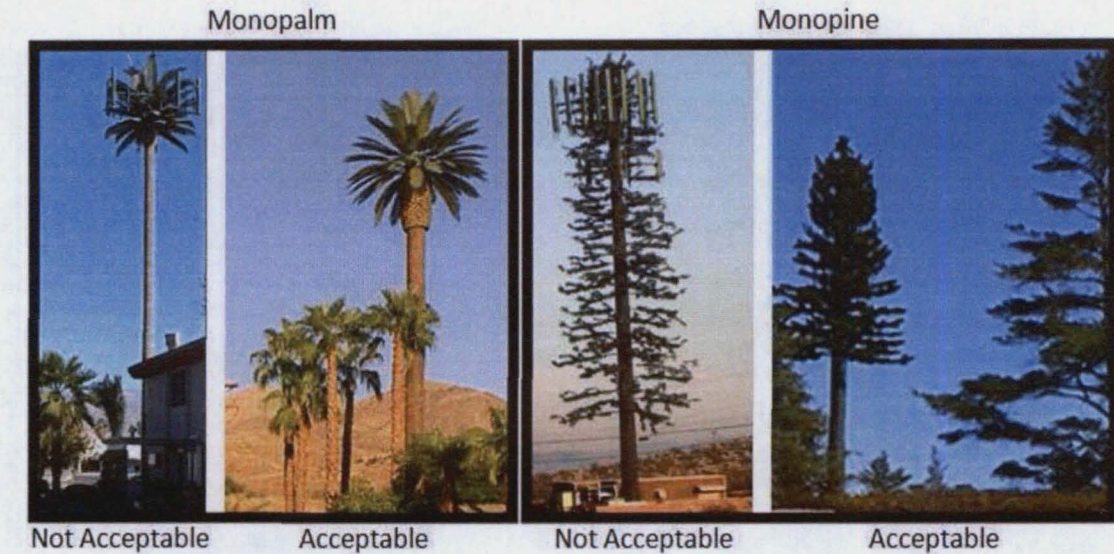
- a. A Facility shall be deemed a Permitted Principal Use if the following development standards are met:

Development Standards	Zoning District	Distance to Residential Property Line	Maximum Height ^c	Distance to Non-Residential Property Line	Equipment Enclosure	Antenna Distance from Pole	Alternate Design WCF ^d
Permitted Principal Use	Residential ^b	>110% ^a	50'	>50% ^a	450 SF	6% ^a	Required
	Non-Residential	>130% ^a	65'				

- a. Percentage (%) figures listed shall be based on the height of the pole from adjacent finished grade. Distance is measured from the edge of the tower.
- b. In instances where residential and non-residential uses occupy the same footprint, residential standards shall apply.
- c. If facility WCF is located on or within a height exempt structure per Section 21-8802, the height will be measured to the top of the antennae. For ground mounted WCFs height shall be measured from finished grade to the top of the structure including any associated

concealment materials.

- d Fronds, branches, or other methods of concealment shall completely conceal any antennae or other associated Aerial Mounted Equipment.



- b. Rooftop and wall-mounted equipment:

- 1) Shall follow the height restrictions as listed in the above permitted principal use _____ development standards table; unless otherwise permitted in the height exception provision of Section 21-802.
- 2) Shall be integrated into the design of the building.
- 3) Shall be fully screened from public view.

- c. The co-location of aerial mounted equipment on an existing WCF:

- 1) Shall not constitute a substantial change unless otherwise identified within Section 21-813.C of the City Code.
- 2) Shall not be more than an overall height of eighty (80) feet.
- 3) Shall not otherwise inhibit stealth aesthetics.

2. Permitted Conditional Use

- a. Any facility which does not meet the Permitted Principal development standards shall require a Conditional Use Permit, and shall be in accordance with the following development standards:

Development Standards ^d	Zoning District	Distance to Residential Property Line	Maximum Height ^c	Distance to Non-Residential Property Line	Distance Between Non-Alternate Design WCF (Monopole)
<u>Permitted Conditional Use</u>	Residential ^b	>110% ^a	65'	>5'	1,320'
	Non-Residential	>130% ^a	80'		

- a Percentage (%) figures listed shall be based on the height of the pole from adjacent finished grade. Distance is measured from the edge of the tower.
- b In instances where residential and non-residential occupy the same footprint, residential standards shall apply.
- c If facility is located on or within a height exempt structure per Section 21-802, the height will be measured to the top of the antennae. For ground mounted WCFs height shall be measured from finished grade to the top of the structure including any associated concealment materials.
- d All conditions not specifically identified within this section shall be approved through the Conditional Use Permit process.

b. Rooftop and wall-mounted equipment

- 1) Shall follow the height restrictions as listed in the above conditional use development standards table; unless otherwise permitted in the height exception provision of Section 21-802.
- 2) Shall be integrated into the design of the building.
- 3) Shall be fully screened from public view.

c. All monopoles shall be constructed to allow for co-location by other wireless providers. The applicant shall demonstrate that the engineering of the tower and the placement of ground mounted facilities will not preclude other providers. The owner of the proposed tower must certify in writing that the tower will be available for use by other wireless communication providers on an economically reasonable and non-discriminatory basis.

d. The co-location of aerial mounted equipment on an existing WCF:

- 1) Shall not constitute a substantial change unless otherwise identified within Section 21-813.C of the City Code.
- 2) Shall not be more than an overall height of ninety-five (95) feet.
- 3) Shall not otherwise inhibit stealth aesthetics.

B. Administrative Procedures

1. Permitted Principal Use

- a. All facilities categorized as a permitted principal use are subject to site plan review process as set forth in Section 21-321.

2. Permitted Conditional Use

- a. All facilities categorized as a permitted conditional use are subject to the following processes as set forth in Section 21-321 and Section 21-322:
 - 1) Site Plan Review; and,
 - 2) Conditional Use Permit.
- b. The Applicant shall be provided the opportunity to execute a Waiver of Proposition 207 as to only the property leased by the Applicant. In addition to any other grounds the City may have, the City expressly reserves the right to recommend denial of such applications in the event the Applicant elects not to execute a Waiver of Proposition 207.

3. The following criteria shall identify what constitutes a substantial change to a facility. All modifications deemed substantial shall refer to 21-813.B Development Standards:

- a. An increase in the originally approved WCF height by more than twenty (20) feet or ten percent (10%), whichever amount is greater;
- b. An increase in the Width more than twenty (20) feet from the Edge of the Tower to the Face of the Antennae.
- c. An increase in the height of Ground Mounted Equipment by more than ten percent (10%) or ten (10) feet, whichever amount is greater;
- d. An increase in the Width of a non-tower structure by six (6) feet or more;
- e. The installation of more than the standard number of Equipment Cabinets needed, not to exceed four (4);
- f. Excavation outside the current boundaries of the WCF;
- g. Proposed changes that would defeat the existing concealment elements of the WCF; and,
- h. Proposed changes that do not comply with prior approval of the WCF unless the non-compliance is within the thresholds outlined in this section.

4. Any proposed facility that does not meet the standards identified within this section shall be prohibited.

5. No facility shall be installed, erected, modified, repaired, or altered without receiving all necessary permit approvals.

C. Exemptions from Section 21-320 and Section 21-321:

1. Routine maintenance of a WCF; and,

2. Modifications to a WCF that are not considered a substantial change as specified in Section 21-813.A.

3. WCFs that are owned and operated by a governmental entity for the purposes of public safety or governmental operations.